Papers relating to the foreign relations of the United States, 1928. Volume III 1928

United States Department of State
Washington, D.C.: U.S. Government Printing Office, 1928

https://digital.library.wisc.edu/1711.dl/G5OAT7XT7HRHX84

Foreign Relations of the United States

1928

Volume III

Department of State
Washington

Papers Relating to the Foreign Relations of the United States

1928

(In Three Volumes)

Volume III

United States
Government Printing Office
Washington : 1943

DEPARTMENT OF STATE

PUBLICATION 1841

For sale by the
Superintendent of Documents, Washington, D. C.
Price $2.00

CONTENTS

Page

LIST OF PAPERS VII

GREECE:

Agreement between the United States and Greece for the funding of the Greek debt to the United States and for an additional loan to Greece . . 1

Convention between the United States and Greece for the prevention of smuggling of intoxicating liquors, signed April 25, 1928 14

Proposed treaty of friendship, commerce and consular rights between the United States and Greece 18

Proposed naturalization treaty between the United States and Greece . . 25

Assistance by the Department of State to American firms interested in the Struma Valley drainage project 31

Policy of the Department of State regarding opportunity for American firms to compete for work to be done from proceeds of American loans . 42

Citizenship upon entering Greece of former Ottoman subjects of Greek Orthodox religion naturalized in the United States 44

Claims of American citizens of Greek Orthodox religion for property confiscated by Turkey under the convention concerning exchange of Greek and Turkish populations 49

GUATEMALA:

Boundary dispute with Honduras. (*See* volume I, General.)

HAITI:

Reconsideration of certain British claims against the Government of Haiti for damages caused by successful revolutionary troops 55

Boundary dispute with Dominican Republic. (*See* volume I, General.)

HEJAZ AND NEJD:

Opposition of the authorities of Hejaz and Nejd to the entry of American missionaries 62

HONDURAS:

Efforts of the United States to discourage revolutionary activities against the Government of Honduras 69

Administration of the embargo on the shipment of arms and munitions to Honduras 77

Protest against libelous attack in the newspaper *El Cronista* upon Roy Tasco Davis, American Minister in Costa Rica 79

Boundary dispute with Guatemala. (*See* volume I, General.)

IRISH FREE STATE:

Responsibility of the Irish Free State for the so-called Republic of Ireland bonds sold in the United States 83

416955—43

ITALY: Page
Treaty of arbitration between the United States and Italy, signed April 19, 1928 102
Representations by the Italian Government regarding activities in Italy of American customs agents investigating valuation of exports to the United States 104
Question of control from Italy of Fascist organizations in the United States 107
Representations by the Italian Government regarding alleged infringement of Italian treaty rights by Florida fish and game law 112

JAPAN:
Convention between the United States and Japan for the prevention of smuggling of intoxicating liquors, signed May 31, 1928 120
Proposed treaties of arbitration and conciliation between the United States and Japan 135
Proposal by Japan that a conference be called to revise the fur seals convention signed July 7, 1911 147

LATVIA:
Treaty of friendship, commerce and consular rights, and accompanying protocol, between the United States and Latvia, signed April 20, 1928 . . 157
Representations to the Latvian Government regarding certain requirements affecting American indirect trade with Latvia 230
Representations against the application of a residence or sojourn tax on American citizens in Latvia 235

LIBERIA:
Appointment of John Loomis as Financial Adviser to the Republic of Liberia succeeding Sidney de la Rue 240
Denial by President King of Liberia of allegations made by Raymond Leslie Buell regarding Firestone concession 249
Establishment of radio communication between the United States and Liberia 254

LITHUANIA:
Treaties of arbitration and conciliation between the United States and Lithuania, signed November 14, 1928 283
Representations to the Lithuanian Government regarding certain requirements affecting American indirect trade with Lithuania 287

MEXICO:
Protection of rights of American owners of oil lands in Mexico 292
Convention between the United States and Mexico safeguarding livestock interests through the prevention of infectious and contagious diseases, signed March 16, 1928 308
Opposition of the Department of State to any undue preference for any group of creditors of the Mexican Government 321
Establishment of air mail service between the United States and Mexico . 323
Good offices of Ambassador Morrow in facilitating negotiations between the Mexican Government and representatives of the Roman Catholic Church 326
Representations to the Mexican Government regarding protection of American interests at Manzanillo from attacks by revolutionists 336

MEXICO—Continued. Page
Designation of the third member of the General and Special Claims Commissions by the President of the Administrative Council of the Hague Tribunal 337

MOROCCO:
Reservation of rights by the United States in the application of taxes to American citizens and protégés in the French Zone in Morocco 341
Negotiations concerning claims and proposed recognition by the United States of the Spanish Zone in Morocco 344
Attitude of the United States toward proposed changes in the status of Tangier 367

NETHERLANDS:
Understanding between the United States and the Netherlands concerning reciprocal access to petroleum resources 375
Treaty between the United States and the Netherlands for the advancement of peace, signed December 18, 1913, and protocol interpretative of article I thereof, signed February 13, 1928 407
Proposed treaty of arbitration between the United States and the Netherlands 412

NICARAGUA:
Assistance by the United States in the supervision of elections in Nicaragua 418
Cooperation of the United States in rearranging the finances of Nicaragua 523
Assistance by the United States marines in the suppression of bandit activities in Nicaragua 559
Boundary dispute with Colombia. (*See* volume I, General.)

NORWAY:
Treaty of friendship, commerce and consular rights between the United States and Norway, signed June 5, 1928, additional article signed February 25, 1929, and exchange of notes concerning tariff treatment of Norwegian sardines 593

PANAMA:
Proposals by Panama to modify the unperfected treaty between the United States and Panama, signed July 28, 1926 663
Statement by the Department of State that the United States does not intend to supervise elections in Panama 678
Representations by Panama respecting statement of President Coolidge classifying the Panama Canal Zone as a possession of the United States 679

PARAGUAY:
Boundary dispute with Bolivia. (*See* volume I, General.)

PERSIA:
Exchange of notes between the United States and Persia, May 14 and July 11, 1928, following termination of treaty of friendship and commerce of 1856 682
Proposed treaties of arbitration and conciliation between the United States and Persia 746

PERU: Page
The Tacna-Arica dispute. (*See* volume I, General.)

POLAND:
Treaties of arbitration and conciliation between the United States and Poland, signed August 16, 1928 751

PORTUGAL:
Representations regarding discriminatory charges in Portuguese ports . . 768
Portuguese regulations regarding jurisdiction on board foreign ships in Portuguese waters and request for reciprocal action by the United States 790

RUMANIA:
Efforts to reach a satisfactory settlement regarding subsoil rights in leased Rumanian oil lands 798
Refusal of the Department of State to associate the flotation of an American loan to Rumania with questions pending between the two Governments 814
Attitude of the Department of State toward protests by Jewish groups regarding treatment of Jews in Rumania 819

RUSSIA:
Policy of the United States toward the Soviet regime 822
Reiteration by the United States of its policy not to countenance infringements by Americans upon foreign rights in Russia 826
Continued refusal of the United States mints and assay offices to accept gold of Soviet origin 827

SPAIN:
Representations to the Spanish Government for fair compensation to American interests for property taken by the Spanish petroleum monopoly 832
Proposed treaty of arbitration between the United States and Spain . . . 879

SWEDEN:
Treaty of arbitration between the United States and Sweden, signed October 27, 1928 882
Proposed reciprocal treatment regarding taxation of resident aliens in the United States and Sweden 885

SWITZERLAND:
Proposed treaty of friendship, commerce and consular rights between the United States and Switzerland 894
Proposed treaty of arbitration and conciliation between the United States and Switzerland 937

TURKEY:
Proposed treaties of arbitration and conciliation between the United States and Turkey 940
Prolongation of commercial *modus vivendi* between the United States and Turkey by exchange of notes, May 19, 1928 950
Closing of American school at Brusa and trial of American teachers on charge of teaching Christianity 964
American aid in the evacuation of Russian refugees in Turkey 981

INDEX 991

LIST OF PAPERS

[Unless otherwise specified, the correspondence is *from* or *to* officials in the Department of State.]

GREECE

AGREEMENT BETWEEN THE UNITED STATES AND GREECE FOR THE FUNDING OF THE GREEK DEBT TO THE UNITED STATES AND FOR AN ADDITIONAL LOAN TO GREECE

Date and number	Subject	Page
1927		
Dec. 7 (66)	*From the Minister in Greece (tel.)* Inquiry whether Department's disapproval of loans to Greece is now lifted or will continue until Congress has ratified U. S.-Greek debt settlement agreement.	1
Dec. 8 (42)	*To the Minister in Greece (tel.)* Impossibility of modifying attitude until debt settlement has been approved by Greek Parliament.	1
1928		
Jan. 6 (428)	*From the Minister in Greece* Interest of Greek Government in possible refunding of foreign loans through loan from American financiers.	2
Jan. 18	*From the Greek Minister* Recapitulation of terms of U. S.-Greek debt settlement; acceptability of terms.	3
Jan. 18	*To the Greek Minister* Acceptability of terms.	6
Jan. 25 (128)	*From the Greek Minister* Understanding that U. S. Government consents to flotation of a Greek loan of 6½ million pounds sterling.	6
Jan. 26	*To the Greek Minister* Confirmation of understanding.	7
Jan. 28 (156)	*From the Greek Minister* Approval of debt settlement by Chamber of Deputies on January 27.	7
Jan. 30 (7)	*To the Minister in Greece (tel.)* Announcement to American bankers of nonobjection to flotation of Greek securities in American market.	7
Feb. 17 (13)	*To the Minister in Greece (tel.)* Information that debt settlement plan is being considered by Congress. Instructions to avoid giving any impression of undue optimism as to outcome.	8
Mar. 15 (512)	*From the Minister in Greece* Letter from the chairman of the Refugee Settlement Commission (text printed) setting forth urgent reasons for prompt passage of measure now before Congress.	8
Apr. 12 (545)	*From the Minister in Greece* Further informal communication from the Refugee Commission; Minister's arguments in behalf of approval of debt settlement.	9

GREECE

AGREEMENT BETWEEN THE UNITED STATES AND GREECE FOR THE FUNDING OF THE GREEK DEBT TO THE UNITED STATES, ETC.—Continued

Date and number	Subject	Page
1928		
Apr. 12 (19)	*To the Minister in Greece (tel.)* Instructions to inform the Foreign Minister that congressional delay is due solely to the domestic political situation.	10
Apr. 13 (23)	*From the Minister in Greece (tel.)* Intention to inform Foreign Minister again that Department's attitude has undergone no change.	11
Apr. 27[?]	*From the Chairman of the Refugee Settlement Commission to President Coolidge (tel.)* Hope for immediate ratification of debt agreement in order that funds may be available for urgent refugee settlement work.	11
May 4 (29)	*To the Minister in Greece (tel.)* Information that prospects for ratification before adjournment of Congress are not encouraging.	12
May 12	*To the Chairman of the Refugee Settlement Commission* Assurance that the Administration is doing its utmost to obtain favorable action by Congress.	12
May 29 (34)	*To the Minister in Greece (tel.)* Instructions to advise the Foreign Minister that Congress is about to adjourn without taking action on debt agreement, to express U. S. Government's regret, and to state U. S. Government's intention to renew efforts to obtain congressional approval in December session.	12
Dec. 10 (47)	*To the Minister in Greece (tel.)* Approval of debt settlement by House of Representatives. (Footnote: Information of its passage by the Senate on February 14, 1929, and signature of agreement by Greek Minister and the Secretary of the Treasury on May 10, 1929.)	13

CONVENTION BETWEEN THE UNITED STATES AND GREECE FOR THE PREVENTION OF SMUGGLING OF INTOXICATING LIQUORS, SIGNED APRIL 25, 1928

1927		
Dec. 20 (1607)	*From the Greek Minister* Desire to conclude treaty pertaining to alcoholic beverages on board Greek ships entering U. S. ports.	14
1928		
Mar. 22	*To the Greek Minister* Transmittal of draft treaty for consideration.	14
Apr. 3 (540)	*From the Greek Minister* Transmittal of Minister's full powers to sign proposed treaty.	15
Apr. 25	*Treaty Between the United States of America and Greece* For the prevention of smuggling of intoxicating liquors.	15

GREECE

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND GREECE

Date and number	Subject	Page
1928		
Feb. 8 (12)	*To the Minister in Greece (tel.)* Instructions to ascertain whether Greece will now enter into negotiations at Athens for treaty of friendship, commerce and consular rights; also to make known the U. S. Government's desire to conclude with Greece a naturalization treaty.	18
Feb. 17 (12)	*From the Minister in Greece (tel.)* Greek acceptance of suggestion to negotiate commercial treaty.	19
Mar. 2 (135)	*To the Minister in Greece* Transmittal of draft treaty.	19
Mar. 19 (17)	*From the Minister in Greece (tel.)* Submission of draft treaty to Foreign Office. (Bracketed note: Information that negotiations were discontinued in 1932 on account of revision of Greek commercial policy in favor of controlled imports and exports.)	24

PROPOSED NATURALIZATION TREATY BETWEEN THE UNITED STATES AND GREECE

1927		
July 25 (269)	*From the Minister in Greece* Observations made to the Foreign Minister concerning difficulties of U. S. citizens of Greek origin resulting from Greek policy relating to citizenship and military service. Hope that Foreign Minister will propose discussion of projected naturalization treaty.	25
1928		
Feb. 23 (14)	*To the Minister in Greece (tel.)* Inquiry whether Greece is prepared to negotiate a naturalization treaty.	28
Feb. 25 (14)	*From the Minister in Greece (tel.)* Doubt of Foreign Minister that naturalization treaty can be negotiated at present.	28
Mar. 1 (490)	*From the Minister in Greece* Feeling that Foreign Minister is personally sympathetic to proposal for treaty; desire for draft proposals for submission at favorable opportunity.	28
May 2 (157)	*To the Minister in Greece* Transmittal of draft treaty.	29

ASSISTANCE BY THE DEPARTMENT OF STATE TO AMERICAN FIRMS INTERESTED IN THE STRUMA VALLEY DRAINAGE PROJECT

1928		
Jan. 12 (2)	*To the Minister in Greece (tel.)* Authorization to give proper support to Monks-Ulen proposal for Struma Valley drainage project.	31
Jan. 14 (4)	*To the Minister in Greece (tel.)* Instructions to maintain strict impartiality should other American concerns besides Monks-Ulen be competing.	31
Jan. 17 (439)	*From the Minister in Greece* Information that Monks and Ulen interests pooled their proposals and that it is unlikely any other American firms will interest themselves in the project.	32

GREECE

ASSISTANCE BY THE DEPARTMENT OF STATE TO AMERICAN FIRMS INTERESTED IN THE STRUMA VALLEY DRAINAGE PROJECT—Continued

Date and number	Subject	Page
1928		
Feb. 15 (478)	*From the Minister in Greece* Probability that Foundation Company of New York may submit proposals.	32
Feb. 15	*From the Consul at Athens (tel.)* Advice that bids for Struma Valley project have been called for March 9.	34
Apr. 18 (24)	*From the Minister in Greece (tel.)* Desire of Monks-Ulen interests for active U. S. support on ground that Foundation Company operates through foreign subsidiary, backed partly by British capital.	34
Apr. 20 (21)	*To the Minister in Greece (tel.)* Instructions to report reasons if uncertain about American character of Foundation Company (Foreign).	34
Apr. 23 (27)	*From the Minister in Greece (tel.)* Opinion, after study of Foundation Company statement, that there is no reasonable ground for refusing recognition of the company as essentially American unless facts can be controverted.	35
Apr. 26 (32)	*From the Minister in Greece (tel.)* Inquiry as to answer to be made to Foreign Minister's request for written statement that Foundation Company (Foreign) is an American concern.	35
Apr. 28 (27)	*To the Minister in Greece (tel.)* Authorization to answer in the affirmative.	35
May 6 (34)	*From the Minister in Greece (tel.)* Information that effort is being made to prevent American concern from getting contract; desire to remind Greek Government of Greek Minister's promise to Department of State that Struma Valley project would be awarded to American concern.	36
May 7 (31)	*To the Minister in Greece (tel.)* Authorization to mention informally that Department was under impression that Greek Government intends to award Struma Valley contract to an American concern.	36
May 8 (37)	*From the Minister in Greece (tel.)* Explanation that the Minister's purpose is to prevent award of contract to a British firm, and that Foundation Company and Monks-Ulen interests are cooperating to same end.	36
May 14 (39)	*From the Minister in Greece (tel.)* Greek decision to award contract to combination of Monks, Ulen, and Foundation interests.	37
Oct. 20 (45)	*To the Chargé in Greece (tel.)* Instructions to advise as to areas covered by, and present status of, drainage contract supposedly awarded American group; to advise similarly regarding drainage contract to British firm.	37

GREECE

ASSISTANCE BY THE DEPARTMENT OF STATE TO AMERICAN FIRMS INTERESTED IN THE STRUMA VALLEY DRAINAGE PROJECT—Continued

Date and number	Subject	Page
1928 Oct. 22 (61)	*From the Chargé in Greece (tel.)* Information that Monks-Ulen agreement with Greek Government was signed on October 20, but that complications have arisen as to financing, due to offer from Hambro Bank probably more attractive than that from Monks-Ulen backers, Messrs. Seligman & Company.	37
Nov. 6 (63)	*From the Minister in Greece (tel.)* Decision of Greek Government to divide productive loan between Seligman and Hambro, giving former one-third only.	38
Nov. 7 (64)	*From the Minister in Greece (tel.)* Greek proposal that loan be divided equally between Seligman and Hambro; acceptance by Seligman.	39
Dec. 10 (746)	*From the Minister in Greece* Information that as yet Seligman & Company have not succeeded in obtaining legal contract with Greek Government. (Footnote: Information that the *Official Gazette* of December 31, 1928, published Greek ratification of Monks-Ulen contract.)	39

POLICY OF THE DEPARTMENT OF STATE REGARDING OPPORTUNITY FOR AMERICAN FIRMS TO COMPETE FOR WORK TO BE DONE FROM PROCEEDS OF AMERICAN LOANS

1928 Mar. 15 (509)	*From the Minister in Greece* Suggestion that contracts for loans by American bankers to foreign governments include obligation to purchase machinery and supplies in American market, and that Department take this provision into consideration before expressing opinion as to objection to loan flotation in the United States.	42
Apr. 9 (151)	*To the Minister in Greece* Disinclination to bring pressure on bankers to the end that loan proceeds be expended in the United States; information that present policy is to express hope that American firms will be afforded freest opportunity to compete on equal terms with other competitors.	43

CITIZENSHIP UPON ENTERING GREECE OF FORMER OTTOMAN SUBJECTS OF GREEK ORTHODOX RELIGION NATURALIZED IN THE UNITED STATES

1928 Mar. 7 (497)	*From the Minister in Greece* Information with regard to a new class of citizenship case arising under articles 3 and 7 of the convention signed at Lausanne, January 30, 1923, concerning the exchange of Greek and Turkish populations.	44
Mar. 15 (35)	*From the Consul at Saloniki* Information concerning cases of compulsory naturalization of naturalized U. S. citizens formerly Turkish subjects of Greek Orthodox religion; request for Department's opinion of the Greek Government's contention that such persons come within the purview of the convention of January 30, 1923.	44

GREECE

CITIZENSHIP UPON ENTERING GREECE OF FORMER OTTOMAN SUBJECTS OF GREEK ORTHODOX RELIGION NATURALIZED IN THE UNITED STATES—Continued

Date and number	Subject	Page
1928 June 26 (618)	*From the Minister in Greece* Foreign Office opinion on the basis of which administrative authorities throughout Greece are acting with respect to the matter reported in despatch No. 497 of March 7. Suggestion that U. S. passports be accompanied by notices apprising naturalized Americans of the difficulties they may encounter if they visit Greece.	46
July 19 (183)	*To the Minister in Greece* Instructions to inform the Foreign Office that in the opinion of the U. S. Government the terms of the convention of January 30, 1923, do not seem applicable to former Ottoman subjects who have obtained naturalization as U. S. citizens before going to Greece, and that the U. S. Government cannot recognize the right of foreign governments to enter into agreements affecting the nationality of U. S. citizens. Instructions concerning transmittal of information to the consulates in Greece.	47
Sept. 1 (661)	*From the Chargé in Greece* Foreign Office *note verbale*, August 28 (text printed) explaining that Greece must carry out treaty provisions and their official interpretations in the event that persons referred to in treaties enter Hellenic jurisdiction. Information, however, that Greek officials have been accommodating in releasing former Ottomans, naturalized in America subsequent to January 30, 1923, from performance of military duties when appealed to on lines of good policy and common sense.	47

CLAIMS OF AMERICAN CITIZENS OF GREEK ORTHODOX RELIGION FOR PROPERTY CONFISCATED BY TURKEY UNDER THE CONVENTION CONCERNING EXCHANGE OF GREEK AND TURKISH POPULATIONS

1928 June 15 (169)	*To the Minister in Greece* Instructions to make appropriate inquiry concerning the attitude of the Greek Government with respect to claims of Americans arising out of the confiscation of property by Turkey under the convention signed at Lausanne, January 30, 1923, and to prepare a report outlining the procedure to be followed by claimants in the event Greece is disposed to consider cases.	49
July 30 (646)	*From the Chargé in Greece* Outline of procedure to be followed by U. S. claimants under convention of January 30, 1923, and agreement of December 1, 1926, between Greece and Turkey. Foreign Office *note verbale*, December 7, 1927 (text printed).	50

HAITI

RECONSIDERATION OF CERTAIN BRITISH CLAIMS AGAINST THE GOVERNMENT OF HAITI FOR DAMAGES CAUSED BY SUCCESSFUL REVOLUTIONARY TROOPS

Date and number	Subject	Page
1928 Apr. 27	*Memorandum by the Chief of the Division of Latin American Affairs* Conversation between Sir John Broderick of the British Embassy and certain officials of the Department in which the situation with regard to British claims in Haiti was explored, Department's position remaining unchanged with respect to finding some formula by which British claims could be settled without reopening the general question of claims already passed upon by the Claims Commission and without prejudice to the financial stability of Haiti.	55
Aug. 7 (1263)	*From the Chargé in Haiti* Financial Adviser's report, August 1 (text printed) conveying the information that the British Chargé has stated orally that the British have received assurances from the French and other Governments that they would not reopen any claims settled by the Claims Commission.	57
Oct. 3	*From the High Commissioner in Haiti, Temporarily in the United States* Recommendation that the British Embassy in Washington confirm the oral statement of the British Chargé at Port-au-Prince; that the British reopen question of claims with the Haitian Foreign Office; and that the High Commissioner be instructed to urge the Haitian Government to give the British claims earnest consideration and to notify that Government that if it found payments justified, the United States would not object.	59
Oct. 5	*Memorandum by the Chief of the Division of Latin American Affairs* Conversation with representatives of the British Embassy and the High Commissioner in which the information was conveyed that the recommendations of the High Commissioner met with the Department's approval.	60
Oct. 17 (389)	*To the High Commissioner in Haiti* Transmittal of memorandum of conversation of October 5; also British letter stating that the British Government is at present aware of no similar claims which might still be asserted against Haiti by other countries. Instructions, when British claims are presented, to state to President Borno that these claims should be given earnest consideration; and to inform the Government that if it should find payment justified, the United States will raise no objection.	61

HEJAZ AND NEJD

OPPOSITION OF THE AUTHORITIES OF HEJAZ AND NEJD TO THE ENTRY OF AMERICAN MISSIONARIES

1928 Jan. 5 (153)	*From the Chargé in Egypt* Letter from the Director of Foreign Affairs of the Kingdom of the Hejaz and Nejd, December 18, 1927 (text printed) with respect to two missionary expeditions into Hejaz alleged to have been undertaken in May and November 1927 by Mr. G. W. Breaden and calling attention to danger to travelers entering that country without permits.	62

HEJAZ AND NEJD

OPPOSITION OF THE AUTHORITIES OF HEJAZ AND NEJD TO THE ENTRY OF AMERICAN MISSIONARIES—Continued

Date and number	Subject	Page
1928 Feb. 13 (1642)	*From the Consul at Jerusalem* Information concerning Mr. Breaden's expedition into Hejaz in November 1927.	64
Feb. 18	*To Mr. A. C. Snead of the Christian and Missionary Alliance* Transmittal of note of December 18, 1927, from the Director of Foreign Affairs of the Government of the Hejaz and Nejd. Request for comments on matter as well as information regarding any instructions in the premises found desirable to issue to representatives in the Near East.	65
Mar. 8	*From Mr. W. M. Turnbull, Foreign Secretary of the Christian and Missionary Alliance* Information concerning the two missionary expeditions under discussion. Desire, should Government of the Hejaz and Nejd be formally recognized by the U. S. Government, to be informed as to the attitude at that time of King Ibn Saud and his government toward missionary effort.	67

HONDURAS

EFFORTS OF THE UNITED STATES TO DISCOURAGE REVOLUTIONARY ACTIVITIES AGAINST THE GOVERNMENT OF HONDURAS

1928 Mar. 14 (563)	*From the Minister in Honduras* Report that Liberal Party convention appears to be marking time. Rumor that Ferrera may start revolutionary movement against Honduras from Guatemala. Suggestion that Guatemalan Government be informed of its responsibility in regard to Ferrera.	69
Apr. 5 (32)	*To the Minister in Guatemala (tel.)* Instructions to call to the Government's attention its responsibility for any subversive acts which might be committed against Honduras by General Ferrera or other revolutionary leaders while in Guatemalan territory and to suggest that, if Guatemala should see fit to act against such persons, this would be welcomed as an evidence of good faith.	70
Apr. 10 (39)	*From the Minister in Guatemala (tel.)* President Chacon's assurances that he will not tolerate any subversive activities. (Repeated to Honduras.)	71
Oct. 19 (118)	*From the Chargé in Guatemala (tel.)* Honduran Minister's request that General Jeffries, who is aiding Honduran *emigrados*, be deported to the United States, or placed under police surveillance. Request for instructions.	72
Oct. 22 (69)	*To the Chargé in Guatemala (tel.)* Instructions to inform the Foreign Minister that the Department has been pleased to observe Guatemala's efforts to prevent revolutionary activities on its soil directed against Honduras, and that the Department would have no objection to the deportation of Jeffries or his being placed under police surveillance if Guatemala believes such action necessary. Authorization to inform Jeffries that he cannot expect to receive U. S. protection if he participates in revolutionary activities.	72

HONDURAS

EFFORTS OF THE UNITED STATES TO DISCOURAGE REVOLUTIONARY ACTIVITIES AGAINST THE GOVERNMENT OF HONDURAS—Continued

Date and number	Subject	Page
1928 Oct. 22	*Memorandum by the Chief of the Division of Latin American Affairs* Conversation with the Guatemalan Minister who called to convey information of certain measures being taken by his Government to prevent launching of any revolutionary activities against Honduras from Guatemalan territory.	73
Oct. 26 (125)	*From the Minister in Honduras (tel.)* Information from President Paz that the Ferreristas, recently concentrating at Playitas, guatemala, have moved to Espiritu, Honduras, and that he believes there will be no immediate movement against his government unless the Liberals lose the elections on October 28; President's request that the *Cleveland* remain at Puerto Cortes for a few days after October 30.	73
Oct. 27 (95)	*To the Minister in Honduras (tel.)* Information that arrangements have been made for the *Cleveland* to remain for additional period. Instructions to cable opinion as to earliest day upon which vessel should depart.	74
Oct. 30 (128)	*From the Minister in Honduras (tel.)* Opinion that there is no adequate reason why the *Cleveland* should not depart at end of week, although President Paz requests that the ship remain in Honduran waters for the present.	74
Nov. 19 (746)	*From the Chargé in Honduras* Information that the political situation is not now acute but there are evidently elements of danger to public peace. Suggestion that visits of U. S. naval vessels to north coast be continued until after February 1, 1929.	74
Dec. 20 (145)	*From the Chargé in Honduras (tel.)* Information that, because of great uneasiness and anxiety on north coast, the President believes it would be helpful if the Department would issue a statement that it would not recognize a government arising from a *coup d'état* or through violence. Opinion that the situation is not sufficiently acute to warrant such a declaration; suggestion, however, that a U. S. naval vessel be held in readiness to proceed to La Ceiba and that a vessel visit all northern ports as early as possible in January. (Repeated to consul at La Ceiba.)	75
Dec. 22 (763)	*From the Chargé in Honduras* Information that in the elections held November 25 the Coalition candidates won in an overwhelming majority of the municipalities.	76
Dec. 24 (146)	*From the Chargé in Honduras (tel.)* Information that public anxiety and apprehension have increased and that the President believes it will be helpful if the Department will make a statement (text printed) expressing its concern.	76
Dec. 29 (148)	*From the Chargé in Honduras (tel.)* Information that the political situation has improved.	77

HONDURAS

ADMINISTRATION OF THE EMBARGO ON THE SHIPMENT OF ARMS AND MUNITIONS TO HONDURAS

Date and number	Subject	Page
1928		
May 29 (621)	*From the Minister in Honduras* Information concerning a shipment of arms and ammunition from Canada via Kingston, Jamaica, to Amapala, for which the consular invoices were issued by the Honduran consul at Philadelphia.	77
June 20 (52)	*To the Minister in Honduras (tel.)* Instructions to bring to the attention of the Honduran Government the active efforts of the U. S. Government to prevent clandestine shipments of arms and ammunition from the United States to Honduras; and to state that, if the embargo becomes merely a barrier to U. S. export trade and if through unrestricted export from other countries its effectiveness in protecting Honduras is lost, the Department would be forced to give serious consideration to lifting it.	77
June 21 (639)	*From the Minister in Honduras* Report that the matter of clandestine shipments has been brought to the attention of the President and the Foreign Minister, both of whom expressed appreciation of Department's assistance; that the Foreign Minister had stated that the Honduran consul at Philadelphia would be removed.	78
July 12 (62)	*To the Minister in Honduras (tel.)* Inquiry as to what steps, if any, Honduras has taken to cooperate in making the embargo effective in the future.	79
July 30 (667)	*From the Minister in Honduras* Information from the Foreign Minister that special instructions have been given to Honduran consuls in United States and Canada, and will be given to consuls in Mexico, to refuse to issue consular documents for shipments of arms and munitions of war without Government's express authorization.	79

PROTEST AGAINST LIBELOUS ATTACK IN THE NEWSPAPER "EL CRONISTA" UPON ROY TASCO DAVIS, AMERICAN MINISTER IN COSTA RICA

1928		
Apr. 29 (57)	*From the Minister in Honduras (tel.)* Information of a libelous telegram against Roy Tasco Davis, American Minister in Costa Rica, published in *El Cronista*. (Repeated to Mr. Davis at Tela and to San José and Guatemala City.)	79
May 2 (58)	*From the Minister in Honduras (tel.)* Report that the Government has directed immediate judicial action against *El Cronista* on charge of calumny under penal code. (Repeated to San José and Guatemala.)	80
May 8 (27)	*From the Minister in Costa Rica (tel.)* Telegram, May 5, from the Costa Rican Foreign Minister to the Honduran Foreign Minister (text printed) denying the allegations against Mr. Davis in the published telegram and speaking of him in the highest terms. (Repeated to Honduras and Guatemala.)	80

HONDURAS

PROTEST AGAINST LIBELOUS ATTACK IN THE NEWSPAPER "EL CRONISTA" UPON ROY TASCO DAVIS, AMERICAN MINISTER IN COSTA RICA—Continued

Date and number	Subject	Page
1928		
May 9 (17)	*To the Minister in Costa Rica (tel.)* Instructions to inform the Foreign Minister that the Department deeply appreciates his courteous action.	81
May 17 (604)	*From the Minister in Honduras* Report that the courts have quashed the proceedings instituted by the Executive against the editor of *El Cronista* on the ground that no basis for action existed under Honduran law.	81

IRISH FREE STATE

RESPONSIBILITY OF THE IRISH FREE STATE FOR THE SO-CALLED REPUBLIC OF IRELAND BONDS SOLD IN THE UNITED STATES

1927		
Oct. 26	*Memorandum by the Assistant Secretary of State* Conversation with the Minister of the Irish Free State who insisted that the Free State was going to repay the balance of the money due on the 1921 bonds, although he felt that the decision of the New York court, which ruled that the Free State was not the successor of the Republic, legally let them out; his belief that the bondholders would get comparatively little money from the amount awarded by the New York court since the expenses of the bondholders' committees were enormous.	83
1928		
Jan. 27	*Memorandum by the Assistant Secretary of State* Conversation with President Cosgrave, who declared that he was determined that the money should be repaid to the subscribers and that he would be grateful for any suggestion as to how this could be accomplished with fairness to the bondholders without involving the Free State in any dealings with Messrs. Walsh and Ryan, counsel for the bondholders' committee.	84
Feb. 8	*Memorandum by the Solicitor for the Department of State* Conference with Assistant Secretary of State Castle and Messrs. Walsh and Ryan in which it was finally agreed that the latter would submit to the Department a concrete proposal showing the amount of money received by the Free State and how settlement could be made with complete assurance that the certificate holders would be fully reimbursed and the Free State safeguarded against any outlay beyond its legitimate obligation.	86
Feb. 11	*To Senator Borah* Statement of the present situation with respect to the so-called Irish bonds.	89
Mar. 6	*To Messrs. Frank P. Walsh and John T. Ryan, New York* Request to be informed whether their letter of February 20 is to be understood as meaning that they do not desire the Department to proceed further with the matter through the use of its informal good offices.	92

IRISH FREE STATE

RESPONSIBILITY OF THE IRISH FREE STATE FOR THE SO-CALLED REPUBLIC OF IRELAND BONDS SOLD IN THE UNITED STATES—Continued

Date and number	Subject	Page
1928		
Apr. 16 (26)	*To the Minister in the Irish Free State* Instructions to address a formal communication to the Irish Free State in an endeavor to ascertain the official attitude of the Government toward U. S. subscribers to the so-called Irish Republic loans and what steps the Government expects to take looking to a settlement of these obligations.	93
July 28 (112)	*From the Minister in the Irish Free State* Note from the Minister for External Affairs, July 26 (text printed) reasserting the intention of the Irish Free State to honor the bonds, but stating that no action to that end can be taken until the receivers appointed by the New York court shall have distributed the assets turned over to them.	96
Aug. 16	*To Messrs. Frank P. Walsh and John T. Ryan, New York* Transmittal of note of July 26 from the Irish Minister of External Affairs. Desire to receive information as to any progress being made by receivers and when it is likely that a report will be made to the court.	97
Oct. 9	*To Messrs. Frank P. Walsh and John T. Ryan, New York* Acknowledgement of receipt of letter of August 22 containing the second intermediary report of the receivers. Review of Irish Free State Loans and Funds Act of 1924, with a statement that the Department would be glad to consider suggestions and comments as to its amendment. Information that when the final report of the receivers is filed the Department will be glad to give consideration to the question of making further representations to the Government of the Irish Free State.	97
Oct. 11	*From Messrs. Frank P. Walsh and John T. Ryan, New York* Request for a copy of the proposed bill to amend the Loans and Funds Act of the Irish Free State. Promise to send duly authenticated copies of final report of the receivers in New York when filed. Declaration that they will be glad to take up question of further representations to Government of the Irish Free State.	100

ITALY

TREATY OF ARBITRATION BETWEEN THE UNITED STATES AND ITALY, SIGNED APRIL 19, 1928

1928		
Mar. 8 (23)	*To the Chargé in Italy (tel.)* Information that draft of proposed treaty of arbitration has been handed to Italian Ambassador and that copy will be sent to Embassy by next pouch.	102
Apr. 19	*Treaty Between the United States of America and Italy* Of arbitration.	102

ITALY

REPRESENTATIONS BY THE ITALIAN GOVERNMENT REGARDING ACTIVITIES IN ITALY OF AMERICAN CUSTOMS AGENTS INVESTIGATING VALUATION OF EXPORTS TO THE UNITED STATES

Date and number	Subject	Page
1928 Feb. 17	*From the Italian Ambassador* Request that the personnel of the Treasury Department assigned to investigate value of goods exported to the United States from Italy be reduced and that the activities of those remaining be curtailed.	104
June 29	*To the Italian Ambassador* Information that Treasury Department personnel in Italy has been reduced. Explanation why further curtailment of activities of Treasury agents may not be feasible. Discussion of provisions of U. S. customs tariff law regarding procedure in appraising value of imported merchandise.	105

QUESTION OF CONTROL FROM ITALY OF FASCIST ORGANIZATIONS IN THE UNITED STATES

1928 Feb. 9 (1557)	*From the Chargé in Italy* Information that the new statutes proclaimed by Mussolini as to the conduct of Fascist organizations abroad give Italian diplomatic agents and consuls immediate control over the Fascists living in foreign countries. Opinion that this procedure will strengthen the control of the central home organization over the Fascists abroad.	107
Feb. 10	*Memorandum by the Assistant Secretary of State* Conversation with the Italian Ambassador concerning the orders issued by Mussolini to Fascist organizations abroad and the present Italian emigration policy.	109
Feb. 24	*Memorandum by the Assistant Secretary of State* Conversation in which Italian Ambassador discussed the authority of the Italian Government over Fascist organizations in the United States and its attitude toward the naturalization as American citizens of Italians residing in this country.	110
Mar. 3	*To Representative Hamilton Fish, Jr.* Transmittal of Parini's statement to the United Press in Rome that the Fascist League of North America is not dependent on the Secretary General in Rome and that the instructions in the new statutes are intended for Italian subjects living abroad, and do not apply to naturalized American citizens of Italian origin.	111
1929 Dec. 5	*Memorandum by the Secretary of State* Conversation in which Italian Ambassador stated that Mussolini had authorized him to disband the Fascist League, but that he would postpone announcement until excitement had subsided.	111
Dec. 27	*Statement Issued to the Press by the Secretary of State* Information that State Department investigation of incidents referred to in article in *Harper's Magazine* has not revealed any subversive activities by Italian residents. Expression of appreciation that the Fascist League has dissolved itself.	112

ITALY

REPRESENTATIONS BY THE ITALIAN GOVERNMENT REGARDING ALLEGED INFRINGEMENT OF ITALIAN TREATY RIGHTS BY FLORIDA FISH AND GAME LAW

Date and number	Subject	Page
1927		
Aug. 9	*From the Italian Ambassador* Observations that the new fish and game law of Florida contains a provision that nonresident and alien retail dealers shall pay a license fee of $50 per annum while other dealers pay only $5 and that this provision is being applied to Italians even when they have been residents for many years. Representations against the law as being in conflict with treaty of 1871.	112
Sept. 9	*From the Italian Ambassador* Inquiry whether prompt reply could be solicited from the Governor of Florida concerning the Embassy's representations in regard to the new fish and game law of that State. Information that the Embassy has received new complaints from Italian residents of Florida whose interests are harmed by the operation of the law.	113
Oct. 11	*To the Italian Chargé* Communication from the Governor of Florida (excerpt printed) to the effect that Italian subjects resident in Florida receive equal treatment with resident American citizens in the matter of licenses to dealers in fish and that nonresident Italians and nonresident citizens of the United States likewise receive equal treatment.	113
1928		
Feb. 9	*From the Italian Ambassador* Further representations occasioned by the receipt of a letter from the Shell Fish Commissioner of the State of Florida to the Italian consular agent at Tampa (excerpt printed) stating that he disagrees with Italian interpretation of treaty of 1871 and will continue to collect license tax from all aliens regardless of nationality. Observation that this letter is in open conflict with position expressed in Department's note of October 11, 1927.	114
Apr. 6	*To the Italian Ambassador* Information that the position taken by the Shell Fish Commissioner of Florida has been sustained by the Attorney General of Florida. Expression of regret at this apparent reversal of position set forth in Department's note of October 11, 1927. Suggestion that any Italian subjects who feel aggrieved by the tax may apply to courts of the United States in which is vested the authority to interpret treaties.	115
Apr. 30	*From the Italian Ambassador* Statement that Italian Government is entitled to have treaties respected by American authorities apart from actions that Italian subjects may maintain in U. S. courts.	116
June 8	*To the Italian Ambassador* Statement that, since Florida authorities have not recognized the validity of Italian contentions, the Department is not in a position to take any further action until a final adjudication has been obtained in the appropriate courts of the United States. Belief that Italian rights under existing treaty provisions would suffer no prejudice through a determination thereof by appropriate U. S. Federal judicial authorities.	117

ITALY

REPRESENTATIONS BY THE ITALIAN GOVERNMENT REGARDING ALLEGED INFRINGEMENT OF ITALIAN TREATY RIGHTS BY FLORIDA FISH AND GAME LAW—Continued

Date and number	Subject	Page
1928 July 18	*From the Italian Ambassador* Interpretation of U. S. note of June 8 as conveying exactly what the Italian note of April 30 tried to make clear, i. e., that the Department does not consider that adjudication by the Federal courts could be accepted by the Italian Government as a decision on a claim of right to be settled between the two Governments.	118
Aug. 2	*To the Italian Ambassador* Explanation that the purpose of the U. S. note of June 8 was to convey the assurance that the Federal courts constitute a particularly competent and impartial forum for determination of questions of this nature; and that it was not intended to pass upon the question of the scope of a decision of a local tribunal interpretative of international contractual obligations.	118

JAPAN

CONVENTION BETWEEN THE UNITED STATES AND JAPAN FOR THE PREVENTION OF SMUGGLING OF INTOXICATING LIQUORS, SIGNED MAY 31, 1928

1928 Mar. 23	*Memorandum by the Assistant Secretary of State* Conversation with the Japanese Ambassador in which the Ambassador commented regarding suggested changes in the draft liquor treaty in accordance with instructions from the Japanese Foreign Office (text printed). (Footnote: Information that a copy of the draft treaty was handed to the Japanese Ambassador on March 20, 1924.)	120
May 3	*Memorandum by the Chief of the Treaty Division and Mr. Stephen Latchford of the Same Division* Conversation with the counselor of the Japanese Embassy during which an understanding was reached that the United States was in accord with all Japanese views except in respect of certain provisions in articles III and VI.	125
May 21	*To the Counselor of the Japanese Embassy* Explanation that it is impracticable for the U. S. Government to agree to the insertion of the words "at the end of thirty days" in article VI.	128
May 24	*Memorandum by Mr. Stephen Latchford* Conversation with the counselor of the Japanese Embassy in which the counselor conveyed his Government's agreement to all questions raised except the proposal that paragraph 1 of article VI be eliminated or amended, and suggested an exchange of memoranda setting forth understandings in regard to interpretation of treaty.	129
May 26	*Memorandum by Mr. Stephen Latchford* Conversations with the counselor of the Japanese Embassy during which the counselor made known his Government's agreement to article VI as originally drafted and presented draft notes and interpretative memoranda.	130

JAPAN

CONVENTION BETWEEN THE UNITED STATES AND JAPAN FOR THE PREVENTION OF SMUGGLING OF INTOXICATING LIQUORS—Continued

Date and number	Subject	Page
1928 May 31	*Convention Between the United States of America and Japan* For the prevention of smuggling of intoxicating liquors.	131
May 31	*From the Japanese Ambassador* Transmittal of memorandum (text printed) of the understanding regarding interpretation of the convention.	134
May 31	*To the Japanese Ambassador* Confirmation of Japanese Government's understanding.	135

PROPOSED TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND JAPAN

1927 Dec. 31	*To the Japanese Ambassador* Transmittal, for consideration and as a basis for negotiation, of draft treaty of arbitration and conciliation (text printed).	135
1928 Mar. 14	*To the Japanese Ambassador* Transmittal of draft treaty of arbitration and draft treaty of conciliation (texts printed). Explanation of Department policy in negotiating two separate and distinct treaties.	139
June 26	*To the Chief of the Treaty Division* Request that answers be prepared to questions raised in the Japanese informal memorandum.	144
Undated	*To the Japanese Embassy* Detailed reply to questions raised by the Japanese Government regarding provisions of proposed treaties. (Footnotes: Information that memorandum was handed to the Japanese Ambassador on August 7, 1929, and that negotiations were not continued.)	144

PROPOSAL BY JAPAN THAT A CONFERENCE BE CALLED TO REVISE THE FUR SEALS CONVENTION SIGNED JULY 7, 1911

1927 Dec. 28	*From the Japanese Embassy* Acceptance of American proposal of November 29, 1926, regarding a joint scientific investigation into the feeding and migratory habits of the fur seals; suggestion that Russian and British experts be invited to take part in the investigation, since the investigation's findings should be used as a basis for the revision of the convention of July 7, 1911, between the United States, Great Britain, Japan, and Russia.	147
1928 Jan. 4	*To the Japanese Embassy* Statement of U. S. position in regard to invitation to British and Russian experts to participate in proposed joint scientific investigation. (Footnote: Information that this memorandum was handed to the Japanese Ambassador on January 7.)	147

JAPAN

PROPOSAL BY JAPAN THAT A CONFERENCE BE CALLED TO REVISE THE FUR SEALS CONVENTION SIGNED JULY 7, 1911—Continued

Date and number	Subject	Page
1928		
Feb. 14	*Memorandum by the Assistant Secretary of State* Conversation in which the Japanese Ambassador expressed the hope that the United States would reconsider its decision regarding participation by Russian and British scientists.	148
Apr. 2	*From the British Ambassador* Information that no expert representing the British Government will take part in the proposed investigation. Suggestion that the Department communicate with the Canadian Minister regarding the possibility of the attendance of a Canadian expert.	150
May 24	*Memorandum by the Assistant Secretary of State* Conversation with the Japanese Ambassador in which the Secretary reviewed the situation with regard to the Japanese desire for revision of the convention of 1911; the Japanese Ambassador's intimation that pressure was so great to have the convention amended that there was some danger it would be denounced. Conversation with the British Ambassador in which he was informed of what had been said to the Japanese Ambassador.	150
Aug. 24	*Memorandum by the Assistant Secretary of State* Conversation with the Japanese Chargé, at the conclusion of which the Chargé stated that he would report to his Government that the United States is prepared to give consideration to any suggestions Japan might have to make with a view to discussing whether or not by amendment of U. S. laws and regulations the United States could meet Japan's desires.	153

LATVIA

TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS, AND ACCOMPANYING PROTOCOL, BETWEEN THE UNITED STATES AND LATVIA, SIGNED APRIL 20, 1928

1926		
May 3 (3739)	*From the Chargé in Latvia* Transmittal of text of temporary provisional agreement for most-favored-nation treatment of commerce between United States and Latvia, as published April 28 in official gazette. Reminder that as an inducement to the conclusion of the provisional temporary agreement the prospect was held out of prompt initiation of negotiations for a permanent treaty as soon as the temporary agreement was concluded.	157
1927		
Jan. 21 (406)	*To the Minister in Latvia* Draft of a treaty of friendship, commerce and consular rights (text printed) based upon the counter draft submitted by the Latvian Foreign Office, February 15, 1924. Instructions to renew negotiations, bringing to the attention of the Latvian Government the U. S. views in regard to the Latvian counter draft and the provisions of the enclosed new draft.	157
Feb. 21 (16)	*From the Minister in Latvia (tel.)* Inquiry whether the Department objects to combining in article 16 the last paragraph of article 7 of the draft and the first eleven lines of article 7 of the U. S.-German treaty.	181

LATVIA

TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS, ETC., SIGNED APRIL 20, 1928—Continued

Date and number	Subject	Page
1927		
Feb. 24 (7)	*To the Minister in Latvia (tel.)* Information that the Department has no objection to including in article 16 the suggested section from article 7 of the draft and article 7 of the U. S.-German treaty. Instructions to submit text before final agreement.	182
Feb. 28 (17)	*From the Minister in Latvia (tel.)* Proposed article 16 (text printed).	182
Mar. 7 (8)	*To the Minister in Latvia (tel.)* Desire that exceptions proposed by Latvian Government in article 16 be limited to provisions of article 7; suggested additional article.	182
Mar. 21 (4408)	*From the Minister in Latvia* Memoranda dated March 5 and 16, 1927, from the Foreign Office (texts printed) accepting most of the articles of the draft treaty, but making slight alterations in the preamble, and in articles 1, 7, 11, 13, 15, 16, 27, and accompanying protocol.	183
May 16 (19)	*To the Minister in Latvia (tel.)* Instructions to accept the Latvian Government's proposals with respect to the preamble, articles 13 and 27. Further instructions, however, with respect to article 1, exception (*c*) of article 7, relating to monopolies, article 15, and article 27.	190
June 2 (43)	*From the Minister in Latvia (tel.)* Information as to the Government's attitude toward points raised by the Department with respect to article 1, exception (*c*) of article 7, and article 15.	191
June 6 (4542)	*From the Minister in Latvia* Foreign Minister's note, June 1, 1927 (text printed) proposing a text for the first two paragraphs of article 1 similar to that of the treaty of commerce and navigation between Latvia and Great Britain, and maintaining position with regard to exception (*c*) of article 7 and article 15.	191
June 15 (21)	*To the Minister in Latvia (tel.)* Information that the Department does not perceive that section (*c*) of article 7 would serve any purpose; further proposal concerning article 15.	193
July 18 (4615)	*From the Minister in Latvia* Latvian Government's counter draft of article 1 (text printed); maintenance of position with regard to exception (*c*) of article 7; acceptance of Department's proposal regarding article 15.	193
Dec. 15 (479)	*To the Minister in Latvia* Revised drafts of articles 1, 11, and 15 (texts printed), the latter two of which have been renumbered articles 12 and 16; further discussion of Department's position regarding the proposed exception (*c*) in article 7.	196
1928		
Jan. 10 (3)	*From the Minister in Latvia (tel.)* Latvian Government's agreement with Department's proposal, except article 7; desire for slight change in transit article 16, formerly article 15.	204

LATVIA

TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS, ETC., SIGNED APRIL 20, 1928—Continued

Date and number	Subject	Page
1928		
Jan. 11 (5)	*From the Minister in Latvia (tel.)* Inquiry whether, in authorizing acceptance of Latvian proposal regarding article 27, the Department intends to approve omission of last paragraph of article 26 of the U. S.-Estonian treaty.	204
Jan. 12 (8)	*From the Minister in Latvia (tel.)* Inquiry whether the Legation is authorized to accept paragraph 3 of the protocol proposed in Latvian memorandum of March 5, 1927, which refers to article 19 of the U. S. draft.	204
Jan. 12 (5)	*To the Minister in Latvia (tel.)* Information that authorization to accept proposal regarding article 27 did not authorize omission of last paragraph of that article.	204
Jan. 16 (6)	*To the Minister in Latvia (tel.)* Authorization to accept proposed paragraph 3 of the protocol with insertion of reference to article 19.	205
Feb. 2 (9)	*To the Minister in Latvia (tel.)* Further instructions regarding transit article 16.	205
Feb. 29 (14)	*To the Minister in Latvia (tel.)* Desire to have a more definite statement of the views of the Latvian Government in regard to position of U. S. Government respecting exception (*c*) of article 7.	206
Mar. 8 (24)	*From the Minister in Latvia (tel.)* Foreign Minister's further proposals regarding articles 7 and 16.	206
Mar. 13 (17)	*To the Minister in Latvia (tel.)* Authorization to accept the Foreign Minister's proposals regarding articles 7 and 16.	207
Apr. 17 (35)	*From the Minister in Latvia (tel.)* Report that full accord has now been reached and final draft proposed by the Foreign Office is ready for signature. Request for authorization to sign.	207
Apr. 18 (24)	*To the Minister in Latvia (tel.)* Authorization to sign the treaty.	208
Apr. 20 (36)	*From the Minister in Latvia (tel.)* Information that treaty was signed at noon.	208
Apr. 20	*Treaty Between the United States of America and Latvia* Of friendship, commerce and consular rights.	208
Apr. 20	*Protocol* Accompanying the treaty of friendship, commerce and consular rights.	223

LATVIA

TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS, ETC., SIGNED APRIL 20, 1928—Continued

Date and number	Subject	Page
1928		
Apr. 21 (5237)	*From the Minister in Latvia* Transmittal of notes dated January 7, 1928, and April 16, 1928, exchanged with the Foreign Minister, recording an agreement made during the negotiation of article 27 to the effect that the Latvian Government will make administrative arrangements whereby U. S. consular officers in Latvia will receive the benefit of free entry of personal property during their incumbency on the ground that Latvian consular officers in the United States will be accorded this privilege under the most-favored-nation provision of article 27.	223
July 10 (539)	*To the Minister in Latvia* Transmission of President's instrument of ratification and full powers authorizing the Minister to effect exchange, also copy of form of protocol of exchange to be signed in duplicate. Instructions to notify Department of date of exchange and date of Latvian instrument of ratification. Information that it has long been U. S. policy to construe the most-favored-nation clause in respect of consular privileges and immunities as conditioned on reciprocity. Instructions to so inform the Foreign Office and to withdraw note of January 7, 1928, before exchanging ratifications.	224
July 26 (5477)	*From the Minister in Latvia* Transmittal of Latvian instrument of ratification dated June 29, 1928, and U. S. copy of protocol of exchange, signed July 25, 1928. Note to Foreign Minister, July 24 (text printed) explaining the U. S. Government's interpretation of the most-favored-nation clause.	226
Oct. 12 (87)	*From the Chargé in Latvia (tel.)* Receipt of note of October 5 from the Foreign Office stating that from October 15, 1928, U. S. consular officers shall enjoy, on basis of reciprocity, the privilege of free entry of personal property during their incumbency. Request for date on which similar privileges will be accorded Latvian consuls in the United States.	228
Oct. 15 (5616)	*From the Chargé in Latvia* Note from the Latvian Foreign Minister, October 5 (text printed) stating that U. S. consular officers during their incumbency shall enjoy the privilege of free entry of personal property from October 15, 1928, on a basis of reciprocity.	228
Nov. 9 (62)	*To the Chargé in Latvia (tel.)* Information that the U. S. Government will by administrative action reciprocally accord from October 15 the privilege of free entry of personal property to Latvian consular officers in the United States during their incumbency.	229

LATVIA

Representations to the Latvian Government Regarding Certain Requirements Affecting American Indirect Trade With Latvia

Date and number	Subject	Page
1928 Jan. 14 (125)	*From the Consul at Riga* Transmittal of copy of Latvian decree dated January 10, 1928, regarding authentication by Latvian representatives abroad of certificates of origin accompanying shipments of lard imported into Latvia. Recommendation that measures be taken to comply with the requirements or that steps be taken to secure acceptance of the U. S. certificate of origin in its present form by the Latvian officials.	230
Mar. 9 (5111)	*From the Minister in Latvia* Information that the Latvian regulation requiring a consular visa for lard shipments has been canceled.	231
July 10 (5439)	*From the Minister in Latvia* Information that a memorandum (excerpt printed) discussing the effect of the new Latvian customs regulations upon the sale of American products to Latvian merchants was handed to the Foreign Office on June 15, 1928. Agreement of Director of Customs to reverse original decision to demand two certificates in cases of transshipment from European free ports or bonded warehouses of merchandise originating in the United States. Submittal of note of June 19 to the Minister for Foreign Affairs repeating the last three suggestions contained in the memorandum of June 15. Issuance of Order No. 202 providing for the acceptance of U. S. Department of Agriculture certificates covering shipments of lard and fatbacks, of U. S. grain certificates covering shipments of grain from the United States, and of Canadian grain certificates covering grain of U. S. origin shipped from Canada. Plan to continue discussion of question of the admission of merchandise, the American origin of which is indicated by markings.	232

Representations Against the Application of a Residence or Sojourn Tax on American Citizens in Latvia

1928 Sept. 7 (75)	*From the Minister in Latvia (tel.)* Request for authorization to send note to Foreign Office stating that Latvian nationals resident in the United States are not subject to payment of residence tax and requesting that U. S. citizens in Latvia be accorded similar treatment.	235
Sept. 15 (53)	*To the Minister in Latvia (tel.)* Instructions to request that U. S. citizens in Latvia receive tax treatment as favorable as that accorded to the citizens of any other foreign country as provided for in article 1 of the treaty of friendship, commerce and consular rights of April 20, 1928.	235
Sept. 19 (80)	*From the Chargé in Latvia (tel.)* Information that the Latvian Government does not consider that the question of the sojourn tax comes under the most-favored-nation provision of article 1 of the treaty. Latvian proposal for an exchange of notes to arrange for the abolition or reduction of the sojourn tax. Request for instructions.	236

LATVIA

REPRESENTATIONS AGAINST THE APPLICATION OF A RESIDENCE OR SOJOURN TAX ON AMERICAN CITIZENS IN LATVIA—Continued

Date and number	Subject	Page
1928		
Sept. 25 (58)	*To the Chargé in Latvia (tel.)* Instructions to address a note to the Foreign Office stating that the Chargé has been advised that Latvia grants exemption from residence tax with respect to nationals of certain countries because these countries impose no such tax on Latvian nationals; also to examine Latvian law and request most-favored-nation treatment thereunder, making no claim under the treaty, but stating orally that in refraining from doing so it is not to be understood as an admission that the situation is not covered by treaty, which question is fully reserved.	236
Oct. 3 (5601)	*From the Chargé in Latvia* Explanation that the first sentence of the note suggested by the Department contains an inaccurate statement of fact; that the nationals of all foreign countries, except Estonia and Great Britain, residing in Latvia are paying the residence tax. Opinion of Latvian Government that it is not bound by any treaty provision in this matter. Willingness of Foreign Office to make a special agreement with the United States by exchange of notes. Request for authorization to submit a note to the Foreign Office similar to enclosed draft, omitting any reference to the treaty.	237
Nov. 21 (94)	*From the Chargé in Latvia (tel.)* Request for immediate telegraphic reply to despatch No. 5601 of October 3.	238
Nov. 21 (68)	*To the Chargé in Latvia (tel.)* Inquiry whether tax in question is applied to Latvian nationals as well as foreign nationals.	238
Nov. 22 (95)	*From the Chargé in Latvia (tel.)* Information that the tax does not apply to Latvian nationals.	238
Nov. 27 (69)	*To the Chargé in Latvia (tel.)* Instructions to request exemption from tax for American nationals under paragraph 2, article 1, of the treaty.	239
Nov. 30 (98)	*From the Chargé in Latvia (tel.)* Information that the Foreign Office states that paragraph 2 of article 1 does not apply to the sojourn tax. Request for further instructions.	239

LIBERIA

APPOINTMENT OF JOHN LOOMIS AS FINANCIAL ADVISER TO THE REPUBLIC OF LIBERIA SUCCEEDING SIDNEY DE LA RUE

1927		
Dec. 12	*To the Minister in Liberia* Discussion of conflicting interests of the Liberian Government, the Receivership, and the Firestone organization in Liberia. Instructions to make every effort to bring about mutual confidence and cordial cooperation.	240

LIBERIA

APPOINTMENT OF JOHN LOOMIS AS FINANCIAL ADVISER TO THE REPUBLIC OF LIBERIA SUCCEEDING SIDNEY DE LA RUE—Continued

Date and number	Subject	Page
1928 Jan. 21	*To the Vice President of the National City Bank of New York* Information that the matter of replacing the Assistant Auditor of Liberia concerns only the bank and the Liberian Government and that the Department can take no action, not even to the extent of consulting General McIntyre, the chief of the Bureau of Insular Affairs of the War Department. Belief, however, that General McIntyre will be glad to cooperate if approached directly; intimation that he may be shown this letter.	241
Jan. 27 (3)	*To the Minister in Liberia (tel.)* Instructions to inform the Liberian Government that the Department intends to name an Acting Financial Adviser who will eventually be named as Financial Adviser, should De la Rue be unable to resume his duties, and to report the nomination of Conrad T. Bussell as Temporary Financial Adviser until arrival of new Acting Financial Adviser. Opinion that remuneration of Acting Financial Adviser should be the same as that received by De la Rue, and that this matter should be the subject of a supplementary agreement, since the loan agreement makes no provision for such remuneration.	241
Feb. 4 (72/D)	*From the Liberian Secretary of State to the American Minister in Liberia* Approval of nomination of Bussell as Temporary Financial Adviser. Opinion that the loan agreement furnishes no authority for the appointment of an Acting Financial Adviser in the sense suggested by the Department; and inability to concur in Department's proposed intention.	242
Feb. 7	*To Mr. Harvey S. Firestone* Information as to the position taken by Liberia concerning appointment of an Acting Financial Adviser; and advice that the Department can do nothing further unless the Finance Corporation and the Fiscal Agent can reach an agreement with Liberia by direct negotiation.	244
Feb. 15	*From the Acting Financial Adviser to the Republic of Liberia to the American Minister in Liberia* Acknowledgment of appointment as Acting Financial Adviser and expression of appreciation of cooperation of the American Legation in the past.	246
Apr. 17 (9)	*To the Minister in Liberia (tel.)* Instructions to inform Bussell that the loan agreement does not give the Financial Adviser any power over expenditures contemplated by the Government as long as these are within the sum appropriated in an existing budget.	246
July 13	*To President Coolidge* Recommendation that John Loomis be designated to the post of Financial Adviser left vacant by the resignation of De la Rue.	247
July 16	*From the Secretary to the President* The President's approval of the designation of John Loomis as Financial Adviser to the Republic of Liberia.	248

LIBERIA

APPOINTMENT OF JOHN LOOMIS AS FINANCIAL ADVISER TO THE REPUBLIC OF LIBERIA SUCCEEDING SIDNEY DE LA RUE—Continued

Date and number	Subject	Page
1928		
July 17 (15)	*To the Minister in Liberia (tel.)* Instructions to forward De la Rue's resignation to President King with a covering note informing him confidentially of President Coolidge's designation of John Loomis as Financial Adviser; and to telegraph a report of results of action taken.	248
July 31 (22)	*From the Minister in Liberia (tel.)* Information that De la Rue's resignation has been accepted and that designation of Loomis as his successor has been approved by the Liberian Government.	249

DENIAL BY PRESIDENT KING OF LIBERIA OF ALLEGATIONS MADE BY RAYMOND LESLIE BUELL REGARDING FIRESTONE CONCESSION

1928		
Aug. 18 (26)	*To the Minister in Liberia (tel.)* Instructions to inform President King that the Associated Press will handle any statement he desires to make refuting charges concerning the Firestone concession and the American loan to Liberia that may be made by Buell in lectures that he plans to deliver at the Williamstown Institute of Politics.	249
Aug. 29 (27)	*To the Minister in Liberia (tel.)* Instructions to discuss matter of statement with President King and W. D. Hines, Firestone representative in Liberia, and telegraph President King's decision.	250
Aug. 30 (34)	*From the Minister in Liberia (tel.)* Information that President King issued a statement to the Associated Press and sent copy to the Department refuting allegations in Buell's speech.	250
Aug. 30	*From President King of Liberia (tel.)* Denial of Buell's allegations that the Liberian Government was coerced by the Department of State in the matter of the Firestone rubber concession and the 7 percent loan of 1927.	251
Sept. 1	*To President King of Liberia (tel.)* Acknowledgment of telegram of August 30 and information that it was given full publicity.	253
Sept. 1 (29)	*To the Minister in Liberia (tel.)* Information that the speech delivered by Thomas Jesse Jones at Williamstown on August 29, the extensive press comments by the Department, and President King's statement should dispose of Buell's charges and clear the air of misunderstandings.	253

LIBERIA

Establishment of Radio Communication Between the United States and Liberia

Date and number	Subject	Page
1927		
Dec. 3 (53)	*To the Minister in Liberia (tel.)* Firestone's statement that the recent Liberian Executive order regarding the use of radio amounts in effect to nullification of privileges granted by article II, paragraph E of the planting agreement, which he points out is general in character and does not limit the use of radio to the confines of Liberia. Department's belief that Firestone's position is consistent with a reasonable interpretation of article II, paragraph E; and instructions to tender good offices. (Footnote: Text of a telegram from Firestone representative in Liberia, November 28, giving substance of Liberian Executive order and the Liberian Government's position that Firestone is not entitled to trans-Atlantic use of radio.)	254
Dec. 6 (53)	*From the Minister in Liberia (tel.)* Explanation of Liberian Government's position. Minister's reluctance to tender good offices.	255
Dec. 17 (Dip. 6)	*From the Minister in Liberia* Transmittal of duplicate originals of agreement between the Liberian Government and the Radio Corporation of America of October 31, 1927, for delivery to the Radio Corporation of America in New York City.	256
Dec. 21 (55)	*To the Minister in Liberia (tel.)* Information that Firestone disagrees with the views of the Liberian Government but wishes no action taken until his arrival in Monrovia in January.	257
1928		
Jan. 14 (Dip. 13)	*From the Minister in Liberia* Concurrence in Department's opinion that Firestone's position is consistent with a reasonable interpretation of paragraph E of article II of planting agreement. Information that Liberian Government is determined in its insistence upon exclusive rights in the use of radio.	257
Feb. 24 (Dip.40)	*From the Minister in Liberia* Report that Mr. Harvey S. Firestone, Jr., had a conference with a commission appointed by the Liberian Government regarding the establishment of a trans-Atlantic wireless station in Liberia by the Firestone Plantations Co. and that a tentative verbal agreement was reached. Correspondence between Firestone and Postmaster General Ross concerning granting of suitable wavelengths consistent with the provisions of Radio Act of February 17 (text printed).	258
June 27	*To the Chairman of the Federal Radio Commission* Desire that both the Firestone and the Radio Corporation Liberian circuits be permitted to continue operation.	263
June 28	*From the Chairman of the Federal Radio Commission* Information that Radio Corporation has been notified of the denial of its application for license to communicate with Liberia.	264

LIBERIA

ESTABLISHMENT OF RADIO COMMUNICATION BETWEEN THE UNITED STATES AND LIBERIA—Continued

Date and number	Subject	Page
1928		
July 2 (14)	*To the Minister in Liberia (tel.)* Instructions to ascertain the present status of Firestone's negotiation of a traffic agreement with the Government of Liberia and the Radio Corporation's negotiation for an extension of the agreement with the Liberian Government signed last fall; also whether negotiations have been carried on between any other radio concerns and the Liberian Government, and the effect upon Radio Corporation's existing agreement if Firestone agreement is signed.	264
July 9 (Dip.91)	*From the Minister in Liberia* Report that all negotiations with Firestone representative have ceased; that Liberian Government has advised Radio Corporation that it desires to have two wireless stations, but if there is to be but one, desires that Radio Corporation should have it. Opinion that nothing further will be done until the Government is advised of the final action of the Federal Radio Commission. Information that overtures made by German and British interests have been sidetracked.	265
July 25 (20)	*From the Minister in Liberia (tel.)* Transmittal of President King's request that the Department use its good offices in facilitating the issuance of the necessary licenses to both the Radio Corporation and Firestone.	267
July 27	*From Mr. Harvey S. Firestone, Jr. (tel.)* Transmittal by Hines of a statement authorized by President King (text printed) that Liberian Government agrees to grant a public utility radio license to Firestone but feels that Liberia should have more than one radio public utility system of communication between Liberia and the United States. (Footnote: Information that this same statement was cabled by President King to Harvey Firestone, Jr., on July 30.)	268
July 30 (18)	*To the Minister in Liberia (tel.)* Instructions to ask Hines for a verification of President King's statement to him; and to obtain from President King a definite statement as to the nature of the license he is willing to grant Firestone, as well as further clarification of the Liberian Government's policy regarding general commercial licenses.	268
Aug. 3 (23)	*From the Minister in Liberia (tel.)* Information that President King's illness prevents immediate interview.	269
Aug. 7 (20)	*To the Minister in Liberia (tel.)* Instructions to forward by cable the complete text of the proposed license for operation of a general commercial radio station in Liberia to be issued to Firestone; to discuss with President King the decision of the Radio Commission to assign only one wavelength for Liberia and report to Department by cable.	269
Aug. 15 (29)	*From the Minister in Liberia (tel.)* Report that President King states that the Liberian Government's position is made plain in his telegram to Firestone of July 30.	270

LIBERIA

ESTABLISHMENT OF RADIO COMMUNICATION BETWEEN THE UNITED STATES AND LIBERIA—Continued

Date and number	Subject	Page
1928		
Aug. 15	*To the Chairman of the Federal Radio Commission* Transmittal of views of Liberian Government regarding the question of the granting of licenses for general commercial radio communication with Liberia. Department's desire that President King's request that licenses be granted to both the Firestone Plantations Co. and to the Radio Corporation of America be considered.	271
Aug. 17 (25)	*To the Minister in Liberia (tel.)* Information that the Federal Radio Commission has granted the Radio Corporation a license for general radio communication with Liberia, thus making possible the double line of direct public service radio communication between Liberia and United States desired by Liberia.	272
Aug. 22 (Dip.113)	*From the Minister in Liberia* Transmittal of correspondence exchanged between the Liberian Government and Firestone Plantations Co., June 15, June 21, and August 3 (texts printed); note from President King, August 16 (text printed); note to President King, August 18 and his reply August 20 (texts printed) expressing appreciation of Department's good offices; also President King's telegram, August 20, to the Radio Corporation of America (text printed) expressing appreciation.	272
Sept. 6 (Dip.124)	*From the Minister in Liberia* Information that the Liberian Government radio stations at Monrovia and Cape Palmas were opened on September 1.	278
1929		
Jan. 23 (Dip.216)	*From the Minister in Liberia* Radio agreement between the Republic of Liberia and the Firestone Plantations Co., signed January 22, 1929 (text printed).	279

LITHUANIA

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND LITHUANIA, SIGNED NOVEMBER 14, 1928

1928		
Aug. 3 (723)	*From the Lithuanian Chargé* Information that Lithuania has accepted the U. S. proposal to sign treaties of arbitration and conciliation and that the treaties will be signed by the new Minister of Lithuania to the United States.	283
Nov. 14	*Treaty Between the United States of America and Lithuania* Of arbitration.	283
Nov. 14	*Treaty Between the United States of America and Lithuania* Of conciliation.	285

LITHUANIA

REPRESENTATIONS TO THE LITHUANIAN GOVERNMENT REGARDING CERTAIN REQUIREMENTS AFFECTING AMERICAN INDIRECT TRADE WITH LITHUANIA

Date and number	Subject	Page
1928 Nov. 10 (64)	*To the Chargé in Lithuania (tel.)* Information that the consul at Kovno reports that certificates of origin are required under amended Lithuanian tariff. Instructions to consult the consul and, if necessary, endeavor to work out arrangement similar to that effected with Latvia.	287
Nov. 23 (5728)	*From the Chargé in Lithuania* Despatches of November 13 and 21 from the consul at Kovno (texts printed) setting forth the substance of his conversations with Lithuanian officials concerning the question of certificates of origin in Lithuania.	288

MEXICO

PROTECTION OF RIGHTS OF AMERICAN OWNERS OF OIL LANDS IN MEXICO

1927 Dec. 30 (215)	*From the Ambassador in Mexico* Information that the bill (text printed) providing for the amendment of articles 14 and 15 of the petroleum law of December 26, 1925, has been passed by the Chamber of Deputies.	292
1928 Jan. 9 (16)	*From the Ambassador in Mexico (tel.)* Information that the President has signed the amendment to the petroleum act. Exchange of correspondence between Branch, representing the Huasteca Company, and Morones, the Secretary of Industry, Commerce and Labor (texts printed).	293
Undated [Rec'd Jan. 11] (22)	*From the Chargé in Mexico (tel.)* Information that the *Diario Oficial* of January 10 contains the official promulgation of the law amending articles 14 and 15 of the petroleum law of December 26, 1925.	295
Jan. 12 (23)	*From the Chargé in Mexico (tel.)* Information that the Ministry of Industry has no objection to release for publication of the correspondence with Branch; that Branch reports that a district court recently rendered a decision in an *amparo* action that the petroleum law of December 26, 1925, is unconstitutional in certain articles in addition to articles 14 and 15. Suggestion that publicity be deferred until receipt of full particulars from Branch.	295
Jan. 12 (24)	*From the Chargé in Mexico (tel.)* Branch's memorandum (text printed) giving full particulars in regard to the decision rendered on January 7 by the third supernumerary judge of the Federal District in granting *amparos* to the Huasteca, Mexican, Tuxpan and Tamiahua oil companies.	296
Jan. 13 (12)	*To the Chargé in Mexico (tel.)* Information that the Department is giving a statement to the press based on the Embassy's telegrams of January 12.	297
Feb. 10	*From the Ambassador in Mexico* Information that the oil companies will make no settlement of their preconstitutional rights until the untagged land question is settled to the satisfaction of the State Department.	297

MEXICO

PROTECTION OF RIGHTS OF AMERICAN OWNERS OF OIL LANDS IN MEXICO—Con.

Date and number	Subject	Page
1928		
Mar. 6 (421)	*From the Ambassador in Mexico* Transmittal of a draft of proposed amendments to the regulations of the Mexican petroleum law and text of the proposed transitory articles. Information concerning the negotiations.	298
Mar. 27 (471)	*From the Ambassador in Mexico* Letter to the Minister of Industry, Commerce and Labor (text printed) setting forth understanding of the purport of article 152, amended, of the regulations of the petroleum law promulgated by Executive decree March 27.	299
Mar. 27 (474)	*From the Ambassador in Mexico* Mexican decree of March 27, 1928 (text printed) containing amendments of the petroleum regulations promulgated April 8, 1926; and statement handed to the press, March 27, 1928, on behalf of Ambassador Morrow (text printed).	300
Mar. 27	*Statement Issued to the Press by the Department of State* Announcement that the petroleum regulations just promulgated by President Calles bring to a practical conclusion the discussions, begun 10 years ago, with reference to the effect of the Mexican Constitution and laws upon foreign oil companies; and that such questions as may hereafter arise can be settled through due operation of Mexican administrative departments and the Mexican courts.	307
Apr. 16 (101)	*To the Ambassador in Mexico (tel.)* Request for verification of despatch in *New York Times* to the effect that Huasteca Petroleum Company has advised the Mexican Government through Branch that it accepts the recent petroleum regulations.	308
Apr. 16 (112)	*From the Ambassador in Mexico (tel.)* Information from Branch that the newspaper report is correct.	308

CONVENTION BETWEEN THE UNITED STATES AND MEXICO SAFEGUARDING LIVESTOCK INTERESTS THROUGH THE PREVENTION OF INFECTIOUS AND CONTAGIOUS DISEASES, SIGNED MARCH 16, 1928

1926		
Apr. 13 (2061)	*From the Ambassador in Mexico* Willingness of Mexican Government to participate in proposed conference between representatives of the U. S. Department of Agriculture and the Mexican Department of Agriculture and Fomento regarding problems of the livestock industry.	308
May 19 (900)	*To the Ambassador in Mexico* Instructions to inform the Mexican Government that the Department of Agriculture will name three representatives of the Bureau of Animal Industry to confer with Mexican delegates, suggests that the conference be held at an early date, and names El Paso, Texas, as a possible place of meeting.	310
July 15 (312)	*From the Ambassador in Mexico (tel.)* Receipt of Foreign Office note stating that the Mexican Government accepts U. S. invitation to conference and is agreeable to holding of conference in July at Washington instead of El Paso, and advising that Mexican representatives will be Jose Figueroa and Daniel Ortiz Berumen.	310

MEXICO

CONVENTION BETWEEN THE UNITED STATES AND MEXICO SAFEGUARDING LIVESTOCK INTERESTS THROUGH THE PREVENTION OF INFECTIOUS AND CONTAGIOUS DISEASES, SIGNED MARCH 16, 1928—Continued

Date and number	Subject	Page
1926 July 24 (244)	*To the Ambassador in Mexico (tel.)* Instructions to advise the Foreign Office that it will be agreeable to the United States to hold the conference in Washington instead of El Paso.	310
Aug. 4 (327)	*From the Ambassador in Mexico (tel.)* Information that representative of Foreign Office at conference will be Antonio Castro Leal, counselor of Mexican Embassy at Washington.	311
Oct. 8	*From the Mexican Chargé* Information that the Mexican Government is prepared to appoint a plenipotentiary to conclude and sign the draft convention proposed by the delegates.	311
Nov. 15	*To the Mexican Ambassador* Information that the United States is prepared to sign the convention provided article 13 is modified. Proposed amendment of article 13 (text printed).	312
1927 Jan. 21	*From the Mexican Ambassador* Acceptance of proposed amendment of article 13 with slight changes in the wording.	313
Feb. 17	*To the Mexican Ambassador* Inquiry whether the Mexican Government will agree to amendment of article 13 proposed by the Secretary of Agriculture in letter of February 8 (extract printed).	313
Mar. 16	*From the Mexican Chargé* Notification of Mexican Government's acceptance of amendment of article 13 proposed by Secretary of Agriculture.	315
1928 Feb. 24 (49)	*To the Ambassador in Mexico (tel.)* Instructions to inquire informally of the Acting Minister for Foreign Affairs whether the Mexican Government would now be disposed to sign the convention.	316
Feb. 29 (63)	*From the Ambassador in Mexico (tel.)* Information that the Mexican Government is ready to sign the convention, and that on March 2 the President will sign full powers for Ambassador Téllez to sign the convention.	316
Mar. 2 (62)	*To the Ambassador in Mexico (tel.)* Instructions to inquire of Foreign Office whether it will agree that simultaneous press announcements regarding proposal to sign convention be made by both Governments.	317
Mar. 8 (73)	*From the Ambassador in Mexico (tel.)* Information that Foreign Office states that March 16 will be satisfactory for signing of convention and that it will issue press statement to that effect March 9.	317
Mar. 16	*Convention Between the United States of America and Mexico* Safeguarding livestock interests through the prevention of infectious and contagious diseases.	317

MEXICO

Opposition of the Department of State to Any Undue Preference for Any Group of Creditors of the Mexican Government

Date and number	Subject	Page
1928		
Nov. 2 (287)	*To the Ambassador in Mexico (tel.)* Information that the Department has not been consulted regarding, and is not advised concerning, the nature of the negotiations which, according to press reports, representatives of foreign holders of Mexican bonds are conducting in Mexico. Instructions to call the Government's attention to the fact that there are other obligations of the Mexican Government to U. S. citizens the existence of which should not be overlooked in connection with any financial adjustments the Mexican Government may have under consideration with its foreign bondholders.	321
Nov. 9 (1114)	*From the Ambassador in Mexico* Report that representatives of the International Committee of Bankers on the Mexican debt have been in consultation with the Minister of Hacienda for the purpose of discussing the general principles which might form the basis of a new agreement regarding external debt; that the Ambassador has made no formal representations but has informally called attention to the unfortunate situation which would arise if they conclude a new agreement of such a nature that it might break down when the country is faced with payment of other obligations including claims sponsored by various other governments.	322
Dec. 9 (319)	*From the Chargé in Mexico (tel.)* Information that the Minister of Finance has stated that political events of the past week have rendered it desirable to leave the debt negotiations and plans for railroad reorganization *in statu quo* until the situation becomes somewhat clarified.	323

Establishment of Air Mail Service Between the United States and Mexico

1928		
Mar. 23	*From the Second Assistant Postmaster General* Request that the State Department inquire whether the Mexican Government would approve the operation of an air mail line from Brownsville, Texas, to Mexico City via Tampico and Vera Cruz.	323
Mar. 24 (79)	*To the Ambassador in Mexico (tel.)* Instructions to address note to Foreign Office inquiring whether the Mexican Government would approve the establishment of an air mail line from Brownsville, Texas, to Mexico City via Tampico and Vera Cruz.	324
Apr. 3 (493)	*From the Ambassador in Mexico* Foreign Office note of March 31 (text printed) stating that under certain conditions the Mexican Government perceives no objection to the contemplated project.	324
Oct. 1	*From President Calles to President Coolidge (tel.)* Congratulations on the establishment of the air mail service between the two countries.	325
Oct. 1	*From President Coolidge to President Calles (tel.)* Expression of felicitation upon the inauguration of the air mail service.	326

MEXICO

GOOD OFFICES OF AMBASSADOR MORROW IN FACILITATING NEGOTIATIONS BETWEEN THE MEXICAN GOVERNMENT AND REPRESENTATIVES OF THE ROMAN CATHOLIC CHURCH

Date and number	Subject	Page
1928 July 23	*From the Ambassador in Mexico* Review and record of the course of events and the conversations and principal correspondence which the Ambassador has had in regard to the religious situation in Mexico. Opinion that further discussion of an adjustment at this time is futile.	326
Nov. 23 (307)	*From the Ambassador in Mexico (tel.)* Report of conference with President Calles on the clerical issue, November 22, in which the President stated that it was inadvisable to take up the matter in the few days he would remain in office.	335

REPRESENTATIONS TO THE MEXICAN GOVERNMENT REGARDING PROTECTION OF AMERICAN INTERESTS AT MANZANILLO FROM ATTACKS BY REVOLUTIONISTS

1928 May 25	*From the Vice Consul at Manzanillo (tel.)* Report that on May 24 revolutionists attacked Manzanillo but were repelled and that all Americans are safe.	336
June 11	*From the Vice Consul at Manzanillo (tel.)* Telegram sent to the Embassy (text printed) reporting rumors that the revolutionists will again attack Manzanillo and will burn and destroy Manzanillo, especially the plant of the Standard Oil Company, and suggesting that this be brought to the attention of the Foreign Office.	336
June 12 (147)	*To the Chargé in Mexico (tel.)* Instructions to make suitable representations.	336
June 21 (704)	*From the Chargé in Mexico* Information that note was sent to Foreign Office on June 11 requesting that steps be taken to protect the interests of the California Standard Oil Company as well as other American interests in Manzanillo and that reply was received on June 18 that the military authorities had been advised to provide adequate protection for American interests.	337

DESIGNATION OF THE THIRD MEMBER OF THE GENERAL AND SPECIAL CLAIMS COMMISSIONS BY THE PRESIDENT OF THE ADMINISTRATIVE COUNCIL OF THE HAGUE TRIBUNAL

1928 Apr. 10	*Memorandum by the Under Secretary of State* Conversation with Mexican Ambassador in which the Ambassador stated that the Mexican Government did not approve any of the three names suggested to fill the vacancies of president of the Claims Commissions.	337

MEXICO

DESIGNATION OF THE THIRD MEMBER OF THE GENERAL AND SPECIAL CLAIMS COMMISSIONS BY THE PRESIDENT OF THE ADMINISTRATIVE COUNCIL OF THE HAGUE TRIBUNAL—Continued

Date and number	Subject	Page
1928 Apr. 23 (13)	*To the Minister in the Netherlands (tel.)* Instructions to confer with the Mexican representative in the Netherlands and make joint request to the President of the Permanent Administrative Council of the Hague Tribunal that he designate the third member of the General and Special Claims Commissions, explaining that the same person will serve as the third member of each of the Commissions; and to telegraph name and biographical sketch of person selected.	338
Apr. 26 (17)	*From the Minister in the Netherlands (tel.)* Information that the Netherlands Minister for Foreign Affairs will make appointment requested. (Footnote: Explanation that the Netherlands Minister for Foreign Affairs acts as President of the Permanent Administrative Council.)	339
June 16 (31)	*From the Minister in the Netherlands (tel.)* Announcement that S. K. Sindballe has been designated as president general of Special Claims Commission.	340
June 16 (27)	*To the Minister in the Netherlands (tel.)* Instructions to express appreciation of action taken by the Minister of Foreign Affairs.	340

MOROCCO

RESERVATION OF RIGHTS BY THE UNITED STATES IN THE APPLICATION OF TAXES TO AMERICAN CITIZENS AND PROTÉGÉS IN THE FRENCH ZONE IN MOROCCO

1928 Jan. 18 (255)	*From the Diplomatic Agent and Consul General at Tangier* Telegram dated January 10 from the French Resident General (text printed) conveying the information that the consumption tax on sugar has been increased owing to flood disasters in the Province of the Gharb. Reply dated January 18 (text printed) making specific allusions to illegal nature of levy of increased consumption tax upon U. S. citizens and protégés effected prior to Department's assent thereto, and formulating full reservations.	341
Feb. 20 (461)	*To the Diplomatic Agent and Consul General at Tangier* Instructions to state to the French Residency General that U. S. treaty rights in Morocco exempt U. S. nationals and *ressortissants* from taxation, except such as provided for in treaties or to which the United States has been asked to consent or to which it has assented. Nonobjection to the proper authorities in the French Zone collecting the increased sugar consumption tax if it is applied without discrimination.	343

NEGOTIATIONS CONCERNING CLAIMS AND PROPOSED RECOGNITION BY THE UNITED STATES OF THE SPANISH ZONE IN MOROCCO

1928 Jan. 4	*To the Spanish Ambassador* Transmittal of list of claims of U. S. nationals or *ressortissants* who have suffered losses in the Spanish Zone of Morocco.	344

MOROCCO

NEGOTIATIONS CONCERNING CLAIMS AND PROPOSED RECOGNITION BY THE UNITED STATES OF THE SPANISH ZONE IN MOROCCO—Continued

Date and number	Subject	Page
1928		
Feb. 11 (75–11)	*From the Spanish Ambassador* Information that, in accordance with U. S. wishes, the Spanish consul general at Tangier has been instructed to collaborate with the U. S. diplomatic agent and consul general at Tangier in examining and reporting outstanding claims of U. S. citizens and protégés in connection with the Spanish Zone in Morocco.	346
Feb. 25	*To the Spanish Ambassador* Information that instructions have been sent to the U. S. diplomatic agent to examine the claims with the Spanish consul general and to prepare a joint report.	346
Feb. 25 (3)	*To the Diplomatic Agent and Consul General at Tangier (tel.)* Instructions to collaborate with Spanish consul general in examining the claims and in preparing a joint report.	347
June 16 (5)	*From the Diplomatic Agent and Consul General at Tangier (tel.)* Information that the joint report on American claims may be signed within two weeks. Request for permission to go to Madrid for consultation with Ambassador before representations are made to the Spanish Prime Minister.	348
June 22 (45)	*To the Ambassador in Spain (tel.)* Instructions that, after consultation with Blake, conversations should be initiated with the Spanish Government in regard to settlement of claims.	349
July 12 (311)	*From the Diplomatic Agent and Consul General at Tangier* Transmittal of correspondence with Spanish consul general of February 27, March 7, March 9, April 3, and April 4 (texts printed); and the joint report, July 12, on settlement of American claims in the Spanish Zone in Morocco, with summary of claims (texts printed).	349
Aug. 3 (985)	*From the Ambassador in Spain* Information that as yet no decision has been reached in the matter of American claims in the Spanish sphere of influence in Morocco.	357
Aug. 9 (52)	*To the Ambassador in Spain (tel.)* Authorization to intimate to the Spanish Government that the Department is awaiting an offer for the settlement of the claims. Information that the Department prefers to have the claims regarding which the Spanish consul general entered reservations, included in the settlement and has instructed the diplomatic agent at Tangier to forward a comprehensive memorandum citing reasons and precedents supporting these claims.	358
Aug. 15 (321)	*From the Diplomatic Agent and Consul General at Tangier* Memorandum (text printed) dealing fully with the question of the reservations as to certain claims made by Spanish consul general.	359

MOROCCO

NEGOTIATIONS CONCERNING CLAIMS AND PROPOSED RECOGNITION BY THE UNITED STATES OF THE SPANISH ZONE IN MOROCCO—Continued

Date and number	Subject	Page
1928 Nov. 22 (487)	*To the Ambassador in Spain* Instructions to make informal inquiries as to possibility of early action on settlement of claims by Spanish Government and to advise Spanish Government informally that recognition of the Spanish Protectorate will be considered as soon as a satisfactory settlement of the outstanding claims of U. S. citizens and protégés is made.	366

ATTITUDE OF THE UNITED STATES TOWARD PROPOSED CHANGES IN THE STATUS OF TANGIER

1928 Feb. 21 (29)	*From the Chargé in Spain (tel.)* Information from the French Ambassador concerning the basis upon which the Franco-Spanish Tangier negotiations have been settled. Report that France and England have agreed with Spain to the calling of a conference in the near future at Malaga, to which Italy is to be asked, for the purpose of determining the extent of Italian participation in Tangier administration.	367
Feb. 29 (21)	*To the Ambassador in Spain (tel.)* Instructions to inquire informally at the Foreign Office concerning the basis for the reports regarding proposed Moroccan conference. Explanation that the U. S. attitude continues to be that indicated in the 1926 correspondence between the two Governments.	368
Mar. 2 (56)	*From the Ambassador in France (tel.)* Main points of the agreement concluding the Franco-Spanish negotiations which will probably be signed March 3.	369
Mar. 5 (33)	*From the Ambassador in Spain (tel.)* Report of interviews with the chief of the Diplomatic Bureau and with the counselor of the French Embassy. Request for authorization to discuss matters with Primo de Rivera.	369
Mar. 6 (8400)	*From the Ambassador in France* Information that the agreement was signed on March 3. Request for instructions should the four-power conversations be held in Paris.	370
Mar. 7 (24)	*To the Ambassador in Spain (tel.)* Authorization to discuss Moroccan matters with Primo de Rivera.	371
Undated [Rec'd Mar. 14] (67)	*From the Ambassador in France (tel.)* Information that the four-power Tangier conversations will begin at Quai d'Orsay on March 20.	371
Mar. 15 (76)	*To the Ambassador in France (tel.)* Memorandum for the Foreign Office (text printed) stating that the U. S. views regarding Tangier remain unaltered and reserving U. S. position on any decisions taken by the conference. (Instructions to repeat to London, Madrid, and Rome for similar action by them and to Tangier for its information.)	371

MOROCCO

ATTITUDE OF THE UNITED STATES TOWARD PROPOSED CHANGES IN THE STATUS OF TANGIER—Continued

Date and number	Subject	Page
1928 Mar. 21 (44)	*From the Chargé in Spain (tel.)* Report of interview with Primo de Rivera, at time of presentation of note, in which Primo said that the Spanish Government had no desire to interfere with the maintenance of the open door in Tangier or with the protection which U. S. citizens and interests enjoyed under the Algeciras Act. (Repeated to Paris, Tangier, London, and Rome.)	372
May 25 (134)	*From the Ambassador in France (tel.)* Associated Press report that the Tangier agreement was reached May 24. Foreign Office statement that agreement will be communicated to all signatories to Act of Algeciras.	373
Aug. 2 (8836)	*From the Ambassador in France* Foreign Office note of July 31 (text printed) transmitting copies of the final protocol of the Tangier conference.	373
Dec. 21	*To Mr. Walter Littlefield of the "New York Times"* Statement of the attitude of the United States toward the recent agreement between Great Britain, France, Spain, and Italy.	374

NETHERLANDS

UNDERSTANDING BETWEEN THE UNITED STATES AND THE NETHERLANDS CONCERNING RECIPROCAL ACCESS TO PETROLEUM RESOURCES

1927 Nov. 14 (3225)	*From the Netherlands Minister* Information that a bill has been introduced in Parliament granting a concession to the Nederlandsche Koloniale Petroleum Maatschappij, a subsidiary of the Standard Oil Co. of New Jersey; and that after this project becomes law the Netherlands Government will continue to take the same line in the future with regard to issuing of oil lands. Hope that, in view of these facts, the United States will now declare the Netherlands a reciprocating country under the provisions of the U. S. general leasing act of 1920.	375
Dec. 28	*To the Netherlands Minister* Letter from the Department of the Interior, December 14 (excerpt printed) suggesting that an application be filed under the provisions of the general leasing law of 1920, in order that the Dutch position under U. S. laws may now be passed upon.	376
1928 Jan. 7 (1385)	*From the Minister in the Netherlands* Interview with the Foreign Minister who expressed the hope that the passage of the Koloniale bill through the second Chamber would be accepted by the United States as evidence of the Netherlands Government's desire to establish complete reciprocity between the two nations.	377
Feb. 3 (6)	*To the Chargé in the Netherlands (tel.)* Instructions to ascertain whether report concerning possible legislation in the United States applicable to naval oil reserves is being circulated in the Netherlands.	378

NETHERLANDS

UNDERSTANDING BETWEEN THE UNITED STATES AND THE NETHERLANDS CONCERNING RECIPROCAL ACCESS TO PETROLEUM RESOURCES—Continued

Date and number	Subject	Page
1928		
Feb. 4 (6)	*From the Chargé in the Netherlands (tel.)* Report that Reuter news agency despatch alleged that difficulties had resulted from the Royal Dutch purchase of naval reserve oil from the Honolulu Oil Co. Foreign Minister's intimation of possibility of postponement of the Koloniale bill in view of recent rumors.	378
Feb. 8 (7)	*From the Chargé in the Netherlands (tel.)* Report that Koloniale oil bill was approved by the first Chamber on February 8.	379
Feb. 18 (1427)	*From the Chargé in the Netherlands* Colonial Minister's declaration that should the U. S. Government fail to extend complete reciprocity in oil matters, he might withhold his signature to the bill. Opinion that the Netherlands Government, in order to clear the record of charges of lack of reciprocity made in the President's message May 16, 1921, may desire a formal statement from the U. S. Government rather than to leave their vindication to the filing of an application for a permit by the Royal Dutch.	379
Feb. 24 (8)	*From the Chargé in the Netherlands (tel.)* Information that the Netherlands Chargé at Washington has been instructed that his Government, before signing the oil bill, wishes a formal statement that the U. S. Government now considers the Netherlands a reciprocating country under the provisions of the general leasing act of 1920.	381
Mar. 2 (8)	*To the Chargé in the Netherlands (tel.)* Informal memorandum for the Foreign Office (text printed) expressing belief that an informal exchange of views rather than continuation of formal diplomatic correspondence which has extended over 8 years is better calculated to facilitate a prompt understanding; also setting forth U. S. position and concluding with three conditions precedent to U. S. action.	381
Mar. 5 (9)	*From the Chargé in the Netherlands (tel.)* Opinion of Secretary General of the Foreign Office that it should not be difficult to meet the provisions of the U. S. memorandum; his belief that the Colonial Minister, in complying therewith, would expect a definite declaration that the Netherlands is considered a reciprocating country. Inquiry whether Department of the Interior is disposed to give this assurance.	384
Mar. 10 (9)	*To the Chargé in the Netherlands (tel.)* Authorization to state orally and informally that, in view of statement in latter part of U. S. memorandum that recognition of the Netherlands as a reciprocating country would in principle be assured should that Government do certain specified things, the Chargé is unable to understand what more definite declaration could be made at this time.	384
Mar. 14 (11)	*From the Chargé in the Netherlands (tel.)* Information that the Dutch, sensitive to the charges of nonreciprocity, desire the promise of a written declaration, possibly a letter from the Interior Department, recognizing the Netherlands as a reciprocating country, to be made upon receipt of a satisfactory reply to the U. S. memorandum. Request for authorization, if the Interior Department is prepared to make such a promise, to so inform the Foreign Office.	384

NETHERLANDS

UNDERSTANDING BETWEEN THE UNITED STATES AND THE NETHERLANDS CONCERNING RECIPROCAL ACCESS TO PETROLEUM RESOURCES—Continued

Date and number	Subject	Page
1928		
Mar. 28 (10)	*To the Chargé in the Netherlands (tel.)* Department's feeling that it is now the Netherlands Government's move. Authorization, however, to state informally that there will be no objection to the desired written declaration when the Netherlands Government, in reply to the U. S. memorandum, shall have met the conditions stated therein.	385
Apr. 10 (16)	*From the Minister in the Netherlands (tel.)* Foreign Office assurance that signature of bill granting concessions may be expected soon.	386
May 14 (20)	*From the Minister in the Netherlands (tel.)* Information that the Colonial Minister is prepared to sign the bill provided assurances are given that the U. S. Government regards the Shell Co. and the Bataafsche Petroleum Co., despite British interest in those concerns, as Dutch companies within the meaning of the reciprocal provisions of the leasing act.	386
May 14 (1517)	*From the Minister in the Netherlands* Detailed confirmation of telegram No. 20, May 14; statement that the Colonial Department is in agreement with contentions set forth in U. S. memorandum and that remaining questions relate to interpreting "equivalent," as used in the memorandum, and as to whether U. S. corporations controlled by Dutch interests could acquire leases on U. S. public lands.	386
May 21 (17)	*To the Minister in the Netherlands (tel.)* Authorization to convey informally the information that the Department, after receiving definite information concerning the Netherlands Government's position with respect to points in latter part of the U. S. memorandum, will be willing to consider further the inquiry contained in telegram No. 20, May 14; also to make an oral statement expressing the belief that, if the Netherlands Government meets the views set forth in U. S. memorandum, U. S. officials will be disposed to examine in the friendliest spirit the means of facilitating access of U. S. companies controlled by Dutch interests to U. S. public mineral lands.	390
May 26 (24)	*From the Minister in the Netherlands (tel.)* Request for authorization formally to assure Foreign Office that the Netherlands Government's assent to the three conditions in the U. S. memorandum will be followed by U. S. recognition of the Netherlands as a reciprocating country, and U. S. companies owned by Dutch interests will enjoy, even if a minor part of stock is owned by nonreciprocating country's nationals, all advantages appertaining to reciprocity.	391
May 26 (1522)	*From the Minister in the Netherlands* Detailed confirmation of telegram No. 24, May 26.	391
May 29 (20)	*To the Minister in the Netherlands (tel.)* Department's conclusion that any formal advances would not be appropriate. Instructions to talk matter over informally along lines of telegram No. 17, May 21, and to make it clear that the United States is waiting for the Netherlands Government's views; also to express the opinion that public opinion in the United States may demand measures which would condition access to both public and private lands upon reciprocity.	394

NETHERLANDS

UNDERSTANDING BETWEEN THE UNITED STATES AND THE NETHERLANDS CONCERNING RECIPROCAL ACCESS TO PETROLEUM RESOURCES—Continued

Date and number	Subject	Page
1928 June 7 (24)	*To the Minister in the Netherlands (tel.)* Explanation of meaning of "equivalent" as used in U. S. memorandum. Instructions to make oral statement authorized in last part of telegram No. 17, May 21.	395
June 29	*To the Secretary of the Navy* Statement of Department's views in regard to the naval oil reserves.	396
July 10 (1553)	*From the Minister in the Netherlands* Memorandum from the Foreign Office (text printed) containing assurances requested in the U. S. memorandum; Legation's acknowledgment (text printed); and a second memorandum from the Foreign Office (text printed) recording certain views with regard to possible legal and other difficulties which might arise in connection with the exploitation of concessions in U. S. public lands.	398
July 17 (35)	*From the Minister in the Netherlands (tel.)* Information that the Minister for the Colonies has signed and delivered the Koloniale Petroleum Co. contracts.	402
July 21 (1561)	*From the Minister in the Netherlands* Receipt of note from Foreign Office informing the Minister of the signature, on July 17, of four contracts granting petroleum concessions to the Koloniale Petroleum Co.; the Legation's reply, July 21 (text printed) conveying to the Netherlands Government recognition by the United States as a reciprocating nation within the meaning of the provisions of the leasing act of 1920.	402
Aug. 4 (1574)	*From the Minister in the Netherlands* Foreign Office note of August 2 (text printed) expressing satisfaction at arrangement reached.	403
Oct. 1 (592)	*To the Minister in the Netherlands* Memorandum for the Foreign Office (text printed) in reply to the Netherlands second memorandum of July 10. Instructions to point out orally that this reply is made not in a spirit of controversy but merely for purposes of record; and to indicate that should the Netherlands Government be willing to withdraw its memorandum, the Minister is authorized to withhold this memorandum in reply.	404
Oct. 15 (1663)	*From the Minister in the Netherlands* Information concerning presentation of memorandum and oral statements made in compliance with Department's instructions.	406

TREATY BETWEEN THE UNITED STATES AND THE NETHERLANDS FOR THE ADVANCEMENT OF PEACE, SIGNED DECEMBER 18, 1913, AND PROTOCOL INTERPRETATIVE OF ARTICLE I THEREOF, SIGNED FEBRUARY 13, 1928

1928 Feb. 13	*To President Coolidge* Request that protocol interpretative of article I of the treaty be transmitted to the Senate for ratification. (Footnote: Information that the protocol was submitted to the Senate on February 16.)	407
	Treaty Between the United States of America and the Netherlands, Signed December 18, 1913 For the advancement of peace.	408

NETHERLANDS

TREATY BETWEEN THE UNITED STATES AND THE NETHERLANDS FOR THE ADVANCEMENT OF PEACE, AND PROTOCOL INTERPRETATIVE OF ARTICLE I—Continued

Date and number	Subject	Page
1928 Feb. 13	*Protocol* Interpretative of article I of the treaty for advancement of peace, signed December 18, 1913.	410
Sept. 8	*To the Netherlands Chargé* Suggestion that the date within which the organization of the Commission may be completed be extended from September 10, 1928, to March 10, 1929.	411
Sept. 8 (2906)	*From the Netherlands Chargé* Approval of extension of the time within which the organization of the Commission may be completed.	411

PROPOSED TREATY OF ARBITRATION BETWEEN THE UNITED STATES AND THE NETHERLANDS

1928 Mar. 29 (11)	*To the Minister in the Netherlands (tel.)* Information that the Netherlands Chargé has been handed a draft treaty of arbitration whose provisions operate to extend the policy of arbitration enunciated in the convention of 1908, which expires March 25, 1929; and that the text of the proposed treaty will be forwarded in the next pouch.	412
June 27 (1949)	*From the Netherlands Minister* *Aide-mémoire* suggesting various changes in draft of proposed treaty.	412
Oct. 4 (3145)	*From the Netherlands Legation* Proposal to enter into a renewal agreement of the existing treaty of May 2, 1908. (Footnote: Information that an agreement further extending the duration of the convention was signed February 27, 1929.)	416

NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN NICARAGUA

1928 Jan. 10 (16)	*From the Chargé in Nicaragua (tel.)* Report that electoral law was passed by Senate and sent to Chamber of Deputies. Possibility of opposition, and several days' delay before final action.	418
Jan. 10 (10)	*To the Chargé in Nicaragua (tel.)* Information concerning conferences with the Nicaraguan Minister in which the Minister was advised of U. S. dissatisfaction with the present state of affairs regarding the electoral law; the Minister's contention that the law in its present form is unconstitutional and therefore would not be passed. Instructions to confer with President Diaz and to state the U. S. position to the effect that (1) objection to the legislation is untenable as a proposition of constitutional law; (2) refusal to enact it can be regarded as a flagrant breach of faith; (3) powers conferred on electoral board are considered absolutely essential to execution of the agreement; (4) further delay might compel the United States seriously to consider other measures.	418

NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN NICARAGUA—Continued

Date and number	Subject	Page
1928		
Jan. 13 (23)	*From the Chargé in Nicaragua (tel.)* Information that Medrano has been selected as Liberal Vice Presidential candidate on ticket with Moncada. Inquiry whether the Department sees any reason to question the constitutionality of Medrano's election.	420
Jan. 13 (14)	*To the Chargé in Nicaragua (tel.)* Information that the Department would regard the abandonment or postponement of the enactment of the electoral law in favor of any plan for convening of a constituent assembly as a deliberate sabotage of the Stimson Agreement; and that the Department cannot give its assent to any such procedure.	421
Jan. 14 (26)	*To the Ambassador in Cuba (tel.)* For White: Transmittal of telegram from the Chargé in Nicaragua (text printed) urging that Cuadra Pasos be approached and requested to cable his personal adherents to change their attitude of opposition to the electoral law; and conveying understanding that Cuadra Pasos has already cabled and advised that consideration of law be delayed.	421
Jan. 15 (29)	*From the Chargé in Nicaragua (tel.)* Information that committee report approved by Chamber of Deputies stated constitutional objections to electoral law and proposed a substitute project; that in discussions with Chamorro the Chargé had stated that the substitute project was utterly unacceptable. Opinion that opposition of Chamber of Deputies can be worn down eventually if situation is handled properly.	422
Jan. 16 (18)	*To the Chargé in Nicaragua (tel.)* Department's unwillingness to pass upon the question of Medrano's eligibility under Nicaraguan Constitution.	423
Jan. 16 (30)	*From the Chargé in Nicaragua (tel.)* Recommendation that note setting forth position of U. S. Government, as expressed in Department's telegram No. 10, January 10, be given to Nicaraguan Minister for transmittal to his Government to counteract the harmful effect of rumors that the U. S. Government is no longer interested in a free election in Nicaragua.	424
Jan. 17 (17)	*To the Chargé in Nicaragua (tel.)* Authorization to present note to President Diaz (text printed) setting forth U. S. views.	424
Jan. 17 (32)	*From the Chargé in Nicaragua (tel.)* Information that Chamber of Deputies has approved the substitute electoral law; that Diaz has promised to try to persuade the Conservative Deputies to reconsider this action; and that if this cannot be done, it may be necessary to introduce the McCoy project in an amended form as a new measure, since the Constitution prohibits the consideration of a measure twice by the same legislature.	425
Jan. 17	*From the Assistant Secretary of State, Then in Habana* Memorandum, dated January 15, recording conversation with Cuadra Pasos (text printed); and memorandum, dated January 17, recording conversation between the Secretary of State and Cuadra Pasos, January 16 (text printed).	425

NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN NICARAGUA—Continued

Date and number	Subject	Page
1928 Jan. 18 (33)	*From the Chargé in Nicaragua (tel.)* Information that Chamber of Deputies has sent substitute electoral project to the Senate. Report of interview with three of the leaders of the Conservative Deputies in which they expressed unyielding opposition to General McCoy's project, and of a later interview with six Conservative Senators who promised that the new project would not be approved.	436
Jan. 19 (21)	*To the Chargé in Nicaragua (tel.)* Desire for information (1) as to what further legislative procedure is contemplated or is possible; (2) full text of amendments adopted by the Chamber of Deputies; and (3) whether there is any doubt regarding attitude of President Diaz henceforward. Information that Eberhardt and McCoy have been instructed to proceed to Managua without delay.	437
Jan. 19 (11)	*To the Chargé in Panama (tel.)* For General McCoy: Instructions to proceed to Managua at once. Explanation that situation there is critical because of Chamber of Deputies' refusal to pass electoral law and rumors of Diaz' resignation.	438
Jan. 19 (7)	*From the Chairman of the American Delegation to the Sixth International Conference of American States (tel.)* From White: Report on interview with Cuadra Pasos and interview with Zepeda, who believes that an agreement can be reached by a very minor change in phraseology which will leave the law as effective as originally drafted. (Copy sent to Nicaragua.)	438
Jan. 19 (35)	*From the Chargé in Nicaragua (tel.)* Information of efforts being made to persuade the Senate not to reject the substitute electoral law; of interview with President Diaz in which the Chargé expressed his willingness to recommend such changes in form as did not in any manner lessen McCoy's powers if and when convinced the Chamber of Deputies had really changed its attitude and would accept the project without further changes. Inquiry whether the Department would under such circumstances agree to certain additions.	439
Jan. 20 (36)	*From the Chargé in Nicaragua (tel.)* Information as to what further legislative procedure is contemplated or is possible; transmittal of the substitute project (text printed) and a few objections to the project; information that President Diaz is not yet completely convinced that the electoral law must be passed. Belief that every possible effort should be made to secure favorable action by the Nicaraguan Congress.	440
Jan. 20 (37)	*From the Chargé in Nicaragua (tel.)* Information that the substitute electoral law has been sent to the Senate.	442
Jan. 20 (23)	*To the Chargé in Nicaragua (tel.)* Information that McCoy has left Panama en route to Managua. Suggestions as to amendments which the Chargé is to use only in case he reaches a point where it seems necessary to agree to some such amendments to obtain results.	443

NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN NICARAGUA—Continued

Date and number	Subject	Page
1928		
Jan. 21 (24)	*To the Chargé in Nicaragua (tel.)* Statement pointing out the inevitable consequence of U. S. refusal to recognize a government established in disregard of the result to which it had certified. Instructions to read the statement to President Diaz and Chamorro and to make plain that this must not be taken as in any way modifying the U. S. main position that the duties and obligations imposed by the Tipitapa Agreement must be fulfilled.	444
Jan. 21 (25)	*To the Chargé in Nicaragua (tel.)* Inquiry, in view of rumors which may be circulated in Nicaragua that the United States intends to favor a particular candidate or party in the election, whether any new public statement of U. S. neutrality and impartiality would be advisable; or whether publication in Nicaragua of note of November 17, 1927, to the Nicaraguan Minister would be sufficient.	445
Jan. 21 (13)	*From the Chairman of the American Delegation to the Sixth International Conference of American States (tel.)* From White: Information that Cuadra Pasos and Zepeda are optimistic that the electoral law will be passed; their suggestion that opposition would be removed if a new translation were made and if it were called a revised project. Cuadra Pasos' opinion that a statement that the United States was not attempting to place the Liberals in office would be helpful.	446
Jan. 22 (26)	*To the Chargé in Nicaragua (tel.)* Transmittal of telegram No. 13, January 21, from the chairman of the American delegation to the Sixth International Conference of American States; request for comments.	446
Jan. 22 (43)	*From the Chargé in Nicaragua (tel.)* Information that McCoy has arrived.	447
Jan. 23 (13)	*To the Chairman of the American Delegation to the Sixth International Conference of American States (tel.)* For White: Transmittal of telegram No. 24, January 21, to the Chargé in Nicaragua; instructions to repeat statement to Cuadra Pasos.	447
Jan. 23 (15)	*To the Chairman of the American Delegation to the Sixth International Conference of American States (tel.)* For White: Transmittal of text of the substitute project approved by Chamber of Deputies January 17.	447
Jan. 23 (16)	*To the Chairman of the American Delegation to the Sixth International Conference of American States (tel.)* For White: English text of the electoral law as submitted to the Nicaraguan Congress (text printed).	447
Jan. 23 (44)	*From the Chargé in Nicaragua (tel.)* Reasons why a further statement with regard to U. S. impartiality would not be advisable. Opinion that the difficulty will not be overcome by revising the translation of the electoral law, since the opposition in the Chamber of Deputies has been directed against the whole idea of supervision.	449

NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN NICARAGUA—Continued

Date and number	Subject	Page
1928		
Jan. 24 (46)	*From the Chargé in Nicaragua (tel.)* Interview with Chamorro in which the Chargé again made clear the unalterable intention of the Department that the election should be conducted according to the agreement concluded between the Governments; and gained the impression that, although Chamorro stated he had not changed his position, he nevertheless was seeking a dignified way out.	450
Jan. 24 (28)	*To the Chargé in Nicaragua (tel.)* Concurrence with Chargé's conclusion concerning the inadvisability of a further statement of U. S. impartiality. Instructions to exert every effort to bring about adjustment on basis of electoral law, redrafted, if need be, to save the face of the opposition without impairing effective U. S. supervisory control of the election. Suggestion that the regulations might be embodied in the law itself.	451
Jan. 25 (26)	*From the Chairman of the American Delegation to the Sixth International Conference of American States (tel.)* From White: Conversation with Cuadra Pasos and Zepeda concerning Joaquin Gomez' proposed modified law which they promised to redraft when told that its changes were absolutely unacceptable. (Copy sent to the Chargé in Nicaragua.)	451
Jan. 25 (47)	*From the Chargé in Nicaragua (tel.)* Report of conference with the President at which General McCoy was present. Chargé's impression that a way out can be found by letting the Deputies see the regulations which McCoy is drafting and thus allay their fears that the regulations favor the Liberals.	453
Jan. 27 (39)	*From the Chairman of the American Delegation to the Sixth International Conference of American States (tel.)* From White: Receipt from Cuadra Pasos of new draft electoral law (text printed) which now is substantially the same as the McCoy law.	454
Jan. 28 (32)	*To the Chairman of the American Delegation to the Sixth International Conference of American States (tel.)* For White: Approval of new draft electoral law. Suggestion that "or *suplente*" be added in penultimate sentence of article 2. (Repeated to Managua.)	458
Jan. 28 (35)	*To the Minister in Nicaragua (tel.)* Transmittal of Dodds' suggestion that McCoy may want to consider method of handling municipal elections in November.	458
Jan. 28 (45)	*From the Chairman of the American Delegation to the Sixth International Conference of American States (tel.)* From White: Information that Cuadra Pasos agrees to insertion of words "or *suplente*" in article 2.	459

NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN NICARAGUA—Continued

Date and number	Subject	Page
1928		
Feb. 1 (61)	*From the Minister in Nicaragua (tel.)* Information that President Diaz professes to have received no definite word from Habana regarding Cuadra Pasos' compromise proposal; that the President, at the Chargé's suggestion, has promised to recall invitation sent to 50 prominent members of the Conservative Party to meet at Managua Sunday to discuss the party's attitude toward the electoral law. (Repeated to Habana.)	459
Feb. 1 (60)	*From the Chairman of the American Delegation to the Sixth International Conference of American States (tel.)* From White: Information that Cuadra Pasos and Zepeda have promised to cable members of the Conservative Party to support the electoral law at conference.	460
Undated [Rec'd Feb. 2] (66)	*From the Chairman of the American Delegation to the Sixth International Conference of American States (tel.)* Cable, February 2, from White to the Legation in Nicaragua (text printed) reporting that Cuadra Pasos has telegraphed new text of electoral law to President Diaz and that Cuadra Pasos states he is doing all he possibly can to advance the electoral law; and also requesting to be informed of anything Cuadra Pasos can do or of names of persons whom he should cable directly.	460
Feb. 2 (64)	*From the Minister in Nicaragua (tel.)* From McCoy: Report of conversations with President Diaz, General Moncada, and General Chamorro. Recommendation of unremitting pressure on Diaz and Nicaraguan Government for fulfillment of agreement.	461
Feb. 6 (82)	*From the Chairman of the American Delegation to the Sixth International Conference of American States (tel.)* Telegram from White to Managua (text printed) reporting results of César's conferences with Cuadra Pasos; Cuadra Pasos' view that he cannot convince his followers by cable and that it will be necessary to wait until his return to Managua on February 25; and White's belief that Chamorro is the crux of the whole situation.	462
Feb. 7 (70)	*From the Minister in Nicaragua (tel.)* Report that opposition in Conservative Party to passage of a satisfactory electoral law is becoming more determined and more general. Request for approval to give out statement of U. S. position (text printed).	462
Feb. 8 (90)	*From the Chairman of the American Delegation to the Sixth International Conference of American States (tel.)* Telegram from White to the Legation in Nicaragua (text printed) reporting an interview with Cuadra Pasos concerning President Diaz' contention that the public in general feel that the United States is supporting not the Liberal Party but General Moncada personally; also Cuadra Pasos' statement that he is again instructing César in Washington to cable his support of the electoral law. Suggestion that the Department impress upon César the necessity of taking the action instructed by Cuadra Pasos.	464

NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN NICARAGUA—Continued

Date and number	Subject	Page
1928		
Feb. 8 (38)	*To the Minister in Nicaragua (tel.)* Observations regarding proposed statement.	466
Feb. 15 (80)	*From the Minister in Nicaragua (tel.)* Information that, at the Minister's suggestion, Congress has adjourned until March 5; that there is no apparent change in the attitude of the Conservative Deputies.	467
Feb. 18 (83)	*From the Minister in Nicaragua (tel.)* Information that there is a marked revival of unrest and rumors of impending disorder, caused in part by Sandino's appearance near Matagalpa; that, in view of the situation, the *guardia* will take over the policing of Managua about March 15.	467
Undated [Rec'd Feb.20] (85)	*From the Minister in Nicaragua (tel.)* Information that Moncada and Medrano were officially nominated for President and Vice President by the convention of the Liberal Party at Leon.	468
Feb. 21 (86)	*From the Minister in Nicaragua (tel.)* For White: Report that Conservative press is emphasizing the plan for selecting a single presidential candidate; receipt of press despatches stating that President Coolidge, Mr. Hughes, and Colonel Stimson have expressed warm approval of the plan and that Mr. Hughes has promised efficient U. S. cooperation; opinion that Moncada and his supporters will oppose this plan.	468
Feb. 23 (42)	*To the Minister in Nicaragua (tel.)* The Secretary's intention to issue a statement (text printed), in view of numerous rumors and newspaper articles conveying the impression that the U. S. Government is showing partiality.	469
Feb. 23 (43)	*To the Minister in Nicaragua (tel.)* Information that United States has no suggestions to make on the subject of the selection of a coalition ticket or single presidential candidate. Authorization to deny categorically that individuals mentioned in telegram No. 86, February 21, have at any time expressed the views attributed to them.	469
Feb. 25 (92)	*From the Minister in Nicaragua (tel.)* Request for authorization to issue statement outlined in telegram No. 70, February 7, with a few modifications to eliminate dangers pointed out by the Department.	470
Feb. 27 (47)	*To the Minister in Nicaragua (tel.)* Authorization to issue statement as modified.	471
Mar. 2 (105)	*From the Minister in Nicaragua (tel.)* Report of conversation with President Diaz regarding redraft of the transitory provisions prepared in Habana by Cuadra Pasos. Request that the Department send a strong cable stating that the U. S. Government expects prompt passage of compromise proposal.	471
Mar. 3 (55)	*To the Minister in Nicaragua (tel.)* Context of a strong statement to the effect that the U. S. Government expects prompt passage of the compromise proposal. Authorization to use statement in any quarter deemed desirable.	473

NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN NICARAGUA—Continued

Date and number	Subject	Page
1928		
Mar. 5 (108)	*From the Minister in Nicaragua (tel.)* Suggestion that Zepeda cable Chamorro recommending that the electoral law be passed.	474
Mar. 5 (61)	*To the Minister in Nicaragua (tel.)* Information that Zepeda states he will telegraph Chamorro recommending passage of electoral law.	474
Mar. 9 (115)	*From the Minister in Nicaragua (tel.)* Information that President Diaz has authorized the Minister to inform the Department that the law would pass on Monday or Tuesday; that Chamorro has informed McCoy that he will consent to its passage if certain provisions are inserted concerning maintenance of order and fair treatment in the appointment of secretaries of the local electoral boards.	474
Mar. 13 (116)	*From the Minister in Nicaragua (tel.)* Reasons for Chamorro's bitter opposition to the law in its present form; his threat to issue a manifesto withdrawing from politics. Presentation of counter proposals to one of Chamorro's followers.	475
Mar. 13 (117)	*From the Minister in Nicaragua (tel.)* Information that the Chamber of Deputies has rejected the electoral law by a vote reported to be 24 to 18.	476
Mar. 14 (119)	*From the Minister in Nicaragua (tel.)* Conference with Cuadra Pasos and President Diaz in which conviction was expressed that it would be desirable for Congress to adjourn March 15 at the end of its regular session; and the suggestion was made that, in order to organize the National Board of Elections and make preparations for the election, the President issue a decree containing the substance of the transitory provisions, such a decree to rest on article III, clauses 2 and 33 of the Constitution and to be ratified subsequently at a special session of Congress when the Government was able to command a majority.	476
Mar. 15 (69)	*To the Minister in Nicaragua (tel.)* For the Minister and McCoy: Department's approval of plan to proceed by Executive decree; belief that the decree should not be conditioned upon ratification by Congress and doubt as to wisdom of making any reference to constitutional provisions supporting it; intimation that it might be desirable for the President of the United States to make the same decree, *mutatis mutandis*, in the form of an order to McCoy.	478
Mar. 16 (130)	*From the Minister in Nicaragua (tel.)* Plan, in order to make decree conform to Nicaraguan conceptions of constitutional procedure, for McCoy, like president of existing National Board of Elections, to be elected by the Supreme Court of Nicaragua.	479
Mar. 17 (71)	*To the Minister in Nicaragua (tel.)* Nonobjection to plan suggested in telegram No. 130, March 16. Understanding that McCoy will be elected by the Supreme Court upon the nomination of the President of the United States.	479

NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN NICARAGUA—Continued

Date and number	Subject	Page
1928		
Mar. 19 (136)	*From the Minister in Nicaragua (tel.)* Opinion that it would not be necessary or advisable to issue the order to General McCoy suggested in telegram No. 69, March 15.	480
Mar. 19 (74)	*To the Minister in Nicaragua (tel.)* Approval of text of proposed decree. Request for suggestion as to alternate for McCoy on the National Board of Elections.	480
Mar. 20 (137)	*From the Minister in Nicaragua (tel.)* Recommendation that Col. Francis Le J. Parker be designated as alternate to General McCoy.	480
Mar. 20 (138)	*From the Minister in Nicaragua (tel.)* Information that that morning General McCoy took oath of office before the Supreme Court as Chairman of the National Board of Elections. Hope that the decree will be issued March 21.	481
Mar. 21 (76)	*To the Minister in Nicaragua (tel.)* For McCoy: Navy Department's apprehension concerning provisions of article 8 of the decree which delegates to McCoy authority over the *guardia* to the extent that may be necessary in carrying out the elections. Department's assumption that McCoy does not intend to take charge of the *guardia* and operate it as a separate military unit, but that in actual practice McCoy will deal with and through the appropriate officers of the Marine Brigade.	481
Mar. 22 (145)	*From the Minister in Nicaragua (tel.)* From McCoy: Desirability of incorporating into decree authority for U. S. representatives to utilize *guardia* for electoral purposes; opinion that there will be no difficulty in arriving at a satisfactory adjustment along lines desired.	482
Mar. 24 (148)	*From the Minister in Nicaragua (tel.)* Decree promulgated March 21 (text printed).	482
Mar. 24 (82)	*To the Minister in Nicaragua (tel.)* Letter from President Coolidge, March 22 (text printed) authorizing the Secretary of State to inform President Diaz, as soon as decree has been published, that General McCoy has been formally nominated as chairman of the commission to supervise the forthcoming elections in Nicaragua, and that Colonel Parker has been designated as alternate. Instructions to convey this information to President Diaz.	485
Mar. 28 (86)	*To the Minister in Nicaragua (tel.)* Information that César and Gomez have informed the Department of the difficulties in the Conservative Party and have been told that the Department cannot intervene in any way.	486

NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN NICARAGUA—Continued

Date and number	Subject	Page
1928		
Apr. 2 (166)	*From the Minister in Nicaragua (tel.)* Information that Martin Benard's announced intention to accept Vice Presidential nomination on ticket with Rappaccioli, whom Chamorro is supporting for Presidency, will reduce the contest in Conservative Party to one between Chamorro and the Granada Conservatives on the one hand, and Cuadra Pasos, backed more or less openly by the Administration, on the other hand; also that Chamorro has stated most definitely that he has no objection to the conduct of the elections under Presidential decree, which statement is important in view of possibility that he may protest the legality of the elections if the Liberals win.	486
Apr. 10 (173)	*From the Minister in Nicaragua (tel.)* Inquiry whether Minister should suggest that the President withhold the manifesto which he proposes to issue stating that he personally favors Cuadra Pasos as Conservative candidate for President because of his pro-Americanism.	487
Apr. 12 (92)	*To the Minister in Nicaragua (tel.)* Instructions not to make any representations or comment in any way on the action of President Diaz.	487
May 5 (202)	*From the Minister in Nicaragua (tel.)* Information that the results of the Conservative departmental conventions have been inconclusive; that in the majority of departments one faction or the other walked out and there have been two conventions; that there will be a violent contest over organization of the national convention when it meets on May 20 unless the two factions can reach an agreement before that time.	488
May 10 (206)	*From the Minister in Nicaragua (tel.)* Report that half of the delegates to the Conservative Convention are still in dispute and that the decision in these contested cases will rest with the Conservative national directorate, which Chamorro claims to control; that Cuadra Pasos has intimated that unless an arrangement is reached before May 20 there will probably be two conventions and McCoy would be compelled to decide which was the legal Conservative ticket.	488
May 15 (212)	*From the Minister in Nicaragua (tel.)* Report that the President has publicly announced he would not call a meeting of the Conservative national directorate, and that this action makes the holding of two conventions increasingly probable. Opinion that the administration faction intends to force a decision of the National Board in the belief that the board would decide against Chamorro.	489
May 16 (214)	*From the Minister in Nicaragua (tel.)* Information that, despite the President's announcement, 11 of the 19 members of the Conservative directorate met on May 15, summoned by the secretary; observation that this shows clearly that Chamorro controls the majority of the directorate.	489

NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN NICARAGUA—Continued

Date and number	Subject	Page
1928		
May 17 (216)	*From the Minister in Nicaragua (tel.)* Colonel Parker to General McCoy: Details of the fight between Conservative factions over the powers and functions of the national directorate, for such comment as General McCoy may wish to communicate.	490
May 17 (218)	*From the Minister in Nicaragua (tel.)* Information concerning action taken by Chamorro members of Conservative directorate at a second meeting, May 16; the President's statement that he will not recognize the validity of any action taken by the directorate at these meetings, because they had been illegally called.	491
May 18 (114)	*To the Minister in Nicaragua (tel.)* For Minister and Parker: Hope that the necessity for calling upon the National Board to decide, directly or indirectly, factional disputes within either party may be avoided; intimation that any political maneuvers to throw choice of President into Congress cannot fail to be viewed with the gravest misgivings.	491
May 20 (222)	*To the Minister in Nicaragua (tel.)* Information that, in two separate and orderly conventions, one Conservative faction nominated Cuadra Pasos but did not name Vice Presidential candidate; the other nominated Rappaccioli and Martin Benard.	492
May 22 (117)	*To the Minister in Nicaragua (tel.)* For Minister and Parker: Considerations as to Department's policy should the Conservative split continue. Instructions to avoid any attempt to forecast the action of the National Board of Elections in the contingency that it may be finally called upon to exercise its full powers; and for General Parker to reserve all action in regard to article 9 of the regulations. Request for views concerning advisability of a possible present or further statement emphasizing Tipitapa Agreement, the party's duties and obligations, and Department's desires and expectations.	492
May 24 (231)	*From the Minister in Nicaragua (tel.)* Information that the course followed has been in accordance with telegrams No. 114, May 18, and No. 117, May 22. Opinion that present or future statement would have little effect upon conditions existing in Conservative Party; that only effective way to convince both factions is for National Board of Elections to make an announcement which would definitely restrict the election to two parties, but that present is not opportune for such an announcement.	494
May 25 (231)	*From the Minister in Nicaragua (tel.)* Report that the National Board of Elections has filed without action similar communications from each faction, dated May 23 and May 25, claiming recognition as representing the Conservative Party. Recommendation that a statement be issued by the Legation (text printed).	495
May 28 (123)	*To the Minister in Nicaragua (tel.)* For Minister and Parker: Department's desire that Legation not issue statement contained in telegram No. 231, May 25.	497

NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN NICARAGUA—Continued

Date and number	Subject	Page
1928		
June 27 (263)	*From the Minister in Nicaragua (tel.)* Information that McCoy on returning to Managua made it clear he would not act as arbiter between the two factions, but that any action taken would be as president of the National Board of Elections and in cooperation with the other two members of the board; that written statements have been submitted and oral statements are now being made by representatives of each side before the National Board and in the presence of representatives of the other faction.	498
June 29 (265)	*From the Minister in Nicaragua (tel.)* Report that on June 28 McCoy informally exchanged views with other two members of the board with the result that Castillo, the Conservative member, offered to endeavor to persuade the two Conservative factions to present one ticket.	499
July 2 (268)	*From the Minister in Nicaragua (tel.)* Information that conference of Conservative factions will take place July 3 in endeavor to reach an agreement.	499
July 5 (270)	*From the Minister in Nicaragua (tel.)* Information that the conference adjourned without result; that later discussions between subcommittees have been equally fruitless; that both Cuadra Pasos and the President expressed the belief that there was no prospect of further advance toward understanding until after Electoral Board makes some formal decision.	499
July 7 (272)	*From the Minister in Nicaragua (tel.)* Resolution of the National Board of Elections (text printed) to the effect that neither of the two factions has duly established its right to be recognized as representing the Conservative Party. Statement issued by the president of the board (text printed).	500
July 12 (281)	*From the Minister in Nicaragua (tel.)* Information that, as a result of several conferences among Conservative leaders, it has been decided that the directorates of the two factions be given full powers to decide the dispute either by majority vote or by unanimity and that Chamorro has apparently agreed with the proviso that the decision be between the two candidates nominated by Cuadra Pasos.	501
July 26 (297)	*From the Minister in Nicaragua (tel.)* Information that the President and Chamorro have agreed upon Adolfo Benard as Conservative candidate for Presidency and Julio Cardenal as Vice Presidential candidate; that formal nomination will probably be made July 26 by combined directorates of the two factions.	502
Aug. 2 (301)	*From the Minister in Nicaragua (tel.)* Information that on July 11 the National Board of Elections formally recognized the new directorate of the Conservative Party and on the same day formally adopted the regulations to govern the election.	502
Aug. 10 (306)	*From the Minister in Nicaragua (tel.)* Information that Medrano, candidate for Vice Presidency, has resigned because of illness.	503

NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN NICARAGUA—Continued

Date and number	Subject	Page
1928		
Aug. 12 (307)	*From the Minister in Nicaragua (tel.)* Information that the Liberal directorate nominated Aguado to succeed Medrano.	503
Aug. 23 (318)	*From the Minister in Nicaragua (tel.)* Information that on August 20 the Conservative member of the National Board of Elections presented a statement opposing the acceptance by the board of Moncada's nomination for the Presidency; and that on August 21 the board, with the dissenting vote of the Conservative member, decided to accept Moncada's nomination.	503
Sept. 24 (351)	*From the Minister in Nicaragua (tel.)* Report that registration, which started September 23, took place without disorders.	505
Oct. 1 (355)	*From the Minister in Nicaragua (tel.)* Information that Moncada proposes an agreement between Conservatives and Liberals promising to request U. S. supervision of the 1932 election. Request for authorization to convey Moncada's proposal to President Diaz and Adolfo Benard for their consideration.	505
Oct. 3 (191)	*To the Minister in Nicaragua (tel.)* Instructions to reply to Moncada that while the Department is most gratified at his confidence and while the Minister feels sure the Department would give sympathetic consideration to any request so made by both parties, the Minister feels it would be better to take action only when matter is presented by both parties for transmission to U. S. Government rather than to act as intermediary between the two parties.	506
Undated [Rec'd Oct.11]	*From the Minister in Nicaragua (tel.)* Electoral mission report No. 1 giving detailed account of registration.	507
Oct. 12 (363)	*From the Minister in Nicaragua (tel.)* Report that figures which are still incomplete indicate that over 150,000 voters registered. Claim of Liberals to larger majority than the Conservatives.	509
Oct. 19 (365)	*From the Minister in Nicaragua (tel.)* Report that Moncada is sending letter to Benard promising to request American supervision of the next election if the Liberal Party wins, and calling on Benard to make a similar promise.	509
Oct. 30 (832)	*From the Minister in Nicaragua* Letters exchanged between the Liberal and Conservative presidential candidates regarding the proposed supervision by the United States of the presidential election of 1932 (texts printed).	510
Nov. 2 (374)	*From the Minister in Nicaragua (tel.)* Report that, two days before election, conditions throughout Nicaragua appear to be satisfactory; that leaders of both parties have expressed themselves as satisfied with manner in which electoral supervision has been conducted.	513

NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN NICARAGUA—Continued

Date and number	Subject	Page
1928		
Nov. 4	*From the Minister in Nicaragua (tel.)* Electoral information report No. 3 giving detailed account of conditions attending election.	513
Nov. 5	*From the Minister in Nicaragua (tel.)* Electoral information report No. 10 conveying information of Liberal victory and press comments on the election.	515
Nov. 8	*From President Coolidge to President Diaz (tel.)* Message of congratulation.	515
Nov. 9	*From President Diaz to President Coolidge (tel.)* Expression of appreciation for message of congratulation.	516
Nov. 12 (385)	*From the Minister in Nicaragua (tel.)* From McCoy: Detailed report on election.	517
Dec. 6 (410)	*From the Minister in Nicaragua (tel.)* Report that the National Board of Elections has completed its canvass and that on December 7 Moncada and Aguado will be formally notified of their election.	519
Dec. 13 (412)	*From the Minister in Nicaragua (tel.)* Report that both the Senate and the Chamber of Deputies have provisionally accepted the new members elected November 4; that it appears probable that Congress will be organized on the basis of the outcome of the election and that there will be no difficulty about the proclamation of the results of the presidential elections.	520
Dec. 15	*From the Minister in Nicaragua (tel.)* Electoral information report No. 12 giving details of final work of the mission; McCoy's resignation as President of the National Board of Elections; date of departure of mission.	520
Dec. 19 (419)	*From the Minister in Nicaragua (tel.)* Suggestion that a strong statement from the Department, to be shown privately to those concerned, might be helpful in dissuading Conservative Deputies from their evident intention of rejecting certificates issued by the National Board of Elections to four Liberal Deputies.	521
Dec. 22 (226)	*To the Minister in Nicaragua (tel.)* Refusal of Department to issue suggested statement, in view of section 2 of article 83 of the Nicaraguan Constitution giving each house of Congress the right to pass upon the credentials of its members. Authorization to state informally that the Department feels that there is a moral obligation for the Nicaraguan Congress to accept the certificates of the board.	521
Dec. 29 (427)	*From the Minister in Nicaragua (tel.)* Report that Congress approved report of National Board of Elections and declared Moncada and Aguado constitutionally elected.	522
1929		
Jan. 1 (1)	*From the Minister in Nicaragua (tel.)* Inauguration of Moncada.	522

NICARAGUA

COOPERATION OF THE UNITED STATES IN REARRANGING THE FINANCES OF NICARAGUA

Date and number	Subject	Page
1928		
Jan. 13 (24)	*From the Chargé in Nicaragua (tel.)* Information that Cumberland is preparing a financial plan which differs from that prepared by the bankers. Suggestion that the Department may wish to notify bankers in order to avoid a duplication of effort.	523
Jan. 14 (16)	*To the Chargé in Nicaragua (tel.)* Information that it had not been contemplated that Cumberland would prepare a financial plan; that what the Department primarily desired was recommendations as to Nicaragua's financial requirements and borrowing capacity. Instructions to inform Cumberland not to discuss matters with Nicaraguan officials or to submit report or recommendations to them without ascertaining the Department's views. Suggestion that Cumberland depart from Nicaragua when gathering of data is completed, and not postpone his departure for period needed to prepare his report in final form.	523
Jan. 21 (40)	*From the Chargé in Nicaragua (tel.)* Cumberland's reply (text printed) stating his reasons for preparing the alternative financial plan in addition to his report and why such a plan can be prepared only in Nicaragua. Chargé's opinion that the desired changes in the existing financial situation can only be brought about by a new financial plan, one more comprehensive than the bankers' plan.	524
Feb. 7 (608)	*From the Minister in Nicaragua* Information that the unexpected increase in Government revenues and the remarkable prosperity of the country since the termination of hostilities has completely changed Nicaragua's financial problem; that the Government has money on hand and in sight to pay current expenses and provide for the *guardia* and the election.	525
Feb. 25 (93)	*From the Minister in Nicaragua (tel.)* Advice that Cumberland's report will be practically useless unless he is given freedom to discuss his conclusions with leaders of both parties in order to obtain their point of view and bring them into accord with his conclusions.	526
Feb. 27 (48)	*To the Minister in Nicaragua (tel.)* Nonobjection to Cumberland's discussing financial problems covered by his report with President Diaz and other authorities. Belief, however, that he should take care not to make it appear that the conclusions are definite or that they have the Department's approval.	526
Mar. 10	*From Dr. W. W. Cumberland* Transmittal of report and draft financial plan. Conclusion that the financial condition of Nicaragua is comparatively satisfactory.	527
Mar. 14 (118)	*From the Minister in Nicaragua (tel.)* Information that Cumberland discussed his principal recommendations with the President, the Minister of Finance, and General Moncada before leaving on March 12; and that they all expressed themselves as in complete accord therewith.	528

NICARAGUA

COOPERATION OF THE UNITED STATES IN REARRANGING THE FINANCES OF NICARAGUA—Continued

Date and number	Subject	Page
1928		
Mar. 26 (151)	*From the Minister in Nicaragua (tel.)* From General McCoy: Recommendation that Cumberland's report be approved and acted upon by the Department.	529
Mar. 30	*Brief Description of the Financial Plan for Nicaragua Recommended by Dr. Cumberland* Provisions concerning unification of revenue services, supervision of expenditures, budget, national bank, public works service, railway, and claims commission.	529
Apr. 19 (97)	*To the Minister in Nicaragua (tel.)* For Minister and McCoy: Review of possible difficulties and delays in establishing an effective control through a financial plan; inclination to contend that every expedient be exhausted in other directions. Request for views. Suggestion that McCoy come to Washington for a conference. Instructions to consult President Diaz and ascertain his views on project of making a loan and putting the financial plan into force now.	533
Apr. 25 (187)	*From the Minister in Nicaragua (tel.)* Opinion that it would be far better to proceed immediately with the Cumberland financial program; outline of procedure to obviate dangers of such a course. Belief that it would be inadvisable to discuss the entire situation frankly with President Diaz until the Department has given the matter further consideration.	535
Apr. 28 (105)	*To the Minister in Nicaragua (tel.)* View that the primary problem is to place all public funds and revenues under U. S. control for the next few months so they cannot constitute any temptation so far as the election is concerned; and that this must be accomplished either by a provisional arrangement ancillary to the eventual elaboration of a plan or by direct action of the President of Nicaragua. Opinion that the time has come for a frank and full discussion with the President.	537
May 2 (201)	*From the Minister in Nicaragua (tel.)* Interview with President Diaz in which the contents of telegrams No. 97, April 19, and No. 105, April 28, were discussed. Opinion that solution of entire problem would be greatly facilitated by the immediate sale of a controlling interest in the National Bank, because the freedom of the bank from political control is of the greatest importance.	539
May 16 (215)	*From the Minister in Nicaragua (tel.)* Discussion of certain points of Cumberland's program which should be considered in a preliminary arrangement such as suggested by the Department.	540
May 22 (225)	*From the Minister in Nicaragua (tel.)* Rosenthal's recommendation, concurred in by the Minister, that the purchase price for the stock of the National Bank be held in escrow pending the approval of Congress. Suggestion that purchase price be used for the expenses of the *guardia* after January 1, 1929. Inadvisability of consulting Chamorro.	542

NICARAGUA

COOPERATION OF THE UNITED STATES IN REARRANGING THE FINANCES OF NICARAGUA—Continued

Date and number	Subject	Page
1928 May 23	*Memorandum by the Economic Adviser* Conference of Department officials with bankers and Cumberland on Nicaraguan financial situation. Agreement that bankers give further consideration to the financial plan and again consult with the Department of State.	542
June 14 (132)	*To the Minister in Nicaragua (tel.)* Department's disappointment at bankers' attitude as shown in their draft plan of 1928 which departs radically from the Cumberland plan with especial reference to amount and allocation of the loan, duties of auditor, safeguards of the National Bank, etc. Request for views whether bankers plan would be likely to be acceptable to Nicaraguan Government and high officials of both parties; also for information as to how the Cumberland plan was received by President Diaz and other political leaders.	544
June 16 (257)	*From the Minister in Nicaragua (tel.)* Information that it is very difficult to ascertain what the political leaders really think of the Cumberland plan; that the President has, however, expressed general approval of its principal features; that neither Chamorro nor the President will support loan project which does not provide for Atlantic railroad construction. Views that, with respect to the bankers plan, it would be difficult to justify a loan which makes no provision for payment of claims.	545
July 3 (269)	*From the Minister in Nicaragua (tel.)* Report that the latest draft plan from the bankers appears very satisfactory. Suggestions, especially with respect to costs of the *guardia* and countersignature of checks by the Collector General.	546
July 7 (140)	*To the Minister in Nicaragua (tel.)* Bankers' willingness to include a provision requiring countersignature of checks by the Collector General, provided the latter is nominated by the Secretary of State; their belief, however, that supervision of Auditor and the publicity which would attend any improper act on part of Finance Minister would work as a deterrent. Request for views.	548
July 9 (274)	*From the Minister in Nicaragua (tel.)* Opinion that a provision for countersignature of checks is absolutely essential for effective control of expenditures; also that the expenditure for one purpose of sums appropriated for another is so generally accepted as a part of the system that there is no hope that publicity or remonstrance by U. S. officials would stop it.	548
July 17 (145)	*To the Minister in Nicaragua (tel.)* Bankers' further suggestions concerning costs of the *guardia* and the countersignature of checks. Request for views.	549
July 23 (150)	*To the Minister in Nicaragua (tel.)* Information that the bankers have submitted another draft plan, the main objection to which is that it merely provides for a $3,500,000 loan, principal amount to be used mainly for railroad construction and $500,000 for payment of small claims. Instructions to cable views of himself, McCoy, and Munro, and also whether, in his opinion, such a plan would be acceptable to all parties in Nicaragua.	550

NICARAGUA

COOPERATION OF THE UNITED STATES IN REARRANGING THE FINANCES OF NICARAGUA—Continued

Date and number	Subject	Page
1928		
July 26 (298)	*From the Minister in Nicaragua (tel.)* Opinion that the plan outlined in telegram No. 150 would probably be acceptable and that it would be very advisable to present the plan as soon as possible.	552
July 27 (154)	*To the Minister in Nicaragua (tel.)* Bankers' telegram to Rosenthal (text printed) stating that the bankers and the Department have agreed, in view of the impending elections and also because the market for securities in the United States is now somewhat inactive, that it seems wisest to postpone the whole matter for the present. Confidential information that the latest financial plan of the bankers is not one which the Department cares to sponsor in advance.	552
Aug. 1 (300)	*From the Minister in Nicaragua (tel.)* Reasons for recommending most urgently that the new financial plan be submitted at once for consideration, even though the Department is not fully satisfied with all its details.	553
Aug. 3 (158)	*To the Minister in Nicaragua (tel.)* Information that the Department would raise no objection if bankers desire to make a copy of the existing project available to the Nicaraguan Government. Suggestion that this might be arranged through César, Nicaraguan Minister at Washington, or Rosenthal.	555
Aug. 7 (303)	*From the Minister in Nicaragua (tel.)* Information that Rosenthal is en route to New York with letters from President Diaz to the bankers and that he will visit the Department. Request for a copy of the latest draft of the financial plan to be shown to President Diaz with the explanation that it is merely intended as a basis for discussion and has not received the Department's approval.	555
Aug. 14 (163)	*To the Minister in Nicaragua (tel.)* Information that the bankers prefer to reserve decision about giving out financial plan until Rosenthal's arrival.	556
Aug. 25 (169)	*To the Minister in Nicaragua (tel.)* Information that the bankers have definitely decided not to submit a copy of the draft financial plan to President Diaz at the present time.	556
Sept. 11 (339)	*From the Minister in Nicaragua (tel.)* Information that President Diaz has informed the Legation in writing that he has ordered the Treasury Department to see that $380,000 from the next surplus is set aside for the exclusive use of the *guardia;* and has further stated that it is his definite purpose not to obtain advances against the next surplus for any other purpose. Legation's intention to seek to obtain General Moncada's promise to abide by this arrangement if he should be elected; and to take up matter along similar lines with Benard.	557
Sept. 11 (177)	*To the Minister in Nicaragua (tel.)* Instructions to tell President Diaz that the Department has been informed of his request to the bankers for a railroad dividend of $100,000 and to ask the President to confirm the Department's understanding that the money will not be used for political purposes either before or after November 4.	557

NICARAGUA

Cooperation of the United States in Rearranging the Finances of Nicaragua—Continued

Date and number	Subject	Page
1928		
Sept. 14 (343)	*From the Minister in Nicaragua (tel.)* Information that Diaz has given the assurances desired regarding the dividend. Desirability of withholding greater part of proceeds of dividend until after the election.	558
Sept. 15 (425)	*To the Minister in Nicaragua* Instructions to express to President Diaz on behalf of the Secretary of State the latter's gratification at the intention of the President to give to the *guardia* all necessary support. Approval of Legation's intentions concerning Moncada and and Benard.	558
Sept. 17 (181)	*To the Minister in Nicaragua (tel.)* Information that the bankers report that the dividend has been paid over to the Government. Instructions to suggest to President Diaz the desirability of paying over balance not immediately needed for paving contract to *guardia* fund, in order to prevent use of money for political purposes and to protect the President from pressure to make it available for such purposes.	559
Oct. 31 (372)	*From the Minister in Nicaragua (tel.)* Information that a letter has been received from Benard promising to set aside $380,000 from the next surplus for the *guardia*.	559

Assistance by the United States Marines in the Suppression of Bandit Activities in Nicaragua

1928		
Jan. 3 (2)	*To the Minister in Honduras (tel.)* Information that the Marine Corps is taking active steps to round up Sandino's band. Instructions to request Honduras to take active measures to prevent Sandino's forces from crossing into Honduras or to intern them if they cross the frontier. Suggestion that if Honduras cannot undertake this it would be helpful if Honduras would request the United States to prevent the bandits from entering Honduras and using territory of Honduras as a base of operations.	559
Jan. 5 (12)	*From the Minister in Honduras (tel.)* President Paz' statement that a sufficiently large Honduran force would arrive at border with a view to preventing Sandino's forces from entering Honduras and that specific orders had been given to arrest and intern any who cross the border; his intimation that should these measures prove ineffective he would make the suggested request.	560
Jan. 11 (19)	*From the Chargé in Nicaragua (tel.)* Recommendation that the Department give further consideration to the question of declaring a state of war in Nueva Segovia, in view of the situation caused by the lack of legal authority to hold bandit prisoners.	560
Jan. 13 (13)	*To the Chargé in Nicaragua (tel.)* Inadvisability of Nicaraguan Congress making a formal declaration of war. Belief that the present state of affairs will have to be maintained.	561

NICARAGUA

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT ACTIVITIES IN NICARAGUA—Continued

Date and number	Subject	Page
1928		
Jan. 27 (601)	*From the Chargé in Nicaragua* Letter addressed to General Sandino by Admiral Sellers (text printed) in an effort to persuade Sandino and his followers to lay down their arms before extensive military operations, now contemplated, should be carried into effect.	561
Feb. 8 (72)	*From the Minister in Nicaragua (tel.)* From McCoy: Conflicting reports concerning whereabouts of Sandino; probability that he is now in coffee area near Matagalpa owned largely by Americans and other foreigners; information that reinforcements are being moved toward the threatened area.	563
Feb. 9 (74)	*From the Minister in Nicaragua (tel.)* From McCoy: Colonel Parker's report on conditions in Nueva Segovia.	565
Feb. 23 (90)	*From the Minister in Nicaragua (tel.)* Telegram to Tegucigalpa, Honduras (text printed) suggesting the advisability of requesting the arrest of General Sequeira, associate of Sandino, reported to be in Honduras; and to request redoubled efforts to prevent further supply of ammunition being sent to Sandino across the border.	566
Feb. 28 (98)	*From the Minister in Nicaragua (tel.)* Information that reports of murders of Conservatives in Esteli are apparently false. Probability that such rumors are being disseminated by Conservatives to show that a free election cannot be held under present conditions.	566
Feb. 28 (99)	*From the Minister in Nicaragua (tel.)* Report of attack on Marine pack train near Yalito Condega.	567
Mar. 6 (113)	*From the Minister in Nicaragua (tel.)* Request of General Feland that efforts be made to ascertain where funds being collected by Sandino in New York, Mexico City, etc., are being sent and that every effort be made to intercept any arms or ammunition which may be purchased with the funds.	567
Mar. 7 (64)	*To the Minister in Nicaragua (tel.)* Advice that the Department has no information of any attempt to purchase arms with funds reported being raised for purchase of medical supplies for Sandino; that the Department will endeavor to prevent shipment of arms and ammunition destined to forces of Sandino.	568
Mar. 8 (1835)	*From the Minister in Guatemala* Transmittal of correspondence with the Foreign Office concerning money being solicited in Guatemala for the alleged benefit of the "Red Cross of the Sandino Army." Foreign Minister's oral statement that the Government will see to it that none of the funds leave the country and that they will be returned to the donors.	568
Mar. 16	*From the Secretary of the Navy* Letter of February 3 from General Sandino to Admiral Sellers (text printed), stating that the struggle will be ended only when American troops are withdrawn and President Diaz replaced.	569

416955—43——5

NICARAGUA

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT ACTIVITIES IN NICARAGUA—Continued

Date and number	Subject	Page
1928		
Mar. 19 (135)	*From the Minister in Nicaragua (tel.)* Report that planes have been fired on north of Murra by a band of outlaws.	570
Mar. 28 (635)	*From the Minister in Nicaragua (tel.)* Inquiry whether it would be possible to prosecute those persons in New York and elsewhere who are openly encouraging and furnishing supplies to Sandino in Nicaragua.	570
Apr. 11 (501)	*From the Ambassador in Mexico* Information that the Military Attaché places no reliance on report of the alleged forwarding of officers and men from Mexico to assist Sandino in Nicaragua; that although funds are being collected by the *Comité pro-Sandino* for medical supplies, it is believed the funds are quite inadequate to recruit officers and men, supply and equip them, and ship them to Nicaragua.	570
Apr. 20 (182)	*From the Minister in Nicaragua (tel.)* Report of Marine operations in eastern Nueva Segovia. Rumor that Sandino has left Nicaragua and is probably on his way to Mexico.	571
Apr. 21 (98)	*To the Minister in Nicaragua (tel.)* Report from the La Luz Mining Company that Sandino on April 12 raided its mine in Prinzapolka district and took all employees prisoners including Marshall, the assistant superintendent. Instructions to cable all information available.	572
Apr. 23 (99)	*To the Minister in Nicaragua (tel.)* Further report from La Luz Company stating that four Americans and a British subject have been captured by bandits who raided the mine, and requesting that all possible steps be taken for their recovery and safety. Instructions to investigate and request Marine Commandant to do everything possible for their safety.	572
Apr. 24 (186)	*From the Minister in Nicaragua (tel.)* Report that thus far it has been impossible to get definite information concerning the raids at La Luz Mine April 12 and the Bonanza Mine April 14; that arrangements are being made to send troops into area.	572
Apr. 25 (189)	*From the Minister in Nicaragua (tel.)* Confirmation of report of capture of Marshall and others at La Luz Mine and looting at the mine.	573
May 2	*From the Consul at Bluefields (tel.)* Report of destruction of La Luz Mine and partial destruction of Bonanza Mine. Rumor that Marshall is still held prisoner.	573
May 7 (668)	*From the Minister in Nicaragua* Transmittal of two pamphlets issued by the All-America Anti-Imperialist League which advocate mutiny among marines in Nicaragua. Inquiry whether it would not be possible to take legal action against those responsible for propaganda of this nature.	573

NICARAGUA

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT ACTIVITIES IN NICARAGUA—Continued

Date and number	Subject	Page
1928		
May 13 (209)	*From the Minister in Nicaragua (tel.)* Information that General Feland reports that 275 Sandinistas are being surrounded by marines in the Pis Pis mining district and that bandits are short of ammunition.	574
May 26	*From the Consul at Bluefields to the Minister in Nicaragua* Letter from General Sandino to the manager of the La Luz and Los Angeles Mines of April 29 (text printed), indicating a policy of unrestrained destruction. Rumor, which U. S. military authorities doubt, that Marshall has been murdered.	574
May 29 (237)	*From the Minister in Nicaragua (tel.)* Inquiry if plan contemplated by President Diaz of asking Honduran Government to take action against those who are giving aid to Sandino would embarrass the Department. (Repeated to Honduras.)	576
May 31 (242)	*From the Minister in Nicaragua (tel.)* Summary of military situation: guerrilla forces concentrated north of Pena Blanca and small band in southwestern Nueva Segovia.	576
May 31 (243)	*From the Minister in Nicaragua (tel.)* Report of bandit attack at Masaya and Niquinohomo. Suspicion that members of the revenue guard attacked *guardia* post at Posoltega.	577
June 1 (125)	*To the Minister in Nicaragua (tel.)* Information that the U. S. Government would not be embarrassed by Nicaraguan Government's request to Honduras to take action against those who are giving aid to Sandino.	578
June 12 (381)	*To the Minister in Nicaragua* Transmittal of U. S. District Court decision refusing the issuance of an injunction against an order of the Post Office Department barring from the mails matter bearing the so-called Sandino stamps issued by the All-America Anti-Imperialist League. Information that the United States Attorney will now consider whether the acts of the persons connected with the All-America Anti-Imperialist League constitute a violation of any criminal statute. Request for any information which may indicate that funds collected in the United States by the League are being used for the purchase of munitions for the Sandino forces in Nicaragua. (Footnote: Information that the instruction was also sent to the Ministers in Guatemala, Honduras, and Salvador.)	578
June 14 (1237)	*From the Chargé in Costa Rica* Information concerning escape of General Alberto Larios and some of his followers into Costa Rica and their evident intention to rejoin Sandino as soon as reconditioned. Assurances of the Secretary of State for Foreign Affairs that his Government will investigate and take such steps as the case may require.	579
June 25 (1997)	*From the Minister in Guatemala* Report that there is no evidence that funds collected by All-America Anti-Imperialist League in the United States are being used for any purpose except to foment trouble for the United States.	580

NICARAGUA

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT ACTIVITIES IN NICARAGUA—Continued

Date and number	Subject	Page
1928 June 25 (1217)	*From the Minister in Salvador* Conflicting rumors that funds are sent to Sandino and that amounts collected ostensibly for Sandino were divided among the collectors.	580
July 2 (647)	*From the Minister in Honduras* Information that only negligible quantities of arms and ammunition are reaching Sandino through Honduras; that, however, Sandino's agent in Tegucigalpa is sending money in considerable amounts to Sandino.	581
July 11 (278)	*From the Minister in Nicaragua (tel).* Report that 189 former bandits have accepted amnesty offer and have registered with the marine commander.	582
July 14 (63)	*To the Minister in Honduras (tel.)* Instructions to bring informally to the attention of the Honduran Government the U.S. Government's profound interest in Central American peace and stability; and the U. S. Government's concurrence in the request made by the Nicaraguan Government that Honduras take steps to curb activities of persons in its territory now aiding subversive movements in Nicaragua.	582
July 21 (66)	*To the Minister in Honduras (tel.)* Information that the main body of Sandino's force is just north of Patuca River in disputed boundary area in very favorable position for aerial attack. Instructions to take up matter with President Paz and endeavor to obtain consent to this action and to cable authority to Managua.	583
July 21 (292)	*From the Minister in Nicaragua (tel.)* General Feland's report that planes on reconnaissance were fired upon by bandits' machine guns and rifles on north bank of the Patuca River.	583
July 25 (295)	*From the Minister in Nicaragua (tel.)* General Feland's report that planes had again been subjected to machine gun and rifle fire in the Patuca River region.	583
July 31 (760)	*From the Minister in Nicaragua* Report that only a few thousand dollars of the funds collected by anti-imperialist organizations appear to have reached Sandino. Assumption that greater part of the funds collected is used for the immediate benefit of the collectors.	584
Aug. 9 (305)	*From the Minister in Nicaragua (tel.)* Report of Marine attack on bandits near Wamblan August 7.	585
Aug. 24 (775)	*From the Minister in Nicaragua* Report that more than 1,200 persons have taken advantage of amnesty proclamation and have registered with the authorities in Nueva Segovia. Cooperation of natives around San Juan de Telpaneca with *guardia.*	585
Sept. 13 (341)	*From the Minister in Nicaragua (tel.)* Telegram to the Legation at San José (text printed) requesting information regarding steps which the Costa Rican Government is taking or will take to stop subversive activities against Nicaragua, and conveying information that President Diaz has requested that the Department ask the Costa Rican Government to take immediate measures to prevent organization of revolutionary movements of this kind.	586

NICARAGUA

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT ACTIVITIES IN NICARAGUA—Continued

Date and number	Subject	Page
1928 [Sept. 13] (60)	*From the Chargé in Costa Rica (tel.)* Telegram to the Legation at Managua (text printed), stating that there is no information available regarding revolutionary activities, but the Costa Rican Government will investigate.	587
Sept. 14 (30)	*To the Chargé in Costa Rica (tel.)* Instructions to watch developments carefully and keep the Department and the Legation at Managua informed.	587
Sept. 18 (61)	*From the Chargé in Costa Rica (tel.)* Information that a certain person is reported leaving for Nicaragua via Guanacaste with considerable money; that the President believes these Sandino agents are moving about as individuals, since there is no evidence of an organization with the intent of an armed invasion of Nicaragua.	587
Sept. 20 (800)	*From the Minister in Nicaragua* Report that operations conducted by marines against Sandino and other outlaws have reached a point where it appears extremely improbable that the outlaws can seriously interfere with either the registration of voters or with the election itself.	588
Sept. 25 (64)	*From the Chargé in Costa Rica (tel.)* Information that a certain Sandino agent has arrived at Las Juntas in southern Guanacaste and is under surveillance.	589
Oct. 8 (359)	*From the Minister in Nicaragua (tel.)* Report of murders of several Liberals in Jinotega Department; possibility the murders were part of an effort to carry out Sandino's public threat to create such conditions that the election would be impossible.	590
Oct. 11 (362)	*From the Minister in Nicaragua (tel.)* Telegram to Legation at San José (text printed) transmitting information obtained from two separate sources that a certain person is preparing to invade Nicaragua from Costa Rica about the end of this month, and indicating that information and any steps which can be taken to check the activities would be helpful.	591
Undated [Rec'd Oct. 12] (68)	*From the Chargé in Costa Rica (tel.)* Telegram to Managua, October 12 (text printed) stating that the President will try to secure further information and has issued orders to have activities reported, but at same time minimizes possibility of real trouble occurring.	591
Undated [Rec'd Oct. 17] (70)	*From the Minister in Costa Rica (tel.)* Telegram to Managua, October 17 (text printed) reporting results of investigation of Sandino agents' activities and the President's statement he will detain them should they attempt an invasion of Nicaragua.	591

NORWAY

TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND NORWAY, SIGNED JUNE 5, 1928, ADDITIONAL ARTICLE SIGNED FEBRUARY 25, 1929, AND EXCHANGE OF NOTES CONCERNING TARIFF TREATMENT OF NORWEGIAN SARDINES

Date and number	Subject	Page
1925 July 31	*From the Norwegian Chargé* Information that the Norwegian Government will be glad to negotiate at Washington the treaty of friendship, commerce and consular rights which the U. S. Government desires to propose.	593
Aug. 13	*To the Norwegian Chargé* Transmittal of a draft for a proposed treaty of friendship, commerce and consular rights between Norway and the United States. Explanation that article VII contains unconditional most-favored-nation clause and that article XXX provides that the treaty shall supplant the treaty concluded by the United States with Sweden and Norway on July 4, 1827.	593
1926 Dec. 1 (909)	*From the Minister in Norway* Foreign Office note, November 29 and memorandum (texts printed) expressing opinion that Norway would be placed in an unfavorable position by accepting the third praagraph of article XXX, providing for the denunciation of certain clauses of the treaty after one year upon three month's notice.	594
1927 Mar. 9 (336)	*To the Minister in Norway* Conference with Norwegian Chargé on February 4 in regard to Norwegian objections to provisions of Article XXX. Memorandum for the Foreign Office (text printed) expressing hope that the Norwegian Government will, on further consideration, perceive in the provisions of article XXX no hindrance to the conclusion of the treaty. Instructions to present memorandum or, in case the Norwegian Government has already decided to accept the paragraph in question, to make appropriate reply and to explain orally and informally the reservation the Senate made to the treaty with Germany and Department's unwillingness to consider any change in regard to the paragraph in question. Explanation why Norway would not be placed in unfavorable position through acceptance of the third paragraph of article XXX.	595
Mar. 24 (965)	*From the Minister in Norway* Information concerning presentation of memorandum to Foreign Office and oral statements made in compliance with Department's instructions.	599
July 7 (367)	*To the Minister in Norway* Instructions to bring informally to the attention of the Foreign Office the Department's desire for prompt negotiation of the treaty; that unless definite progress has been made by December, it will be necessary to consider the termination of the treaty of 1827. Disadvantage of continuing the special privilege of the two-cent tonnage rate accorded under article VIII of the treaty of 1827.	599

NORWAY

TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND NORWAY, ADDITIONAL ARTICLE, AND EXCHANGE OF NOTES CONCERNING TARIFF TREATMENT OF NORWEGIAN SARDINES—Continued

Date and number	Subject	Page
1927		
Nov. 5 (1077)	*From the Minister in Norway* Résumé of oral statements made in compliance with Department's instructions. Foreign Office assurance that efforts will be made to proceed rapidly in accordance with Department's wishes. Information that Foreign Office memorandum containing suggestions regarding the final text of certain stipulations in the draft under consideration has been sent to the Norwegian Legation at Washington. Minister's impression that Norway will yield to representations made respecting article VIII and is now prepared to conclude a treaty substantially as set forth in the present draft. Desirability of having the treaty signed before the retirement of the Lykke ministry in January.	602
Dec. 9	*From the Norwegian Chargé* Detailed comments by Foreign Office on articles 1, 4, 6, 7, 9, 14, 15, 16, 18, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, and 30. Request that there be included in the treaty a special provision relating to Norwegian sardines. Observation that the Foreign Office has accepted in principle the stipulations relating to tonnage dues.	603
1928		
Mar. 23	*To the Norwegian Minister* Detailed comments on Norwegian observations concerning the draft treaty up to and including article 21. Proposal of amendment of the first paragraph of article 1 and acceptance of suggested additional sentence to paragraph 2; acceptance of addition to article 4, if word "personal" is inserted before the word "property"; acceptance of amendment to article 6; proposed revision of article 7; modifications to article 9; omission of articles 14 and 15 and substitution of a single article placing commercial travelers on a favored nation basis; revision of article 16; proposed new paragraph for article 18; omission of second paragraph of article 19; acceptance of new paragraph for article 20; acceptance of suggested change in article 20.	615
Apr. 6	*To the Norwegian Minister* Detailed comments on Norwegian observations concerning the draft treaty from article 23 through article 30. Explanation that it would be contrary to U. S. policy to include a special provision relating to Norwegian sardines.	623
Apr. 27	*To the Norwegian Minister* Article 6 (text printed) amended to include the addition suggested in Norwegian note of December 23, 1927.	630
Apr. 27	*To the Norwegian Minister* Acceptance of Norwegian suggestion for change of wording in article 8 of the treaty.	631
May 7	*From the Norwegian Minister* Information that Norwegian Government has accepted the proposal regarding article 4; explanation concerning taxation in Norway in connection with the second paragraph of article 19; request for further consideration of change suggested in article 24, providing that the local authorities of each country shall inform the consular officers of the other in certain cases of deaths in their territories.	631

NORWAY

TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND NORWAY, ADDITIONAL ARTICLE, AND EXCHANGE OF NOTES CONCERNING TARIFF TREATMENT OF NORWEGIAN SARDINES—Continued

Date and number	Subject	Page
1928 May 22	*To the Norwegian Minister* Proposal that second paragraph of article 19 be omitted; submission of amended paragraph 1 of article 24.	633
May 23	*From the Norwegian Minister* Further observations, especially with respect to articles 1, 7, 17, 22, 24, 26, and 29.	634
June 1 (1196)	*From the Minister in Norway* Information that the Government has decided to authorize signature of the new treaty.	640
June 2	*From the Chief of the Treaty Division* Inquiry whether Secretary of State approves proposed exchange of notes stating that Norwegian sardines would not pay a higher tariff rate than sardines prepared from fish belonging to other species imported from other countries.	640
June 4	*To the Norwegian Minister* Acceptance of Norwegian proposals regarding articles 1, 7, 17, 24, and 29. Agreement to sign treaty June 5.	642
June 5 (11)	*To the Minister in Norway (tel.)* Notification of signature of treaty on June 5.	643
Dec. 7	*To the Norwegian Legation* Suggestion that an additional article concerning entry and residence for commercial purposes be made a part of the treaty and ratified at the same time.	644
June 5, 1928 and Feb. 25, 1929	*Treaty and Additional Article Between the United States of America and Norway* Of friendship, commerce and consular rights.	646
June 5, 1928	*From the Norwegian Minister* Understanding that under the present U. S. tariff laws Norwegian sardines are accorded the same tariff treatment as sardines imported from any other country and that such equality of treatment would continue under the most-favored-nation provision of the treaty.	662
June 5, 1928	*To the Norwegian Minister* Confirmation of Norwegian understanding.	662

PANAMA

PROPOSALS BY PANAMA TO MODIFY THE UNPERFECTED TREATY BETWEEN THE UNITED STATES AND PANAMA, SIGNED JULY 28, 1926

1928 Undated [Rec'd Jan. 5]	*From the Panaman Minister* Detailed observations concerning each article of the treaty.	663
Oct. 20 (1838)	*From the Minister in Panama* Foreign Minister's opinion that it would be futile to present the treaty in its present form to the National Assembly.	677

PANAMA

STATEMENT BY THE DEPARTMENT OF STATE THAT THE UNITED STATES DOES NOT INTEND TO SUPERVISE ELECTIONS IN PANAMA

Date and number	Subject	Page
1928 July 27 (52)	*To the Minister in Panama (tel.)* Statement issued by the Secretary of State (text printed) regarding U. S. policy with reference to question of intervention in internal affairs of Panama and the carrying out of treaty obligations.	678

REPRESENTATIONS BY PANAMA RESPECTING STATEMENT OF PRESIDENT COOLIDGE CLASSIFYING THE PANAMA CANAL ZONE AS A POSSESSION OF THE UNITED STATES

1928 Nov. 15 (D–276)	*From the Panaman Minister* Representations against the statement in President Coolidge's speech of November 11, which the Panaman Government considers implicitly classified the Panama Canal Zone among the possessions of the United States.	679
Nov. 28	*To the Panaman Minister* Statement that the position of the United States with regard to the status of the Canal Zone as set forth in note of October 24, 1904, remains unchanged.	680

PERSIA

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND PERSIA, MAY 14 AND JULY 11, 1928, FOLLOWING TERMINATION OF TREATY OF FRIENDSHIP AND COMMERCE OF 1856

1927 Dec. 29 (75)	*To the Minister in Persia (tel.)* Request for written report regarding Persia's views and policy with respect to the possible termination in May 1928 of treaty of 1856; attitude of colleagues, especially the British, and views concerning possible effect of recently negotiated Perso-Soviet agreements on British policy in Persia; also best means, in absence of either a formal treaty or *modus vivendi*, of affording proper protection to U. S. interests.	682
1928 Jan. 17 [*18*] (7)	*From the Minister in Persia (tel.)* Information from British Minister that a note was delivered to the Persian Government last December indicating British willingness to replace existing commercial agreements, to provide a new tariff schedule which will take into consideration the Perso-Soviet one, and to recognize Persia's suppression of the capitulations on May 10, 1928, in a new treaty.	683
Jan. 26 (6)	*To the Minister in Persia (tel.)* Information received from the Ambassador in Great Britain of the ten safeguards desired by the British for the protection of British nationals in Persia when consular jurisdiction ends.	683
Feb. 13 (11)	*To the Minister in Persia (tel.)* Information that the British Ambassador has been informed orally that the Department is in substantial agreement with the British position explained in their ten points and would not be adverse to cooperating on the basis of the ten points.	684

PERSIA

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND PERSIA FOLLOWING TERMINATION OF TREATY OF FRIENDSHIP AND COMMERCE OF 1856—Con.

Date and number	Subject	Page
1928		
Feb. 16 (14)	*From the Minister in Persia (tel.)* Information that Persia will not object to the use of the phrase "most-favored-nation" in treaties with regard to all treaty privileges except those which relate to tariff, and regarding this Persia will insist upon some other phrase which implies similar rights.	685
Feb. 21 (18)	*From the Minister in Persia (tel.)* Information that the Foreign Office requests U. S. consent to the application of the Perso-Soviet tariff to U. S. imports prior to May 10; that Persia has similarly requested consent from representatives of all capitulatory treaty governments with the exception of the British; that the German Minister has recommended to his Government that it accept the application of the new tariff to northern Persia only.	685
Feb. 28 (12)	*To the Minister in Persia (tel.)* Information that the Department has received a summary of the sixteen safeguards the British Government desires for the protection of its nationals in Persia; that the British Minister in Persia has been informed of his Government's opposition to any collective diplomatic *démarche* but that it would be useful should there be cooperation along same fundamental lines when conversing with Persian Government about protection of nationals. Instructions to confer with the British Minister.	686
Feb. 28 (13)	*To the Minister in Persia (tel.)* Instructions to cable views regarding Persian proposal that the Perso-Soviet tariff be applied to American imports and to explain reasons for Department's delay; also to telegraph information on action which other foreign governments may take and British colleague's opinion regarding the Persian Government's proposal.	687
Mar. 3 (16)	*To the Minister in Persia (tel.)* Information that, in conversations March 1 and 2 with the French and German Ambassadors, the Department presented the desirability of the representatives in Persia of capitulatory powers working along same lines for adequate safeguards to protect foreign nationals; also the necessity of urging Persia to postpone the putting into effect of the new system should Persia not accept satisfactory safeguards prior to May 10.	688
Mar. 3 (59)	*To the Ambassador in France (tel.)* Information, for oral use at Foreign Office, concerning conversation March 1 with the French Ambassador.	688
Mar. 3 (20)	*To the Ambassador in Germany (tel.)* Information, for oral use at the Foreign Office, concerning the conversation March 2 with the German Ambassador.	689

PERSIA

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND PERSIA FOLLOWING TERMINATION OF TREATY OF FRIENDSHIP AND COMMERCE OF 1856—Con.

Date and number	Subject	Page
1928		
Mar. 5 (21)	*From the Minister in Persia (tel.)* Information from the British counselor that the Persian reply has not yet been received concerning the sixteen points and that he is of the opinion that Persia will decline to incorporate in treaties any reference to judicial advisers or to grant them extensive powers. Unconfirmed report that German Minister has submitted tentative draft treaty with substitute phrase for the most-favored-nation rights in tariff matters. Opinion that the Department should avoid the appearance of associating with British aims; also that it would be desirable to make provision for recognition of American religious, medical, and scholastic institutions.	689
Mar. 5 (18)	*To the Minister in Persia (tel.)* Inquiry concerning meaning of reference to British aims in telegram No. 21 of March 5.	690
Mar. 6 (22)	*From the Minister in Persia (tel.)* Information that advice to avoid the appearance of associating with British aims was meant to imply that the Persians might be prejudiced by an obvious American-British cooperation; and that Belgium has authorized its representative to begin negotiations.	691
Mar. 7 (23)	*From the Minister in Persia (tel.)* Information that Persia has given no reasons, other than desire for uniformity and convenience, for its proposal to apply the new tariff to U. S. imports; report that Germany has declined Persian proposal; opinion that other foreign Governments will take similar action. German Minister's opinion that the conclusion of three or four separate agreements may be more practicable than to attempt to cover entire subject in one treaty. Report that a draft treaty has been submitted to the French and German Ministers which is not satisfactory and does not contain a most-favored-nation treatment clause. Impression that Persia desires to make one treaty as soon as possible, probably with Germany, and is delaying negotiations with Great Britain because of many extraneous matters involved.	691
Mar. 9 (22)	*To the Minister in Persia (tel.)* Information that the Department received on March 6 a copy, in French, of a British memorandum to the Persian Government containing sixteen points concerning judicial safeguards; that it covers the first fifteen points of the summary of sixteen safeguards received previously by the Department but omits all reference to Persian codes of law, point sixteen of the summary. Inquiry whether the sixteen points mentioned in the Legation's telegram No. 21, March 5, are the summary or the memorandum in French; also what action the British Minister is taking with respect to satisfactory codes of law.	692
Mar. 10 (43)	*From the Ambassador in Germany (tel.)* Information that instructions have been sent to the German Minister at Teheran to cooperate fully with the U. S. Minister.	692

PERSIA

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND PERSIA FOLLOWING TERMINATION OF TREATY OF FRIENDSHIP AND COMMERCE OF 1856—Con.

Date and number	Subject	Page
1928 Mar. 10 (23)	*To the Minister in Persia (tel.)* Information that the Italian Ambassador has promised to telegraph his Government regarding desirability of instructing Italian Minister in Persia to keep in close touch with U. S. Legation; and that the German Minister in Teheran has been instructed to cooperate fully with the U. S. Minister. (Footnote: Information that summary of conversation was cabled to the Ambassador in Italy.)	693
Mar. 13 (46)	*From the Ambassador in Germany (tel.)* Information that the German Minister at Teheran is convinced that Persia will not accede to the main point of the British memorandum, i. e., foreign judicial advisers with real authority; that the German policy will apparently be to sign the treaty under negotiation and to bring it into operation provisionally prior to May 10; that Persia will not accept the most-favored-nation clause, but that the inverted form suggested by France is deemed almost as good.	693
Mar. 13 (26)	*From the Minister in Persia (tel.)* Information that the memorandum referred to in telegram No. 21, March 5, is similar to that furnished the Department on March 6 and submitted to the Persian Government by the British Minister. British counselor's opinion that his Government will not raise the question of satisfactory codes. Information that some Legations have received notification that the 1927 tariff will go into general effect on the northern frontier on May 21. Report that Persian Government intends to adopt the preferential maximum-minimum tariff system. Opinion that a tentative expression of readiness to negotiate is in order.	694
Mar. 14 (24)	*To the Minister in Persia (tel.)* Instructions to inform Teimourtache, the Persian Minister of the Court, orally that the United States is in principle agreeable to the negotiation of a new treaty but that, before proceeding to further and more detailed negotiations, it desires to reach an understanding with the Persian Government on: (1) Question of appointment of foreign judicial advisers, (2) establishment of a system of modern civil, commercial and criminal courts, (3) personal status and family law, (4) taxation and duties on U. S. imports, (5) equality of treatment of U. S. citizens with other foreign nationals, and (6) activities of U. S. educational enterprises. Instructions to inform the proper Foreign Office official in the same sense and to leave with him an *aide-mémoire* containing only the six points listed. (Footnote: Communication of this information to the British, French, German, and Italian representatives in Washington on April 7 by *aide-mémoire* and by mail to the Embassies in Great Britain, France, Germany and Italy on April 13.)	695
Mar. 15	*From the Italian Embassy* Information that the Chargé at Teheran has been instructed to cooperate with the U. S. representative. Present views of Italian Government on the subject of the Persian treaty situation.	696

PERSIA

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND PERSIA FOLLOWING TERMINATION OF TREATY OF FRIENDSHIP AND COMMERCE OF 1856—Con.

Date and number	Subject	Page
1928		
Mar. 20 (28)	*From the Minister in Persia (tel.)* Information that, in a friendly conference on the six U. S. points, Teimourtache stated that point 1 will not be accepted; that points 2 and 3 will be accepted; that part of point 4 will be accepted, but most-favored rights in respect of import duties cannot possibly be granted; that point 5 will be accepted in principle since Persia does not intend to impose penalties or inferior treatment of any sort upon U. S. citizens owing to the possible lapse of the treaty; that point 6 will be accepted if a slight change is made in wording. Also information that Teimourtache urges against the presentation of a formal *aide-mémoire* containing the six points.	696
Mar. 22 (31)	*From the Minister in Persia (tel.)* Information that the Minister of Finance on March 18 presented a bill to the Medjliss authorizing the Government to negotiate special customs treaties, within the maximum and minimum limits of the tariff.	697
Mar. 24 (564)	*From the Minister in Persia* Transmittal of copies of proposed treaty of friendship and proposed commercial convention received from French colleague. Information that attitude of French and German Ministers is one of tolerance with the friendship treaty and disappointment with the commercial convention. Report that the Persian Government plans to initiate a new customs tariff on May 10 with maximum and minimum rates which would call for special customs agreements.	698
Mar. 27 (32)	*From the Minister in Persia (tel.)* Information that British Minister states that Persian reply to his *aide-mémoire* of 16 points acquiesced in principle to all his suggestions except as regards the engagement of judicial advisers and the provision "Notice to Consular authorities of arrests." Report that Teimourtache has conveyed the impression that Persians will agree to certain safeguards by exchange of notes, but not in treaties; that Dutch and Italians have been instructed to broach tentative negotiations. Recommendation for initiation of negotiations at an early date.	699
Mar. 28 (77)	*To the Ambassador in Great Britain (tel.)* Information that Persia has accepted in principle the establishment of several of the safeguards proposed by the United States, but does not indicate time they are to become operative; also that Persia does not regard favorably the proposal concerning foreign judicial advisers. Instructions to endeavor to obtain Foreign Office views.	699
Mar. 30 (8481)	*From the Ambassador in France* Report of interview with official of Foreign Office who intimated that it was somewhat late for the United States or any other country to try to line up with other powers for common action whether it be of urging postponement of putting new regime into effect or of insisting upon Persia's acceptance of the 16 British safeguards.	700

PERSIA

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND PERSIA FOLLOWING TERMINATION OF TREATY OF FRIENDSHIP AND COMMERCE OF 1856—Con.

Date and number	Subject	Page
1928		
Mar. 31 (65)	*From the Ambassador in Great Britain (tel.)* Information that Foreign Office believes a *modus vivendi* is imperative, since it is impossible to ratify any treaty by May 10; and that British Minister in Persia has been instructed to confer with his colleagues in an effort to agree upon an alternative recommendation with respect to foreign judicial advisers.	701
Apr. 4 (29)	*To the Minister in Persia (tel.)* Instructions not to present *aide-mémoire* outlined in Department's telegram No. 24 of March 14 but to explain to Teimourtache that the Department is pleased by his friendly attitude and his acceptance of the suggestion regarding courts; that handling of matters of personal status by consular officers in Persia would be a great convenience; and that the United States is disposed to continue favored-nation treatment in customs matters on condition that U. S. merchandise is accorded lowest rate of duty in force when such importation takes place. Authorization to point out power of President to levy additional duties or to declare embargo in case of discrimination and also to make comparison between value of U. S. and Persian imports. Instructions to discuss Teimourtache's suggestion in regard to schools with missionaries and report their views.	702
Apr. 5 (68)	*From the Ambassador in Great Britain (tel.)* Information that Persia has recently passed a law of compulsory arbitration when desired by either party and has agreed that, upon request of any British subject under detention, the nearest British consul would be notified; that the British Foreign Office is inclined to policy of testing Persia's good will by separate negotiations on the part of the several interested Governments, with resort to joint action in case of failure to reach compromise before May 10.	703
Apr. 13 (39)	*From the Minister in Persia (tel.)* Summary of conversation with Teimourtache regarding new codes, recent arbitration law, and the tariff situation. Minister's opinion that the British Government will withhold assent to signature of tariff agreement pending receipt of assurances of satisfaction for its outstanding claims and that the only danger to Americans would appear to be a possible reversion by Great Britain to the 1903 tariff if negotiations are broken off. Suggestion that an early notice be given to Persian Government that Minister is empowered to negotiate a new treaty. Information that the views of missionaries are not yet available. Impression that Persian Government is now inclined to yield on minor points.	704
Apr. 13 (73)	*From the Ambassador in Germany (tel.)* Foreign Office information that the six U. S. points represent generally what Germany would like to obtain but that the practical situation is different; that Germany accepts as final Persia's refusal to admit foreign judicial advisers through treaty provision but is still trying to have matter covered by a note; that Great Britain is also weakening in the matter of foreign judicial advisers; also that Germany is unable to cooperate as to point 6.	706

PERSIA

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND PERSIA FOLLOWING TERMINATION OF TREATY OF FRIENDSHIP AND COMMERCE OF 1856—Con.

Date and number	Subject	Page
1928		
Apr. 16 (31)	*To the Minister in Persia (tel.)* Instructions to telegraph summary of arbitration law, indicating the character of civil suits which it is proposed to submit for settlement thereunder.	707
Apr. 16	*From the British Amba sador* Memorandum (text printed) summarizing instructions to the British Minister at Teheran directing him to urge the Persian Minister of Court to draw up and to deliver to the interested Legations in Teheran an official note stating the intention of the Persian Government to establish modern civil, commercial, and criminal courts and its readiness to afford to foreigners full and adequate protection and embodying the safeguards which the Persian Government is prepared to give to foreigners during the period between May 10 and the coming into force of the new treaties.	707
Apr. 18 (41)	*From the Minister in Persia (tel.)* Information that the new law provides for arbitration in all suits admitted to trial before a justice of the peace, a court of first instance, or a commercial court, if one party to suit so requests; and will cover all but penal suits.	708
Apr. 25 (35)	*To the Minister in Persia (tel.)* Authorization to begin formal negotiations and to propose, as a first step, an exchange of notes relating to the tariff; also to cooperate with the British and German Ministers in regard to the note that Teimourtache is being urged to draw up.	709
Apr. 25 (99)	*To the Ambassador in Great Britain (tel.)* Information that the Minister in Persia has been instructed to cooperate with the British and German representatives in the matter of the proposed Persian note to the interested Legations. Instructions to obtain Foreign Office views with regard to matter of urging Persia to postpone exercising penal jurisdiction over foreigners until the modern penal system effectively enters into force; and as to feasibility of representations at Teheran early in May to induce Persia to promise this postponement in the official note to be addressed to the Legations.	710
Apr. 27 (86)	*From the Ambassador in Great Britain (tel.)* Foreign Office telegram to Minister in Persia (text printed) conveying authorization to join in collective representations, if deemed feasible, for postponement of Persia's exercise of penal jurisdiction after May 10.	711
Apr. 27 (36)	*To the Minister in Persia (tel.)* Instructions to discuss with the British Minister the U. S. views concerning collective representations with respect to postponement of penal jurisdiction.	712
May 2 (44)	*From the Minister in Persia (tel.)* Information that the British Minister states his emphatic opposition to suggested postponement of Persia's exercise of penal jurisdiction and to concerted pressure by foreign powers as to this or any other question involved in the negotiations; that draft of official Persian note to interested Legations on safeguards appears reasonably satisfactory. Suggestion that authorization be given him to reach any favorable provisional agreement that would assure the United States all safeguards accorded any other power.	712

PERSIA

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND PERSIA FOLLOWING TERMINATION OF TREATY OF FRIENDSHIP AND COMMERCE OF 1856—Con.

Date and number	Subject	Page
1928 May 3 (37)	*To the Minister in Persia (tel.)* Department's acceptance of unfavorable views regarding penal jurisdiction and joint representations. Instructions, however, to cooperate with colleagues with a view to enlarging the scope of the safeguards to be set forth in the official Persian note to the Legations. Department's nonobjection to Minister's discussing with proper Persian authorities of a provisional agreement assuring U. S. interests all the safeguards to be accorded any other power.	713
May 5 (47)	*From the Minister in Persia (tel.)* Teimourtache's counter proposal of an exchange of notes providing, in three paragraphs, for diplomatic and consular representation, establishment and residence, and a commercial agreement according the equivalent of most-favored-nation treatment and being in other respects acceptable in principle with the primary exception of reciprocal treatment with respect to personal status and family law. Receipt also of draft declaration on safeguards which will be addressed to the Legations coincidentally with the signature of the notes to be exchanged.	714
May 7 (48)	*From the Minister in Persia (tel.)* Information of agreement reached on the clause pertaining to personal status. Opinion that this renders possible and advisable U. S. acceptance of the entire provisional agreement.	714
May 8 (38)	*To the Minister in Persia (tel.)* Further observations concerning question of personal status, family law, etc., with instructions to further converse with Teimourtache and to cable full text or a summary of the law being passed by the Medjliss on personal status and family law.	715
May 10 (52)	*From the Minister in Persia (tel.)* Information as to the personal status assurances contained in the declaration on safeguards; and the more important articles of the law on personal status and family law jurisdiction voted May 8.	717
May 10 (53)	*From the Minister in Persia (tel.)* Information that Teimourtache has offered to delete all reference to personal status from proposed arrangement and suggests the question be handled subsequently in a note or in definitive treaties. Hope that the Department will authorize the signature of the other agreements. Advice that the French and British have reached agreement with Persia and that Germany and other powers will now follow suit.	717
May 10 (40)	*To the Minister in Persia (tel.)* Further suggestion as to provision concerning personal status and family law to be included in exchange of notes, with authorization to sign and exchange notes if suggestion is accepted, otherwise to sign and exchange notes without the provision but with the understanding that in the immediate future a further exchange of notes will be negotiated on the subject.	718

PERSIA

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND PERSIA FOLLOWING TERMINATION OF TREATY OF FRIENDSHIP AND COMMERCE OF 1856—Con.

Date and number	Subject	Page
1928 May 13 (54)	*From the Minister in Persia (tel.)* Intention, because of less conciliatory Persian attitude, to conclude on May 14 an arrangement to consist of notes similar in substance to those outlined in telegram No. 47, May 5, but to take the form of a unilateral declaration and to be accompanied by supplementary formal letters of acknowledgment. Information as to how these notes will differ from the earlier drafts.	719
May 14 (55)	*From the Minister in Persia (tel.)* Information that the notes were signed and exchanged as arranged, but that the declaration on safeguards, handed to him following the exchange, omitted reference to U. S. institutions.	720
May 16 (56)	*From the Minister in Persia (tel.)* Information that notes dated May 14 had just been exchanged relative to U. S. missionaries. Persian Acting Minister's note (text printed).	720
May 17 (42)	*To the Minister in Persia (tel.)* Approval of action described in telegram No. 56, May 16. Instructions to telegraph recommendations with respect to exchange of notes regarding personal status and family law jurisdiction and to send texts of all notes and declarations.	721
May 18 (599)	*From the Minister in Persia* Transmittal of the seven notes signed and exchanged on May 14 (texts printed).	721
May 19 (601)	*From the Minister in Persia* Suggestion that the present may be a favorable moment to take the initiative with Persia in negotiation of an agreement on naturalization.	733
May 26 (44)	*To the Minister in Persia (tel.)* Department's inability to understand Persia's delay in reaching an understanding on the subject of personal status and family law jurisdiction along the lines originally suggested in telegram No. 38, May 8, since pertinent features therein outlined seem to have figured in the arrangement of May 10 between Persia and Great Britain; also inability to understand discrepancy in personal status assurances in declaration on safeguards in telegram No. 52, May 10, and the provision (text printed) in the declaration on safeguards handed May 10 to the British Minister in Persia.	734
May 28 (59)	*From the Minister in Persia (tel.)* Information that negotiations regarding personal status have been resumed along lines of telegram No. 40, May 10, but that the Persian Government has shown an unwillingness to come to an agreement, and that the Minister senses a disposition to avoid the issue. Suggestion that the Department might well communicate its views to the Persian Minister at Washington. Explanation of the discrepancies in provisions regarding personal status in the declarations on safeguards.	735

PERSIA

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND PERSIA FOLLOWING TERMINATION OF TREATY OF FRIENDSHIP AND COMMERCE OF 1856—Con.

Date and number	Subject	Page
1928		
May 29 (46)	*To the Minister in Persia (tel.)* Instructions to remind Teimourtache of his unqualified assurances that Persia had no intention of imposing penalties or inferior treatment of any sort upon U. S. citizens because of the lapse of the treaty and to indicate that the United States might be placed under the regrettable necessity to consider appropriate action. Information that the Department's views will be brought to the attention of the Persian Minister. Inquiry whether Department's understanding that Persian tribunals will exercise jurisdiction over personal status of Persian nationals in Belgium, France, Germany, and Italy is correct.	736
May 29	*To the Consul at Teheran* Reminder that with the abrogation of the treaty of 1856, effective May 10, Persian subjects will not hereafter be entitled to classification as treaty aliens under section 3(6) of the Immigration Act of 1924.	736
June 2 (47)	*To the Minister in Persia (tel.)* Substance of interview with Persian Minister regarding personal status and family law jurisdiction.	737
June 5 (61)	*From the Minister in Persia (tel.)* Teimourtache's refusal of settlement on basis of reciprocal favored-nation treatment. Explanation of special considerations involved in Persia's arrangement with the British. Formula proposed by Persia's French legal adviser, which the Minister believes is the maximum to be obtained in any declaration.	737
June 29 (55)	*To the Minister in Persia (tel.)* Department's formula respecting personal status (text printed).	739
June 30 (632)	*From the Minister in Persia* Letters exchanged June 3 and June 21 (texts printed), in regard to competence of U. S. consular courts in Persia as applied to cases pending before those tribunals on May 10.	740
July 6 (67)	*From the Minister in Persia (tel.)* Report of Teimourtache's favorable reaction to the Department's formula and his substitute draft (text printed) which seems to embody precisely the desired fundamental principles. Request for authorization to sign and exchange the notes before July 9 when Teimourtache expects to depart for a 2-months' tour.	741
July 6 (56)	*To the Minister in Persia (tel.)* Authorization to sign and exchange notes. (Footnote: Information that the Minister reported in telegram No. 72, July 11: "Notes providing for Provisional Agreement in matters of personal status and family law jurisdiction signed and exchanged today.")	742
July 11	*From the American Minister to the Persian Acting Minister for Foreign Affairs* Understanding of results of conversations with respect to personal status and family law jurisdiction.	742

PERSIA

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND PERSIA FOLLOWING TERMINATION OF TREATY OF FRIENDSHIP AND COMMERCE OF 1856—Con.

Date and number	Subject	Page
1928		
July 11	*From the Persian Acting Minister for Foreign Affairs to the American Minister* Understanding of results of conversation with respect to personal status and family law jurisdiction.	743
July 17 (73)	*From the Minister in Persia (tel.)* Foreign Office objection to U. S. consulate's refusal to issue a nonimmigrant treaty alien visa; claim of contravention of favored-nation stipulation of paragraph 2 of provisional arrangement of May 14. Request for instructions.	744
July 20 (60)	*To the Minister in Persia (tel.)* Instructions to inform Persian Government that paragraph 2 of the provisional agreement of May 14 cannot be regarded as according right of Persian nationals to enter the United States as nonimmigrant treaty aliens. Argument in support of Department's position. (Bracketed note: Information that a draft treaty of friendship, commerce, and establishment was submitted to the Persian Minister of Court on April 14; that no further negotiations followed.)	744

PROPOSED TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND PERSIA

1928		
May 8 (39)	*To the Minister in Persia (tel.)* Request for opinion as to advisability of proposing to negotiate treaties of arbitration and conciliation with Persian Government at the present time, or of postponing proposal until negotiations for *modus vivendi* are completed.	746
June 25 (65)	*From the Minister in Persia (tel.)* Opinion that time is now favorable to advance proposal to negotiate treaties of arbitration and conciliation with Persia.	746
June 29 (54)	*To the Minister in Persia (tel.)* Information that Persian Minister has been given drafts of proposed treaties as a basis for negotiation; and that copies are being sent to the Legation. Possibility that proposed negotiation may be of advantage in the matter of exchange of notes on personal status and family law jurisdiction.	746
Sept. 23	*To the Counselor of the Persian Legation* Reason why the ratifications of the Treaty for the Advancement of General Peace of 1914 between the United States and Persia were never exchanged.	747
Dec. 4 (90)	*From the Chargé in Persia (tel.)* Information that for political reasons Persia prefers a general clause in a treaty of friendship to a separate treaty of arbitration and also prefers to postpone question of a conciliation treaty. (Footnote: Information that further negotiations did not result in the signing of an arbitration or conciliation treaty.)	748

POLAND

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND POLAND, SIGNED AUGUST 16, 1928

Date and number	Subject	Page
1928 Mar. 28	*To the Polish Minister* Transmittal, for the consideration of the Polish Government and as a basis for negotiation, of a draft treaty of arbitration and a draft treaty of conciliation.	751
May 14 (71 T. 28)	*From the Polish Minister* Poland's willingness to take up negotiations on the basis of the drafts proposed by the United States. Submission of counter drafts of both treaties.	752
Aug. 8	*From the Polish Legation* Explanation of proposal to omit from the arbitration treaty the phrase "law or equity" and to substitute for it the phrase "international law and custom".	757
Aug. 14	*To the Polish Minister* Explanation why it is impracticable for the United States to accept substitution of phrase "international law and custom" for the phrase "law or equity." Request for further consideration by the Polish Government of the acceptability of the language used in the draft originally proposed by the United States.	757
Aug. 14	*To the Polish Minister* Reasons why the Department finds it impracticable to accept certain alterations in the draft treaties proposed by the Polish Government.	759
Aug. 15 (3154/28)	*From the Polish Minister* Information that the Polish Government has decided to withdraw suggestions which the U. S. Government does not wish to accept, and to conclude both treaties, accepting the drafts submitted on August 14.	761
Aug. 16	*Treaty Between the United States of America and Poland* Of arbitration.	763
Aug. 16	*Treaty Between the United States of America and Poland* Of conciliation.	765

PORTUGAL

REPRESENTATIONS REGARDING DISCRIMINATORY CHARGES IN PORTUGUESE PORTS

1927 Dec. 31 (859)	*To the Minister in Portugal* Transmittal of a letter from the Chairman of the Shipping Board, December 2, 1927, requesting information concerning Portuguese customs rebate of 10 percent allowed cargo landed or loaded by Portuguese vessels, and pointing out that tobacco shipments from Gulf ports will no doubt be transshipped to Portuguese vessels to take advantage of the rebate. Instructions to verify and, in cooperation with consul general, to submit a full report; instructions also to renew representations respecting discriminations against U. S. shipping.	768

PORTUGAL

REPRESENTATIONS REGARDING DISCRIMINATORY CHARGES IN PORTUGUESE PORTS—Continued

Date and number	Subject	Page
1928		
Jan. 31 (2202)	*From the Minister in Portugal* Information that there is nothing in decree No. 7822 of November 22, 1921, which distinguishes between rebates to Portuguese carriers on cargoes reshipped from European ports and those carried in Portuguese bottoms directly to and from American ports. Concurrence with opinion of colleagues that the Portuguese Government intends to issue further decree, probably favorable. Opinion that it would be a mistake for the Legation to make any isolated new intervention for at least another month.	769
Feb. 24 (7)	*From the Chargé in Portugal (tel.)* Information that the Minister for Foreign Affairs states that the Portuguese Government accepts, in principle, equality; but that delay is due to necessity of finding means to compensate Portuguese shipping for losses resulting from abolition of discriminations.	770
Feb. 24 (2220)	*From the Chargé in Portugal* Information that the Portuguese Government has taken no action respecting the 10 percent rebate. Opinion that the projected League of Nations loan would have considerable effect in influencing Portugal to clear up the shipping question. Report on the tobacco situation.	770
Feb. 28 (2221)	*From the Chargé in Portugal* Informal conversation with Minister for Foreign Affairs who said he believed that a means had been found of compensating Portuguese shipping interests for the loss of the advantage of the discriminatory duties. Consulate general's opinion that the decrees providing for an alleviation of the burden of port charges and dues are unsatisfactory since they allow for an increasing of these at some future time. Information from British Embassy that the two chief British shipping firms in Lisbon are satisfied with the changes effected by the decrees.	772
Apr. 10 (15)	*From the Chargé in Portugal (tel.)* Report that interested chiefs of mission are now disposed to renew representations against shipping discrimination; that the British Ambassador has addressed an identical note to representatives suggesting that the protest include decree of February 28 granting subsidy upon coal imported in Portuguese vessels; that the Minister, however, intends to omit it and to limit his protest to general percentage discrimination.	774
Apr. 11 (898)	*To the Chargé in Portugal* Authorization to convey to Portuguese Government an expression of gratitude over Portugal's acceptance of the principle of national treatment of shipping and to use the occasion to propose a treaty of friendship, commerce and consular rights.	774
Apr. 13 (10)	*To the Chargé in Portugal (tel.)* Information that if subsidy upon coal imports in Portuguese vessels is payable to Portuguese shipowners, and therefore a direct subsidy, the Department perceives no ground for representations. Instructions to make informal representations if otherwise.	775

PORTUGAL

REPRESENTATIONS REGARDING DISCRIMINATORY CHARGES IN PORTUGUESE PORTS—Continued

Date and number	Subject	Page
1928		
Apr. 23 (18)	*From the Chargé in Portugal (tel.)* Report that coal subsidy is direct to Portuguese shipowners; that British representative is protesting coal subsidy but including 10 percent discrimination and that other representatives are renewing protests on 10 percent discrimination with incidental mention of the coal subsidy. Request for authorization to make representations regarding delay in correcting 10 percent discrimination without citing coal subsidy.	776
Apr. 27 (12)	*To the Chargé in Portugal (tel.)* Authorization to make further representations regarding shipping discriminations; to bring to attention of colleagues the Department's belief that protest against coal subsidy may interfere with abandonment of discriminations; and to use discretion whether to postpone further representations until the Minister has had a chance to consider the proposal of the treaty suggested in despatch No. 898, April 11.	776
May 3 (19)	*From the Chargé in Portugal (tel.)* Information that a note was sent to the Foreign Office on May 2; that eight nations have renewed protests.	777
May 4 (2281)	*From the Chargé in Portugal* Summary of events in shipping discrimination. Transmittal of note of May 2 to the Foreign Minister, Portuguese decree No. 15086, and memorandum by the Chargé on port charges (texts printed).	777
May 9 (2284)	*From the Chargé in Portugal* Information that chiefs of missions do not agree with Department's viewpoint regarding subsidies paid to shipowners. Opinion that, without British support, there is not much prospect that the Portuguese Government will abolish the present discriminations through compensatory subsidies to the Portuguese vessel owners.	783
June 22 (25)	*From the Minister in Portugal (tel.)* Request for draft treaty of friendship, commerce and consular rights, which the Foreign Minister desires to examine.	783
June 25 (2325)	*From the Minister in Portugal* Information that Foreign Minister is willing to examine proposed treaty; but that opposition is expected from the head of the Consular and Commercial Division of the Foreign Office. Doubt that Portugal has really accepted in principle equality of treatment. Request for information as to Department's understanding of national treatment and opinion whether such treatment is nullified by subventions, subsidies, special payments or other measures.	784
Oct. 16 (2413)	*From the Chargé in Portugal* Information that British Chargé sent note to Foreign Office, dated October 8, protesting against port charges and dues, but omitting any reference to coal subsidy. Memorandum of Minister's conversation with the Foreign Minister on June 21 (text printed) regarding shipping discrimination and the Portuguese policy of not opening up their colonies to foreign shipping.	786

PORTUGAL

REPRESENTATIONS REGARDING DISCRIMINATORY CHARGES IN PORTUGUESE PORTS—Continued

Date and number	Subject	Page
1929 Jan. 23 (2499)	*From the Minister in Portugal* Report of interview with Meyrelles, the new Foreign Minister, on January 17. Opinion that there will not be any favorable developments either in matter of shipping charges or in the negotiation of a treaty of friendship, commerce and consular rights.	788

PORTUGUESE REGULATIONS REGARDING JURISDICTION ON BOARD FOREIGN SHIPS IN PORTUGUESE WATERS AND REQUEST FOR RECIPROCAL ACTION BY THE UNITED STATES

1928 July 27	*From the Portuguese Minister* Inquiry whether Portuguese consular officers are invited to be present when American authorities take legal action on board Portuguese merchant vessels in American waters. Explanation that the decree of the Portuguese Government of July 23, 1913, provides for reciprocal treatment to foreign ships in Portuguese territorial waters.	790
Sept. 5	*To the Portuguese Minister* Information that consular officers are not invited to be present when American authorities take legal action on board Portuguese merchant vessels in American waters. Department's opinion that the request of a Portuguese consular officer to be present would not be refused by the local authorities. Explanation that there are no American treaty provisions or legislation similar to the Portuguese decree of 1913.	790
Sept. 8	*From the Portuguese Minister* Inquiry whether U. S. Government interprets the most-favored-nation treatment stipulated in the commercial agreement between the United States and Portugal of June 28, 1910, as extending to vessels of the one country in the territorial waters of the other the treatment granted by the latter country to vessels of other nations through treaty provisions agreed upon with them.	793
Sept. 26	*To the Portuguese Minister* Department's understanding that commercial agreement of 1910 has not been considered to apply to consular privileges with respect to matters pertaining to the internal discipline of vessels; that the most-favored-nation treatment stipulated in the agreement related to charges on commerce.	793
Oct. 12	*Memorandum by the Assistant Secretary of State* Secretary's proposal, in conversation with the Portuguese Minister, that the Minister leave the Department's note of September 26 for reconsideration; and that if it were found possible to take a different attitude, another note would be substituted, and that if it were necessary to maintain the stand taken, a letter of explanation would be written.	794

PORTUGAL

PORTUGUESE REGULATIONS REGARDING JURISDICTION ON BOARD FOREIGN SHIPS IN PORTUGUESE WATERS, ETC.—Continued

Date and number	Subject	Page
1928 Nov. 20	*Memorandum by the Solicitor for the Department of State* Opinion that the Portuguese Minister should be told that the views expressed in the Department's notes of September 5 and 26 represent the Department's considered views on the subject. (Bracketed note: Information that no further correspondence on this subject has been found in the files of the Department.)	795

RUMANIA

EFFORTS TO REACH A SATISFACTORY SETTLEMENT REGARDING SUBSOIL RIGHTS IN LEASED RUMANIAN OIL LANDS

1928 Mar. 31 (565)	*From the Minister in Rumania* Report that the Minister of Commerce and Industry called at the Legation, March 24, and gave definite assurance that the subsoil rights in embatic lands would be restored to the Romano-Americana and that all concessions taken by the Romano-Americana on these lands before the enactment of the so-called interpretive law of 1926 would be recognized following the adjustment of the question of royalty. Rumanian memorandum, dated March 11, pertaining in general to the embatic land questions and concessions from embatic holders taken by the Romano-Americana Company (text printed).	798
Apr. 13 (572)	*From the Minister in Rumania* Information that the Romano-Americana has accepted the proposal of the Rumanian Government for settlement of the dispute. Memorandum prepared by the Romano-Americana Co. reviewing the history of the case and draft convention between Rumania and the Romano-Americana embodying the settlement (texts printed).	803
June 22 (596)	*From the Chargé in Rumania* Information that, on June 8, there appeared in the *Monitorul Oficial* extensive regulations dealing with the methods of exploitation of petroleum and gas as stipulated in the mining law of 1924, and limiting the employment of foreigners. Informal interview with the Minister of Industry and Commerce, who requested that text of regulations should not be sent to the Department until a thorough revision had been made. Chargé's opinion that it is doubtful whether any real action will be taken.	808
July 5 (603)	*From the Chargé in Rumania* Press announcement, June 27 (text printed) stating that the advance project which was published by mistake was not the definite project. Message sent by Hughes, Director of Romano-Americana, to Paris office of Standard Oil Co. of New Jersey (text printed) stating that unofficial promises have not been fulfilled and expressing doubt as to Government's sincerity.	811

RUMANIA

EFFORTS TO REACH A SATISFACTORY SETTLEMENT REGARDING SUBSOIL RIGHTS IN LEASED RUMANIAN OIL LANDS—Continued

Date and number	Subject	Page
1928		
July 24 (307)	*To the Chargé in Rumania* Approval of action described in despatch No. 596 of June 22; and instructions to keep the Department promptly advised of further developments.	813
Sept. 26	*From the Paris Representative of the Standard Oil Company of New Jersey to the General Counsel of the Standard Oil Company of New Jersey at New York* Explanation that Rumanian Government has not definitely confirmed the settlement.	813
Dec. 7 (50)	*From the Minister in Rumania* Press report of an interview with the Minister of Industry in which the promise to repeal the objectionable features of the mining law is repeated. (Footnote: Information that a new ministry in Rumania was formed November 10, 1928, under Juliu Maniu, leader of the Nationalist-Peasant Party).	814

REFUSAL OF THE DEPARTMENT OF STATE TO ASSOCIATE THE FLOTATION OF AN AMERICAN LOAN TO RUMANIA WITH QUESTIONS PENDING BETWEEN THE TWO GOVERNMENTS

1928		
Jan. 26 (8)	*From the Minister in Rumania (tel.)* Information that representatives of Blair and Company, New York, are now, at Rumanian Finance Minister's request, investigating financial situation in Rumania with a view to floating a loan and that they have indicated that it would be desirable to settle all pending cases between United States and Rumania before loan is made. Suggestion that commercial treaty, better treatment for Standard Oil Co., and settlement of bond and other claims be included.	814
Jan. 28 (5)	*To the Minister in Rumania (tel.)* Instructions to avoid giving impression that the United States associates treaty negotiations, settlement of claims, or revision of mining law with the question of American loan.	815
Feb. 2 (535)	*From the Minister in Rumania* Report of conversations with the Minister for Foreign Affairs and the Secretary General of the Ministry of Finance regarding the payment of the pre-war bond issues. Minister's opinion that the Rumanian Government will offer some sort of a settlement of American claims but only in connection with a general settlement.	815
Feb. 4 (537)	*From the Minister in Rumania* Further information concerning the proposed international loan to Rumania.	816
Aug. 15	*To Blair & Company, Inc., and Chase Securities Corp.* Nonobjection to participation in Rumanian loan. Department policy regarding foreign loans.	818

RUMANIA

ATTITUDE OF THE DEPARTMENT OF STATE TOWARD PROTESTS BY JEWISH GROUPS REGARDING TREATMENT OF JEWS IN RUMANIA

Date and number	Subject	Page
1927 Dec. 29	*To the Minister in Rumania* Instructions to bring informally to the attention of Titulescu the bad impression the anti-Jewish riots have made in the United States.	819
1928 Feb. 29	*From the Minister in Rumania* Information that substance of instructions of December 29 has been conveyed to the Acting Secretary for Foreign Affairs and other prominent leaders, including the Prime Minister.	820
Apr. 13 (15)	*To the Minister in Rumania (tel.)* Instructions to bring to the attention of the Ministry for Foreign Affairs orally and informally the information that the Rumanian Minister in Washington has been advised to ignore several speeches of an anti-Rumanian character delivered in Congress.	821
Dec. 12 (54)	*From the Minister in Rumania* Report that students' celebrations of December 10 were held without disorders.	821

RUSSIA

POLICY OF THE UNITED STATES TOWARD THE SOVIET REGIME

1928 Feb. 23	*To the Chairman of the Republican National Committee* Statement covering activities of the Department of State (excerpt concerning Russia printed).	822

REITERATION BY THE UNITED STATES OF ITS POLICY NOT TO COUNTENANCE INFRINGEMENTS BY AMERICANS UPON FOREIGN RIGHTS IN RUSSIA

1928 Mar. 15	*From the French Ambassador* Information that a contract recently concluded between the Soviet regime and Mr. Percival Farquhar has caused considerable concern in France in view of the extensive investments of French capital in the steel works of Makeevka and in the adjoining coal and iron mines. Statement that the French Government considers that the contingent grant to a foreign group of the right to exploit, or to participate in the management of, an enterprise belonging to French nationals cannot be regarded otherwise than as prejudicial to the rights of the former owners. Reference to the Department's press announcement of July 20, 1922, that the Government of the United States will not favor any arrangement entered into by U. S. citizens with the Soviets prejudicing the rights of citizens of other countries.	826
Apr. 16	*To the French Ambassador* Information that Mr. Farquhar has been advised that the Department could not view with favor the project in question; and that the attitude of the U. S. Government toward arrangements concluded by U. S. citizens with the Soviet authorities remains the same as that set forth in the Department's press announcement of July 20, 1922.	827

RUSSIA

CONTINUED REFUSAL OF THE UNITED STATES MINTS AND ASSAY OFFICES TO ACCEPT GOLD OF SOVIET ORIGIN

Date and number	Subject	Page
1928		
Feb. 14	*From the Under Secretary of the Treasury* Inquiry whether the Department still adheres to the opinion given on November 8, 1920, that it cannot give any assurance that the title to Soviet gold will not be subject to attack internationally or otherwise.	827
Feb. 17	*To the Under Secretary of the Treasury* Statement that the attitude of the Department remains the same as set forth in the letter of November 8, 1920, to the Assistant Secretary of the Treasury.	829
Feb. 24	*To the Under Secretary of the Treasury* Information that the Department does not consider that the purchase of Soviet gold could be regarded as a recognition of the Soviet regime as the Government of Russia.	829
Mar. 5	*From the French Ambassador* Inquiry, in view of press reports that the U. S. S. R. has shipped some five million dollars to New York, whether the U. S. Government will maintain its position in regard to importation of Russian gold.	829
Mar. 10	*To the French Ambassador* Assurance that there is no present intention to change the position maintained since 1920 with respect to acceptance of gold of Soviet origin. Statement issued to press by Treasury Department March 6 (text printed).	830

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM MONOPOLY

1928		
Jan. 4 (719)	*From the Chargé in Spain* Spanish *note verbale*, December 23, 1927 (text printed) stating that the seizures of property are being carried out in accordance with the Royal decree-law of October 17, 1927, with reserve of making pertinent indemnification and that it has been impossible to determine the amount of the indemnification because it is necessary to make proper valuation in accordance with Royal decree-law of June 28, 1927, which fixes an as yet unexpired period for these valuations; also that the Government has decided that these expropriated companies will receive interest on finally determined valuation from date of seizure to time of final payment.	832
Jan. 5 (1)	*From the Chargé in Spain (tel.)* Comment that the Spanish *note verbale* of December 28, 1927, contains no satisfactory assurances. Request for authority to refute the arguments in the Spanish note.	833
Jan. 6 (3)	*To the Chargé in Spain (tel.)* Department's preference to await receipt of text of Spanish *note verbale* before issuing definite instructions. Authorization to intimate to the Spanish Government that its course with respect to oil monopoly is being observed by the United States with growing concern and that the United States will be obliged to conclude from failure to give prompt and fair compensation that Spain does not intend to extend protection to U. S. property in Spain.	834

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM MONOPOLY—Continued

Date and number	Subject	Page
1928		
Jan. 10 (4)	*From the Chargé in Spain (tel.)* Information that the substance of telegram No. 3, January 6, was communicated to Primo de Rivera on January 9, and that he promised to hasten valuations and gave assurance that his Government intends to pay a fair and generous compensation. Opinion that the Department's representations have made an improvement and that there is a fair prospect of fair compensation ultimately.	835
Jan. 11 (737)	*From the Chargé in Spain* Detailed report of interview with Primo de Rivera on January 9.	835
Jan. 19 (7)	*From the Chargé in Spain (tel.)* Summary of Spanish reply to French protests, to the effect that there was not sufficient time to make valuations at the time of seizure and promising generous and equitable treatment. Suggestion that the Department consider the advisability of continued protest. French Embassy report that Russia demands recognition by Spain in return for a long-term contract for supplying monopoly. Opinion that recognition will not be granted by present regime.	839
Jan. 26 (10)	*From the Chargé in Spain (tel.)* Information that first valuation proceedings at Santander indicate that method employed by Spanish representatives is to undervalue properties and disregard value of the business as a going concern. French Ambassador's plan to present further note threatening reprisals against Spanish interests in France unless fair and immediate compensation is made to French petroleum interests in Spain. Suggestion that a categorical refutation of the Spanish arguments in the note of December 28, 1927, be made. Opinion that without further energetic protest the Spanish Government will consider American attitude as one of acquiescence to the present procedure.	840
Jan. 27 (10)	*To the Chargé in Spain (tel.)* Instructions to report concerning the British Embassy's attitude and any further action taken by the French; also to stress to French and British colleagues the U. S. desire for cooperation.	841
Jan. 28 (11)	*From the Chargé in Spain (tel.)* Report that British attitude is ambiguous and negative, but that the French desire to cooperate with Americans; that the British attitude of procrastination is considered ill-advised and unfortunate by the French.	842
Feb. 1 (14)	*To the Chargé in Spain (tel.)* Instructions to proceed to Paris and London for consultation with the respective Embassies. Authorization, in conjunction with American Embassy in Paris and at his own discretion, to discuss question informally with French Foreign Office.	843
Feb. 2 (16)	*From the Chargé in Spain (tel.)* Information that the French Embassy sent the Spanish Government a strong note on January 30, reiterating demand for protection and fair treatment of French property seized by the petroleum monopoly. Suggestion for further American protest along the lines of the French note. Report that French are considering commercial reprisals.	844

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM MONOPOLY—Continued

Date and number	Subject	Page
1928		
Feb. 4 (26)	*To the Ambassador in Great Britain (tel.)* Information concerning the importance of ascertaining the British Government's attitude. Instructions with respect to conferences with Blair, the Chargé at Madrid, who is proceeding to London.	845
Feb. 8 (28)	*From the Ambassador in Great Britain (tel.)* Opinion, after conferences with Blair, that the only remedy immediately available would seem to be a protest by the U. S., British, and French Governments. French Ambassador's assurance of continued pressure by his Government and belief that the British will refuse to act because British subjects are interested in a company which is a Spanish corporation, in fact. Private information that this attitude on the part of the British may possibly be altered; and suggestion that the matter be discussed with British Ambassador at Washington as most effective means of speeding such a result.	845
Feb. 13 (25)	*From the Chargé in Spain (tel.)* Information that American, British, and French owned petroleum companies have filed protest with Minister of Finance against methods of central Valuation Commission and have refused to attend further valuation meetings. Finance Minister's reply citing them to appear before each session of the commission. French approval of withdrawal of the companies. Chargé's opinion that companies are justified in their withdrawal and that vigorous protest against the treatment accorded to American interests should be made.	846
Feb. 14 (790)	*From the Chargé in Spain* Report on conferences with American Embassies in Paris and London; possibility that British Foreign Office will take a stronger position.	847
Feb. 14 (41)	*From the Ambassador in France (tel.)* Information that, following conferences with Blair, the Spanish oil situation was discussed with the Foreign Office and the desirability of the French Embassy at London aiding in bringing the British Government in favor of concerted action was suggested.	850
Feb. 14 (17)	*To the Chargé in Spain (tel.)* Request for information whether any change in British attitude is indicated by fact that, in withdrawing from the central Valuation Commission, the British companies were acting with the U. S. and French companies; also for opinion whether withdrawal of companies has weakened their position. Information that the Standard Oil Company is consulting its representatives in Spain as to the advisability of filing a suit in Spanish courts to test decree's constitutionality.	851
Feb. 18 (27)	*From the Chargé in Spain (tel.)* Information that the British attitude is unchanged. Opinion that oil companies now present a united front and that withdrawal from Valuation Commission does not weaken their position. Impracticability of bringing any suit in Spanish courts to test legality of the decree.	852

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM MONOPOLY—Continued

Date and number	Subject	Page
1928		
Feb. 21 (28)	*From the Chargé in Spain (tel.)* Report on encouraging assurances regarding instructions for the Valuation Commission received from King Alfonso and Primo de Rivera; also French Ambassador's understanding with Primo de Rivera.	853
Feb. 21 (18)	*To the Chargé in Spain (tel.)* Department's assumption that the oil companies will now prepare appeals to be submitted to the Council of Ministers. Request for comments on suggestion that the Department present representations as soon as Babel and Nervion files its appeal. Information that the French Embassy reports a better chance of British support and that France is demanding from Spain an unequivocal and definite reply.	854
Feb. 23 (19)	*To the Chargé in Spain (tel.)* Information that Standard Oil Company has indicated that it will await confirmation of the French Ambassador's understanding before reappearing before the Valuation Commission. Authorization to seek appropriate assurances from Spanish Government for U. S. interests. Instructions to advise whether there is to be a reexamination by the Valuation Commission or whether valuations are to be reviewed by the Council of Ministers.	855
Feb. 29 (31)	*From the Ambassador in Spain (tel.)* Information that on February 25 the French Ambassador received a note from Primo confirming the Ambassador's understanding of the conversation of February 21; that Primo, however, gives no assurances regarding Valuation Commission's instructions to interpret "industrial value" of expropriated companies, which interpretation is now the crux of the situation; that American and French interests have indicated they would return to the Commission in view of the recent assurances; that the British, however, have sent a bitter protest refusing to take part in proceedings of the Commission unless given categorical assurances on industrial value.	855
Mar. 9 (37)	*From the Ambassador in Spain (tel.)* Information that the U. S., British, and French Embassies have received identical note dated March 6 from Primo promising that the Valuation Commission will in the future act judicially and will be instructed to deal reasonably and generously with all interests affected, and enclosing new rules governing the Commission's procedure which make great concessions. Suggestion that since letter's wording is vague, the Spanish Government should be informed that the United States is not wholly satisfied.	856
Mar. 9 (835)	*From the Ambassador in Spain* Note from Primo de Rivera of March 6 and rules for the valuation of petroleum plants (text printed).	857
Mar. 10 (25)	*To the Ambassador in Spain (tel.)* Instructions to acknowledge note of March 6; to inform French and British colleagues regarding reply and if advisable, deliver reply at about the same time as the French and British do.	859

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM MONOPOLY—Continued

Date and number	Subject	Page
1928		
Mar. 14 (839)	*From the Ambassador in Spain* Note to President of Spanish Council of Ministers, March 13, acknowledging the Spanish note of March 6 (text printed). Information that it was not possible to arrange delivery of note at the same time as British and French replies. Rumor that Valuation Commission will delay its work until after the Easter holidays.	859
May 23 (915)	*From the Ambassador in Spain* Information of interview with Primo in which was discussed the Commission's refusal to review its awards made before the new rules, and its failure to give fair consideration to companies' claims for good will; intention of French Ambassador to take matter up with Primo personally.	861
May 31 (56)	*From the Ambassador in Spain (tel.)* Information that the French Ambassador delivered note to Primo on May 29 (summary printed); delivery of American note, May 31.	864
May 31	*From the American Ambassador in Spain to the President of the Spanish Council of Ministers* Request that the Valuation Commission review its earlier awards and that prompt payment be made for the losses resulting to American interests.	865
June 1 (38)	*To the Ambassador in Spain (tel.)* Authorization to second the French protest along similar lines if it seems expedient; and to discuss with British and French colleagues and with oil company representatives plan of Standard Oil Company to secure agreement among companies on definition of the criteria (including industrial value) on which compensation should be based.	866
June 12 (933)	*From the Ambassador in Spain* Note from Primo de Rivera, June 6 (text printed) which the Ambassador considers an entirely unsatisfactory and obvious, though friendly, attempt to dodge the issue.	867
June 20 (942)	*From the Chargé in Spain* Information that tentative agreement has been reached between the Babel and Nervion Company and the Valuation Commission. Chargé's opinion that the time is now opportune to give more tangible support to the French negotiations.	869
July 3 (954)	*From the Ambassador in Spain* Report of interview with Primo de Rivera on June 27. Probability of settlement in the near future.	871
Aug. 24 (78)	*From the Ambassador in Spain (tel.)* Information that Shell Company will accept a settlement on the basis of actual physical valuation, plus 8 percent, plus legal interest from date of seizure.	873
Aug. 30 (54)	*To the Ambassador in Spain (tel.)* Instructions to discuss Shell Company's settlement with French colleague and ascertain what line of action the French Government proposes to take under the circumstances. Information that the Department and Standard Oil Company will confer upon the course of action to be followed regarding which instructions will be sent to the Ambassador. (Copies to London and Paris.)	874

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM MONOPOLY—Continued

Date and number	Subject	Page
1928		
Sept. 5 (82)	*From the Ambassador in Spain (tel.)* Information that French Embassy intends to continue pressing for increased compensation for good will, with hint that they will invoke arbitration under treaty; but that the French Embassy does not expect to take any action before the end of October.	874
Sept. 18 (462)	*To the Ambassador in Spain* Information of conversation between Secretary of State and Briand at Paris in which the Secretary stated that United States was in accord with the French on this question; and Briand stated that when the Spanish Government realized that the American and French Governments were firmly resolved on a common line of action, they would abandon their present attitude.	875
Oct. 25 (329)	*From the Chargé in France (tel.)* Information that the French Government is considering recourse to arbitration as a means of settling the oil monopoly cases and would welcome U. S. support of their position; and that such a course is favored by American oil companies.	875
Nov. 1 (338)	*From the Chargé in France (tel.)* Information from Foreign Office that the French Ambassador in Madrid has been instructed to consult with his American and British colleagues and to report as to the advisability of resorting to arbitration.	876
Dec. 4 (67)	*To the Ambassador in Spain (tel.)* Information that the Spanish Government will be asked by the French to submit to arbitration questions arising out of the application of the oil monopoly. Request for comments and recommendations with regard to arbitration and for copy of French note asking for arbitration.	876
Dec. 6 100)	*From the Ambassador in Spain (tel.)* Information that the French note was sent to Foreign Office on November 30; and that the Ambassador on December 4 also addressed a note to the Foreign Office (text printed) in support of the French action.	877
Dec. 8 (68)	*To the Ambassador in Spain (tel.)* Comment on Ambassador's failure to inform the Department of the French note of November 30 and to consult the Department before sending the U. S. note of December 4.	878
Dec. 18 (69)	*To the Ambassador in Spain (tel.)* Information that the Department will await receipt of text of French note of November 30 before sending further instructions.	878

SPAIN

PROPOSED TREATY OF ARBITRATION BETWEEN THE UNITED STATES AND SPAIN

Date and number	Subject	Page
1928 Feb. 20 (335)	*To the Chargé in Spain* Information that in conversation with the Spanish Ambassador on January 26 the Secretary of State stated he was prepared to negotiate a new arbitration convention either on the basis of the original Root convention of 1908 or on the basis of the draft arbitration treaty which has been submitted to France; and that the Secretary has since despatched a suitable note to the Spanish Ambassador confirming the statement to him and transmitting a copy of the treaty with France which was signed February 6.	879
Mar. 12 (26)	*To the Ambassador in Spain (tel.)* Information that on March 12 the Spanish Ambassador was handed a draft treaty of arbitration whose provisions operate to extend the policy of arbitration enunciated in the treaty of 1908, which expired June 2, 1923; and that the text of the proposed treaty will be forwarded in the next pouch.	880
July 11 (76–22)	*From the Spanish Ambassador* Statement that the Spanish Government is unable to sign the proposed arbitration treaty. Counter proposal of draft of a treaty of conciliation, judicial settlement, and arbitration as a basis for negotiation. (Footnote: Information that no reply appears to have been made to this note.)	880

SWEDEN

TREATY OF ARBITRATION BETWEEN THE UNITED STATES AND SWEDEN, SIGNED OCTOBER 27, 1928

1928 Apr. 28 (5)	*To the Minister in Sweden (tel.)* Information that the Swedish Minister has been handed a draft treaty of arbitration whose provisions operate to extend the policy of arbitration enunciated in the convention of 1924, which expires March 18, 1929; and that the text of the proposed treaty will be forwarded in the next pouch.	882
Oct. 4	*From the Swedish Minister* Information that he has been authorized to sign the treaty at any time convenient to the Secretary of State.	882
Oct. 27	*Treaty Between the United States of America and Sweden* Of arbitration.	883

PROPOSED RECIPROCAL TREATMENT REGARDING TAXATION OF RESIDENT ALIENS IN THE UNITED STATES AND SWEDEN

1928 Feb. 9 (38)	*To the Minister in Sweden* Instructions to make representations to the Foreign Minister regarding extension to U. S. citizens residing in Sweden of the same income tax deductions which are now granted to Swedish nationals; also to explain that the provisions of section 222 of the Revenue Act—permitting American citizens to credit Federal income tax with the amount of income, war-profits, or excess-profits taxes paid to any foreign country—may be extended to Swedish nationals, as soon as assurances are received from the Swedish Government that the deductions permitted under Swedish tax laws are available to U. S. citizens residing in Sweden.	885

416955—43——7

SWEDEN

PROPOSED RECIPROCAL TREATMENT REGARDING TAXATION OF RESIDENT ALIENS IN THE UNITED STATES AND SWEDEN—Continued

Date and number	Subject	Page
1928		
Apr. 10 (249)	*From the Minister in Sweden* Information concerning presentation of memorandum on March 7 and oral statements made in compliance with Department's instructions. Foreign Office request for a note confirming Minister's statement respecting the treatment accorded Swedish residents in the United States. Information that upon the receipt of such a note, arrangements would be made for the issuance of a Royal decree extending to resident citizens of the United States the same benefits respecting deductions in the taxable amount of their income now enjoyed by Swedish nationals.	886
May 21 (283)	*From the Minister in Sweden* Foreign Office note of May 18 and Swedish Royal decree No. 105 of May 4, 1928 (texts printed) extending to citizens of the United States domiciled in Sweden treatment in respect of income tax similar to that enjoyed by Swedish subjects.	887
July 16 (72)	*To the Minister in Sweden* Inquiry whether the benefit extended to Americans is limited to the allowance of deductions from their gross income formerly denied them, or whether they may now credit their Swedish income tax with the amount of any income, war-profits, or excess-profits taxes paid to another country.	889
Sept. 8 (370)	*From the Chargé in Sweden* Foreign Office note, September 3 (text printed) stating that national treatment extended by decree of May 4 to U. S. citizens domiciled in Sweden does not imply the right to credit their Swedish income tax with the amount of any income, war-profits, or excess-profits taxes paid to another country. Royal decree No. 380, July 13, 1926 (text printed).	890
Nov. 10 (82)	*To the Minister in Sweden* Treasury Department letter of October 26 (text printed) stating that Swedish nationals residing in the United States will receive national treatment, except that they will not be allowed to take as a credit against their Federal tax the amount of any income, war-profits or excess-profits taxes paid to a foreign country.	892

SWITZERLAND

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND SWITZERLAND

1927		
Dec. 27 (106)	*To the Minister in Switzerland (tel.)* Information of changes that it has been found advisable to make in articles 7, 9, 11, 12, and 13 of the draft treaty of friendship, commerce and consular rights submitted to the Swiss Foreign Office in 1926.	894

SWITZERLAND

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND SWITZERLAND—Continued

Date and number	Subject	Page
1928		
Mar. 8 (335)	*From the Minister in Switzerland* Report of interview with Motta, Federal Councillor and Chief of the Political Department, in which Motta intimated that Switzerland would submit a counter proposal that a treaty of friendship and a treaty of commerce be negotiated separately; and suggested entering into negotiations for an arbitration treaty similar to the one with France but with the addition of some declaration by which the United States would undertake to respect the neutrality of Switzerland. Request for guidance.	895
Mar. 18 (358)	*From the Minister in Switzerland* Foreign Office note, March 14 (text printed) transmitting a draft counter proposal of a treaty of friendship, juridical protection and consular rights with final protocol (text printed). Information that the draft treaty of commerce is being delayed by departmental differences of opinion.	897
Apr. 4 (387)	*From the Minister in Switzerland* Report of interview with Motta in which was discussed the possibility of including in the treaty some provision for the questions of nationality and taxation. Request for instructions.	908
Apr. 9 (194)	*To the Minister in Switzerland* Information of changes that it has been found desirable to make in articles 7, 9, 11, 12, and 13 of the draft submitted in 1926.	911
Apr. 11 (43)	*To the Minister in Switzerland (tel.)* Opinion that it is neither practical nor desirable to add any declaration concerning U. S. attitude toward the neutrality of Switzerland, as suggested by Motta. Authorization, if deemed advisable, to inform Motta that should a multilateral treaty for renunciation of war be successfully negotiated the United States would be most happy for Switzerland to adhere thereto.	918
Apr. 24 (415)	*From the Minister in Switzerland* Report of conference with Swiss officials in which amendments, modifications, and restrictions suggested by the Swiss were discussed. Doubt as to advisability of going further in negotiation of this treaty.	919
May 5 (423)	*From the Minister in Switzerland* Transmittal of note sent on May 4 to Motta submitting all changes but the one dealing with article 9 of the U. S. draft. Explanation.	926
July 18 (518)	*From the Minister in Switzerland* Swiss draft of a treaty of commerce (text printed). Report of interview with Motta who explained omission of article 13 of the U. S. draft relative to right of transit and discussed various provisions of the "additional stipulations".	926
Sept. 10 (582)	*From the Minister in Switzerland* Letter of August 22 from the Chief of the Division of Foreign Affairs, Swiss Federal Political Department (text printed) regarding certain modifications which the Swiss Government is prepared to make in its draft treaty. (Bracketed note: Information that no further progress was made in these treaty negotiations.)	934

SWITZERLAND

PROPOSED TREATY OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND SWITZERLAND

Date and number	Subject	Page
1928 Apr. 3 (41)	*To the Minister in Switzerland (tel.)* Information that the Swiss Chargé has been handed a draft treaty of arbitration whose provisions operate to extend the policy of arbitration enunciated in the convention of 1908 which expired December 23, 1918; and that the text of the proposed treaty and covering note—explaining certain differences in the text of the draft treaty from the language of the French treaty and suggesting that the Swiss Government might care to consider again the ratification of the so-called Bryan treaty—will be forwarded in the next pouch.	937
June 14 (472)	*From the Minister in Switzerland* Letter of June 12 from the Chief of the Swiss Federal Political Department (text printed) transmitting counter draft of the treaty. (Bracketed note: Information that text of the treaty, signed February 16, 1931, is published as Department of State Treaty Series No. 844.)	937

TURKEY

PROPOSED TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND TURKEY

1928 Mar. 23 (25)	*To the Ambassador in Turkey (tel.)* Request for opinion whether a proposal to negotiate treaties of arbitration and conciliation would be well received by the Government of Turkey at present time; whether such a proposal would be of assistance in any negotiations for renewal of the commercial *modus vivendi* of February 17, 1927; also as to how and when the proposal should be made.	940
Mar. 26 (33)	*From the Ambassador in Turkey (tel.)* Opinion that Turkey would welcome a proposal to negotiate arbitration and conciliation treaties and that such a proposal would help in negotiations for the renewal of the commercial *modus vivendi*. Suggestion that proposal be made in Constantinople rather than in Washington and soon after the return of the Minister for Foreign Affairs from Geneva. Favorable effect of including Turkey among first countries to which these treaties are offered.	941
Mar. 27 (27)	*To the Ambassador in Turkey (tel.)* Information that the Department intends to sound out Senate leaders during the next week, and, if they agree, then the texts of the treaties will be handed to the Turkish Minister in conformity with the procedure which is being followed with all other countries; that handing of the texts could be timed so as to permit the Ambassador to make a simultaneous announcement to the Foreign Minister of the U. S. Government's intentions.	941

TURKEY

PROPOSED TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND TURKEY—Continued

Date and number	Subject	Page
1928		
Apr. 11 (50)	*From the Ambassador in Turkey (tel.)* Report of interview with Foreign Minister, March 10, in which the Foreign Minister inquired whether the United States did not intend to extend its "outlawry of war" treaties to nations other than the great powers, and implied quite openly that Turkey would welcome such a proposal. Opinion that full moral effect of offering such treaties to Turkey will be lost if the offer is not made soon.	942
Apr. 12 (36)	*To the Ambassador in Turkey (tel.)* Explanation that arbitration treaty should not be confused with treaty for renunciation of war. Information that instructions will be sent shortly regarding the Department's intention to hand to the Turkish Ambassador the texts of arbitration and conciliation treaties and regarding the renewal of the commercial *modus vivendi*.	943
Apr. 13 (37)	*To the Ambassador in Turkey (tel.)* Precise instructions with respect to interview which the Ambassador should arrange with the Foreign Minister for the purpose of announcing that the treaty texts have been handed to the Turkish Ambassador at Washington, which event should take place the latter part of the next week.	943
Apr. 16 (56)	*From the Ambassador in Turkey (tel.)* Information that the appointment has been made with Minister for Foreign Affairs for April 19.	945
Apr. 19 (40)	*To the Ambassador in Turkey (tel.)* Information that drafts of proposed treaties were handed to Turkish Ambassador and that copies will be sent to Embassy in the next pouch.	945
Apr. 20 (61)	*From the Ambassador in Turkey (tel.)* Foreign Minister's statement that Turkey would be glad to sign both treaties provided they contain some formula or some qualifying document, such as a procès-verbal or exchange of notes, which would make it impossible for the United States to invoke either treaty in connection with any question pertaining to the Armenians. Request for instructions.	945
Apr. 25 (41)	*To the Ambassador in Turkey (tel.)* Instructions to endeavor, at an appropriate moment, but preferably not until commercial *modus vivendi* has been renewed, to dissuade the Foreign Minister from suggesting the stipulation regarding the Armenians; and to avoid giving the impression that the United States is more anxious to negotiate the treaties with Turkey than with other States.	946
June 24 (83)	*From the Ambassador in Turkey (tel.)* Information of receipt of Foreign Minister's personal letter of June 19 requesting revision of article 2 of arbitration convention. Request for approval of proposed reply (text printed).	947
June 25 (55)	*To the Ambassador in Turkey (tel.)* Approval of draft personal letter to Foreign Minister with the amendment of the last sentence (text printed). (Footnote: Information that the letter, embodying the amendment, was delivered on June 26.)	948

TURKEY

PROPOSED TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND TURKEY—Continued

Date and number	Subject	Page
1928		
Aug. 16 (68)	*To the Ambassador in Turkey (tel.)* Information that the Turkish Ambassador has been informed that the Department cannot accept the modification of the arbitration and conciliation treaties proposed by Turkey nor an exchange of notes interpreting the text and forming part of the treaties; but that the Secretary of State has proposed an exchange of notes defining the term "domestic jurisdiction".	948
Oct. 1 (112)	*From the Ambassador in Turkey (tel.)* Information that the Turkish Ambassador has been instructed to discuss with the Department the exchange of notes mentioned in telegram No. 68, August 16; and that, as soon as texts of notes have been approved, the Turkish Ambassador will sign the arbitration treaty.	949
Oct. 9 (77)	*To the Ambassador in Turkey (tel.)* Conversation with Turkish Ambassador on October 2 concerning note requesting explanation of "domestic jurisdiction". Objection to Turkish proposed note (text printed). Instructions to discuss the matter orally and informally with the Minister for Foreign Affairs, if and when a suitable occasion presents itself. (Footnote: Information that further negotiations did not result in the signing of an arbitration or conciliation treaty.)	949

PROLONGATION OF COMMERCIAL "MODUS VIVENDI" BETWEEN THE UNITED STATES AND TURKEY BY EXCHANGE OF NOTES, MAY 19, 1928

1928		
Apr. 28 [29?] (63)	*From the Ambassador in Turkey (tel.)* Receipt of oral information from Foreign Office that Council of Ministers has approved prolongation of commercial *modus vivendi* until April 10, 1929.	950
May 7 (67)	*From the Ambassador in Turkey (tel.)* Request for Department's approval of Turkish draft text for exchange of notes prolonging *modus vivendi*, which is almost identical with the note dated July 20, 1926. Suggestion that in second line there should be inserted the clause "pending the coming into effect of the commercial convention referred to in subparagraph (*a*) of paragraph (2) of the notes exchanged today, February 17, 1927, concerning the relations between the United States and Turkey."	951
May 10 (47)	*To the Ambassador in Turkey (tel.)* Approval of draft text with modifications suggested by the Turkish Foreign Office. Desirability, before proceeding to signature, of making insertion in second line.	951
May 14 (71)	*From the Ambassador in Turkey (tel.)* Information that Foreign Office approves suggested insertion, and that notes will be exchanged May 19.	952
May 17 (74)	*From the Ambassador in Turkey (tel.)* Foreign Minister's objection to Department's insertion on the ground that reference to *modus vivendi* of February 17, 1927, which expires May 20, 1928, is superfluous; Foreign Minister's counterdraft.	952

TURKEY

PROLONGATION OF COMMERCIAL "MODUS VIVENDI" BETWEEN THE UNITED STATES AND TURKEY BY EXCHANGE OF NOTES, MAY 19, 1928—Continued

Date and number	Subject	Page
1928		
May 18 (51)	*To the Ambassador in Turkey (tel.)* Nonobjection to Foreign Minister's proposed modifications.	953
May 22 (320)	*From the Ambassador in Turkey* Notes exchanged May 19 (texts printed) providing for an extension of ten months and twenty days of the commercial *modus vivendi* dating from May 20, 1928.	953
May 22	*To the Ambassador in Turkey* Department's decision regarding bringing up question of Foreign Minister's reference to note of February 17, 1927. Inquiry whether Ambassador's interpretation of Foreign Minister's statement of April 19 regarding establishment of relations referred to paragraph 3 of the first of the two notes exchanged February 17, 1927.	955
June 6	*From the Ambassador in Turkey* Opinion that Foreign Minister referred to paragraph 3 of the first of the two notes exchanged on February 17, 1927.	956
July 25 (397)	*From the Ambassador in Turkey* Inquiry whether the Department desires that the Turkish Government be approached with a view to securing the amendment of article 1 of the law of April 10, 1927, or of enacting other legislation to permit the continuation of the *modus vivendi* beyond April 10, 1929, until such time as an accord of a more permanent character shall have been entered into by the two Governments.	957
Sept. 12 (488)	*From the Ambassador in Turkey* Improbability that question of commencing negotiation of new commercial treaty will be broached until new Turkish tariff has been enacted, possibly not until winter or even spring. Arguments pro and con whether the Foreign Minister will take the initiative. Belief that for the present no steps should be taken to secure legislation. Request for specific instructions.	958
Oct. 2 (113)	*From the Ambassador in Turkey (tel.)* Information that the Foreign Minister has, on his own initiative, broached the question of negotiations for a commercial treaty, stating that he believes the new tariff law will pass the Assembly next month and that he will probably be ready early in January to begin negotiations.	961
Dec. 12 (10)	*From the Ambassador in Turkey (tel.)* Improbability that the new Turkish tariff law will be passed before March or April.	961
Dec. 26 (109)	*To the Ambassador in Turkey* Department's desire to negotiate an agreement by an exchange of notes of indefinite duration providing for mutual unconditional most-favored-nation treatment in customs matters. Transmittal of note to be addressed to the Foreign Minister. Opposition to tariff rebates.	962

TURKEY

CLOSING OF AMERICAN SCHOOL AT BRUSA AND TRIAL OF AMERICAN TEACHERS ON CHARGE OF TEACHING CHRISTIANITY

Date and number	Subject	Page
1928		
Jan. 22 (5)	*From the Ambassador in Turkey (tel.)* Information that Turkish Government is investigating alleged conversion to Christianity of four girl students in American school at Brusa whose diaries were stolen and turned over to the Turkish authorities; that Goodsell, field secretary of the American Board of Commissioners for Foreign Missions, states that the school has been conforming scrupulously to antipropaganda laws and therefore the board welcomes investigation.	964
Jan. 31 (8)	*From the Ambassador in Turkey (tel.)* Publication of official communiqué stating that active religious propaganda has definitely been established in the Brusa school and that the school will be closed and legal action taken against those responsible. Information that Miss Sanderson, one of the teachers, admits giving instruction in Christianity. Opinion that intervention by the Embassy at present would be useless and unwise.	965
Feb. 1 (9)	*To the Ambassador in Turkey (tel.)* Suggestion that at least an official and friendly contact with Turkish authorities should be maintained; also that a representative of the American Board might well be sent to Angora.	965
Feb. 1 (153)	*From the Ambassador in Turkey* Detailed report of events leading up to the closing of the school at Brusa. Opinion that there is possibility of closing of other schools. Hostile attitude of Turkish press.	966
Feb. 3 (12)	*From the Ambassador in Turkey (tel.)* Information that Goodsell has consistently recommended against the Embassy's making formal representations, because he considered it wiser to reserve Embassy's influence for a better cause, since on basis of facts the closing of the Brusa school was unavoidable.	969
Feb. 8 (14)	*From the Ambassador in Turkey (tel.)* Report on interview at Angora with Foreign Minister who stated that the Brusa case is sporadic and in no way compromises other U. S. educational institutions and that after a lapse of time the Government will examine question of reopening the school. Impression that the Government intends to proceed with a technical prosecution.	970
Feb. 9 (13)	*To the Ambassador in Turkey (tel.)* Department's gratification at results of conversation with Foreign Minister. Instructions to keep the Department informed of the progress of the proceedings which, according to press reports, begin February 13.	970
Feb. 12 (18)	*From the Ambassador in Turkey (tel.)* Note from Minister of Foreign Affairs modifying his statements of February 7 and stating that Brusa school will not be reopened. Information concerning the proceedings against American teachers which will begin February 13 at Brusa.	971

TURKEY

CLOSING OF AMERICAN SCHOOL AT BRUSA, ETC.—Continued

Date and number	Subject	Page
1928		
Feb. 14 (15)	*To the Ambassador in Turkey (tel.)* Information that Department, while refraining from making official representations, has brought to Turkish Embassy's attention the effect on American public opinion of the trial of the American missionaries in a Turkish court on a charge of Christian propaganda.	972
Feb. 14 (19)	*From the Ambassador in Turkey (tel.)* Information that hearings were postponed until March 5.	972
Feb. 14	*From the Associate Secretary of the American Board of Commissioners for Foreign Missions* Report of interviews with Turkish Ambassador and Greek and Bulgarian Ministers.	972
Feb. 17 (21)	*From the Ambassador in Turkey (tel.)* For Shaw: Possibility of domestic editorial value in the opinion handed down by attorney general at Lansing, Michigan, that religious instruction in public schools of the State is unconstitutional because of the separation of church and state. Belief that Brusa incident is analogous.	973
Feb. 17 (17)	*To the Ambassador in Turkey (tel.)* From Shaw: View that Michigan attorney general's opinion is not applicable since Brusa school is a private, not a public, institution.	974
Feb. 25 (24)	*From the Ambassador in Turkey (tel.)* Report on interviews with Minister for Foreign Affairs and Ismet Pasha at Angora. Hope of more tolerant attitude toward American schools.	974
May 8 (295)	*From the Ambassador in Turkey* Detailed report on the circumstances of the trial at Brusa; conviction and sentence of the three teachers to three days' imprisonment and fine; lawyer's appeal of case to Court of Appeals; departure of Miss Sanderson for the United States.	974
Aug. 21 (100)	*From the Ambassador in Turkey (tel.)* Information that permission has been given for reopening of American school at Talas. Unofficial report that teachers at Brusa have won their appeal and will have a new trial.	980
Aug. 30 (104)	*From the Ambassador in Turkey (tel.)* Press announcement that Court of Appeals has annulled judgment against Brusa teachers and that case will be heard again.	980
Sept. 27 (109)	*From the Ambassador in Turkey (tel.)* Information that Brusa court on September 26 confirmed its original conviction and sentence of American teachers, and that case has been appealed again.	980
Oct. 22 (545)	*From the Chargé in Turkey* Transmittal of letter of October 20 from Mr. Luther R. Fowle, Treasurer of the Turkey Mission of the American Board, stating that the petition of Miss Jillson to reopen the American School at Brusa has been refused by the Ministry of Public Instruction.	980

TURKEY

American Aid in the Evacuation of Russian Refugees in Turkey

Date and number	Subject	Page
1928		
Jan. 7 (4)	*To the Ambassador in Turkey (tel.)* Instructions to refer orally and informally while at Angora to American contribution to fund to assist in carrying out League of Nations plan for evacuation of Russian refugees now in Constantinople; and to express hope that additional time, after February 6, 1928, will be granted to carry out plan.	981
Jan. 12 (1)	*From the Ambassador in Turkey (tel.)* Information that a delay of 12 months will be granted for the evacuation of Russian refugees.	981
Jan. 29 (7)	*From the Ambassador in Turkey (tel.)* Turkish press announcement that one year's delay would be accorded for the stay of the Russian refugees in Turkey.	982
Apr. 10 (253)	*From the Ambassador in Turkey* Information that Mr. Taylor of the Embassy has been designated to represent the Red Cross on the American Advisory Committee for the Evacuation of Russian refugees from Constantinople.	982
Sept. 11 (489)	*From the Ambassador in Turkey* Possibility of Turkish Government's permitting Russian refugees to remain.	983
1929		
Jan. 2 (111)	*To the Ambassador in Turkey* Instructions to report any extension of the present time limit set for the evacuation of the Russians; also the number of refugees awaiting evacuation and of the likelihood that refugees who are awaiting quota numbers as emigrants to the United States would be permitted to remain in Turkey beyond February 6, 1929, and until visas are available for them.	984
Jan. 16 (639)	*From the Ambassador in Turkey* Report on interviews with Minister for Foreign Affairs on January 5 and January 10 in which he was informed that 304 Russians were evacuated in 1927 and 1,013 during 1928.	985
Feb. 27 (684)	*From the Ambassador in Turkey* Press rumors and information from other unofficial sources indicating that no action will be taken by the Turkish Government concerning the Russian refugees as a whole, but that a small number of undesirable refugees will be asked to leave. Information relative to the demand against the Russian quota and the allotment of quota numbers made.	987

GREECE

AGREEMENT BETWEEN THE UNITED STATES AND GREECE FOR THE FUNDING OF THE GREEK DEBT TO THE UNITED STATES AND FOR AN ADDITIONAL LOAN TO GREECE[1]

868.51 War Credits/482½ : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, *December 7, 1927—5 p. m.*

[Received December 7—12:38 p. m.]

66. Many callers at Legation to offer thanks on debt settlement coming at moment of peculiar difficulty. All papers discuss settlement favorably, and Tsaldaris, leader of opposition in Chamber, expressed the hope that agreement formally announced in Chamber will deliver Greece from other charges and obligations. Public generally are thankful and grateful. I am asked whether Department's disapproval of loans to Greece is now lifted or will continue until Congress has ratified agreement.

SKINNER

868.51 War Credits/482½ : Telegram

The Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, *December 8, 1927—noon.*

42. Reference your 66, December 7, 5 p. m. The attitude of the Department toward financing for the benefit of Greece, done in the United States, as set forth previously (see its telegram 37, November 18, 6 p. m.[2]), cannot be modified until the financial settlement (which was outlined in the Department's circular telegram dated December 5, 7 p. m.[3]) has been approved by the Greek Parliament. Guarded use of this information is permitted you.

KELLOGG

---

[1] For previous correspondence, see *Foreign Relations*, 1927, vol. III, pp. 1 ff. See also *Funding of the Greek War Debt to the United States*, S. Doc. 51, 70th Cong., 1st sess., and *Greek Debt Settlement:* Hearings Before the Committee on Ways and Means, House of Representatives, 70th Cong., 1st sess., on H. R. 10760 (Washington, Government Printing Office, 1928).

[2] *Foreign Relations*, 1927, vol. III, p. 14.

[3] Not printed; it summarized the statement issued by the Secretary of the Treasury, December 5, 1927, *ibid*, p. 16

868.51 War Credits/485

The Minister in Greece (Skinner) to the Secretary of State

No. 428 ATHENS, *January 6, 1928.*

[Received January 23.]

SIR: I have the honor to refer to my telegram of even date [4] asking on behalf of the Hellenic Government for particulars respecting the financial arrangements come to between American financiers and the Government of Poland, and especially with regard to the powers and duties of the American comptroller. In a conversation which I had with the Foreign Minister, Mr. Michalakopoulos, this morning, he expressed a lively interest in this matter.

The Hellenic Government, as the Department is well aware, has a considerable number of outstanding foreign loans, the service of which is assured by the International Financial Commission. It is now running in the minds of the people here that a well worked out funding operation would greatly simplify the tasks of the Government, and result in considerable economy as well. Likewise, if a refunding loan should be arranged on satisfactory terms, it is hoped that the private financial interests involved would be able to provide their own comptroller, who would replace the International Financial Commission, which, while it has served useful purposes in the past, sometimes gives great annoyance when used as a political instrument by the governments represented therein.

It is the case, indeed, that within recent weeks the French Government, supported somewhat hesitatingly by the British Government, withheld authority from the International Financial Commission to take over the service of the pending general loan, as a means of exerting pressure upon the Hellenic Government to settle the French war claims without arbitration. It is probable that this matter would still be open, but for the American settlement with Greece, which had the effect of inducing the French and the British to withdraw their objections, and of causing the French to agree to the arbitration of the claims, a mode of settlement which up to that time had been urged by the Hellenic Government without success.

If American financiers should eventually conclude to float an important issue of refunding bonds for this country, the results probably would be exceedingly happy for our relations in this part of the world. It is to be assumed that, merely as a financial operation, the enterprise would be satisfactory and would open up a fair field of investment for American capital; but, aside from that, such an undertaking would bring the varied resources of the United States more conspicuously to the attention of the people of Greece than is

[4] Not printed.

now the case, and by removing Hellenic finances entirely from the domain of European politics, would prevent the granting of concessions and the like from being dealt with hereafter on other than strictly economic grounds.

I trust, therefore, that the Department will be able at an early date to provide me with literature setting forth what has been done in Poland and possibly literature respecting financial settlements with other countries, if the terms of such settlements would be useful as a basis of discussion in Greece.

I have [etc.] ROBERT P. SKINNER

868.51 War Credits/492

The Greek Minister (Simopoulos) to the Acting Secretary of State

WASHINGTON, *January 18, 1928.*

EXCELLENCY: As a result of informal conversations which I have had with representatives of the Departments of State and of the Treasury, I have the honor to set forth my understanding of the terms of the proposed plan for the settlement of the debt owed by Greece to the United States and of the differences existing between the two Governments arising out of the Tripartite Loan Agreement entered into at Paris under date of February 10, 1918.[5]

Under the above mentioned agreement there were set up on the books of the United States Treasury credits in the amount of $48,236,629.05, against which the National Bank of Greece issued its notes for an equivalent amount and these were used by my Government for the payment of the costs it incurred in the prosecution of the war against the Central Powers.

During 1919 and 1920, cash advances in the aggregate amount of $15,000,000 were made by the United States against the credits so established, leaving a balance of established credits on the books of the Treasury in favor of my Government amounting to $33,236,629.05. The Treasury of the United States has refused to make further advances against this credit balance. As you are aware my Government has consistently claimed that it is entitled to receive from the United States the full amount of the credit for $48,236,629.05, for which Greek obligations are at present in the possession of the United States Treasury. So convinced indeed has my Government been of the justice of its claim that it would have been willing at any time to propose and accept arbitration. Nevertheless, because of the pressing need to secure immediately the funds necessary to complete the refugee settlement work, my Government is willing to forego these claims. The refugee problem is vital to Greece; her future is closely bound up with

---

[5] *Greek Debt Settlement*, p. 51.

her ability to care for the one and a half million men, women and children who sought refuge within her territories in 1922 and 1923. Much has been accomplished, but much remains to be done. Without additional financial assistance the work of the Refugee Settlement Commission [6] must come to an end in the immediate future. The work of that Commission has been carried on under the chairmanship, successively, of three distinguished Americans—Mr. Henry Morgenthau, Mr. Charles P. Howland and Mr. Charles B. Eddy. To their devoted services Greece in general and the Greek refugees in particular owe more than can well be expressed in words. It is with these thoughts in mind that the Greek Government has authorized me to state that the proposed terms set forth below are acceptable to it:

1. The $15,000,000 of principal owed by my Government to the United States with interest at 4¼% up to December 15, 1922, and on the amount then due with interest at 3% to January 1, 1928, amounting in all to $18,127,922.67, less the sum of $2,922.67 to be paid in cash upon execution of the agreement, is to be funded over a period of 62 years. There are listed below the payments to be made by the Greek Government to the United States under this settlement:

July 1, 1928	$ 20,000
January 1, 1929	20,000
July 1, 1929	25,000
January 1, 1930	25,000
July 1, 1930	30,000
January 1, 1931	30,000
July 1, 1931	110,000
January 1, 1932	110,000
July 1, 1932	130,000
January 1, 1933	130,000
July 1, 1933, and semi-annually thereafter to January 1, 1938, 10 payments each of	150,000
July 1, 1938, and semi-annually thereafter to January 1, 1990, 104 payments each of	175,000

2. The Greek Government is to forego all claims for further advances under the Tripartite Loan Agreement dated February 10, 1918, which agreement, so far as the United States and Greece are concerned, is to be regarded as terminated.

3. The United States will advance to the Greek Government $12,167,000 at 4% per annum, payable semi-annually, with provisions for a sinking fund to retire the loan in 20 years.

4. The Greek Government undertakes to limit the amount to be borrowed under the terms of the Greek Loan Protocol signed at

[6] For previous correspondence regarding American aid for Greek refugee work, see *Foreign Relations*, 1924, vol. II, pp. 282 ff.

Geneva, September 15, 1927,[7] to an amount which when added to the proposed loan from the United States of $12,167,000 will yield an effective sum equivalent to not more than nine million pounds sterling.

5. The Greek Government will furnish as securities for the new loan described in paragraph 3 above, the revenues at present under the control of the International Financial Commission established by the Law of February 26, 1898, insofar as the yield of these revenues is not required for the service of the loans having a prior charge upon the said revenues, as enumerated in Annex II to the Greek Loan Protocol signed at Geneva, September 15, 1927.[8] The loan described in paragraph 3 above, is to rank with and is to share the same securities as the loan approved by the Council of the League of Nations on September 15, 1927, and as set forth in the Greek Loan Protocol signed at Geneva, September 15, 1927. In the event of there occurring in any year a default in the payment of the service of the new loan described in paragraph 3 above, the ratio in which that loan is to share the same securities as the loan set forth in the Greek Loan Protocol signed at Geneva, September 15, 1927, shall be the same as that which the amount of the annual service charge due the United States bears to the amount of the annual service charge due the holders of the bonds issued in accordance with the above mentioned Greek Loan Protocol as modified in amount by paragraph 4 above. The amounts required for the service of the loan described in paragraph 3 above, shall be and remain a charge on the revenues above mentioned, ranking immediately after such prior charges upon the said revenues as were in existence on September 14, 1927, and as enumerated in Annex II of the Greek Loan Protocol, signed at Geneva, September 15, 1927, and the Greek Government acknowledges that such revenues shall stand charged accordingly. The Greek Government undertakes to have the service of the loan assured by the International Financial Commission. Subject to the obligations resulting from prior charges thereon, the revenues above mentioned shall be held and applied by the International Financial Commission for the purpose of meeting the periodical service of the loan and of making up any past defaults should they have occurred. The United States is to be under no obligation with respect to the proposed loan of $12,167,000 until the Greek Government secures the above mentioned assurance of the service of the loan by the International Financial Commission.

6. The $12,167,000 proposed to be loaned by the United States to Greece, shall be turned over in its entirety by the latter country to the Refugee Settlement Commission, to be expended by the said Commission in the carrying out of its refugee settlement work.

---

[7] League of Nations Treaty Series, vol. LXX, p. 9.
[8] *Ibid.*, p. 20.

I am authorized to state that the Greek Government undertakes to submit the above terms immediately to the Chamber of Deputies with a view to securing its approval.

I shall be glad to receive your confirmation of the accuracy of my understanding of these terms.

Accept [etc.] CH. SIMOPOULOS

868.51 War Credits/492

The Acting Secretary of State to the Greek Minister (Simopoulos)

WASHINGTON, *January 18, 1928.*

SIR: I have the honor to acknowledge the receipt of your note of January 18, 1928, and to confirm your understanding of the terms of the proposed plan of financial settlement between Greece and the United States reached as a result of informal conversations which you have had with representatives of the Departments of State and of the Treasury. These terms as set forth in your note under acknowledgment are as follows:

[Here follow the terms given in paragraphs numbered 1 to 6 in the note of same date from the Greek Minister, printed *supra.*]

I note your statement that you are authorized to say that these proposed terms are acceptable to the Greek Government which undertakes to submit them immediately to the Chamber of Deputies with a view to securing its approval.

I have the honor to inform you that the proposed terms set forth in your note and recapitulated above are acceptable to the Executive branch of the Government of the United States, and that the President upon the recommendation of the Secretary of State and of the Secretary of the Treasury will submit them to the Congress of the United States with a view to obtaining the necessary authorization from that body.

Accept [etc.] ROBERT E. OLDS

868.51 War Credits/488

The Greek Minister (Simopoulos) to the Secretary of State

No. 128 WASHINGTON, *January 25, 1928.*

The Minister of Greece presents his compliments to His Excellency The Secretary of State and has the honor to state that as a result of his conversation with the Assistant Secretary of State, Mr. Castle, on January 21, the Minister understands that the United States Government assents, under the agreement of February 10, 1918, to the floating of a loan by Greece in the amount of six and a half million pounds sterling.

868.51 War Credits/488

The Secretary of State to the Greek Minister (Simopoulos)

The Secretary of State presents his compliments to the Greek Minister and has the honor to acknowledge the receipt of the Minister's communication of January 25, 1928, and to confirm the understanding therein set forth concerning the attitude of the Government of the United States with respect to a Greek loan in the amount of six and one-half million pounds sterling.

WASHINGTON, *January 26, 1928.*

868.51 War Credits/489

The Greek Minister (Simopoulos) to the Secretary of State

No. 156 WASHINGTON, *January 28, 1928.*

EXCELLENCY: I am instructed by my Government to inform you that the Greek Chamber of Deputies having on January 27, 1928 unqualifiedly approved the proposed terms of financial settlement set forth in the notes which I exchanged with the Acting Secretary of State on January 18, 1928, the approval and acceptance of the said terms by the Greek Government is in all respects complete. I shall not fail to communicate to you in due course an authentic text of the instrument setting forth this approval as well as authorization in proper form for me to sign such instruments as may be necessary to give effect to the terms of the above mentioned financial settlement.

Accept [etc.] CH. SIMOPOULOS

868.51 War Credits/489 : Telegram

The Secretary of State to the Minister in Greece (Skinner)

WASHINGTON, *January 30, 1928—1 p. m.*

7. Formal notification of Greek Chamber's unqualified approval of proposed terms of financial settlement having been received from Greek Minister January 28, Department that day communicated by letter following to all American firms that had expressed interest in Greek financing: "Department of State has no objection to the flotation in the American market of Greek securities as such, and, in expressing its views to interested bankers in reply to their letters of inquiry as to this type of financing, it will be guided by the same considerations that are applicable in the case of loans originating in other countries."

At same time Department informed Speyer and Company [9] that it offers no objection to the flotation in the American market of Greek Government bonds in the amount of $17,000,000, being part of Stabilization and Refugee Loan of 1928.

KELLOGG

---

[9] By letter dated January 28, 1928; not printed.

868.51 War Credits/492a : Telegram

The Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, *February 17, 1928—4 p. m.*

13. On February 15 the House Committee on Ways and Means held hearings on the plan for settlement of the Greek debt.

It is not possible to forecast the action of the House, although a favorable report by the Committee seems probable. Therefore, you should avoid with particular care the giving to the Greek authorities of any impression of undue optimism; and you may discreetly even make reference, occasionally and appropriately, to the sentiment existing in Congress in opposition to the proposed debt settlement plan. It is not possible, you may add, to determine the strength now of this sentiment. You may emphasize, discreetly, the benefits already accruing to Greece from the December 5, 1927, timely announcement of the terms of the U. S.-Greek debt settlement and from the January 28, 1928, lifting of the ban on financing in the American market for Greece.

KELLOGG

868.51 War Credits/493½

The Minister in Greece (Skinner) to the Secretary of State

No. 512 ATHENS, *March 15, 1928.*

[Received March 29.]

SIR: With reference to the measure now before Congress, the effect of which will be to ratify the financial arrangement recently negotiated by representatives of the Greek and American Governments, I have the honor to enclose herewith a letter received today from Mr. Charles B. Eddy, Chairman of the Refugee Settlement Commission setting forth urgent reasons for the prompt passage of the measure now before Congress. I respectfully request that the letter from the Refugee Settlement Commission be communicated to the proper Committees of the House and Senate.

I have [etc.] ROBERT P. SKINNER

[Enclosure]

The Chairman of the Refugee Settlement Commission (Eddy) to the Minister in Greece (Skinner)

ATHENS, *15 March, 1928.*

DEAR MR. SKINNER: On my return from a two weeks' trip in Mitylene I find upon enquiry that the American Congress has not yet ratified the agreement between the Hellenic Government and the United States for the funding of the debt of the former to the latter,

and for the grant of a loan to Greece by the United States of a sum of $12,167,000 (approximately £2,500,000).

It may be of some interest to you to understand the present financial condition of our Commission. Assuming that the agreement for the advance by the United States to Greece is ratified by Congress, there will be available from the proceeds of this loan and from the proceeds of the loan floated by Greece in the London and New York markets, the sum of £3,000,000 for the continuation of the work of our Commission. To this should be added a further sum of £524,000 resulting from funds available from the last loan and from other sources; the total sum therefore which the Commission expects to have for the continuation of its work will be £3,524,000.

Upon the basis of these figures the Commission has already prepared a tentative budget. In view, however, of the fact that the agreement with the United States has not yet been ratified, the American credits are not yet available. There has already been placed to the credit of the Commission by the London and New York bankers a sum of £500,000, which with the further sum of £524,000 above referred to, say a total of £1,024,000, constitutes the only funds of the Commission available for immediate expenditure.

I hope that requisite action will be taken by our Congress to ratify the American agreement within the near future, for the reason that if the funds are not available within a period of two months a considerable part of our programme will have to be postponed till next year.

Yours faithfully,

CHARLES B. EDDY

868.51 War Credits/499

The Minister in Greece (Skinner) to the Secretary of State

No. 545 ATHENS, *April 12, 1928.*

[Received April 27.]

SIR: I have the honor to refer to my despatch No. 512 of March 15, 1928, in regard to approval by Congress of the financial arrangement recently negotiated by representatives of the Greek and American Governments, and wish to state that I have now received a further informal communication on this matter from the Refugee Settlement Commission, wherein it is stated that "the $12,167,000 are becoming increasingly important to this commission's work."

I observe from the press that the bill has been reported out of Committee favorably, but not without active opposition. I venture to express the hope that objections to the measure will not be carried to such a length as to prevent enactment, as any other result would

be disastrous to the financial program of the Hellenic Government, and I fear disastrous to our standing in this country.

While it is well known, of course, in higher government circles, that an agreement of this kind between the Greek Minister at Washington and the Secretary of the Treasury must secure the approval of Congress before taking effect, nevertheless the public at large accepts the announcement of the terms agreed upon as conclusive, and doubtless would look upon the possible failure of the measure as a manifestation of something like bad faith. I am perfectly aware that this point does not touch in any way the arguments advanced against the passage of the pending bill, but it is of practical importance if we are desirous of maintaining our strong position in Greece, where at this moment American firms are hoping to obtain contracts for the execution of important drainage and irrigation works in Thrace and in Macedonia, a good roads system throughout Greece, a sewer system for the cities of Athens and Piraeus, not to mention other enterprises which will mature from time to time.

The Hellenic Government is making a courageous effort to straighten out public finances and much has been accomplished in the right direction. A serious disappointment, such as the refusal of Congress to approve the settlement, would not only interfere with the government's financial program but might be used by adversaries of the existing Republican regime to disturb the present political status on the ground that the leaders had failed to make good their various pledges.

I have [etc.] ROBERT P. SKINNER

868.51 War Credits/495a : Telegram

The Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, *April 12, 1928—6 p. m.*

19. The Department has been informed by the Greek Minister that his Government is worried about the delay of Congress in acting upon the proposed American-Greek debt settlement and fears this may be due to some change of attitude on the part of the Executive branch of the United States Government toward the agreement. He was informed categorically that there has not been any change of attitude, the domestic political situation being solely responsible for the delay of Congress in acting on the settlement.

The above should be brought informally and orally to the attention of the Greek Minister for Foreign Affairs by you, and it should be made clear to him that there is a distinct division of powers, under

the American governmental system, between the Government's Executive and Legislative branches.

The Department was informed by the Greek Minister of his Government's decision to award to the Macris (British) Group the contract for road construction. One of the American bidders will, it seems, be awarded the contract for drainage of the Struma Valley.[10]

A half interest in the financing of the Macris contract is held by Speyer and Company, the Department understands from the latter.

KELLOGG

868.51 War Credits/496 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

[Paraphrase]

ATHENS, *April 13, 1928—4 p. m.*

[Received April 13—11:10 a. m.]

23. Reference Department's 19, April 12, 6 p. m. The Greek Minister for Foreign Affairs will again be informed that the Department's attitude has not undergone any change. Support of the pending financial measure is being urged by American contracting firms on their friends in Congress.

SKINNER

868.51 War Credits/500 : Telegram

The Chairman of the Refugee Settlement Commission (Eddy) to President Coolidge[11]

ATHENS, *April 27 [?], 1928.*

Desire support strongly cablegram of American Minister to State Department regarding ratification [of] agreement [between] United States and Greece relating [to] war debts.[12] In view [of] Corinth [earthquake] disaster, hope way may be found for speedy ratification. Proceeds [of] American loan needed at early date by Refugee Settlement Commission for settlement [of] refugees. Delay will cause serious interruption [of] refugee settlement work.[13]

CHARLES B. EDDY

---

[10] See pp. 31 ff.

[11] Date of receipt by the Department of this telegram appears to have been May 1, 1928.

[12] Cablegram dated April 23, 1928; not printed.

[13] In a telegram dated April 30, 1928, to President Coolidge, Henry Morgenthau and Charles P. Howland, two former chairmen of the Greek Refugee Settlement Commission, supported the appeal of Mr. Eddy (file No. 868.51 War Credits/501).

868.51 War Credits/502a : Telegram

The Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, *May 4, 1928—6 p. m.*

29. Although every effort is being made to obtain the approval of Congress for the financial settlement with Greece before the adjournment of Congress toward the end of May, at present the prospects are not encouraging.

The Department understands you do not intend to go on leave (granted you by the Department on April 3) until after August 1. It seems clearly desirable for you to remain in Athens for at least one month following the adjournment of Congress.

KELLOGG

868.51 War Credits/500

The Secretary of State to the Chairman of the Refugee Settlement Commission (Eddy)

WASHINGTON, *May 12, 1928.*

MY DEAR MR. EDDY: I have received, by reference from the White House, your telegram urging that the Congress give its consent to the conclusion of the proposed American-Greek debt settlement.

In acknowledging the receipt of this telegram I avail myself of the opportunity to assure you that the Administration is doing its utmost to obtain favorable action by the Congress in this matter which has such an important bearing upon the successful completion of the work which the Refugee Settlement Commission has undertaken.

Sincerely yours,

FRANK B. KELLOGG

868.51 War Credits/504a : Telegram

The Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, *May 29, 1928—4 p. m.*

34. Congress is about to adjourn without taking any action regarding the settlement of the Greek debt. You should accordingly seek an early occasion to inform orally the Greek Minister for Foreign Affairs and also, if you deem wise, Mr. Kafandaris, the Minister of Finance. You should express this Government's very keen regret, explaining that the failure to obtain the approval of Congress is due primarily to the minority party in Congress making determined opposition and to other factors over which control by the Administration has not been effective. The repeated efforts of the Administration to overcome this position and to deal with these

factors should be dwelt upon. You may point out discreetly that certain financial negotiations carried on by the personal representative of General Pangalos who came to the United States in 1926, have been brought to the attention of Congressional members and have been used persistently by parties interested in discrediting the present settlement of the Greek debt. You are referred, in this connection, to despatches 121, March 22, 1927, and 143, April 5, 1927, from the Legation.[14] You should recall, without undue emphasis, two important advantages already accruing to Greece from the settlement last December of the debt; namely, the embargo on flotation in the American market of Greek securities was lifted and the position of Greece at Geneva was materially strengthened by the December 5, 1927, timely announcement that a debt settlement had been reached between the United States and Greece. Regarding the future, however, you should state this Government's intention to renew its efforts to obtain the approval of Congress for the debt settlement with Greece as soon as Congress reconvenes in December, when it is reasonable to anticipate the examination by Congress of the terms of the debt settlement in an atmosphere which will be more conducive to appreciating the real merits involved. In concluding the interview, you will express your Government's earnest hope that the Government of Greece will measure the importance attached to relations of cordial friendship by the United States Government rather in terms of the effort by the Administration to obtain Congressional approval for the debt settlement than in terms of Congressional delay in approving that settlement.

The foregoing, you should not fail to say, has been explained with care to the Greek Minister here, and he has proved himself, throughout the debt negotiations since last autumn, not only painstaking and zealous, constantly, in explaining the point of view of his Government, but accurate in his understanding of political institutions in this country and of the reactions of public opinion here.

KELLOGG

868.51 War Credits/510a : Telegram

The Secretary of State to the Minister in Greece (Skinner)

WASHINGTON, *December 10, 1928—6 p m.*

47. House of Representatives approved Greek Debt Settlement today. Senate action expected shortly.[15]

KELLOGG

---

[14] Neither printed.

[15] Passed by Senate February 9, 1929; 45 Stat. 1176.

The debt settlement was signed at Washington May 10, 1929, by the Greek Minister and the Secretary of the Treasury. The text is printed as *Agreement Between the Governments of the Hellenic Republic and the United States of America, May 10, 1929.* (File No. 868.51 War Credits/527.)

CONVENTION BETWEEN THE UNITED STATES AND GREECE FOR THE PREVENTION OF SMUGGLING OF INTOXICATING LIQUORS, SIGNED APRIL 25, 1928

711.689 Liquor/–

The Greek Minister (Simopoulos) to the Secretary of State

No. 1607 WASHINGTON, *December 20, 1927.*

The Minister of Greece presents his compliments to His Excellency The Secretary of State and has the honor to inform him that he has received instructions from his Government to approach the United States Government with a view of concluding a treaty pertaining to the alcoholic beverages on board of ships flying the Greek flag and coming into Ports of the United States.

Owing to the fact that a number of Greek passenger ships and especially those belonging to the National Steamship Navigation Company, have a regularly established line between Greece and the United States and in order that no difficulties be encountered by them during their entry into the United States, the Minister of Greece has the honor to advise the Secretary of State that the Greek Government has officially appointed him as its delegate for the conclusion and signing of a treaty between Greece and the United States, similar to other treaties signed by the United States and relating to the traffic of alcoholic beverages.

711.689 Liquor/3

The Secretary of State to the Greek Minister (Simopoulos)

The Secretary of State presents his compliments to the Minister of Greece, and has the honor to refer to the Minister's note No. 1607 of December 20, 1927, in which he states that his Government desires to conclude with the Government of the United States a convention pertaining to alcoholic beverages on board ships flying the Greek flag.

The Secretary of State is pleased to inform the Minister that the Government of the United States is disposed to conclude with the Government of Greece a convention pertaining to alcoholic beverages on board ships flying the Greek flag, similar in its provisions to Conventions which the United States has concluded with other countries in respect of vessels flying their flags. A draft of such a Convention in duplicate is enclosed herewith for the consideration of the Government of Greece.[16]

WASHINGTON, *March 22, 1928.*

---

[16] Draft not printed.

711.689 Liquor/5

The Greek Minister (Simopoulos) to the Secretary of State

No. 540 WASHINGTON, *April 3, 1928.*

The Minister of Greece presents his compliments to His Excellency The Secretary of State and has the honor to acknowledge the receipt of the Department's Note No. 711.689/3, dated March 22, 1928, concerning the conclusion of a convention pertaining to alcoholic beverages on board ships flying the Greek flag.

The Minister of Greece is pleased to inform His Excellency The Secretary of State that the draft of the convention, so kindly forwarded to this Legation, has been given due consideration, and that he has been duly authorized to sign it.

The Minister of Greece has the honor to forward to His Excellency The Secretary of State the instrument by which full power is given to him [17] to sign this convention.

Treaty Series No. 772

Treaty Between the United States of America and Greece, Signed at Washington, April 25, 1928 [18]

The United States of America and Greece, being desirous of avoiding any difficulties which might arise between them in connection with the laws in force in the United States on the subject of alcoholic beverages have decided to conclude a Convention for that purpose, and have appointed as their Plenipotentiaries:

The President of the United States of America: Frank B. Kellogg, Secretary of State of the United States, and

The President of the Hellenic Republic: Charalambos Simopoulos, Envoy Extraordinary and Minister Plenipotentiary of Greece at Washington,

Who, having communicated their full powers found in good and due form, have agreed as follows:

ARTICLE I

The High Contracting Parties respectively retain their rights and claims, without prejudice by reason of this agreement, with respect to the extent of their territorial jurisdiction.

---

[17] Not printed.

[18] In English and French; French text not printed. Ratification advised by the Senate, May 25 (legislative day of May 3), 1928; ratified by the President, June 11, 1928; ratified by Greece, Jan. 8, 1929; ratifications exchanged at Washington, Feb. 18, 1929; proclaimed by the President, Feb. 18, 1929.

ARTICLE II

The President of the Hellenic Republic agrees that Greece will raise no objection to the boarding of private vessels under the Greek flag outside the limits of territorial waters by the authorities of the United States, its territories or possessions in order that enquiries may be addressed to those on board and an examination be made of the ship's papers for the purpose of ascertaining whether the vessel or those on board are endeavoring to import or have imported alcoholic beverages into the United States, its territories or possessions in violation of the laws there in force. When such enquiries and examination show a reasonable ground for suspicion, a search of the vessel which shall have given ground for such suspicion, may be effected.

ARTICLE III

If there is reasonable cause for belief that the vessel has committed or is committing or attempting to commit an offense against the laws of the United States, its territories or possessions prohibiting the importation of alcoholic beverages, the vessel may be seized and taken into a port of the United States, its territories or possessions for adjudication in accordance with the pertinent provisions of law.

ARTICLE IV

The boarding referred to in Article II shall not be made at a greater distance from the coast of the United States, its territories or possessions than can be traversed in one hour by the vessel suspected of endeavoring to commit the offense. In cases, however, in which the liquor is intended to be conveyed to the United States, its territories or possessions by a vessel other than the one boarded and searched, it shall be the speed of the former vessel and not the speed of the vessel boarded, which shall determine the distance from the coast within which the action referred to in Article II may be taken.

ARTICLE V

No penalty or forfeiture under the laws of the United States shall be applicable or attach to alcoholic liquors or to vessels or persons by reason of the carriage of such liquors, when such liquors are listed as sea stores or cargo destined for a port foreign to the United States, its territories or possessions on board Greek vessels voyaging to or from ports of the United States, or its territories or possessions or passing through the territorial waters thereof, and such carriage shall be as now provided by law with respect to the transit of such liquors through the Panama Canal, provided that such liquors shall

be kept under seal continuously while the vessel on which they are carried remains within said territorial waters and that no part of such liquors shall at any time or place be unladen within the United States, its territories or possessions.

ARTICLE VI

Any claim preferred in behalf of a Greek vessel for compensation on the grounds that it has suffered loss or injury through the improper or unreasonable exercise of the rights conferred by Article II of this convention or on the ground that it has not been given the benefit of Article V shall be referred for the joint consideration of two persons, one of whom shall be nominated by each of the High Contracting Parties and whose decision shall be given effect if made in common accord.

When the said persons shall fail to agree, the claim shall be referred to an umpire selected by the two Governments; should the Governments fail to agree on the choice of an umpire, the claim shall be referred to the Permanent Court of Arbitration at The Hague, maintained under the Convention for the Pacific Settlement of International Disputes, signed at The Hague October 18, 1907. The Arbitral Tribunal shall be constituted in accordance with Article 87 (Chapter IV) and Article 59 (Chapter III) of that Convention. The proceedings shall be regulated by the provisions in the said Chapters III and IV (special regard being had to Articles 70 and 74, but excepting Articles 53 and 54) which the Tribunal may consider to be applicable and to be consistent with the provisions of this Convention. The sums of money which may be awarded by the Tribunal on account of any claim shall be paid within eighteen months after the date of the final award without interest and without deduction, save as hereafter specified. Each Government shall bear its own expenses. The expenses of the Tribunal shall be defrayed by a ratable deduction of the amount of the sums awarded by it, at a rate of five per cent on such sums, or at such lower rate as may be agreed upon between the two Governments. The deficiency, if any, shall be defrayed in equal moieties by the two Governments.

ARTICLE VII

This Convention shall be ratified by the High Contracting Parties. It shall come into force on the day of the exchange of ratifications which shall take place at Washington as soon as possible and shall remain in force for one year.

Three months before the expiration of the said period of one

year, either of the High Contracting Parties may give notice of its desire to propose modifications in the terms of the Convention.

If an agreement in regard to such modifications has not been reached before the expiration of the year, the Convention shall lapse at the end of said period.

If no notice is given on either side of the desire to propose modifications, the Convention shall remain in force for another year, and so on automatically, but subject always in respect of each such period of a year to the right on either side to propose as provided above three months before the expiration of the said year, modifications in the Convention that they may deem expedient, and to the provision that if an agreement in regard to such modifications has not been reached before the expiration of the year, the Convention shall lapse at the end of said period.

In the event that either of the High Contracting Parties shall be prevented either by judicial decision or legislative action from giving full effect to the provisions of the present Convention the said Convention shall automatically lapse, and, on such lapse or whenever this Convention shall cease to be in force, each High Contracting Party shall enjoy all the rights which it would have possessed had this Convention not been concluded.

In witness whereof, the respective Plenipotentiaries have signed the present Convention in duplicate in the English and French languages and have hereunto affixed their seals.

Done at the city of Washington this twenty-fifth day of April, one thousand nine hundred and twenty-eight.

FRANK B. KELLOGG [SEAL]
CH. SIMOPOULOS [SEAL]

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND GREECE [19]

711.682 (1928)/2 : Telegram

The Acting Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, *February 8, 1928—6 p. m.*

12. Referring to your despatch No. 405, December 15, 1927.[20] The Government of the United States would now be glad to enter into negotiation with Greece of a treaty of friendship, commerce and consular rights.

Before deciding to conclude the *modus vivendi* which was embodied

[19] For previous correspondence, see *Foreign Relations*, 1924, vol. II, pp. 273 ff.
[20] Not printed.

in the exchange of notes dated December 9, 1924,[21] the representative of Greece at Washington had suggested treaty negotiations, which were to be conducted, presumably, here. The Department is, however, of the opinion that the proposed negotiations should take place in Athens. Therefore, it wishes you to ascertain and report by cable if the Greek Government will now enter into these negotiations. Should the Greek Government be willing to begin such negotiations in the near future, instructions and a draft of treaty will be mailed you shortly.

The draft's principle as to commercial provisions will be that of unconditional most-favored-nation treatment. There will be included also in the draft provisions as to the rights of nationals of each country in the other, the protection of property, and consular rights and immunities. The draft's principal features will resemble those in the Treaty between the United States and Germany of December 8, 1923[22] (Treaty Series No. 725).

The United States Government also would be glad to conclude with Greece at this time a naturalization convention similar to that signed November 23, 1923, with Bulgaria[23] and other treaties of naturalization. You may, in your discretion, bring this to the Greek Government's attention when you inquire concerning the negotiation of the treaty.[24]

OLDS

711.682 (1928)/3 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, *February 17, 1928—5 p. m.*
[Received February 17—1:40 p. m.]

12. Department's 12, February 7 [*8*], 6 p. m. Greek Government accepts suggestion that commercial treaty be negotiated here and invites draft proposals.

SKINNER

711.682 (1928)/5

The Secretary of State to the Minister in Greece (Skinner)

No. 135 WASHINGTON, *March 2, 1928.*

SIR: There is transmitted herewith for submission to the Foreign Office for negotiation between the United States and Greece a draft

---

[21] *Foreign relations*, 1924, vol. II, pp. 279–281.
[22] *Ibid.*, 1923, vol. II, p. 29.
[23] *Ibid.*, vol. I, p. 464.
[24] See telegram No. 14, Feb. 23, 1928, 6 p. m., to the Minister of Greece, p. 28.

of a Treaty of Friendship, Commerce and Consular Rights which already has been the subject of correspondence between the Department and the Legation. A copy of the draft is enclosed for the use of the Legation.[25]

You will observe that the draft embraces articles relating to establishment and consular rights as well as articles relating to commerce and navigation. The Treaty is designed to promote friendly intercourse between the peoples of the United States and Greece. It is believed that the provisions as drawn lay the foundation for a comprehensive arrangement responsive to the modern requirements of maritime States.

Article VII makes provision in respect of commerce for the enjoyment of the most favored nation treatment in its unconditional form, as applied to persons, vessels and cargoes, and to articles the growth, produce or manufacture of the United States or Greece. The most-favored-nation treatment relates to duties on imports and exports and to other charges, restrictions and prohibitions on goods imported and exported.

The following statements in explanation of the more important differences between the enclosed draft and the Treaty of Friendship, Commerce and Consular Rights signed by the United States and Germany December 8, 1923,[26] are made for your information and for use in your discretion in explanations to the Greek authorities.

The reservation concerning statutes relating to the immigration of aliens made by the Senate of the United States in giving its advice and consent to the ratification of the Treaty between the United States and Germany [27] is incorporated in the draft as the last paragraph of Article I. The reservation making provision for the termination at the end of one year of the paragraphs of Article VII relating to the treatment of vessels and Articles IX and XI which also relate to that subject is incorporated in Article XXIX of the enclosed draft (Article XXXI of the Treaty between the United States and Germany), as the third paragraph thereof, and a reference thereto is made at the beginning of the first paragraph of the Article.

Article I, paragraph 2—Copyright protection.

The second paragraph of Article I embraces a most-favored-nation clause with respect to copyright protection. This paragraph is included in drafts of treaties submitted by this Government to countries with which the United States has no separate arrangement for reciprocal copyright protection. It is believed that by this provision

[25] Not printed.
[26] *Foreign Relations*, 1923, vol. II, p. 29.
[27] See bracketed note, *ibid.*, p. 45.

adequate protection will be obtained for American moving picture films in Greece, inasmuch as American nationals will enjoy thereunder the copyright protection accorded in Greece to nationals of States members of the International Copyright Union. The Department will be glad to receive comment from you in regard to the provision.

Article I, paragraph 3—Retroactive taxation.

As the Legation will recall, the Greek Government in 1922 levied an income tax retroactive for two years which was applicable to American nationals in Greece. Since it is possible that similar legislation may be enacted in the future, a provision is included as the second sentence of the third paragraph of Article I restricting the imposition of retroactive charges and taxes. It will be observed that within the limits of the most-favored-nation clause a tax may be levied under this provision retroactive to the beginning of the calendar or fiscal year preceding the calendar or fiscal year in which the law or decree is promulgated. The principle of retroactivity of tax laws has been recognized to this extent in a number of income tax laws of the United States. In view of the possibility of the same policy being adopted in future laws this Government is not in a position to propose a provision prohibiting entirely retroactive tax legislation. The most-favored-nation clause at the end of the sentence will have value to Americans resident in Greece in the event that nationals of any other country are accorded greater protection against retroactive taxation than is granted to nationals of the United States by the specific stipulation, for in that event the American nationals will have the right to enjoy the most-favored-nation treatment.

Article VI—Exemption from forced loans, etc.

The second paragraph of Article VI embraces a provision exempting nationals of one contracting party from forced loans or other exceptional levies imposed by the other party. A number of earlier treaties of the United States contain provisions exempting the nationals of each party from forced loans in the other country. (Argentine Republic, Treaty of Friendship, Commerce and Navigation of 1853, Article X;[28] Serbia, Convention of Commerce and Navigation of 1881, Article IV;[29] Japan, Treaty of Commerce and Navigation of 1911, Article I[30]). At the time the series of Treaties of Friendship, Commerce and Consular Rights now under negotiation by this Government was inaugurated, it was thought that it would

[28] William M. Malloy (ed.), *Treaties, Conventions, etc., Between the United States of America and Other Powers*, 1776-1909 (Washington, Government Printing Office, 1910), vol. I, pp. 20, 23.
[29] *Ibid.*, vol. II, pp. 1618, 1619.
[30] *Foreign Relations*, 1911, p. 315.

not be necessary to continue a provision against forced loans in treaties. There is therefore no such provision in the Treaty between the United States and Germany. In view of the fact, however, that in 1922 Greece levied a forced loan applicable to alien residents, from which Americans in Greece with difficulty obtained exemption as nationals of a most-favored-nation, it is believed to be desirable to include in the Treaty under negotiation with Greece a provision specifically exempting the nationals of each Contracting Party from forced loans and exceptional levies in the other country. It is probable that this paragraph will be included in drafts of treaties which will be proposed by the United States to other Balkan States also.

Article VII, paragraph 2—Quality standards on importations.

In view of the difficulty which has been experienced in the importation of American flour into Greece, by the imposition of a test as to acidity not applied to flour manufactured in Greece, a stipulation is included in the second paragraph of Article VII restricting the contracting parties from imposing any higher or other standards as to the quality of any article imported than is imposed on the like article of domestic growth, production or manufacture. The provision has been approved by competent experts of the Department of Agriculture as not being in conflict with American legislation. It is believed that this provision will prevent the recurrence of the difficulties experienced in the importation of American flour into Greece.

Article VII, paragraph 4—Contingent and quota systems and licenses for importation and exportation of restricted goods.

The fourth paragraph of Article VII is designed to assure equality of treatment in respect of licenses, quotas and contingents for the importation or exportation of restricted goods. In practice it has been difficult to obtain such equality of treatment for the commerce of the United States in certain European countries in which systems prohibiting or restricting the importation or exportation of certain goods have been in force, and from which prohibitions or restrictions abatements are made by contingents or licenses. This Government is undertaking to have the paragraph included generally in the treaties of friendship, commerce and consular rights which it is now negotiating and desires that it be included in the Treaty with Greece. Stipulations in regard to prohibitions, restrictions and licenses are contained in the International Convention Relating to the Simplification of Customs Formalities signed at Geneva, November 3, 1923,[31] in Article 9 of the Treaty of Commerce and Navigation between Great Britain and Austria, signed at London, May 22, 1924,[32] and in

[31] League of Nations Treaty Series, vol. xxx, p. 371.
[32] *Ibid.*, vol. xxxv, pp. 175, 180.

a provision contained in the second paragraph of the Exchange of Notes signed by the United States with Greece on December 9, 1924,[33] Treaty Series No. 706. Like stipulations are contained in Exchanges of notes signed by the United States with a number of other countries, namely,—Poland, February 10, 1925, Treaty Series No. 727; Finland, May 2, 1925, Treaty Series No. 715; Estonia, March 2, 1925, Treaty Series No. 722; Rumania, February 26, 1926, Treaty Series No. 733; Latvia, February 1, 1926, Treaty Series No. 740; Lithuania, December 23, 1925, Treaty Series No. 742; and Haiti, July 8, 1926, Treaty Series No. 746.[34]

Article VII, paragraph 7—Bounties and drawbacks.

The seventh paragraph of Article VII providing for equality of treatment of vessels with regard to bounties, drawbacks and other privileges, although not contained in the Treaty between the United States and Germany is included in a number of the older treaties to which the United States is a party, for example, Treaty of Commerce and Navigation of 1837 with Greece, Article IX,[35] Treaty of Friendship, Commerce and Navigation of 1853 with the Argentine Republic, Article VI,[36] Treaty of Friendship and General Relations of 1902 with Spain, Article VII.I.[37] This Government desires to have the paragraph included in the Treaties of Friendship, Commerce, and Consular Rights, which it shall sign hereafter with maritime countries.

Article XIV—Commercial travelers.

Article XIV provides for most-favored-nation treatment in regard to commercial travelers and is used in lieu of Articles XIV and XV of the Treaty between the United States and Germany. The first paragraph of Article XIV is identical with Article XIV of the Treaty of Friendship, Commerce and Consular Rights of December 23, 1925, between the United States and Estonia [38] (Treaty Series No. 736). The second paragraph should be regarded as a development of paragraph 2 of the protocol to that Treaty.[39] The article in the same form as in the enclosed draft is included in drafts which the United States has submitted to a number of countries. It is the purpose of this Government to discontinue the use of such Articles as Articles XIV and XV of its Treaty with Germany.

---

[33] *Foreign Relations*, 1924, vol. II, pp. 279–281.

[34] For texts of agreements with Estonia, Finland, Lithuania, and Poland, see *ibid.*, 1925, vol. II, pp. 66–69, 94–98, 500–503, and 692–696; for those with Haiti, Latvia, and Rumania, see *ibid.*, 1926, vol. II, pp. 403–405, 500, and 898–901.

[35] Hunter Miller (ed.), *Treaties and Other International Acts of the United States of America*, vol. 4, pp. 107, 113.

[36] Malloy, *Treaties*, 1776–1909, vol. I, pp. 20, 22.

[37] *Foreign Relations*, 1903, pp. 721, 723.

[38] *Ibid.*, 1925, vol. II, pp. 70, 76.

[39] *Ibid.*, p. 84.

Article XV—Freedom of transit.

The first paragraph of Article XV (Article XVI of the Treaty between the United States and Germany) has been enlarged so as to make the provisions in regard to freedom of transit apply to goods "going to" as well as those "coming from or going through" the territories of the contracting parties, the language now used being "coming from, going to, or passing through". The purpose of the change is to cover all of the situations in which the question of freedom of transit might arise.

Article XXIX—Termination of provisions relating to shipping; termination of Consular Convention of 1902.

The provisions in the third paragraph of Article XXIX in regard to the termination of certain paragraphs of Article VII and Articles IX and XI have been explained above on page 2. In the fourth paragraph of Article XXIX it is provided that the Treaty shall from the date of the exchange of ratifications supersede the Consular Convention concluded by the United States and Greece, November 19, December 2, 1902.[40]

Detailed instructions in regard to each Article of the draft will be sent to you by an early pouch.

When presenting the draft to the Foreign Office please state that this Government reserves the right to propose changes therein throughout the course of the negotiations.

This reservation will afford the Department an opportunity to consider any suggestions in regard to the Treaty which you may care to make as indicated in your despatch No. 405 of December 15, 1927,[41] and to instruct you in regard to them.

Please inform the Department by telegram of the date on which you submit the draft to the Foreign Office.

I am [etc.] FRANK B. KELLOGG

711.682 (1928)/5½ : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, *March 19, 1928—noon.*
[Received March 19—7:33 a. m.]

17. Draft treaty commerce submitted today to Minister of Foreign Affairs.

SKINNER

[The outcome of these negotiations is explained in instruction No. 240, November 15, 1935, to the Minister in Greece (711.689 Entry, Residence and Establishment/1) as follows:

[40] *Foreign Relations*, 1903, p. 565.
[41] Not printed.

"In his despatch No. 619, of June 26, 1928, Mr. Skinner informed the Department of the views of the Chief of the Treaty Section of the Foreign Office on the draft, and requested further instructions of the Department in the light of these views. By despatch No. 630, of July 6, 1928, Mr. Skinner supplied the Department with further points relating to the views of the Greek Government with respect to the draft treaty.

"Consideration of the Greek Government's views, by the various interested departments of the Government of the United States was not completed until early in 1932, at which time a draft instruction in reply to Mr. Skinner's despatches No. 619 and No. 630 was prepared. However, before this instruction could be dispatched to the Legation, Greek commercial policy had been revised under the stress of existing conditions in favor of controlled imports and exports. The Department therefore concluded that the time was not auspicious for the continuance of the negotiations looking to the conclusion of the treaty under consideration.

"Other controlling factors in this decision were the existence of the exchange of notes between the United States and Greece, of December 9, 1924, according mutual unconditional most-favored-nation treatment in customs matters, but which could be cancelled on one month's notice, and the fact that the Consular Convention of 1902 was still in force. Furthermore, although no treaty was in existence governing matters of establishment and residence, it appeared that Greece was according most-favored-nation treatment to the United States in this respect as well as in customs matters."

Despatches No. 619 and No. 630, mentioned above, are not printed.]

PROPOSED NATURALIZATION TREATY BETWEEN THE UNITED STATES AND GREECE

711.684/12

The Minister in Greece (Skinner) to the Secretary of State

No. 269 ATHENS, *July 25, 1927.*
[Received August 16.]

SIR: I have the honor to refer to correspondence exchanged between the Department and my predecessor with regard to the desirability of a naturalization treaty between the Hellenic and the American Governments.[42] The desirability of such an understanding is, of course, open to no question, inasmuch as a week does not pass when an American citizen is not subjected to inconvenience, delay, anxiety, and loss of money, in consequence of the position of the Hellenic Government with regard to citizenship. At the present time, this Government looks upon Greeks who became naturalized in the United States prior to June 13 [*January 14*], 1914,[43] as American citizens entitled to be dealt with as such, but all persons of Greek origin who acquired American naturalization subsequent to

[42] Not printed.
[43] Greek law 120, effective Jan. 14, 1914 (file No. 711.684/11).

that date, and persons of Greek origin born in Turkish territory recently annexed to this country [44] are looked upon as Greek citizens. Similarly, persons born in the United States of Greek parentage whose fathers were not regarded as American citizens at the time of their children's birth, are held to be Greek citizens.

Quite recently a number of extremely vexatious cases have presented themselves. One man (George Paspolas) who was born March 8, 1911, at East St. Louis, Ill., is being refused an exit visa, although 16 years of age, and therefore not yet liable for military service, unless, and until, he gives a satisfactory bond that he will perform military service or sacrifice the bond at a later date. In another case (John Coryas) 17 years of age, a native of New York City, the individual was forcibly removed from the S. S. *Byron*, although not yet due for military service. This very day John Pialoglou and G. D. Georgiades, both of Turkish birth, one of whom had come to purchase $1,000,000 worth of Greek tobacco, found themselves prohibited from departing, although beyond military age, and neither of whom had ever owed allegiance to Greece, on the ground that under the Hellenic treaty with Turkey [45] they were to be regarded as Greek citizens. These two cases I took up personally with the Ministry and insisted and obtained the necessary favorable action.

Due to the above situation, I made the principle involved the subject of my conversation with the Minister of Foreign Affairs on Friday, last. I stated that I did not care to discuss the precise legal status of the many individuals involved, who under Hellenic law are looked upon as Hellenic citizens and under American law as American citizens, since the facts were well enough known on both sides. I did intend, however, to point out the unnecessarily irritating attitude of the local Hellenic authorities in disposing of these cases, since the whole number of soldiers who might be impressed into the army as a result could not affect the military situation in the slightest degree, and their military training would be of no value inasmuch as they would immediately return to the United States upon being discharged from the army, and therefore would be unavailable in the event of future trouble. The situation was now such that Greek societies and individuals in the United States were concerning themselves with the position of the Hellenic Government, and unless a friendly arrangement could be come to, it inevitably followed that departures from the United States to Greece would be greatly diminished.

---

[44] By treaty of peace, signed at Lausanne, July 24, 1923; League of Nations Treaty Series, vol. XXVIII, p. 11.

[45] See section 2 on Nationality, *ibid.*, pp. 29 ff.; also, the convention concerning the exchange of Greek and Turkish populations and protocol, signed Jan. 30, 1923, at Lausanne, *ibid.*, vol. XXXII, p. 75.

I pressed upon the Foreign Minister's attention the circumstance that, in connection with the visit of members of the American Legion to Paris this Summer, upwards of ten thousand ex-soldiers of Greek origin are expected to come to Athens of whom probably not less than 5,000 are naturalized American citizens. If the Hellenic Government contemplates holding these men to account in the manner under discussion, the result could only be disastrous to good relations. I hoped, therefore, that he would cause instructions to be issued which would make it possible for these ex-soldiers to come and go in peace.

Relying upon my pleasant relations with Mr. Michalakopoulos, I thought it better, as I told him, to speak very plainly about these matters since the continuation of what appeared to be the policy of the Hellenic Government must certainly lead to two definite results: namely, a very strong dissatisfaction on the part of the American Government, which was constantly being appealed to on behalf of American citizens, and which found its wishes disregarded, and the alienation of a body of upwards of 400,000 persons of Greek origin residing in the United States. It seemed extraordinary to me that the Hellenic Government, which derives many substantial advantages from the population of Greek origin in the United States, preferred to penalize them for their interest in Greece, rather than to encourage them to keep alive the social and economic bonds which naturally united them to this country. It occurred to me that the normal roles were being reversed when the American Minister found himself obliged to intervene before the Hellenic Government for the protection of individuals of Greek origin, who returned to this country from time to time. Whether or not it would be helpful to Greece to destroy the interest and affection of 400,000 persons of Greek origin in the United States, Mr. Michalakopoulos could judge for himself.

I pointed out that the proposals in regard to the treaty had not been seriously considered in this country, and that the suggestion had been turned aside without adequate explanation. There was no doubt whatever in my mind that the trouble makers at Patras and elsewhere, minor officials, ticket agents, and the like, were proceeding with deliberation in individual cases, as they derived private profit from their actions, and it seemed to me much more friendly and sincere to put the situation before the Minister without any reticences, rather than to permit matters to drift on to their certain culmination.

Mr. Michalakopoulos appeared to be deeply impressed by my observations, and especially when I explained to him that his own people in the United States were provoked and annoyed, and that the effect would be to curtail the passenger traffic to this country, and to still further diminish remittances from immigrants in the United States to banks in Greece. He has promised to give the subject careful consideration, and I am not without hope that he will propose,

a few months hence, to take up the discussion of the projected treaty, or suggest some other mutually satisfactory arrangement.

I have [etc.] ROBERT P. SKINNER

711.684/13 : Telegram

The Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, *February 23, 1928—6 p. m.*

14. Referring to the Department's 12, February 8, 6 p. m., and to your 12, February 17, 5 p. m.[46] Please report by telegraph whether you have informed the Greek Government of the Department's desire for the conclusion of a naturalization treaty, and, if so, the nature of the reply you have received. A draft of treaty of friendship, commerce and consular rights will be sent you by the next pouch,[47] together with a draft of naturalization treaty in case naturalization negotiations are acceptable to the Greek Government.

KELLOGG

711.684/14 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

[Paraphrase]

ATHENS, *February 25, 1928—11 a. m.*

[Received February 25—9:18 a. m.]

14. Reference Department's 14, February 23, 6 p. m. Although the Greek Minister for Foreign Affairs (Michalakopoulos) expresses himself as opposed personally to the official attitude toward naturalization and military matters, which has alienated unnecessarily the large group of Greeks to be found in the United States, he doubts if a naturalization treaty just now can be negotiated.

SKINNER

711.684/15

The Minister in Greece (Skinner) to the Secretary of State

No. 490 ATHENS, *March 1, 1928.*

[Received March 15.]

SIR: I have the honor to refer to the Department's telegram No. 14 of February 23, 6 p. m., inquiring whether the Hellenic Govern-

---

[46] *Ante*, pp. 18 and 19.

[47] For instruction No. 135, Mar. 2, 1928, to the Minister in Greece, see p. 19; the draft treaty is not printed.

ment is prepared to negotiate a naturalization treaty, and to my reply, No. 14, dated February 25, 11 a. m., indicating unwillingness on the part of the Ministry of Foreign Affairs to do so at the present time. Since thus telegraphing to the Department, I have had another conversation with Mr. Michalakopoulos, and have pointed out to him at some length that failure to regulate the status of Greeks now residing in the United States is operating in a manner highly disadvantageous to the Greek nation, besides creating innumerable personal complaints not calculated, certainly, to improve international relations.

Mr. Michalakopoulos took some pains to explain the hard and fast, and rather foolish, attitude of the military authorities towards this question, and struck me, personally, as really desirous of meeting our wishes. At all events, when I told him that we had already a naturalization treaty with Bulgaria [48] and similar treaties with a great many other countries, he asked me to give him a memorandum mentioning the principal treaties in existence and traversing somewhat the whole subject. This I am doing today.

While I am not yet certain by any means that this professed interest of Mr. Michalakopoulos will lead to practical results, nevertheless I think it would be well if the Department would let me have immediately draft proposals for a treaty to be dealt with at the first favorable opportunity.

I have [etc.] ROBERT P. SKINNER

711.684/15

The Secretary of State to the Minister in Greece (Skinner)

No. 157 WASHINGTON, *May 2, 1928.*

SIR: The Department has received your despatch No. 490 of March 1, 1928, concerning the question of concluding a naturalization treaty with Greece and is glad to learn that the Greek Foreign Minister appears to have received your proposal concerning the matter in a sympathetic spirit.

With reference to the suggestion that the Department send you draft proposals of a treaty, your attention is called to the draft which was sent to your predecessor with the Department's instruction No. 263 of October 21, 1925.[49] A copy thereof is enclosed herewith for convenient reference.[49] This draft, as you will observe, is modeled upon the naturalization treaty with Bulgaria. Like the naturalization treaties heretofore concluded between the United States and other countries, it does not cover cases of dual nationality, that is,

[48] Signed Nov. 23, 1923; *Foreign Relations*, 1923, vol. I, p. 464.
[49] Not printed.

cases of persons who are born in either country of parents having the nationality of the other, and who are themselves nationals of the one country *jure soli* and of the other *jure sanguinis*. Several cases of the latter kind were discussed in your despatch No. 269 of July 25, last. While it would seem desirable to enter into an agreement of some kind concerning such cases, the problem involved in them is quite distinct from that which exists with regard to natives of either country who have acquired the nationality of the other through naturalization. In cases of persons who have obtained American nationality through naturalization and who, in doing so, have solemnly forsworn their original allegiance, this Government does not consider that the existence of dual nationality can properly be admitted, while in the other cases mentioned its existence cannot reasonably be denied. It does not seem practicable to make an agreement under which dual nationality at birth can be precluded, and it would doubtless require long drawn out negotiations, with, perhaps, changes in the statutes of one or both countries, to effect an agreement under which dual nationality could be terminated after birth. The Department would prefer to proceed at present with the conclusion of a treaty relating only to naturalized citizens, leaving the subject of dual nationality for subsequent negotiations. However, if the Greek Government is prepared to make any concrete suggestions for an agreement concerning dual nationality, the Department will be glad to consider them. Meantime it is hoped that you will be able to reach an informal understanding with the Greek Government and that young men born in the United States and having their permanent residence in this country will not be held by the Greek authorities and prevented from returning to the United States in case they visit Greece temporarily before reaching the age of military service.

The draft treaty also does not cover cases of persons who were born in Turkey and who were Turkish subjects and renounced allegiance to Turkey at the time of their naturalization as citizens of the United States. It does not seem appropriate to include such cases in a treaty concerning persons who were admittedly nationals of either country before their naturalization in the other, but it is hoped that you will be able to persuade the Greek Government that their claims to the allegiance of such persons when they enter Greek territory are unreasonable and should be withdrawn.

In discussing this matter with the Foreign Minister you will no doubt emphasize the fact that this Government has no desire to extend protection to persons who have acquired American nationality fraudulently or to those who, after acquiring naturalization in the United States, abandon this country. In this relation particular attention is called to the provision of Article III of the draft treaty

and the provisions of the second paragraph of Section 2 of the Expatriation Act of March 2, 1907,[50] and the second paragraph of Section 15 of the Naturalization Act of June 29, 1906.[51]

It is hoped that you will be able to convince the Greek authorities that the conclusion of a naturalization treaty will be mutually advantageous to the two countries, since the lack of a naturalization treaty, while it does not prevent Greeks from obtaining naturalization in this country, leaves them in a condition of uneasiness with regard to the claims which may be made upon them by their country of origin, and no doubt in many cases deters them from visiting Greece for the purpose of attending to family matters or carrying on commerce between the two countries. Thus at the present time normal intercourse between the two countries is subjected to serious impediments. It is hoped that, by the conclusion of a satisfactory naturalization treaty, such impediments may be removed.

The Department will, of course, be glad to give due consideration to any suggestions for changes in or additions to the proposed treaty which the Greek Foreign Office may see fit to suggest.

I am [etc.] FRANK B. KELLOGG

[For instruction No. 210, December 1, 1928, to the Minister in Greece, see volume I, page 499, footnote 53.]

ASSISTANCE BY THE DEPARTMENT OF STATE TO AMERICAN FIRMS INTERESTED IN THE STRUMA VALLEY DRAINAGE PROJECT

868.51 Struma Valley/2c : Telegram

The Secretary of State to the Minister in Greece (Skinner)

WASHINGTON, *January 12, 1928—10 a. m.*

2. If requested to do so, you may give proper support to Monks-Ulen proposal to Greek Government for Struma Valley drainage. You should bear in mind, however, that Department's 42, December 8, noon,[52] and 37, November 18, 6 p. m.,[53] have not been modified.

KELLOGG

868.51 Struma Valley/2d : Telegram

The Acting Secretary of State to the Minister in Greece (Skinner)

WASHINGTON, *January 14, 1928—1 p. m.*

4. Department's 2, January 12, 10 a. m. Department understands that Monks-Ulen proposal is the only one from American concerns

---

[50] 34 Stat. 1228.
[51] 34 Stat. 596, 601.
[52] *Ante*, p. 1.
[53] *Foreign Relations*, 1927, vol. III, p. 14.

for Struma Valley drainage. If such is not the case you will of course bear in mind Department's policy of strict impartiality between competing American concerns.

OLDS

868.51 Struma Valley/4

The Minister in Greece (Skinner) to the Secretary of State

No. 439 ATHENS, *January 17, 1928.*

[Received February 4.]

SIR: I have the honor to acknowledge the receipt of the Department's telegraphic instructions No. 2 and No. 4 of January 13th [*12th*] and 14th, respectively, authorizing me to give proper support to what is termed the Monks-Ulen proposition to the Hellenic Government for Struma Valley drainage purposes. I understand the situation and shall be guided by the Department's instructions.

Since some time, negotiations have been going on between representatives of the Monks-Ulen interests and the Hellenic Government, the two concerns named having agreed between themselves to pool their proposals. No other contracting firms have manifested interest in this matter, and it seems unlikely that any other American concern will do so.

It is improbable that practical steps will be taken relative to the Struma Valley enterprise until the main Stabilization Loan, arrangements for which have already been made, is entirely out of the way.[54] The Government holds the proper view, I think, that development enterprises, such as the drainage of the Struma Valley, should not be undertaken until all the elaborate arrangements for balancing the budget and stabilizing the drachma have been given effect.

It seems likely that within the next two months the Struma Valley matter will be receiving active consideration, and I have every hope that the two American firms, between them, will obtain the contract. I shall do what I can with propriety to that end.

I have [etc.] ROBERT P. SKINNER

868.51 Struma Valley/6

The Minister in Greece (Skinner) to the Secretary of State

No. 478 ATHENS, *February 15, 1928.*

[Received March 1.]

SIR: I have the honor to refer to the cabled instruction (No. 2) dated January 13 [*12*], 1928, from the Department, authorizing me to support the efforts of Messrs. Ulen & Company and the Monks

[54] See pp. 1 ff.

Contracting Company to secure jointly the contract for certain important drainage works contemplated by the Hellenic Government. At that time no other American bidders were in view, and apparently none intended to present themselves. It now appears, however, that the Foundation Company of New York, who are engaged in a similar work in the Vardar Valley, expect to submit proposals to the Government, and in these circumstances it seems to me that I should take no position whatever as respects the American bidders, although it may be observed in this connection that the Foundation Company of New York, for the purpose of carrying out their Vardar Valley contract, obtained financial assistance of Hambro's Bank of London, and may follow the same course should it secure the contracts now pending.

The Government has asked that all proposals for the work under contemplation shall be submitted not later than March 9th, the work itself to be undertaken in the valley of the Strymon river, in the plain of Philippi, and in Thessaly. Intending bidders will be obliged to offer the State a loan of $30,000,000; that is to say, $10,000,000 for the Strymon Valley, $5,000,000 for the Plain of Philippi, and $15,000,000 for Thessaly. The bidders may submit proposals for the three undertakings, or for one or two as they see fit. The agreement eventually concluded will be submitted for ratification to the Chamber.

The operations contemplated must be carried out within four or five years, and the amount of the loan must be advanced in instalments as the work proceeds. The following is a brief description of the operations to be undertaken:

Strymon Valley:
The drainage of 112,000 hectares and the protection of the surface thus recovered against inundation. This should result in an increase in land suitable for agriculture of about 55,000 hectares.
The Plain of Philippi:
The drainage of about 20,000 hectares belonging chiefly to the State, and almost entirely marsh land.
Thessaly:
The drainage of 217,000 hectares which should result in an increase of about 65,000 hectares of land suitable for agriculture.

I have [etc.] ROBERT P. SKINNER

868.51 Struma Valley/6½ : Telegram

The Consul at Athens (Morris) to the Secretary of State

ATHENS, *February 15, 1928—1 p. m.*
[Received February 15—11:55 a. m.]

Bids for Struma Valley reclamation called for March 9th. Greek Government to telegraph specifications [to] its legations abroad today.

MORRIS

868.51 Struma Valley/7 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, *April 18, 1928—5 p. m.*
[Received April 18—1:50 p. m.]

24. Department's 4, January 14, 1 p. m. Monks and Ulen Company are asking me to support their proposals actively on ground that Foundation Company operate through foreign subsidiary, backed in part at least by British capital. Foundation Company are claiming that their foreign subsidiaries are controlled and owned by New York house. Unless Department instructs otherwise, I am indisposed to intervene in favor of one American concern so long as another American competitor is involved.

SKINNER

868.51 Struma Valley/7 : Telegram

The Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, *April 20, 1928—5 p. m.*

21. Referring to your 24, April 18, 5 p. m. You are expected by the Department to render appropriate assistance to all responsible American companies. If you are not certain about the American character of the Foundation Company (Foreign), you will please report your reasons, and the Department will take into consideration the sending of new instructions.

KELLOGG

868.51 Struma Valley/8 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, *April 23, 1928—noon.*
[Received April 23—10:10 a. m.]

27. Department's 21, April 20, 5 p. m. My information is that Struma contract is sought by Foundation Company, Foreign, of which the "A" shares are owned by various persons mainly in Foundation circles and "B" shares entirely by the Foundation Company of New York. The company is an American corporation probably under the laws of State of New York. Blair of New York backing Foundation offer financially but is understood to have private arrangements with Hambro's bank for such portion of new loan as may be required for London flotation. Foundation Company proposes to employ all American machinery and American staff as far as possible but not exclusively. On foregoing statement supplied by Remington, representing Foundation Company, I perceived no reasonable ground for refusing recognition of Foundation Company as essentially American unless facts can be controverted.

SKINNER

868.51 Struma Valley/9 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, *April 26, 1928—7 p. m.*
[Received April 26—3:30 p. m.]

32. My telegram number 27, April 23, noon. Minister for Foreign Affairs desires me to state in writing that Foundation Company (Foreign) is an American concern. What answer am I authorized to make?

SKINNER

868.51 Struma Valley/9 : Telegram

The Secretary of State to the Minister in Greece (Skinner)

WASHINGTON, *April 28, 1928—5 p. m.*

27. Your 32 April 26, 7 p. m. Department has obtained statement of ownership of stock of Foundation Company (Foreign) on the basis of which it authorizes you to answer in the affirmative.

KELLOGG

868.51 Struma Valley/12 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, *May 6, 1928—8 p. m.*
[Received 10:45 p. m.]

34. Department's 19, April 12, 6 p. m.,[55] states confidentially that Greek Minister informed Department that Struma Valley contract will be given to American concern. As effort is now being made to prevent American concern from obtaining contract, it will be extremely helpful if I may be authorized immediately to mention this promise to Government and to state that we rely upon Government to make promise good.

SKINNER

868.51 Struma Valley/12 : Telegram

The Secretary of State to the Minister in Greece (Skinner)

[Paraphrase]

WASHINGTON, *May 7, 1928—6 p. m.*

31. Your 34, May 6, 8 p. m. Should you deem it advisable, you may, when informally conversing with the Greek Minister for Foreign Affairs, mention the fact of the Department's having gained the impression from conversations with the Greek Minister that his Government intends awarding the contract to drain the Struma Valley to an American concern. However, you should scrupulously avoid giving the impression that the Greek Government is deemed by the Department to be, in this matter, under any obligation except that of equal opportunity and fair dealing for all interested American concerns.

KELLOGG

868.51 Struma Valley/14 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

[Paraphrase]

ATHENS, *May 8, 1928—3 p. m.*
[Received May 8—12:05 p. m.]

37. The Department's 31, May 7, 6 p. m. My purpose in using the information with discretion is to prevent the contract being awarded to a British firm, Boot and Company, which wishes to amend the original vague offers it made. The American concerns, Foundation

[55] *Ante*, p. 10.

Company (Foreign), Ulen and Company, and Robert Monks, are all cooperating in order to prevent this happening.

SKINNER

868.51 Struma Valley/16 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, *May 14, 1928—11 a. m.*
[Received May 14—10 : 10 a. m.]

39. Government decided Saturday night [56] to grant drainage contract to combination of Ulen and Company and Monks interests and to the Foundation Company. Total expenditure approximately $40,000,000.

[Paraphrase.] The official pressure by the British on behalf of their firm, Boot and Company, was very strong, but it did not succeed in getting the contract. [End paraphrase.]

SKINNER

868.51 Struma Valley/22 : Telegram

The Acting Secretary of State to the Chargé in Greece (Goold)

[Paraphrase]

WASHINGTON, *October 20, 1928—4 p. m.*

45. Referring to your despatch No. 583, May 15, 1928.[57] Please telegraph the Department briefly concerning the exact areas covered by, and the present status of, the drainage contract which supposedly was awarded the Foundation, Ulen, and Monks group. Report also in the same sense about the drainage contract which has been sought or obtained by the British firm, Boot and Company. The National City Bank and Speyer and Company, as the Legation knows, are associated with the Hambro Bank in the financing of public works in Greece.

CLARK

868.51 Struma Valley/23 : Telegram

The Chargé in Greece (Goold) to the Secretary of State

ATHENS, *October 22, 1928—5 p. m.*
[Received 7 : 55 p. m.]

61. Your 45, October 20, 4 p. m., somewhat garbled. On Saturday [58] Messrs. Monks and Ulen signed an agreement with the Minister of Communications for the execution of drainage works in the Struma Valley. Yesterday the Minister of Finance countersigned the agree-

---

[56] May 12.
[57] Not printed; but see telegram No. 39, May 14, *supra*.
[58] October 20.

ment and at the same time acknowledged the receipt on October 20 of a letter of that date from Messrs. Monks and Ulen to the effect that the execution of the work by them was contingent upon the choice of Messrs. Seligman and Company as their bankers, all in accordance with the call for joint technical-financial bids issued by the Government last February, and the decision of the Council of Ministers last May giving him the work and the financing thereof to the Monks-Ulen-Seligman group. Mr. Monks' lawyer considers that the Finance Minister's acknowledgment of this letter before he signed the agreement makes the letter part of the agreement. The letter will be duly registered and made part of the dossier but there is nothing in the aggregate agreement itself providing that Seligman is to supply the money.

On Friday an offer was made by Hambro to finance the project. This offer may be very attractive to the Greek Government as the Hambro group will of course offer conditions hard for competitors to meet in order to preserve Greece as territory for their exclusive operations.

In the event that the Greek Government should award loan contract to any house other than Seligman, Monks-Ulen state that they would be compelled to give up the construction contract just signed unless Seligman released them from their obligation to him entered into because the Greek Government in its advertisement of project provided that bids for the work should combine both a technical and financial offer.

The Thessaly project in which the Foundation Company was interested as well as the Epirus work in which Boots was interested have been postponed by the present Government.

GOOLD

868.51 Struma Valley/25 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, *November 6, 1928—10 a. m.*

[Received November 6—9:45 a. m.]

63. Referring to the Department's No. 45, October 20, 4 p. m., and Legation's 61, October 22, 5 p. m. Prime Minister informed me yesterday that decision had been reached to divide productive loan between Seligman and Hambro, giving Seligman one-third only. To my observation that this would place Seligman in position of manifest inferiority, he replied by inquiring whether Seligman would accept one-half, and Seligman now considering this tentative compromise. Prime Minister also stated that British offer was from Hambro and Erlanger only. We understand this to mean that National City

and Speyer no longer associated with Hambro. If Department can confirm this understanding, it would make it possible for me to support Seligman actively. Prime Minister's last hour disposition to give at least half the loan to Hambro is due apparently to British pressure and especially receipt of letter stating that advances on loan would violate stabilization loan agreement with League of Nations and his conviction that this objection would be waived should Hambro be given the loan, as Hambro is a director in Bank of England and London effectively controls the financial commission of League of Nations.

SKINNER

868.61 Struma Valley/26 : Telegram

The Minister in Greece (Skinner) to the Secretary of State

ATHENS, *November 7, 1928—2 p. m.*
[Received November 7—9:45 a. m.]

64. My November 6, 10 a. m. Government has now suggested that Greek loan shall be divided equally between Seligman and Hambro groups, and Seligman representative has agreed to recommend this compromise to his previous note.

SKINNER

868.51 Struma Valley/28

The Minister in Greece (Skinner) to the Secretary of State

No. 746

ATHENS, *December 10, 1928.*
[Received January 2, 1929.]

SIR: I have the honor to report that the protracted negotiations of the Hellenic Government for a loan in the United States have not yet been concluded, and on account of the delay in settling this matter, it seems advisable that I should acquaint the Department with the present state of affairs.

As previous correspondence shows, the government decided last summer to conclude a contract with Messrs. Robert Monks & Company and Ulen & Company, jointly, for the construction of drainage works in the Struma Valley, the expectation being that these works would cost in the neighborhood of $25,000,000. The invitation to submit bids carried with it the condition that each firm must furnish satisfactory assurance of its ability to secure a loan for the government adequate for the carrying on of the undertaking. Thus it came about that the Monks-Ulen group offered Messrs. Seligman & Company of New York as their financial supporters, and when eventually the drainage contract was awarded to this group, it was

accepted on condition that the financing should be awarded to Messrs. Seligman & Company. Nevertheless, from the signing of this contract down to the present moment, Messrs. Seligman & Company have not succeeded in obtaining a legal contract with the Hellenic Government, although the Prime Minister has written to the New York firm a letter assuring them that such a contract will be concluded.

At about the time when the Monks-Ulen contract was being signed, the government was looking for a further loan of $50,000,000 for the purpose of completing drainage works in the Vardar Valley, the construction of roads, and the carrying on of Refugee Settlement operations, and had expected to obtain the necessary amount through Hambro's Bank, which at that time was acting in association, apparently, with Messrs. Speyer & Company and the National City Bank of New York. Hambro's Bank withdrew its tentative offers to the Hellenic Government, whereupon Mr. Venizelos turned to Messrs. Seligman & Company and asked whether they would be prepared to make a loan, not merely of $25,000,000 for the Struma Valley work, but of $75,000,000, and received a favorable answer. Messrs. Seligman & Company appeared at one time to have come to a complete understanding with the Hellenic Government for this loan of $75,000,000, but before the contract could be drafted and signed, and following upon strong political and other pressure exerted upon Mr. Venizelos, Hambro's Bank came forward with a new proposition, and their campaign was so effective that about November 1st the government ceased to manifest any interest in the Seligman offer of $75,000,000, which it had solicited, and announced that the Seligman loan would be limited to $25,000,000, the amount originally deemed necessary for the financing of the Struma contract alone. In the meantime, Hambro's Bank declared to the Hellenic Government that Messrs. Speyer & Company and the National City Bank were no longer involved in their present undertakings in Greece, and this was subsequently confirmed in the contract eventually agreed upon, which showed that Hambro's Bank was operating in association with Messrs. Erlanger & Company of London.

Messrs. Seligman & Company naturally felt that they were not being treated fairly in this matter. It seemed to them, and to me also, that they were being used simply to bring Hambro's Bank to terms, the same tactics having been employed when the stabilization loan negotiations were in progress in London. I had a frank conversation with Mr. Venizelos on the subject. He agreed that the situation was unfortunate, but at the same time expressed the feeling

that the propositions from Hambro's Bank presented certain advantages which he could not ignore. He asked whether Messrs. Seligman & Company would be satisfied if they got one-half of the whole contract, and I was able to state somewhat later that this would be satisfactory. Thereupon the negotiations with Hambro's Bank were pressed to completion, the reason given for this priority being that that bank was prepared to float an immediate loan in London for a portion of the requisite amount, whereas the New York bankers believed that it would not be advisable to make a Greek offering in the United States at the present time, and that the American contract should contemplate an immediate credit for a fixed amount, the bond issue to come later when the American market might present more advantageous conditions.

The contract with Hambro's Bank has been authorized by the Chamber, and the bonds will be announced for sale in the London market probably on December 18th. These bonds will be floated at 89 and will net the government 84. The issue will be one of £4,000,000 only, additional amounts to be cared for at some undetermined date. The coming issue will carry a nominal interest of 6%. In the meantime, Messrs. Seligman & Company continue to deal with the government for the conclusion of their half of the loan, that is to say—$37,500,000. When the negotiations come to an end, I shall endeavor to forward, for the completion of the Department's records, a copy of the final draft with the Hambro-Erlanger group, and also with Messrs. Seligman & Company.[59]

It is of interest in this connection to mention that Messrs. Speyer & Company of New York, who have been associated with Hambro's Bank in other undertakings in Greece, have written to me to say that they do not regard the present moment favorable for the issue of a new Greek loan. It may be mentioned also that the Hambro-Erlanger group have proposed a departure from the ordinary practice in financing, in that their new 1928 loan will not be subject to the control of the International Financial Commission, and it is costing the Greek Government two points additional in order that recourse to the Commission may be avoided. There are not wanting plenty of thoughtful people who feel that this will prove to be a costly mistake to the Hellenic Government in the future.

I have [etc.] ROBERT P. SKINNER

[59] The *Official Gazette*, vol. I, No. 279, of Dec. 31, 1928, published the ratification by the Greek Chamber of Deputies of the Monks-Ulen contract for drainage of the plains of Serres and Drama in Macedonia (file No. 868.51 Struma Valley/29).

POLICY OF THE DEPARTMENT OF STATE REGARDING OPPORTUNITY FOR AMERICAN FIRMS TO COMPETE FOR WORK TO BE DONE FROM PROCEEDS OF AMERICAN LOANS

868.51/1090

The Minister in Greece (Skinner) to the Secretary of State

No. 509 ATHENS, *March 15, 1928.*

[Received March 29.]

SIR: I have the honor to report that the Blair financial group are making proposals to the Ministry of Communications for a loan of upwards of $1,200,000 to be employed in the construction of railway buildings, including especially a machine-shop. The Blair group have included in their proposition an obligation on the part of the Hellenic Government, should the terms be accepted, that, prices and quality being equal, American machinery and supplies are to be employed in erecting and equipping the new plant. I am unable to suggest at this writing what action the Government will finally take.

I inform the Department of the above proposal of the Blair group for the special purpose of calling attention to the possibility of safeguarding American export trade in connection with foreign loans. No sooner was it known in Athens that an American group were offering funds to the Ministry of Communications than German manufacturers of machines, tools and the like, invited the railway authorities to send representatives to Germany to look over German devices, with a view to their purchase and sale—a perfectly legitimate undertaking in itself, although it suggests that if German manufacturers are to furnish supplies, they should at the same time be invited to furnish the necessary capital.

It seems to me that we cannot ignore the relation of foreign loans to industrial prosperity in the United States. For myself, I would be quite satisfied if our financial houses could be induced, by common consent and without legislation, to make their financial support in foreign countries conditional upon an undertaking on the part of borrowers to patronize the American market, prices and quality being equal. Unfortunately, money lenders in the United States seem to have been too eager to place their funds to give any consistent thought to this other aspect of money lending. If, however, a scheme cannot be devised for the voluntary withholding of financial support without corresponding protection of our industrial interests, then perhaps it may become necessary in the near future to secure legislation covering the point involved.

I take the liberty of suggesting, as a working provisional arrange-

ment, that hereafter, before the Department expresses itself generally as to the absence of objection to a foreign loan flotation in the United States, inquiries be made respecting the precise uses for which the capital is intended to be employed, with a view to inserting in the contract a clause similar to the one inserted by the Blair group in the tender to the Hellenic Government referred to in the beginning of this despatch.

I have [etc.] ROBERT P. SKINNER

868.51/1090

The Secretary of State to the Minister in Greece (Skinner)

No. 151 WASHINGTON, *April 9, 1928*

SIR: The Department has noted with interest your despatch No. 509 of March 15, 1928, discussing the inclusion in a loan proposal of an obligation on the part of the Hellenic Government, should the terms be accepted, that, prices and quality being equal, American machinery and supplies are to be employed in erecting and equipping the plant to be constructed from the proceeds of the loan.

The question of banking policy which you discuss is, of course, in some measure a controversial one, particularly as there is a strong economic argument that foreign loans must in any event result in the exportation from the lending country either of gold or of other commodities and that the conditioning of loans on the purchase of particular exports might diminish both foreign borrowing and the total of exports from the lending nation.

The related question of governmental policy has presented itself from time to time for consideration. The Department, in considering proposed foreign loans regarding which American bankers consult it, has not felt warranted in bringing pressure upon the interested bankers to the end that the loan proceeds be expended in the United States. The present policy of the Department in its correspondence with bankers regarding contemplated foreign loans, when they involve the expenditure of all or part of the proceeds for constructive works, is to inquire in what manner the proposed works will be carried out, and to express the hope that American firms may be afforded the freest opportunity to compete for such work on equal terms and that the proposed contracts and the procedure in connection therewith will not in any way interfere with such free opportunity.

I am [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.

CITIZENSHIP UPON ENTERING GREECE OF FORMER OTTOMAN SUBJECTS OF GREEK ORTHODOX RELIGION NATURALIZED IN THE UNITED STATES

868.012/15

The Minister in Greece (Skinner) to the Secretary of State

No. 497 ATHENS, *March 7, 1928.*
[Received March 22.]

SIR: A new class of citizenship case has recently been manifesting itself, to which I have the honor to invite the attention of the Department.

It is the case of the Orthodox Greek born in the Ottoman domain, who left that domain after the 12th day of October, 1912, proceeding to the United States where he failed to naturalize himself prior to the 30th of January, 1923, the date of the signature of the Exchange of Populations Agreement.[60] Under articles III and VII of the Agreement in question, these persons acquire Greek nationality.

I quote:

Article III—"The Greeks and Moslems who have already, and since the 12th day of October, 1912, left the territories, the Greek and Turkish inhabitants of which are to be respectively exchanged, shall be considered as included in the exchange provided for in Article I."

Article VII—"The emigrants will lose the nationality of the country which they are leaving and will acquire the nationality of the country of their destination upon their arrival in the territory of the latter country."

"Such emigrants as have already left one or other of the two countries and have not yet acquired their new nationality, shall acquire that nationality on the date of the signature of the present Convention."

The competent official of the Foreign Office avers that he is using all his skill with the military with a view to saving several individuals in the class referred to from the performance of service in the Greek Army, but I take it that the passport authorities at home will be glad to warn such persons of the danger in which they place themselves if they come to this country.

I have [etc.] ROBERT P. SKINNER

868.012/16

The Consul at Saloniki (Pisar) to the Secretary of State

No. 35 SALONIKI, *March 15, 1928.*
[Received April 6.]

SIR: I have the honor to bring to the attention of the Department the following information regarding the compulsory naturalization

---

[60] League of Nations Treaty Series, vol. XXXII, p. 75.

in Greece of naturalized American citizens who formerly were Turkish nationals of the Greek Orthodox religion, under certain provisions of an annex to the Treaty of Lausanne,[61] and to request the Department's opinion of the value of the contention of the Greek Government that such persons come within the purview of this convention.

As the Department is aware, there was signed at Lausanne on January 30, 1923, a convention which is in the nature of an annex to the Treaty of Lausanne, concerning the exchange of populations.

Article 1 of this convention provides that "beginning with May 1, 1923, there shall take place a compulsory exchange of Turkish nationals of the Greek Orthodox religion established in Turkish territory, and of Greek nationals of the Moslem religion established in Greek territory."

Article 3 of the convention provides that "those Greeks and Moslems who had previously, and since the 18th of October, 1912, left the territories of which the inhabitants were to be exchanged should be included in the exchange provided for in Article one."

Article 7 of the convention provides that "the emigrants will lose the nationality of the country which they are leaving, and will acquire the nationality of the country of their destinations upon their arrival in the territory of the latter country."

"Such emigrants as have already left one or the other of the two countries and had not yet acquired their new nationality, shall acquire that nationality on the date of signing of the present convention."

The provisions of this convention were not apparently enforced by the Greek Government until the beginning of this year. Since then a number of naturalized American citizens who were formerly Turkish nationals belonging to the Greek Orthodox religion, and who have come to Saloniki, have been obliged to submit to a compulsory naturalization as Greek citizens.

In each case these men left Turkey after October 18, 1912, and were naturalized as citizens of the United States without at first obtaining the permission of the Greek Government in order to have that Government acknowledge their naturalization as foreign citizens.

Upon their arrival in Saloniki they were instructed by the police to present themselves at the City Hall for registration as Greek citizens. No oath of allegiance, however, was required of them. In one or two instances the police retained their American passports but after representations were made by this consulate to the local authorities against this procedure, they have discontinued to do so. After registration as Greek citizens, they become liable to the military service laws of Greece, and are either obliged to serve or are permitted to purchase their exemption upon the payment of a cer-

[61] For the treaty of peace, signed at Lausanne, July 24, 1923, see League of Nations Treaty Series, vol. xxviii, p. 12.

tain sum of money. After they have complied with all the requirements of the Greek laws pertaining to military service they are given permission to leave Greece. This permission is usually given in the nature of a visa to their military discharge papers.

For the information of the Department there is enclosed, herewith, a list of the American citizens [62] who have reported to this consulate that they have been obliged to register themselves as Greek citizens under the provisions of the above mentioned convention.

I have [etc.] CHARLES J. PISAR

868.012/17

The Minister in Greece (Skinner) to the Secretary of State

No. 618 ATHENS, *June 26, 1928.*

[Received July 12.]

SIR: Adverting to my despatch No. 497 of March 7, 1928, concerning the citizenship of former Ottoman subjects of the Orthodox religion who had gone to America and been naturalized there, and to the status of such persons when they come to Greece, I have the honor to report that the Ministry of Foreign Affairs has rendered an opinion on the basis of which administrative authorities throughout the country are acting. This opinion is to the following effect:

(1) Greeks, "exchangeables," who left Turkey after October 18, 1912, shall be considered, regardless of their place of residence, Greek citizens, *ipso jure*, from the 30th day of January, 1923, when the Exchange of Populations agreement was signed.

(2) Those who left Turkey after January 30, 1923, shall be considered to have acquired Greek nationality from the date of their arrival in another country.

(3) Those of the above category ("exchangeables") who had become naturalized foreign citizens (American, British, French, etc., etc.) before the signing of the Exchange of Populations Convention, i. e. before January 30, 1923, shall be recognized, upon their arrival in Greece, as having legally acquired foreign citizenship, regardless of whether they had previously obtained the permission of the Turkish Government, as required by Turkish law.

(4) All those who acquired foreign citizenship after January 30, 1923, without first obtaining the permission of the Greek Government, shall be considered Greek citizens.

As many naturalized Americans of the above categories, visiting Greece to see their refugee relatives, find themselves involved in difficulties with the authorities, I venture to suggest that their American passports be accompanied with notices apprising them of the foregoing.

I have [etc.] ROBERT P. SKINNER

---

[62] Not printed.

868.012/17

The Secretary of State to the Minister in Greece (Skinner)

No.183 WASHINGTON, *July 19, 1928.*

SIR: The Department has received your despatch No. 618 of June 26, 1928 in which is set forth the opinion rendered by the Ministry of Foreign Affairs concerning the citizenship of former Ottoman subjects of the Orthodox religion who had left Turkey for destinations other than Greece prior to the conclusion of the convention concerning the exchange of Greek and Turkish populations, signed at Lausanne January 30, 1923.

Paragraph numbered four of the opinion states that "all those who acquired foreign citizenship after January 30, 1923 without first obtaining the permission of the Greek Government, shall be considered Greek citizens." This provision in so far as it affects former Ottoman subjects who have acquired American citizenship by naturalization subsequent to January 30, 1923 cannot be accepted by this Government. You should therefore inform the Ministry of Foreign Affairs that in the opinion of this Government the terms of the agreement of January 30, 1923 between Greece and Turkey do not seem applicable to former Ottoman subjects who have obtained naturalization as citizens of the United States before going to Greece. You should add that the Government of the United States cannot recognize the right of foreign governments to enter into agreements affecting the nationality of American citizens.

It is suggested that the Legation, if it has not already done so, transmit the text of the opinion contained in its despatch No. 618 to the several consulates in Greece and that it also inform those offices as to the contents of this instruction. In transmitting this information to the Consulate at Saloniki reference should be made to that office's despatch No. 35 of March 15, 1928, a copy of which should be on file in the Consulate General at Athens.

I am [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.

868.012/19

The Chargé in Greece (Goold) to the Secretary of State

No. 661 ATHENS, *September 1, 1928.*
[Received September 19.]

SIR: Adverting to your instruction No. 183 of July 19th in which you instructed me to present your views to the Foreign Office, relative to the opinion rendered by them concerning the citizenship of former Ottoman subjects of the Orthodox religion, who had left Turkey for

destinations other than Greece, prior to the conclusion of the Exchange of Populations Convention of January 30, 1923, and in which you took particular exception to Paragraph 4 of the opinion, I have the honor to state that I duly addressed a note to the Foreign Office setting forth your views, and have now received a reply, a translation of which I have the honor to enclose.

It would seem doubtful whether a continuation of the discussion would be of benefit to anybody since the Greek Government is hardly likely to admit a third party interpretation of the application of a Graeco-Turk treaty to members of a class of persons whose status and rights are covered by the treaty when these persons actually place themselves under the Greek jurisdiction. As a matter of fact, Greek officials have been accommodating in releasing former Ottomans, naturalized in America subsequent to January 30, 1923, from the performance of military duties, when appealed to on lines of good policy and common sense. They are gradually beginning to realize that it is to their interest to permit Americans of Greek origin to visit this country without unnecessary vexations of which the exaction of military service is, of course, the greatest.

I have [etc.] H. S. Goold

[Enclosure—Translation]

The Greek Ministry of Foreign Affairs to the American Legation

No. 24267 Note Verbale

The Ministry of Foreign Affairs, in reply to the verbal note of the United States Legation, No. 145, of August 4, 1928, has the honor to invite its attention to the fact that, in conformity with Articles 3 and 7 of Convention VI, concerning the exchange of Greek and Turkish populations, signed at Lausanne, Orthodox Greeks who had left Turkish territories subject to the exchange after the 18th of October, 1912, were considered exchangeable and consequently lost the nationality of the country they abandoned and acquired Greek nationality on the date of the signature of said convention, if they had not already previously acquired it.

The Mixed Commission, sitting at Constantinople, interpreting, as it was competent to do, the above mentioned Articles Nos. 3 and 7, held in its decision No. 22, of May 9, 1924, that persons subject to the exchange and who on the date of the signature of the convention (January 30, 1923) were in a country other than Greece or Turkey, lost on that date the nationality of the country which they abandoned and acquired the nationality of the other contracting country.

On the same question, the nationality council of the Foreign Office,

in its 84th session which took place on November 11, 1927, took the following decision:

"Orthodox Greeks who left Turkish territory subject to the exchange, subsequent to the 18th of October, 1912, lost their Turkish nationality and became Greek subjects on the date of the signature of Convention VI of January 30, 1923, and as such cannot be recognized in Greece as foreign subjects in the event that they were naturalized abroad after the 30th of January, 1923, and without the previous authorization of the Hellenic Government in accordance with law No. 120 of the 2/15 January, 1914."

The honorable United States Legation will be good enough to note that in the foregoing case there is no question of Turkish subjects obtaining American naturalization, since these same persons, by the operation of the Treaty of Lausanne, ceased to be Turkish subjects at the moment they asked for American naturalization and became, *ipso jure*, Hellenic subjects on the 30th of January, 1923.

Furthermore, the articles mentioned do not affect persons who were naturalized abroad before the signature of Convention VI on the 30th of January, 1923, or those who left Turkey before the 30th of October, 1912, and who consequently are considered as non-exchangeable Turkish subjects.

After these explanations, the United States Legation will recognize that this is not a case where a contrary opinion can modify a definitely established rule. The Hellenic Government has no pretension of involving itself in questions concerning the nationality of American citizens. It must, however, carry out the provisions of the treaties and their official interpretations in the event that persons referred to by the treaties enter the Hellenic jurisdiction.

ATHENS, *August 28, 1928.*

CLAIMS OF AMERICAN CITIZENS OF GREEK ORTHODOX RELIGION FOR PROPERTY CONFISCATED BY TURKEY UNDER THE CONVENTION CONCERNING EXCHANGE OF GREEK AND TURKISH POPULATIONS[63]

467.11/276a

The Secretary of State to the Minister in Greece (Skinner)

No. 169 WASHINGTON, *June 15, 1928.*

SIR: The Department has received numerous inquiries from American citizens claiming an interest by inheritance in property confiscated by Turkey under the Convention concerning the Exchange of Greek and Turkish Populations, signed at Lausanne on January 30, 1923. As the Legation will recall, the Convention provides that the Greek

[63] For text of the convention, signed at Lausanne, January 30, 1923, see League of Nations Treaty Series, vol. XXXII, p. 76.

Government shall grant compensation to the interested parties for such property.

Before replying to these inquiries the Department desires to ascertain the position of the Greek Government with reference to these American claimants. Although it may be argued that the benefits of a Convention between Turkey and Greece will not inure to American citizens, nevertheless the equities of the situation seem to warrant due consideration of these claims by the Greek Government.

It is therefore desired that you make appropriate inquiry of the competent authorities and that you prepare for the Department a report outlining the procedure to be followed by the claimants in the event the Greek Government is disposed to consider these cases.

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

467.11/282

The Chargé in Greece (Goold) to the Secretary of State

No. 646 ATHENS, *July 30, 1928.*
[Received August 15.]

SIR: Adverting to the inquiry in your No. 169 of June 15th, relative to the attitude of the Greek Government concerning claims of Americans arising out of the confiscation of property by Turkey under the Exchange of Populations Convention signed January 30, 1923, I have the honor to state that I duly made inquiry concerning this matter at the Foreign Office, and that while I have not been vouchsafed a formal reply, the legal expert nearly always consulted by the Government on property questions arising out of the Exchange of Populations Agreement has given me the required information.

Practically all persons whose property interests are covered by the agreement in question and who are residing in America are either Greeks or Turks in the eyes of the Governments concerned. The Turkish nationals of the Greek Orthodox religion who left the Turkish domain subsequent to October 18, 1912, most probably did not secure the permission of the Turkish Government to naturalize themselves as American citizens. Therefore, in contemplation of both Turkish and Greek law, they remained Turks until by the operation of the Exchange of Populations Agreement they acquired Greek nationality. As to the children of such persons, it must be remembered that under the Greek law—and probably the Turkish, they do not acquire their father's new nationality by his naturalization. They retain their original nationality.

Interested persons should therefore proceed without reference to the fact that they are American citizens, and should file their claims with the Ministry of Agriculture in Athens. I am forwarding a number of forms of claims for distribution to them, and have the honor to add that whereas there is a sort of statute of limitations barring consideration of claims filed after March, 1927, the Greek Government is seriously considering an extension of the time limit in view of the fact that some 50,000 claims have been filed since that date.

As to the rights of Orthodox communicants and Moslems who left Turkey and Greece, respectively, before the 18th of October, 1912, or any Greek or Turk who did not acquire his nationality through the Exchange of Populations Agreement, they are governed by the agreement of December 1, 1926 between Greece and Turkey,[64] concerning which see Mr. Skinner's No. 122 [*12*] of December 2, 1926, my No. 342 of November 3, 1927, Mr. Skinner's No. 461 of February 3, 1928 and his No. 541 of April 10, 1928.[65]

Does an American, say a Greek Orthodox communicant formerly an Ottoman national who emigrated from Turkey to America in 1907, thereafter becoming naturalized, whose property in Asia Minor was destroyed during the course of the operations of 1919–22, benefit by the agreement, or does it apply to the American heir of Turkish nationals of the Greek Orthodox religion who were killed in Asia Minor in 1922, leaving property, the heir having left Asia Minor in 1903 for America where he was naturalized.

Foreign Office note No. 14195 [*14915?*] of December 7, 1927, of which I enclose a translation, answers these questions in the affirmative, and persons basing their claims on the rights of non-exchangeables should file them with the Greek Delegation to the Mixed Claims Commission at Constantinople, accompanied by the certificate of local authorities (county clerk) to the effect (1) that they are of Turkish origin (place of birth should be stated); (2) that they are of the Greek Orthodox religion; (3) stating the dates of their departure from Turkey and the acquisition of their new domicile.

In a note dated March 13, 1928, the Foreign Office advised Mr. Skinner that, in the certificates required from the local authorities, no mention should be made of the fact that the claimants had acquired American nationality. The mention of such a fact would permit the Turkish Delegation to the Mixed Commission to take advantage of the conflict of jurisdiction arising out of double nationality to remove the claims from the competence of the Commission to the detriment of the interested parties.

I have [etc.] H. S. GOOLD

[64] League of Nations Treaty Series, vol. LXVIII, p. 11.
[65] Despatches not printed.

[Enclosure—Translation]

The Greek Ministry of Foreign Affairs to the American Legation

No. 14915 VERBAL NOTE

The Ministry of Foreign Affairs replying to the verbal note No. 229 which the United States Legation saw fit to address to it, has the honor to state that the question of the application of the agreement of the 1st of December to Orthodox communicants who have acquired foreign nationality has been the object of careful study.

It results from this examination that Orthodox communicants formerly Ottoman subjects and now American citizens who left those parts of Turkey subject to the exchange of populations before the 18th of October 1912 fall into three classes for the purposes of the agreement of the 1st of December 1926. These classes are:

1) Certain Orthodox communicants acquired American nationality after going through the formalities required by Turkish law to renounce their Ottoman nationality, that is to say, they obtained imperial iradis.

These individuals are recognized not only by the American law but by the Turkish law as American citizens. Consequently, if they own property in Turkey, they can claim possession of it and freely dispose of it in their capacity as American citizens.

This class is probably very small since the Sultan rarely granted iradis to those of his subjects who wished to acquire foreign nationality.

2) The majority of former Ottoman subjects acquired American nationality without the authorization of the Turkish authorities. This change of nationality does not exist from the point of view of the Turkish law, and these individuals remain Turkish citizens even though they have acquired American nationality in the United States. They can, therefore, be considered by virtue of Turkish legislation as having preserved their Turkish nationality up to the moment when the Treaty of Lausanne became effective.

This point of view permits the inclusion of these individuals with those of the following class provided for by one of the clauses of the agreement of December 1st, 1926.

3) Article 15 of the accord of which the United States Legation already possesses a copy, expressly declares that "those persons who, at the moment the Treaty of Lausanne became effective, enjoyed the status of Turkish or Hellenic subjects, and who subsequently acquired foreign nationality, preserve all the rights assured by Declaration No. 9 annexed to this Treaty."

There is, then, no doubt that those Orthodox Turkish subjects who did not acquire American nationality until after the 6th of August

1924 are entitled to all the benefits of the agreement of the 1st of December.

The Ministry believes it to be its duty to add that all interested parties who come within the terms of the agreement of the 1st of December should submit a statement of their property in Turkey, accompanied by the required certificates, to the Hellenic Delegation to the Mixed Commission for the Exchange of Populations at Constantinople. These statements should be prepared on special forms which the interested parties can secure either at the Foreign Office or at Greek consulates or from the Hellenic Delegation to the Mixed Commission at Constantinople.

The Ministry of Foreign Affairs which will always be ready to inform the United States Legation concerning the details of the application of the accord mentioned invites the attention of the Legation to the fact that the agreement is applied exclusively to individuals covered by Declaration 9 annexed to the Treaty of Lausanne, that is to say, Orthodox communicants who left Turkey before the 18th of October 1912, or who had always resided outside that country.

ATHENS, *December 7, 1927.*

GUATEMALA

BOUNDARY DISPUTE WITH HONDURAS

(See volume I, pages 712 ff.)

HAITI

RECONSIDERATION OF CERTAIN BRITISH CLAIMS AGAINST THE GOVERNMENT OF HAITI FOR DAMAGES CAUSED BY SUCCESSFUL REVOLUTIONARY TROOPS[1]

838.00/416

Memorandum by the Chief of the Division of Latin American Affairs (Morgan) of a Conversation Regarding British Claims Against the Hatian Government[2]

[WASHINGTON,] *April 27, 1928.*

Sir John Broderick said that he had sought this opportunity to discuss the question in an informal and friendly manner with General Russell and Dr. Millspaugh, to see if some way could not be found by which these claims could be reconsidered. The British Government was not disposed to create unnecessary difficulties; it appreciated the Department of State's desire not to have claims reconsidered if this would prejudice the financial stability of Haiti. Nevertheless, the British Government still thought that some formula could be found for settling these British claims without bringing about any of the consequences which the State Department desired to avoid.

The British Government felt that these claims were thoroughly justified, and that their rejection had been based on unsound doctrine —or at least a doctrine which the British Government could never accept—namely, that governments are not liable for the acts of successful revolutionists. The British Government felt sure—in fact they had already been so informed—that the State Department was in accord with the British Government in not accepting this doctrine. Therefore, as the claims had been rejected without being heard on their merits, but simply because of the assumption by the Claims Commission of a doctrine contrary to international law, it seemed that the claimants were entitled to have their case taken up through diplomatic channels.

---

[1] For previous correspondence concerning these British claims, see *Foreign Relations*, 1927, vol. III, pp. 84 ff.

[2] Present during the conversation were Sir John Broderick and Mr. Hopkinson of the British Embassy; Mr. Morgan; General Russell, High Commissioner in Haiti; Dr. Millspaugh, Financial Adviser-General Receiver for Haiti; and Mr. Baker, Assistant to the Solicitor for the Department of State.

416955—43——11

Sir John Broderick said that the British Government had made a definite reservation in submitting the British claims to the Claims Commission, and while he understood that there was some question in the minds of the State Department and the Haitian Government in regard to the manner in which that reservation had been made, he did not think it necessary to discuss that technical point at this time. The British Government considered that it had made reservations.

Dr. Millspaugh said that an effort had been made, in conjunction with Mr. Edwards, the British Chargé d'Affaires at Port au Prince, to find a formula which would admit of these claims being reconsidered without opening the door to the reconsideration of other claims, but it had been impossible to find such a formula. Claims totalling about thirty-three million dollars had been submitted to the Claims Commission and settled for between three and four million dollars. The French, Italians, and he thought the Germans, had made definite reservations in connection with their claims; therefore if any claims were to be reopened and subjected to further consideration he saw no way by which it would be possible to prevent many other claims from being brought up. A great many claims had been settled in accordance with the same doctrine referred to by Sir John Broderick; namely, that a government was not responsible for the acts of successful revolutionists. If these British claims were presented again he saw no way to prevent other claims of French, Italian and German citizens from being presented as well. Furthermore, it would probably be necessary to consider the claims of Haitian citizens, as the Haitian Government could hardly accord foreigners more favorable treatment than it gave to its own citizens. The United States had of course made no reservations. Nevertheless, it would be difficult for the Department to show why it used its influence in favor of these British claims but refused to take up again the claims of American citizens.

Mr. Morgan reminded Sir John Broderick that of course the Department was interposing no objection to the British Government taking this matter up with the Haitian Government through its Legation at Port au Prince and the Haitian Foreign Office. The only question now under discussion was whether the State Department would use its influence with the Haitian Government or recommend that the Haitian Government reconsider these British claims. The Department could not at the present time see its way to do this. Sir John Broderick said he perfectly understood that the British Government could take the matter up direct with the Haitian Government, but he felt convinced, the situation being as it was in Haiti, that it would be a waste of time to do so unless the British Government had the active support of the Department of State.

In summing up the results of the conference Mr. Morgan said that it appeared that the situation was the same that it was at the time of the last conference between Sir John Broderick, Mr. Morgan and Mr. Phenix [3] on January 24; namely, that the Department agreed in principle with the British Government that these claims were rejected on an untenable ground by a Commission which did not consider them on their merits; that the Department's attitude is purely practical and based entirely on its desire to see the financial stability of Haiti maintained. The Department will not interpose any objection if the British Government cares to present these claims to Haiti. If a formula can be found by which the United States can use its influence to assist in the settlement of these claims without at the same time running the risk of reopening the general question of claims already settled by the Claims Commission or bringing about the presentation of a flood of claims of a similar nature, the Department will be glad to do so. No such formula has yet been found, but possibly one can be found in the future.

Sir John Broderick said he understood the position of the Department to be the same that it was at the time of the last conference, and he would continue to study the case in the hope that he might find a formula which would be acceptable to the Department.

[STOKELEY W.] MORGAN

838.00/417

The Chargé in Haiti (Gross) to the Secretary of State

No. 1263 (High Commissioner's Series) PORT-AU-PRINCE, *August 7, 1928.* [Received August 21.]

SIR: I have the honor to refer to previous correspondence regarding the desire of the British Government to reach a settlement of claims of British subjects arising from revolutions in Haiti. Under date of August 1, 1928, the Financial Adviser has prepared for this office a review of the present situation regarding these claims and in his report he makes the following observations:—

"1.—In your letter of February 9, you stated that the Department would be glad to have me consult with the British Chargé d'Affaires with a view to finding some formula by which the British claims can be settled without reopening the general question of claims already passed upon by the Claims Commission and without prejudice to the financial stability of Haiti. In the conversation of April 27, Mr. Morgan said that if a formula can be found by which the United States can use its influence to assist in the settlement of these claims without at the same time running the risk of reopening the general question of claims already settled by the Claims Commission or bring-

[3] The Assistant to the Under Secretary of State.

ing about the presentation of a flood of claims of a similar nature, the Department of State will be glad to do so. Mr. Morgan added that no such formula had yet been found, but possibly one could be found in the future.

2.—Mr. Edwards (The British Chargé d'Affaires) called on me on July 31 and stated that he had received a communication from the British Foreign Office to the effect that it had approached the French and other governments on this subject and had received assurances that these latter governments would not reopen any claims settled by the Claims Commission.

3.—It should be noted that the French government accepted for the settlement of its claims a procedure by which appeal was had to a Commission of Appeal, a procedure which was not applied to the British claims, and which, in view of the reservation which had been made, would not have been accepted by the British government.

4.—I told Mr. Edwards that, in view of the information that he had given me, I would ask the High Commissioner to refer the matter again to the Department of State, that I was reluctant to do this in the absence of General Russell, but, in order to save time would report the matter immediately to the High Commissioner in the belief that General Russell would visit the Department on his return from Europe and could be consulted by the Department at that time. I added that it would seem difficult for this office to reject, with regard to these claims, a principle that had been applied to all other claims. This office has refused in a few instances to recognize claims arising since 1916, which involve principles similar to those accepted by the Claims Commission in the recognition of the claims arising before 1916. Nevertheless, in all such cases this office has taken a stricter position than the Claims Commission. It has never, so far as I know, adopted a principle relative to the claims arising since 1916, more liberal than that adopted by the Commission, relative to claims arising before 1916. Furthermore, I added that it did not seem to me that this office could take the initiative in recommending to the Haitian government the payment of the British claims.

5.—You may wish to bring the following suggestions to the attention of the Department of State. The reservation of the British government relative to the settlement of British claims by the Claims Commission was officially communicated to the United States government but not to the Haitian government.[5] The technical position of the Haitian government seems correct, and the Haitian Foreign Office has officially rejected the British claims as diplomatically presented. The office of the Financial Adviser does not as a rule propose expenditures to the Haitian government. It expresses its opinion on proposals made by the Haitian government. It does not seem appropriate with regard to the British claims for this office to urge on the Haitian government their recognition and payment. This office, however, is now disposed to believe that the recognition of the British claims would not reopen the question of other claims settled by the Claims Commission. The chief objection to the recognition of the British claims lies in the abandonment of a principle which, in the future, should revolutions occur, would protect the Treasury against claims

[5] Presumably reference is made to note No. 923 of Dec. 8, 1922, from the British Ambassador, *Foreign Relations*, 1922, vol. II, p. 553.

based on the acts of successful revolutionists. It is understood, however, that the Department of State does not accept the principle adopted by the Claims Commission, that a government is not responsible for the acts of successful revolutionists. The Department of State may, therefore, desire to obtain from the British Embassy at Washington copies of the assurances which, it is understood, the British government has obtained from the French and other governments, and, with this information in hand, may wish to reconsider the question whether the United States government can use its influence in this matter with the Haitian government."

In this regard I have the honor to refer to the last paragraph of Despatch #1038 (High Commissioner's Series), dated July 7, 1927,[6] in which was set forth certain opinions expressed in London, last year, by Mr. Stoker, formerly a British member of the Claims Commission.

I have [etc.] C. GROSS

438.00/420

The High Commissioner in Haiti (Russell), Temporarily in the United States, to the Assistant to the Solicitor for the Department of State (Baker)

[WASHINGTON,] *October 3, 1928.*

MR. BAKER: In carrying out my mission in Haiti I have been always made to feel that the British Government desired to assist the United States in the rehabilitation of Haiti and the carrying out of the provisions of the Treaty of 1915.[7]

I furthermore believe that the one obstacle that prevented the payment of the three British claims has been our contention that many other claims would be opened by the French or other interested nations. This obstacle having been removed, I do not see how we can longer object.

I therefore recommend

1. That the British Embassy in Washington confirm the oral statement of the British Chargé d'Affaires at Port au Prince;

2. That the British Government reopen the question of these claims with the Haitian Foreign Office;

---

[6] Not printed; the pertinent portion of the paragraph in question reads as follows: "Judge J. S. Stanley, now Director of Internal Revenue of the Republic of Haiti, and formerly the American member of the Claims Commission, has informed me that Mr. Leger, the Haitian member, while in London last year, saw Mr. Stoker of the British Foreign Office, who was a member of the Claims Commission when the British claims were discussed, and that Mr. Stoker gave him the impression that the British Government is less interested in establishing the claims under reference than to commit the United States Government to the principle of payment of claims for damages by certain revolutionary troops."

[7] *Foreign Relations*, 1915, p. 449.

3. That the High Commissioner at Port au Prince be instructed by the Department to urge the Haitian Government to give to these claims earnest consideration, and to notify that Government that if the Haitian Government found payments justified, the United States Government would not object.

JOHN H. RUSSELL

838.00/421

Memorandum by the Chief of the Division of Latin American Affairs (Morgan)

[WASHINGTON,] *October 5, 1928.*

Conversation [of] Sir John Broderick and Mr. Terence A. Shone of the British Embassy with General Russell and Mr. Morgan (Mr. Baker was unable to attend).

Sir John Broderick said that, following our previous conference on April 27 last, the matter had been taken up with the British Chargé d'Affaires at Port au Prince who had now obtained what he considered satisfactory assurances from his colleagues in Port au Prince showing that if these British claims were reopened this would not lead to the reopening of claims by other governments. Accordingly he felt that that difficulty had been removed. He understood that Dr. Millspaugh appeared to be in sympathy with the plan to have these claims reconsidered but had not felt that it was incumbent upon him to make any statement. He understood that Dr. Millspaugh had communicated his views to the Department.

Mr. Morgan replied that Dr. Millspaugh had done so and the Legation had reported the statements of the British Chargé d'Affaires to the effect that the British Government had received assurances from the French and other governments concerned on this subject that these latter governments would not reopen any claims settled by the Claims Commission.

Mr. Morgan then read the attached memorandum of recommendations of General Russell,[8] which he stated met with the approval of the Department. Mr. Morgan said that the Department would expect to receive for the record some official communication from the British Embassy confirming the statements of the British Chargé d'Affaires at Port au Prince and showing that his belief that other claims would not be reopened by other countries was well founded. The Department, upon the receipt of such a communication and being satisfied that such was the case, would instruct the High Commissioner at Port au Prince to urge the Haitian Government to give these claims earnest consideration and to notify that Government

[8] See General Russell's memorandum to Mr. Baker, *supra*.

that if it found payments justified the United States Government would not raise any objection.

Mr. Broderick expressed himself as deeply appreciative of the Department's attitude and said that his Government would be much gratified. He said that a communication on the subject would be forthcoming from the British Embassy shortly.

MORGAN

438.00/422

The Secretary of State to the High Commissioner in Haiti (Russell)

No. 389 WASHINGTON, *October 17, 1928.*

SIR: With reference to despatch No. 1263 (High Commissioner's Series) of August 7, 1928, and previous correspondence regarding the desire of the British Government to obtain the reconsideration of three British claims against the Government of Haiti, the Department transmits herewith for your information a memorandum of a conversation between Sir John Broderick of the British Embassy and certain officials of the Department on October 5,[9] and also a copy of a letter from Sir John Broderick to the Chief of the Division of Latin American Affairs relative to these claims,[10] in which it is stated that the British Government is at present aware of no similar claims which might still be asserted against Haiti by other countries.

The Department is satisfied that there is reasonable ground for assurance that if the three claims which the British Government desires to have reopened should be reconsidered by the Haitian Government, this will not lead to the presentation for reconsideration of other claims by other governments.

When the British representative in Port au Prince submits these claims again to the Haitian Government, you may state to President Borno that in your opinion, which is shared by the Department of State, these claims should be given earnest consideration. You may also inform the Government of Haiti that if it should find payment justified, the United States Government will raise no objection.

I am [etc.]

For the Secretary of State:
FRANCIS WHITE

BOUNDARY DISPUTE WITH DOMINICAN REPUBLIC

(See volume I, pages 706 ff.)

---

[9] *Supra.*
[10] Letter of Oct. 11, 1928; not printed.

HEJAZ AND NEJD

OPPOSITION OF THE AUTHORITIES OF HEJAZ AND NEJD TO THE ENTRY OF AMERICAN MISSIONARIES

890f.1163 Christian and Missionary Alliance/1

The Chargé in Egypt (Winship) to the Secretary of State

No. 153 CAIRO, *January 5, 1928.*

[Received February 3.]

SIR: I have the honor to enclose herewith an original letter in Arabic, with translation, addressed to this Legation by the Department for Foreign Affairs of the Government of the Hedjaz and Nejd, calling attention to the danger to travelers entering that country without permits.

This letter has been acknowledged, and I am also bringing the facts contained therein to the attention of the Consular officers in Egypt, Palestine, and Syria.

I have [etc.] NORTH WINSHIP

[Enclosure—Translation [1]]

The Director of Foreign Affairs of the Kingdom of Hejaz and Nejd to the American Minister in Egypt

No. Kh./24/1 DECEMBER 18, 1927.

EXCELLENCY: In view of the fact that you are the nearest American authority to the Hedjaz, I have the honor to submit the following to Your Excellency:

1. During the month of May, last, it came to the attention of my Government that an American citizen by the name of Mr. G. W. Bradin,[1a] bearing American passport No. 162896, crossed the Hedjaz-Najd frontiers, from the direction of Transjordan, in a motor-car and proceeded to the interior of the Hedjaz and Najd whence he arrived at Tima. His aim in this dangerous venture being the preaching of the Bible and the call to Christianity among the tribes of the Hedjaz and Najd. The Hedjaz local authorities arrested the person in question and sent him back, under guard to Maan. The Government of His Majesty, my King, then wrote to the British High Commissioner in Palestine and requested him to take the necessary steps

[1] Revised translation supplied by the Government of Saudi Arabia, February 22, 1942 (026 Foreign Relations/1598).

[1a] Rev. George W. Breaden.

in order to prevent foreigners, not possessing special permits from His Majesty's Government, from crossing the frontiers, this being for their safety and for the protection of their lives which would be in great danger should they travel among the tribes without having official permits. This case was not reported by His Majesty's Government to you nor to any other American authority as it was believed that the measures which the Palestine Government seemed disposed to take would suffice to keep adventurous persons informed of the great danger which might befall them and would prevent them from crossing the frontiers.

2. Last November, it also came to the knowledge of the Hedjaz Government that two foreigners had crossed the frontier from the direction of El-Akaba and that they had arrived by camel at El-Khrieba—one of the local administrative centers. Upon investigation it was ascertained that the two persons were Mr. G. W. Bradin, bearer of American passport No. 162896, and Mr. W. H. F. Samoulli,[2] bearer of American passport No. 436594. It is clear that one of them, Mr. Bradin, is the person connected with the case of last May. These two persons almost met their death as victims of their unwise and rash attempt at the hands of the tribes whose members dislike to find any foreigner doing missionary work among them. However, measures taken by the local Government saved their lives. They were sent under guard to Jedda where they were made clearly to understand the grave danger they would have to face should they attempt a repetition of their previous action and thereupon they were deported from the country. A notation was made on their passports to the effect that they are not to return to the land of Hedjaz and Najd.

3. No doubt you are aware of the holiness of the Hedjaz and the position it holds in the sight of the Mohammedan world. You are also aware that religious precepts and Islamic injunction forbid the existence of two religions in the Arabian desert. No Government can but observe these two considerations and other important considerations connected with the safety of the country. In view of the above His Majesty's Government cannot in any way allow the sacred land of Hedjaz to be a field for the spreading of Christian teaching among the Tribes. Moreover, the Government cannot assume any responsibility in respect of the fate which might befall venturesome missionaries who enter the country without the knowledge and permission of the Hedjaz Government. The British High Commissioner in Palestine has been informed to this effect and has been requested to take the necessary steps to that end.

4. Without doubt Your Excellency will be interested in this matter and give it the proper consideration because of the great danger

[2] Rev. William F. Smalley.

which your citizens would have to face by reason of such unwise actions. I write this letter to Your Excellency to beg you to inform your citizens who might be residing near the Hedjaz-Najd frontiers of the decision of His Majesty's Government, which forbids missionaries from working in the sacred lands of the Hedjaz, and of the great dangers which they may face if they should attempt to cross the frontiers without the necessary official Government permit. I hope Your Excellency will give the matter your consideration.

Please accept [etc.] ABDULLAH EL DAMLOOJY
Director of Foreign Affairs

390f.1163 Christian and Missionary Alliance/6

The Consul at Jerusalem (Heizer) to the Secretary of State

No. 1642 JERUSALEM, *February 13, 1928.*
[Received March 7.]

SIR: I have the honor to report to the Department that Rev. George W. Breaden and Rev. William F. Smalley who are connected with The Palestine and Arabian Border Mission of the Christian and Missionary Alliance of 260 West 44th Street New York City undertook a trip into Hedjaz in November 1927 via Ma'an and Akaba for the purpose of investigating the feasibility of opening up missionary and educational work in that country. They were arrested and sent out of the country from Jeddah with a notation on their American passports to the effect that they were not permitted to enter the Hedjaz or Nejd.

Mr. Smalley is registered at this Consulate and his registration bears the Department's serial No. 36465. Mr. Breaden's serial number is 60171.

Mr. Breaden has been located at Beersheba, Palestine for some time and quite recently has made his headquarters at Ma'an, Transjordan. He has been quite active in exploring both the Hedjaz and Nejd by automobile and by camel. He has made several trips by automobile across the sands to El Djauf at the extreme eastern end of the fertile Wadi Sirhan. (Latitude 30 longitude 39½) The Palestine Arabian Border Mission to which he belongs has mission stations in Madaba, Kerak and Ma'an Transjordan; also at Hebron, Beit Jala and Ain-Karem, Palestine, with headquarters at Jerusalem where they have a Mission House, and Chapel called the American Church.

It appears that while they were detained in Jeddah they were given to understand that they would be tried by the Director of Foreign Affairs of Sultan Ibn Saud's Cabinet whom they declare came from Mecca to Jeddah for this purpose. They state that he remained in

Jeddah three days but never spoke to them. It appears that he spent his time with a certain E. StJohn Philiby who was formerly Chief British Representative at Amman, Transjordan, and was at one time a British Political Officer at Bagdad, and well known by the writer. Mr. Philiby has been all through Central Arabia and is a personal friend and advisor of Sultan Ibn Saud. Mr. Philiby is at the present time a business man at Jeddah and is reported to be the agent of the Ford Automobile. It seems quite probable that Mr. Philiby advised the Director of Foreign Affairs to release the two American Citizens without trial of any kind and to write a letter to the American Legation Cairo, Egypt to warn the missionaries not to enter the Hedjaz or Nejd again.

Mr. Smalley who is not a robust man came back ill with malignant malaria fever which he contracted in the Hedjaz.

There is enclosed a copy of a translation of a letter from the Director of Foreign Affairs, Government of Hedjaz and Nejd, to the American Minister at Cairo, dated December 18, 1927, enclosed in a letter from the American Legation, Cairo, Egypt, dated January 5, 1928,[3] also a reply to the Legation dated January 7, 1928.[4]

There is also enclosed a copy of a memorandum made by Rev. G. W. Breaden [4] commenting upon the letter of the Director of Foreign Affairs.

There is also enclosed a copy of a full report made by Rev. W. F. Smalley upon the trip.[4]

The enclosed photographs were taken by Mr. Breaden on a trip to El Djauf, Nejd last year where he states he was well received by the Beduins.

I have [etc.] OSCAR S. HEIZER

390f.1163 Christian and Missionary Alliance/4

The Secretary of State to Mr. A. C. Snead of the Christian and Missionary Alliance

WASHINGTON, *February 18, 1928.*

SIR: The Department believes that you will be interested to learn the substance of a note addressed under date of December 18, 1927, by the Director of Foreign Affairs of the Government of the Hejaz and Nejd to the American Chargé d'Affaires at Cairo, Egypt, with respect to two missionary expeditions to the Hejaz alleged to have been undertaken last year by Mr. G. W. Breaden of the Christian and Missionary Alliance of America. On the second of these expe-

[3] *Supra.*
[4] Not printed.

ditions Mr. Breaden appears to have been accompanied by Mr. William H. F. Smalley, also a representative of your organization.

With respect to the first of these expeditions, which apparently took place in May 1927, the Director of Foreign Affairs states that Mr. Breaden, having crossed the Hejaz frontier in a motor car, arrived at Teima, some 200 miles southeast of the Transjordan border, where he was arrested by the local authorities and sent under guard to Maan in Transjordan. It was added that "the aim of this dangerous and rash venture was for missionary purposes among the Hejaz and Nejd tribes" and that "the Hejaz Government informed the British High Commissioner in Palestine of the matter and requested him to take the necessary steps to prevent foreigners not in possession of permits from crossing the frontiers and advised him that such persons would be in danger of their lives while travelling among the tribes."

With respect to the second expedition, the Director states that in November 1927 Messrs. Breaden and Smalley having crossed the frontier at El Akaba arrived at El Khrieba (probably Kheibar, some 150 miles beyond Teima)* where they "almost met their death as victims of their unwise and rash attempt, at the hands of the tribes whose members dislike to find any foreigner doing missionary work among them." It was added that they were, however, rescued by the Government authorities who sent them out of the country via Jedda and who, after giving them clearly to understand the grave danger which they would run should they repeat their previous action, made appropriate notation on their passports that they were not to return to the land of the Hejaz and Nejd.

In commenting further on these two incidents the Director of Foreign Affairs, after referring to the unique position of the Hejaz in the Mohammedan world, stated that his Government would never permit for reasons of public security the use of "the sacred lands of the Hejaz" for the teaching of Christianity nor could it assume any responsibility as to the fate which might befall missionaries entering the country without its knowledge and permission.

The Department would appreciate receiving your comment on this matter in the light of the foregoing, as well as information regarding any instructions in the premises which you may find it desirable to send to your representatives in the Near East. I may add that as this Government has not as yet formally recognized the Government of the Hejaz and Nejd and as the question raised in its note does not appear to involve any discriminatory practice against American citi-

*El Khraiba—later located on Musil's map of Northern Hejaz as about 100 miles south of Akaba—on the Red Sea at the bend of the coast line where it turns westward towards the mouth of the Gulf of Akaba. [Footnote in the original.]

zens or interests, the Department does not perceive at the present time any basis on which the Chargé d'Affaires at Cairo might be instructed to proceed further in the matter.

I am [etc.]

For the Secretary of State:
G. HOWLAND SHAW
Chief, Division of Near Eastern Affairs

390f.1163 Christian and Missionary Alliance/7

Mr. W. M. Turnbull, Foreign Secretary of the Christian and Missionary Alliance, to the Chief of the Near Eastern Division (Shaw) [5]

NEW YORK, *March 8, 1928.*

SIR: In pursuance of my letter of March 2nd [6] with reference to communication from you dated February 18, 1928, I beg to state that I have looked up the facts concerning the missionary journeys into Arabia of Rev. G. W. Breaden and Rev. Wm F. Smalley. Mr. Breaden reports that on his visit to Teima he met with every courtesy and was even invited to proceed farther into the interior. He was not in anywise molested and is quite desirous of revisiting the towns which received him so cordially.

Rev. Wm. Smalley reports on behalf of both men on the second journey and states that they were arrested by the government authorities to whom they reported in Kheibar. They had no difficulty whatever with the tribes and the statement that they almost met their death at the hands of the tribes is entirely erroneous. They were taken to Jedda receiving fair treatment except that all their personal possessions including cameras, note books etc., were taken from them and not returned. Evidently the hostility to missionary work in Hejaz emanates from the government and not from the tribes. We are not at all convinced that this hostility extends to King Ibn Saud since he has shown himself friendly on several occasions and even invited one of our missionaries to pay him a visit which could not be accomplished for local reasons. Recent developments as reported in the daily papers, indicating the possibility of war upon Irak and Trans Jordania, may account for a seeming change of attitude. This threat of war probably will necessitate the cessation of missionary activity in the interior of Arabia for some time.

Our missionaries on the Arabian border keep in close touch with both the British representatives and the American Consul in Jerusalem. They are experienced men with a thorough knowledge of the people and the language and disinclined to any rash ventures. It is the policy of our Board to trust the judgment of the men on the field

---

[5] Copy transmitted to the Consul at Jerusalem, March 27, 1928.
[6] Not printed.

concerning their movements in such uncertain regions as the Arabian desert. We would not request the Department of State to proceed further in this matter but if in the future the government of the Hejaz and the Nejd should be formally recognized by the American government, we should appreciate information as to the attitude, at that time, of King Ibn Saud and his government toward missionary effort.

I am [etc.] W. M. TURNBULL

HONDURAS

EFFORTS OF THE UNITED STATES TO DISCOURAGE REVOLUTIONARY ACTIVITIES AGAINST THE GOVERNMENT OF HONDURAS

815.00/4189

The Minister in Honduras (Summerlin) to the Secretary of State

No. 563 TEGUCIGALPA, *March 14, 1928.*
[Received March 29.]

SIR: I have the honor to report that a convention of the Liberal Party, called to nominate candidates for President and Vice President, has been in session here for the last two weeks. Prior to the meeting of the convention the Directive Board of the local branch of the party endeavored to come to some kind of an agreement with General Vicente Tosta, with a view either to nominating him as the Liberal party's candidate for President, or to refraining from nominating a candidate, but supporting General Tosta in the presidential campaign. It is reported that an agreement was reached and actually signed, only to be repudiated by General Tosta, on the following day. It is said that these tactics of General Tosta have caused the leaders of his own party—the National Party—to withdraw all offers of patronage and office formerly made to him. General Tosta has stated repeatedly that he would not be a "third" candidate—that should the National Party and the Liberal Party each nominate a candidate, other than himself, he would withdraw from the race.

In the meantime, the Liberal Convention appears to be marking time, awaiting, so it is stated, the arrival at Tegucigalpa of other prominent Liberals from outlying departments.

It is evident to the Legation that the Liberals appreciate their weakness and lack of political organization, and it is generally believed they will resort to any means—even violence—in an endeavor to prevent the elections from being held in October next. In this connection, it is being whispered in Liberal circles that Gregorio Ferrera is preparing to lead a movement against Honduras from Guatemala and that no obstacles will be placed in the way by the Guatemalan Government. In my personal opinion General Ferrera is an element of genuine danger in the situation. There is no doubt that the badly organized and badly disciplined Liberal Party contains many desperate elements, particularly in the Northern De-

partments, who, having nothing to lose and being without scruple, will be only too glad to start trouble later in the year. The fact that they cannot ultimately succeed will not, I believe in any way deter them. These elements will rally to General Ferrera. It is not to be supposed that the latter will for his part, remain inactive, nor judging, by past events, is one encouraged to believe that the Government of Guatemala will interpose any serious and effective obstacles to his activities in that country, directed toward aiding and cooperating with disaffected groups in Honduras. The consequences of an uprising of violent Liberals, aided and in fact led by General Ferrera, would be very serious and the eventuality of such a catastrophe is entirely in the realm of possibility. I therefore venture respectfully to suggest for the Department's serious consideration, the advisability of conveying to the Guatemalan Government, in unmistakable terms, that it will be considered to be responsible for any and every endeavor of General Ferrera, while he is on Guatemalan soil, to overthrow the Government of Honduras, directly or indirectly, or to interfere in any illegal manner with the elections to be held in Honduras in October. If the Guatemalan Government does not wish to assume this responsibility, it might be suggested that the expulsion of General Ferrera would be an evidence of good faith, and it might further be suggested to that Government that ignorance of the presence of General Ferrera, which probably would be alleged, could not relieve it of responsibility in the premises.

I am fully aware of the unusual character of the suggested procedure, but the consequences of a revolution this year in Honduras would be so grave and irremediable, from every point of view, that I cannot escape the conviction, reached after mature consideration, that drastic measures of prevention will be fully justified. It is a situation in which nothing should be left to chance or to depend on eventual circumstances.

I have [etc.] GEORGE T. SUMMERLIN

815.00/4189 : Telegram

The Secretary of State to the Minister in Guatemala (Geissler)

[Paraphrase]

WASHINGTON, *April 5, 1928—2 p. m.*

32. Because of reported increasing probabilities of revolutionary movements against the Government of Honduras sponsored by Liberal leaders, among whom General Ferrera is prominently mentioned, you should again [1] call informally to the attention of the Govern-

[1] In despatches Nos. 1728, Dec. 9, 1927, and 1730, Dec. 12, 1927, the Minister in Guatemala had reported conversations with Guatemalan officials regarding the activities of General Ferrera; despatches not printed.

ment of Guatemala the fact that there are frequent and continuing rumors of subversive activity on the part of General Ferrera. This Government realizes that the Government of Guatemala is fully aware of its responsibility arising from the acts of General Ferrera or others while on Guatemalan soil aimed against the Government of Honduras. You should, nevertheless, discreetly invite the attention of the Government of Guatemala to the fact that alleged ignorance of General Ferrera's presence in Guatemala or the presence therein of other revolutionary leaders would not relieve the Government of Guatemala of the responsibility for subversive acts committed by these persons while in Guatemalan territory, and that if the Government of Guatemala should see fit to act against such persons, this would undoubtedly be generally welcomed as indicating that the Government of Guatemala sincerely desires to carry out its obligations under the Central American treaties.

You should particularly impress upon the Government of Guatemala the friendly and profound interest which the United States has in peace and stability in Central America, out of which interest these suggestions arise. At this time this interest is especially keen with reference to those regions where, because of their proximity to Nicaragua, revolutionary disturbances might tend to interfere with the friendly action of the Government of the United States in assisting Nicaragua to hold free and fair elections this year.[2]

KELLOGG

815.00/4193 : Telegram

The Minister in Guatemala (Geissler) to the Secretary of State

GUATEMALA, *April 10, 1928—4 p. m.*
[Received 11:19 p. m.]

39. Yesterday in an informal, frank, but cordial conversation I spoke to President Chacon with much earnestness along the lines directed by the Department's telegram of April 5, 2 p. m.

The President answered by recalling that he had pledged to me his word that he will not tolerate any subversive activities. He said that the Government of Honduras need give itself no concern regarding the Guatemalan side of the frontier; that the authorities have strict instructions not to permit any such activities. He added that no evidence of any activity has presented itself but that if revolutionary activities directed against the Government of Honduras do occur the leaders will be sent to jail and their followers will be reconcentrated.

---

[2] See pp. 418 ff.

He also expressed the earnest hope that the Sandino movement in Nicaragua will soon be suppressed.[3]

Repeated to Honduras.

GEISSLER

815.00/4263 : Telegram

The Chargé in Guatemala (Hawks) to the Secretary of State

GUATEMALA, *October 19, 1928—11 a. m.*

[Received 1 p. m.]

118. Honduran Minister informs me that General Jeffries is aiding Honduran *emigrados* in revolutionary activities. He requests that Jeffries be deported to the United States or at least concentrated here under police surveillance. Please instruct immediately whether I should make such request of the Government of Guatemala. I recommend that one of the two courses be taken.

HAWKS

815.00/4263 : Telegram

The Secretary of State to the Chargé in Guatemala (Hawks)

WASHINGTON, *October 22, 1928—1 p. m.*

69. Your 178 [*118*], October 19, 11 a. m. You may inform the Minister of Foreign Affairs that the Department has been pleased to observe the active efforts of his Government to prevent revolutionary activity on its soil directed against the Honduran Government and if the Guatemalan Government is satisfied that General Jeffries is engaging in revolutionary activities this Department would have no objection to his being deported from Guatemala or placed under police surveillance while in that Republic if the Guatemalan Government believes such action necessary to enable it to comply with its treaty obligations.

In view of past activities of General Jeffries in Central America you may also inform him personally that he cannot expect to receive the protection of this Government if he participates in any revolutionary activities.

KELLOGG

---

[3] See pp. 559 ff.

815.00/4287

Memorandum by the Chief of the Division of Latin American Affairs (Morgan)

[WASHINGTON,] *October 22, 1928.*

The Guatemalan Minister called to inform me of certain measures which are being taken by the Guatemalan Government to prevent the launching of any revolutionary activities against Honduras from Guatemalan territory. Some parties of armed forces had been sent to patrol the frontier at strategic points and certain well-known Honduran revolutionaries, such as Cisneros, Matute and Velez had been put under police surveillance. (He did not mention General Jeffries.)

I thanked the Minister for the information and told him that the Secretary had recently expressed himself as much pleased and gratified at the manner in which Guatemala was carrying out her treaty obligations to Honduras in taking all possible measures to prevent Guatemalan territory from being used to further revolutionary activities aimed against the Government of Honduras. The Department felt that Guatemala was setting a fine example to the other Central American countries in this regard.

The Minister was much pleased and said he would inform his Government that the Secretary appreciated what Guatemala was doing.

I also told the Minister that if any American citizens should be involved in Honduran revolutionary activities we would have no objection, if the evidence was sufficient and the need was apparent, to their being placed under police surveillance. We did not approve of our own citizens taking part in revolutionary movements.

MORGAN

815.00/4277 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, *October 26, 1928—noon.*

[Received 3:45 p. m.]

125. My telegram No. 122, October 22, noon.[4] President Paz stated to me this morning that reports received by him indicate that the Ferreristas recently concentrating at Playitas, Guatemala, have moved to Espiritu, Honduras, and that he believes that no immediate movement against his government may be expected unless the Liberals lose in the presidential elections on the 28th. In this connection he asked if the *Cleveland* may be ordered to remain at Puerto Cortes for a few days after the 30th.

SUMMERLIN

---

[4] Not printed.

815.00/4278a : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, *October 27, 1928—5 p. m.*

95. Your 125, October 26 noon. Navy Department states USS *Cleveland* will remain Puerto Cortes for additional period. Cable your opinion regarding earliest practicable day upon which vessel should depart.

KELLOGG

815.00/4279 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, *October 30, 1928—9 p. m.*
[Received October 31—10:50 a. m.]

128. Your telegram number 95, October 27, 5 p. m. In view of the reported presence of Ferrera in western Honduras, President Paz requests as a precautionary measure that the *Cleveland* be permitted to remain in Honduran waters for the present. However in my opinion there is now no adequate reason why the ship should not depart at the end of this week.

Repeated to Puerto Cortez.

SUMMERLIN

815.00/4305

The Chargé in Honduras (Johnson) to the Secretary of State

No. 746 TEGUCIGALPA, *November 19, 1928.*
[Received December 3.]

SIR: I have the honor to report that the political situation continues substantially the same as reported in the Legation's despatch No. 740 of November 10, 1928.[5] There is evident, however, an increasing uneasiness and apprehension of trouble which seems to center around the presence of General Ferrera at a point near the Guatemalan frontier. (See the Legation's telegrams Nos. 125 of October 26 and 128 of October 30, 1928). He is said to be gathering a force of men and according to general belief to have already about one hundred and fifty men under arms. President Paz sent the Minister of War to San Pedro Sula yesterday to take active charge of the area and to recruit men for the strengthening of that garrison.

Both President-elect Mejía Colindres and the Carîistas are genuinely worried about this situation, the feeling being that Ferrera's unscrupulous past is a justification to believe that he may be capable of doing anything. No one seems to know exactly what Ferrera

[5] Not printed.

wants and what he is working for. Although a Liberal, he has not made any request of Dr. Mejía, according to the latter, for position or preferment under the next administration.

In private conversation with President Paz, I have urged upon him to get Ferrera out of the country if possible, as soon as he can. The state of anxiety now existing because of his presence and activities is sufficient indication of his dangerous and subversive character. It is greatly to be regretted that the Guatemalan Government permitted him to pass through that country from Tapachula, Mexico into Honduras. It seems hardly possible that he could have come through without the knowledge of the Guatemalan authorities. If this man continues in Honduras, he will be a center of disaffection, and disgruntled adventurers of all political parties or none will be drawn into his band should there appear to be the slightest chance to better their condition through upsetting the existing régime with consequent opportunities for loot.

President Paz informs me he is endeavoring to have a confidential secret agent of his to get in touch with Ferrera with a view to discovering his desires and plans. President Paz also assured me that at the slightest move from Ferrera he would send troops against him from San Pedro Sula and that he was confident of the result.

The situation is not now acute, but there are evidently elements of danger to public peace, and I venture respectfully to suggest that the visits of U. S. Naval Vessels to the north coast be continued as in the past, until after February 1st or until there is obviously no further need of them. The moral effect of these visits has undoubtedly been excellent.

I have [etc.] HERSCHEL V. JOHNSON

815.00/4322 : Telegram

The Chargé in Honduras (Johnson) to the Secretary of State

TEGUCIGALPA, *December 20, 1928—3 p. m.*
[Received 7:45 p. m.]

145. President Paz informed me today that propaganda of radical individuals in National Party in favor of annulment by Congress of Mejía election on grounds of fraud has produced a situation of great uneasiness and anxiety on the north coast. He believes a statement from the Department that no government arising from a *coup d'état* or through violence would be recognized, will be helpful.

I do not believe the situation sufficiently acute to make necessary a declaration from the Department at present and I am convinced that many of the rumors of trouble are greatly exaggerated. In view however of the uneasiness on the north coast, and as a precautionary measure, I suggest that a United States naval vessel be held in readi-

ness to proceed at once to La Ceiba and that arrangements be made for a vessel to visit all the northern ports as early as possible in January. Repeated to consul at La Ceiba.

JOHNSON

815.00/4335

The Chargé in Honduras (Johnson) to the Secretary of State

No. 763 TEGUCIGALPA, *December 22, 1928.*

[Received January 3, 1929.]

SIR: I have the honor to report that the elections for municipal authorities, which were held throughout the Republic on November 25 resulted in the victory of Coalition candidates in an overwhelming majority of the municipalities. This information is generally public of course and was confirmed to me by the Minister for Foreign Affairs, although no official statement has been published nor official returns.

I have [etc.] HERSCHEL V. JOHNSON

815.00/4325 : Telegram

The Chargé in Honduras (Johnson) to the Secretary of State

TEGUCIGALPA, *December 24, 1928—11 a. m.*

[Received 5:20 p. m.]

146. Public anxiety and apprehension of trouble has increased greatly in last few days due largely to uncertainty action Congress will take on election of Mejía Colindres. Situation further aggravated by fantastic and exaggerated rumors of impending trouble circulated by irresponsible individuals including some deputies of the National Party. President Paz believes a statement at this time from the Legation acting under instructions from the Department would have a highly beneficial effect in calming popular anxiety and checking any possible subversive movement which may be in preparation; and he has requested me to telegraph the following suggested statement to the Department for its consideration:

"The United States Government is following the development of the present political situation with the greatest interest and it would view with deep concern any alteration of public peace provoked by any combination whatever tending to upset the result of the popular election as held in October and it is earnestly hoped that the problem may receive definite solution in the greatest harmony and fraternity of the Honduranean people."

This or some similar statement from the Department during the present week would undoubtedly be helpful particularly as a check on any possible subversive move in the Congress.

JOHNSON

815.00/4332 : Telegram

The Chargé in Honduras (Johnson) to the Secretary of State

TEGUCIGALPA, *December 29, 1928—11 a. m.*
[Received 4:05 p. m.]

148. My telegram No. 146 of December 24, 11 a. m. Political situation appears to have improved greatly in the past few days with noticeable diminution of official and public anxiety and apprehension of trouble.

JOHNSON

ADMINISTRATION OF THE EMBARGO ON THE SHIPMENT OF ARMS AND MUNITIONS TO HONDURAS

815.113 Mosheim & Co., E.

The Minister in Honduras (Summerlin) to the Secretary of State

No. 621 TEGUCIGALPA, *May 29, 1928.*
[Received June 12.]

SIR: With reference to the Department's telegram No. 30, March 30, 5 P. M.,[6] in regard to an application for license to export fifteen thousand rounds of 32 and 38 caliber revolver cartridges to Francisco Siercke of Tegucigalpa, and to the Legation's telegram No. 46, April 3, 2 P. M.,[6] in reply thereto, recommending, after conference with Honduran authorities, that no licenses be granted at present for shipments of arms and or ammunition to Honduras, except to the Government, I have the honor to report that I am in receipt of confidential information, from a reliable source, to the effect that this shipment of ammunition has been made by the "Dominion Cartridge Company, Limited, of Montreal", Canada, by way of Kingston, Jamaica, to Amapala. I am further informed that the consular invoices for the shipment were handled by the Honduran Consul at Philadelphia.

I have brought the matter informally to the attention of the Minister for Foreign Affairs.

I have [etc.] GEORGE T. SUMMERLIN

815.113/303a : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, *June 20, 1928—11 a. m.*

52. Reference your despatch No. 621 May 29, 1928. You may informally and confidentially bring to the attention of the Honduran Government the active efforts of this Government for some time

[6] Not printed.

past to prevent clandestine shipments of arms and ammunition from the United States to parties in Honduras other than those to whom import licenses have been granted by Honduras.

The embargo on exportation of arms and ammunition from the United States to Honduras was laid at request of the Honduran Government and is maintained for the protection of that Government.[7] The United States has been glad to be of assistance to Honduras in this manner and does not seek to alter the status. However if the embargo becomes merely a barrier to American export trade and through unrestricted exportation from other countries its effectiveness in protecting Honduran Government is lost the Department would find difficulty in continuing defense of the embargo in the face of protests by American exporters and would be forced to give serious consideration to lifting it. The Department therefore hopes that the Honduran Government will cooperate by limiting import licenses for arms and ammunition in such manner that the embargo if maintained by the United States will prove effective.

KELLOGG

815.113/311

The Minister in Honduras (Summerlin) to the Secretary of State

No. 639 TEGUCIGALPA, *June 21, 1928.*

[Received July 3.]

SIR: I have the honor to refer to the Department's telegram No. 52, June 20, 11 A. M., in regard to clandestine shipments of arms and ammunition from the United States to parties in Honduras other than those to whom import licenses have been granted by the Government of Honduras, and to report that the matter has been brought to the attention of the President of the Republic and of the Minister for Foreign Affairs, both of whom expressed appreciation of the Department's assistance to Honduras in connection with attempted contraband shipments.

The Minister for Foreign Affairs informed me that the Honduran Consul at Philadelphia, who is reported to have handled the Consular invoice documents in connection with the alleged shipment of ammunition, would be removed.

I have [etc.] GEORGE T. SUMMERLIN

---

[7] See proclamation No. 1689, Mar. 22, 1924, prohibiting exportation of arms and munitions of war to Honduras, and proclamation No. 1697, May 15, 1924, prescribing as an exception to the provisions of proclamation of Mar. 22, 1924, arms and munitions exported with consent of Secretary of State, *Foreign Relations*, 1924, vol. II, pp. 322, 324.

815.113/311 : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

[Paraphrase]

WASHINGTON, *July 12, 1928—5 p. m.*

62. Department's telegram No. 52, June 20, 11 a. m., and your despatch No. 639, June 21. What steps, if any, has the Government of Honduras taken to cooperate in making effective in the future the embargo against contraband shipments to Honduras?

KELLOGG

815.113/317

The Minister in Honduras (Summerlin) to the Secretary of State

No. 667 TEGUCIGALPA, *July 30, 1928.*

[Received August 9.]

SIR: With reference to the Department's telegram No. 62, July 12, 5 P. M., inquiring what steps, if any, the Government of Honduras has taken to cooperate in making effective in the future the embargo against contraband shipments to Honduras, I have the honor to report that the Minister for Foreign Affairs has stated to me that special instructions have been given to Honduran Consuls in the United States and in Canada, and will be given to the consuls in Mexico, to refuse to issue consular documents for shipments of arms and munitions of war to Honduras without the express authorization of the Government. I am informed also that all Honduran port authorities have been specifically instructed in the matter.

I have [etc.] GEORGE T. SUMMERLIN

PROTEST AGAINST LIBELOUS ATTACK IN THE NEWSPAPER "EL CRONISTA" UPON ROY TASCO DAVIS, AMERICAN MINISTER IN COSTA RICA

714.1515/644 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, *April 29, 1928—noon.*

[Received April 30—1:25 a. m.]

57. *El Cronista* last evening printed telegram sent on April 26th by Felix Canales Salazar, an engineer in Tegucigalpa, to his brother-in-law, Angel Zuniga Huete, an Honduran Liberal *emigrado* now in San Jose, Costa Rica, inquiring if Mr. Davis[8] were ever anywhere an employee of the United Fruit Company. The reply of Zuniga, dated April 27th, was also published and is a vicious libel on Mr. Davis,

[8] Roy Tasco Davis, American Minister in Costa Rica, and representative of the United States on the Guatemalan-Honduran Boundary Commission.

stating that he is connected with the United Fruit Company in some capacity. Zuniga's telegram further states as a fact that Mr. Davis was, before going to Costa Rica, a small commercial employee and of education inferior to Morales, former American Minister to Honduras. It is stated also that it is well known that Mr. Davis protected the interests of the United Fruit Company in the recent conference,[9] which was called a Guatemalan triumph. I have protested vigorously to the President against the publication of such an outrageous lie. I venture to suggest that Zuniga might be liable to prosecution under the law of Costa Rica. Repeated to Mr. Davis at Tela and to San Jose and Guatemala City.

SUMMERLIN

714.1515/649 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, *May 2, 1928—2 p. m.*
[Received 7:05 p. m.]

58. My telegram number 57, April 29, noon. It is reported that the Government has directed immediate judicial action against *El Cronista* on charge of calumny under article 464, Penal Code. Repeated to San Jose and Guatemala.

SUMMERLIN

714.1515/657 : Telegram

The Minister in Costa Rica (Davis) to the Secretary of State

SAN JOSE, *May 8, 1928—11 a. m.*
[Received 11:55 p. m.]

27. Referring to Minister Summerlin's telegram of April 29, noon. The Costa Rican Minister for Foreign Affairs on May 5th voluntarily sent the following telegram to the Honduran Minister for Foreign Affairs:

"The Government of Costa Rica has learned with profound displeasure of a telegram sent from Costa Rica to Tegucigalpa by Senor Angel Zuniga Huete and published in the newspapers of that capital, in which statements absolutely at variance with the truth are made with regard to the personality of His Excellency, Mr. Roy Tasco Davis, Minister of the United States in Costa Rica, and I consider it my duty to deny them in order that the silence of my Government in this respect could in no way be interpreted by Your Excellency's most illustrious Government as a mute confirmation of the assertion of Senor Zuniga Huete. I wish to inform Your Excellency that my Government has had pending the resolution of matters of vital importance with the United Fruit Company and never has Mr. Davis

[9] Conference of the Mixed Boundary Commission of Guatemala and Honduras at Cuyamel, Honduras, April 7, 1928; see vol. I, pp. 712 ff.

approached the President of the Republic or me in order to make suggestions or efforts of any kind in connection with such matters. During the six years that Mr. Davis has been Minister in Costa Rica the Government and people have been able to appreciate his brilliant intellect and his gentlemanliness, his discretion and proper demeanor as a diplomat, and his earnest desire that the relations between the United States and Costa Rica should each day become closer upon a basis of justice and mutual respect.

The fear that an erroneous opinion of the personality of the mediator in the boundary controversy between Honduras and Guatemala might disturb the development of the conciliatory purpose which today animates these two sister republics and the desire to do honor to justice and to truth have impelled me to send Your Excellency this telegram."

Repeated to Honduras and Guatemala.

DAVIS

714.1515/657 : Telegram

The Secretary of State to the Minister in Costa Rica (Davis)

WASHINGTON, *May 9, 1928—8 p. m.*

17. Your 27, May 8, 11 a. m. You may inform the Minister for Foreign Affairs that the Department deeply appreciates his courteous action in making this statement.

KELLOGG

714.1515/687

The Minister in Honduras (Summerlin) to the Secretary of State

No. 604 TEGUCIGALPA, *May 17, 1928.*

[Received May 31.]

SIR: I have the honor to refer to my telegram No. 57 of April 29, 1928, noon, to my despatch No. 595 of May 5, 1928 and to the last paragraph of my despatch No. 599 of May 11, 1928,[10] all relative to the libellous telegram against Mr. Davis published in *El Cronista.* According to yesterday's press the courts have quashed the proceedings instituted by the Executive against the editor of this paper on the ground that no basis for action existed under Honduran law. It appears that there have been several precedents to uphold this decision.

As the Department has doubtless already been informed, the Minister for Foreign Affairs of Costa Rica on May 4 [5], addressed a telegram to the Minister for Foreign Affairs of Honduras denying the allegations against Mr. Davis made in the Zúñiga telegram and speaking of him in the highest terms. Dr. Dávila claims not to have re-

[10] Despatches not printed.

ceived this telegram until May 11. A copy is enclosed,[11] together with a copy of Dr. Dávila's reply of May 12, and a copy in translation of the latter.[12]

I have [etc.] GEORGE T. SUMMERLIN

BOUNDARY DISPUTE WITH GUATEMALA

(See volume I, pages 712 ff.)

[11] See telegram No. 27, May 8, from the Minister in Costa Rica, p. 80.
[12] Not printed.

IRISH FREE STATE

RESPONSIBILITY OF THE IRISH FREE STATE FOR THE SO-CALLED REPUBLIC OF IRELAND BONDS SOLD IN THE UNITED STATES

841D.51/135

Memorandum by the Assistant Secretary of State (Castle)

[WASHINGTON,] *October 26, 1927.*

The Minister of the Irish Free State [1] came to see me at my request to talk about the Irish bond situation. I told the Minister that what I wanted to see him about was to ask whether he knew what progress was being made toward the eventual repayment by the Irish Free State of the balance of the money due on the 1921 bonds. I pointed out to him that, of course, the Free State had repeatedly made the statement that it intended to repay this money and that as three years had gone by without its having taken action, that there were many people in the United States, holders of these bonds, who were beginning to think that they were not going to do it.

The Minister seemed somewhat embarrassed. He insisted that the Free State was going to make the payment even though he felt that the decision of the court in New York [2] legally let them out. He said the court kept the money in this country on the ground that the Free State did not legally inherit the money from the defunct republic and, if this was so, it had no legal obligation to pay. He said, however, that the attitude of his Government was that after all this money had been given to free Ireland, that Ireland had gotten a part of this money and that the Government ought to and intended to repay the money. He said, however, that he had no information that any plans at the moment were being made. I pointed out to him that if the Free State should repay the money now rather than in two years, the advantage to it would obviously be very much greater. He said that the bondholders would get comparatively little money from the amount awarded by the court in New York [3] since the expenses of the committees were enormous. He said that one of the committees, which had only been at work for a year, asked for $650,000 and had only been allowed $90,000, that the bondholders would

[1] Timothy A. Smiddy.

[2] Decision by Mr. Justice Peters, of New York Supreme Court, on May 11, 1927; 129 Miscellaneous Report 551; 222 N. Y. S. 182 (1927).

[3] Judgment on June 17, 1927, with appointment of receivers.

find, after all the expenses had been paid, that the people who really gained by the transaction were Messrs. Walsh [4] and the rest who had brought the action in the court. I said this might well be so, that I knew nothing about it, but that obviously if the bondholders got very little from the money in America and were paid the balance by the Free State, it was quite clear that sentiment would be in favor of the Irish Free State. The Minister showed me an article which had just come out in the *Irish World*, in which the suggestion was made that the bondholders pay over to the committee or else allow the committee to retain this money which was due the bondholders. The argument was made that they had subscribed for the sake of creating an Irish Republic, that this had not yet been successful and that what they ought to do was to turn over the money now held in New York for Valera [5] to carry on his campaign against the Free State. The Minister said that very large amounts of money had been subscribed in the United States for the last election and that this had affected the Free State people very seriously. It was obvious that Mr. Walsh was back of this proposal and if he had any interest in the bondholders themselves he would realize that this kind of thing would not make the Free State eager to return the rest of the money.

W. R. C[ASTLE,] Jr.

841D.51/140

Memorandum by the Assistant Secretary of State (Castle)

[WASHINGTON,] *January 27, 1928.*

. . . . . .

Yesterday afternoon I had a conference with Mr. Cosgrave [6] on the subject. He said that the Free State was in an exceedingly difficult position in the matter. He said that many Irishmen whom he had met in America, Irishmen who sympathized with the Free State, had remarked with vigor that the duty of the Free State now was to get its finances in order and forget all about these Republican bonds, especially since the court in New York had ruled that the Free State was not the successor of the Republic. He stated, however, that, in spite of any of these arguments, his Government fully intended to stand back of the declaration of the Dail that the Free State would assume responsibility for this money.

Mr. Cosgrave said that the Free State wanted to return to the original subscribers all the money they had subscribed, plus interest, be-

---

[4] Frank P. Walsh and John T. Ryan, counsel for the Irish Republic Bondholders' Committee, New York City.

[5] Eamon De Valera, agent for the so-called Irish Republic.

[6] President of the Executive Council of the Irish Free State.

cause his Government felt that this money had been subscribed to free Ireland and that Ireland had been freed. I asked him whether it was true that the Free State had actually received something over three millions of the money. He said this was entirely untrue, that it had received the equivalent of about $300,000, which was available after the rebellion was crushed, but that it would be impossible to say of the money sent from America or the money collected in Ireland what proportion had been used in a way to bring about the establishment of the present government and what had been used in direct opposition to the present government. This, in his opinion, is an unimportant matter because, after all, the purpose of the subscribers has been fulfilled even if not in the way that Valera foresaw. He says that the Free State, although it wishes to return the money, wishes to return it only to the original subscribers, that it desires to repay them, as I said above, with interest, but, on the other hand, it has no intention of repaying the face value of the receipts for bonds to people like Walsh, who have bought these receipts in the belief that the Free State would pay whatever they may have said, at perhaps 10% of their face value. He says, furthermore, that he does not see how the Free State can take action to make this repayment until the Bondholders Committee has distributed the money which it now holds. Mr. Walsh, as you remember, told us that the expenses of the committee had been heavy and that, although they had held up 33% of the money collected in America, they would only be able to return about 20% of the money to the bondholders. Mr. Cosgrave says that if they return this 20% to the original subscribers, the Free State would then make up the remaining 80%. I suggested that it might be possible to make a statement that 33% of the money had been turned over to the Bondholders Committee, that naturally the bondholders would look to the committee for the return of that amount and that the Free State would pay to them direct the full balance. Mr. Cosgrave said this would not be in accord with the desires of his Government because it would mean that the bondholders would not get the full amount they had subscribed and that the blame would somehow be made to fall on the Free State. I told him that I rather doubted his reasoning in this matter, since the thesis appeared to be so clean cut that nobody could deny it.

Mr. Cosgrave said that another difficulty which we did not appreciate here was that over $2,000,000 was subscribed in Ireland itself and that, naturally, the Irish subscribers must be treated exactly as the American subscribers were treated, that this was exceedingly difficult because during the troubles when the English were still in control, a receipt for these bonds was considered proof that the holder of the receipt was a rebel and he was thrown into jail. The result of this was that numbers of receipts were destroyed.

I could not help sympathizing with Mr. Cosgrave's point of view in general, although I think his desire to repay the full amount of the bonds is a kind of exaggerated honesty. It seems to me that if he would put in a bank a fund from which the original holders of receipts could draw 66% of what they paid, he would leave the committee rather up in the air. I entirely sympathize with his total unwillingness to return the money to the subscribers through the Bondholders Committee because he says it is a well known fact that Walsh and Ryan have already made a great deal of money out of it. He said he is not willing to have them make a further percentage on the money furnished by the Free State which they have consistently tried to injure. I also sympathized with his wish not to return the face value of the bonds to men who have speculated in them and have bought the rights of the original holders.

Mr. Cosgrave said finally that he was determined that the money should be repaid and that he would be most grateful for any suggestions which we could make here either directly or through the Minister as to how this could be accomplished with fairness to the bondholders and without involving the Free State in any dealings with Messrs. Walsh and Company. He said that, for example, if the Bondholders Committee would even now leave the money which had been allocated to them in the hands of trustees, the Free State would not touch a cent of it except to add sufficient to it to pay the original holders of bonds in full. He asked whether I thought there was any possibility that Mr. Walsh would agree to this, but I was unable to give him any encouragement.

That is the situation at present and I doubt whether it gets us very far ahead so far as the bondholders are concerned.

W. R. C[ASTLE,] Jr.

841D.51/143

Memorandum by the Solicitor for the Department of State (Hackworth)

[WASHINGTON,] *February 8, 1928.*

Conference in the Office of Assistant Secretary Mr. Castle, regarding the question of the so-called Irish Bonds.

Present: Mr. Castle, the Solicitor, Messrs. Walsh and Ryan representing the Bondholders' Committee.

Mr. Walsh stated that he and Mr. Ryan had called for the purpose of ascertaining what progress had been made looking to a settlement by the Free State and what they might be able to expect from the Department.

Mr. Castle stated that he had talked with President Cosgrave, as he had told them he would do, and that while Mr. Cosgrave declared the intention of the Irish Government to reimburse the cer-

tificate holders, he was not in a position to state just how or when this might be done; that Mr. Cosgrave had expressed a desire that the holders of the certificates should be reimbursed in full, and stated that had the Irish Free State obtained possession of the funds involved in the litigation in New York, no difficulty would have been experienced in carrying out plans to that end; that, because of the large expense attached to the administration of the New York fund, that fund supplemented by the amount which was sent to Ireland would not be sufficient to reimburse the certificate holders in full and that they will naturally feel that after all the Free State is responsible for their loss, despite the fact that the funds in New York are not under the control of the Free State. He, therefore, desired that some plan should be evolved which would make it possible for the certificate holders to be reimbursed in full. He also apprehended some difficulty in making settlement at this time with the American subscribers to the loans in view of the large number of subscribers in Ireland. Mr. Cosgrave did not desire, moreover, that speculators who had purchased certificates—possibly at 10% of the face value—should be allowed to collect the face value. Messrs. Walsh and Ryan stated that they had not heard of any speculation in the certificates and they knew of no case where anyone had purchased certificates at a discount but thought that even though such cases might exist they afforded no legal grounds for refusal by the Free State to pay the original undertaking, since the discounting of obligations is a recognized practice in banking and other business circles. This was admitted to be correct.

They stated that the loan floated in Ireland was separate and distinct from that floated in the United States, and thought that there was no reason for associating the two loans in connection with any plan of settlement.

As to the expense incident to the distribution among subscribers of the funds held in New York, Mr. Ryan stated that the largest item—approximately $140,000—went to attorneys for the Free State who were representing one or two of the trustees of the fund; that only about $90,000 went to the committee for the bondholders to cover costs of the litigation; that, moreover, the increase in value of the securities purchased with funds held in New York, together with the accumulation of interest on funds which had not been invested, was sufficient to cover all expenses in connection with the litigation in New York and the operations of the receivership established by the court. He stated that a large part of the money had been invested in Liberty Bonds at about 85 which were later sold at about par, and that the balance had been left with the banks on interest. He thought that the money in New York would about cover the interest on the loan and that the desire of the Free State to reimburse the cer-

416955—43——13

tificate holders in full could readily be realized by the use of that money in payment of interest and the issue by the Free State of bonds of the face value of the original certificates. He stated that in order to make certain that these bonds should not fall into the hands of speculators, the Free State might attach a condition to the effect that they shall be made payable to and shall not be transferred by the certificate holders; that, inasmuch as the names of these holders who advanced the funds are available to the Free State, no difficulty should be experienced in placing the bonds with the people who advanced the funds.

Messrs. Walsh and Ryan finally stated that since the matter is now in the diplomatic channel and, according to their understanding, properly so, they desired to know what the Department expects to do to bring about settlement.

Mr. Hackworth stated that in so far as concerns the legal situation the matter was comparatively simple; that, in the first place, the Department had consistently taken the position, which was in accord with the generally recognized practice, that it could not undertake to act as a collection agency in the enforcement of foreign obligations purchased by American citizens; that when such citizens purchase obligations of foreign Governments they do so with their eyes open and assume the risk of possible default in payment; that the most that the Department ever does looking to the enforcement of contracts with foreign Governments is to use its informal good offices in appropriate cases, emphasizing appropriate cases. In the second place, the situation in this case is made more difficult by reason of the fact that the money was advanced for the purpose of promoting a revolution in Ireland against the parent State with which this Government was and is on friendly terms; that to sponsor the claim, other than through the use of informal good offices, might be regarded as an affront to the British Government which might conceivably construe such action as an approval by this Government of the acts of its nationals in trying to establish the independence of Ireland. It was added that there appeared to be no doubt as to the obligation of the Free State to return the money which went to Ireland and that the Department had already employed its informal good offices to bring this about and presumably would continue to do so. Mr. Castle confirmed this by stating that he had discussed the subject on several occasions with the Irish Minister at Washington and only recently, as he had previously related to Messrs. Walsh and Ryan, had talked with the President of the Irish Free State.

Mr. Ryan stated that he knew of the general rule referred to but he thought that the reasons for that rule were non-existent in this case because the Irish Minister had stated at the outset of the litiga-

tion in New York that they should appeal to the Department of State for settlement of the question. He thought, therefore, that since the representative of the British Crown and the Irish Free State had contended that the matter was one to be disposed of through diplomatic channels, they would be estopped to deny the right of this Government to take formal action.

The question was raised as to the exact amount turned over to the Free State. Mr. Castle stated that President Cosgrave thought that the amount was around $300,000. Messrs. Walsh and Ryan stated that the amount as established by the testimony of Irish officials in the New York litigation and by the account rendered by the trustees of the funds was approximately $4,000,000.

It was finally agreed that Messrs. Walsh and Ryan should submit to the Department a concrete statement of their proposal showing the amount of money received by the Free State and how the settlement could be made with complete assurance that the certificate holders would be fully reimbursed the amounts advanced by them and the Free State safeguarded against any outlay beyond its legitimate obligation.

[GREEN H. HACKWORTH]

841D.51/142

The Assistant Secretary of State (Castle) to Senator Borah

WASHINGTON, *February 11, 1923.*

MY DEAR SENATOR BORAH: Referring to your request by telephone of a few days ago for a statement of the situation with respect to the so-called Irish bonds, I am pleased to submit for your information the following:

In 1921–1922 there were collected in the United States through agencies appointed by an Assembly designated the Dail Eireann, representing the so-called Republic of Ireland, approximately $6,000,000 to be used by that organization for the purpose, it was stated, of bringing about the maintenance of a free and independent Republic in Ireland and obtaining for said Republic international recognition from the important Nations of the world. The loans were described as "The External Loans" for the purposes and to attain the objects just indicated.

It appears that the prospectus recited that bond certificates would be issued to the subscribers for the amounts paid on their subscriptions with the understanding that they should later be exchanged for gold bonds of the so-called Republic if presented at the Treasury of the Republic one month after international recognition of the Republic, and that such bonds would bear interest at the rate of 5% per annum from the first day of the seventh month after the freeing

of the Republic from "British military control" and would be redeemable at par within one year thereafter. The prospectus apparently also recited that "the gold bonds and interest thereon would be a first charge on the revenue of the Republic."

It appears that of the amount collected in the United States approximately $4,000,000 was sent to Ireland. The balance was kept in banks in New York City in the name of the trustees.

The Irish Free State, which meanwhile had come into existence by the treaty between Great Britain and Ireland concluded December 6, 1921,[7] brought an action in the Supreme Court of the State of New York against the Harriman National Bank and others for the purpose of obtaining possession of the funds held in New York, the action being based on the proposition that the Irish Free State as the *de jure* Government of Ireland was entitled to all the national funds of the "*de facto* Government of Ireland represented by the Dail Eireann or of the revolutionary group which attempted to function as such, by reason of the fact that it is the present *de jure* Government," etc. The action was opposed by the trustees who claimed that they were entitled to continue in possession of the funds, and two bondholders' committees were permitted by the court to intervene. One of these committees called the "Hearn Committee"[8] contended that the Free State was not entitled to the possession of the funds subscribed solely for the purpose of the so-called Irish Republic, and that if the court should decide that the plaintiff was entitled to the funds then, in that event, the bondholders (certificate holders) were entitled to the full amount of their subscriptions with interest; that they had a lien upon the monies and securities within the jurisdiction of the court, and that a judgment should be entered in favor of the bondholders for their *pro rata* share of the funds in control of the trustees.

The court held that the Irish Free State did not succeed the revolutionary organization known as the Dail Eireann or the so-called Irish Republic which did not reach the stage of a *de facto* Government and, consequently, could not claim the funds as such successor; that the purpose for which the funds were advanced having become impossible of fulfillment, the subscribers to the loans in the United States were entitled to receive in proportion to their subscriptions the proceeds of the monies and securities in question, together with accumulated interest after payment of all proper charges allowed by the court. By a decree dated June 17, 1927, the court appointed three receivers to receive the records, monies and securities and make distribution of the latter under orders of the court. It is understood

[7] Signed at London; League of Nations Treaty Series, vol. xxvi, p. 9.
[8] John J. Hearn, chairman.

that the receivers have qualified and are taking steps to distribute the funds to the holders of the bond certificates.

The Legislature of the Irish Free State had previously on February 18, 1924, passed an Act entitled "An Act To Make Provision for . . . the Redemption or Discharge of the Loans Floated by . . . the First Dail Eireann and the Second Dail Eireann." The Act provides for payment of the loans by the Minister of Finance as follows:

"6. (1) It shall be lawful for the Minister to take such steps as he shall think proper to ascertain the names and other particulars of all subscribers to the External Loans or either of them and the amounts subscribed by them respectively.

(2) The Minister may at any time issue to every subscriber to the External Loans or either of them a stock certificate for a sum equal to the amount so subscribed by him.

(3) The Minister may at any time redeem all or any of the stock certificates issued under this section either

(*a*) By paying to the holder thereof a sum equal to the nominal amount of the certificate together with interest on that amount at the rate of five per cent per annum from the date on which the amount aforesaid was fully subscribed to the Loan to the date of redemption, or

(*b*) By purchasing such certificates for such price as the Minister shall think proper."

The matter was brought to the attention of the Department more than a year ago by Counsel representing the Bondholders' Committee with a request that the Department use its good offices looking to a settlement by the Free State with the American subscribers to the loan. The petition recited, among other things, the above-quoted provisions of the Act of the Legislature, and statements by various officials of the Free State who had testified in the litigation in New York to the effect that the Free State accepted responsibility for the loans and expected to discharge the obligation.

The Department recognizing that the transactions, involving as they did the raising of funds in this country for the support of a revolution against a friendly State, could not be made the basis of a formal demand in behalf of the American subscribers has endeavored through the use of its informal good offices with officials of the Free State to bring about an arrangement by which the subscribers to the loans in the United States might be reimbursed. The officials have at all times stated to officials of the Department and publicly their intention to reimburse the certificate holders. An official of the Department only recently discussed the subject with a high official of the Free State who stated that had the Free State obtained possession of the funds involved in the litigation in New York no difficulty would have been experienced in carrying out plans for settlement, but that on account of the outcome of that litigation he was not in a posi-

tion to state just how or when it would be possible to make restitution to the certificate holders.

The Department has also recently conferred with Counsel representing the Bondholders' Committee and is awaiting a statement from them before deciding what further action it may be able to take in an effort to promote a settlement.

I am [etc.] W. R. CASTLE, Jr.

841D.51/148

The Secretary of State to Messrs. Frank P. Walsh and John T. Ryan, New York

WASHINGTON, *March 6, 1928.*

SIRS: The Department has received your letters of February 20 and 29, 1928, with enclosures,[9] regarding the obligation of the Irish Free State to the American holders of bond certificates issued by the so-called Irish Republic in connection with loans floated in the United States.

In the printed communication enclosed with your letter of February 20 you state that it seemed clear to you from the discussion at the Department on February 8 that the Department had reached two decisions: First, that the Irish Free State is not legally liable to American citizens or holders of "Republic of Ireland bond certificates" and, Second, that the Department would not present diplomatically the claims of said citizens to the Irish Free State, for the reason that Great Britain might find grounds to complain that this Government was patronizing a contribution by American citizens to funds of her enemies for war purposes. In the letter with which the printed communication was enclosed you state, in commenting upon your understanding that because of its friendly interest in the welfare of the bondholders the Department would present unofficially to the Irish Free State a request that, as a moral obligation, the American citizens should be reimbursed in the amount of the proceeds of the bonds sent to Ireland, that you have not the legal right to agree to or acquiesce in such a course for the reasons set forth in your printed letter of February 20.

While it is recalled that there was some discussion of views expressed by certain officials of the Irish Free State to the effect that, on the basis of the decision of the court in New York in the action brought by the Free State to obtain possession of the funds held in New York, the Free State is under no legal obligation to the so-called bondholders, it is not recalled that either the Solicitor or I undertook to express an opinion on the question of the legal liability of

[9] None printed.

the Irish Free State in the premises. The view was expressed, however, that the Free State was under an obligation to return to the certificate holders that part of the money received by it.

Concerning the matter of presenting a diplomatic claim on behalf of the American citizens, an effort was made to explain why the Department did not consider that it would be justified in making formal representations to the Irish Free State. It was pointed out that, in the first place, the Department has consistently taken the position that it cannot undertake to act as a collection agency in the enforcement of foreign obligations purchased by American citizens and, in the second place, the situation in the present case is made more difficult by reason of the fact that the money was advanced for the purpose of promoting a revolution in Ireland against the parent State with which this Government was and is on friendly terms. It was added that while the Department did not consider that it could, for the reasons stated, make the claim of the certificate holders the basis of formal diplomatic representations to the Free State, it was felt that the Free State should return to the American subscribers the money which went to Ireland and which it is understood was used by or for the benefit of the Free State, and that the Department had used and was prepared to continue to use its informal good offices to bring this about.

The Department would be pleased to be informed whether the statement in your letter of February 20 that you "have not the legal right to agree to, or acquiesce in, such a course" is to be understood as meaning that you do not desire the Department to proceed further with the matter through the use of its informal good offices. The Department will take no further action in the matter pending the receipt of your reply.

I am [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.
Assistant Secretary

841D.51/151

The Secretary of State to the Minister in the Irish Free State
(Sterling)

No. 26 WASHINGTON, *April 16, 1928.*

SIR: Referring to previous communications to you regarding settlement by the Irish Free State with the subscribers to the so-called Irish Republic Loans floated in the United States, the Department encloses for your information a copy of a printed communication addressed to it under date of March 12, 1928, by counsel for the

"Republic Bondholders' Committee"; also a letter from them dated March 19, 1928, and the enclosure therewith.[10]

The Department desires that you address a formal communication to the Government of the Irish Free State in an endeavor to ascertain the official attitude of that Government toward the American subscribers to these loans and what steps that Government expects to take looking to a settlement of these obligations.

You should point out—

1. That according to the information furnished this Government, approximately $4,000,000 ($3,985,933.30) of the proceeds of the loans floated in the United States were sent to Ireland, and that the Irish Free State either received the money or the benefits thereof, the last of the said sum in the amount of $400,000 on deposit in the National Land Bank, Ltd., Dublin, having been taken possession of by the Free State on February 15, 1927, pursuant to an order of the High Court of Justice.

2. That the obligation of the Free State to reimburse the American subscribers to the loan was formally and effectually recognized by the Government through the passage on February 18, 1924, of the Loans and Funds Act, authorizing the Minister of Finance to effect settlement with the subscribers.

3. That the liability of the Free State has also been recognized from time to time by various high officials of that Government, notably (*a*) by the President of the Executive Council in a deposition filed in the action instituted by the Free State in the courts of New York for the purpose of obtaining possession of funds held in banks in New York City, wherein he stated:

"I was a member of the Parliament which authorized the collection of these funds. They were authorized to be collected for certain purposes, for the Nation and not for any individual in the Nation or any party in the Nation, but for the Nation and Government of the Nation. No other person in this Country has a better right to speak on that subject than myself. I am speaking on behalf of the Nation in whose behalf these funds were collected. Others may speak as individuals, but I speak with the voice of the Nation and in that voice I demand this fund.

"Those people" (referring to the Trustees who floated the Loans in the United States of America) "were our agents, we accept responsibility for them and will honor this responsibility.

"The reason why we interfere in that case is that this Mr. DeValera was our agent and that he collected moneys on behalf of the people of Ireland and we desire to repay these moneys to the subscribers, and they can do what they wish with them when they get the money repaid.

"Q. Now, do I understand that your attitude towards the repayment of this money and your desire to obtain the money are both dic-

[10] None printed.

tated by a sense of the responsibility as representing the Irish Nation. A. Yes.

"Q. Does the Dail now, of your present Government, represent the Irish Nation? A. Yes";

(*b*) by Minister Smiddy who, on August 12, 1922, in verifying the complaint which had been filed with the court in New York, stated:

"Annexed hereto and marked 'Exhibit 5' is a true copy of one of the certificates given to subscribers to the fund mentioned in the complaint." (Said exhibit is a copy of the Bond Certificate appearing at Finding No. 30 of the Findings of Fact submitted herewith). "In connection with my mission to the United States Michael Collins, as Minister of Finance, stated to me personally that the Irish Free State recognizes fully, as its own obligations, the obligations to the holders of the certificates in question, and that the Irish Free State will comply fully with the terms thereof";

(*c*) by Mr. Collins, as President of the Cabinet of the Provisional Government of Ireland and Minister of Finance, who, according to a deposition of Bishop Michael Fogarty taken in Dublin and read at the hearing in New York, stated at a meeting in the Mansion House at Dublin, February 23, 1922, that, if given authority, he would reimburse the American subscribers to the loans within a fortnight.

So far as this Government is informed, all the responsible officials of the Irish Free State, Legislative, Executive and Judicial, have admitted the obligation of the Free State to reimburse the subscribers to these loans.

You may state that your Government would greatly appreciate a definite statement from the Irish Free State as to whether and when it expects to effect settlement of this matter.

The Department is being importuned by the American certificate holders and desires that you earnestly impress upon President Cosgrave this Government's conviction that the Irish Free State should make some definite arrangements to effect a settlement of this matter, and that you endeavor discreetly to ascertain whether the certificate holders would have a right of action in the courts of the Free State against the Government.

I am [etc.]

For the Secretary of State:

[File copy not signed]

841D.51/163

The Minister in the Irish Free State (Sterling) to the Secretary of State

No. 112 DUBLIN, *July 28, 1928.*
[Received August 13.]

SIR: I have the honor to refer to the Department's instruction No. 26 dated April 16, 1928, directing the Legation to address a formal communication to the Government of the Irish Free State on the subject of the so-called Irish Republic Loans floated in the United States, in an endeavor to ascertain the official attitude of the Government towards the American subscribers to these loans.

Upon receipt of this instruction the Legation duly forwarded a note to the Minister for External Affairs, and I now beg to transmit herewith a copy, in triplicate, of the Minister's reply.

I have [etc.] F. A. STERLING

[Enclosure]

The Irish Minister for External Affairs (McGilligan) to the American Minister (Sterling)

SGM/MCK
Ref. E. A. 200/53 [DUBLIN,] *26 July, 1928.*

EXCELLENCY: I have the honor to refer to Your Excellency's note No. 63 of the 1st May, 1928, inquiring as to the attitude of my Government towards the American subscribers to the Dail Eireann External Loan 1920/21.

The Government of the Irish Free State has repeatedly acknowledged its obligation to repay the Bond holders of the External Loan and this view has not been modified as a result of the decision given by the New York Supreme Court. The question at issue is accordingly only one of the proper time and machinery to be adopted for the repayment of the Loan.

My Government is satisfied that no action can be taken until the Receivers in New York have distributed the assets they hold. As you are aware, after examining the claims lodged with them, the Receivers must report to the Court giving a list of the claims they allow and the amount of the assets available to meet them when an order for the distribution will be made. It would then be known what proportion of the Bond holders are seeking repayment and to what extent their claims are being met by the Receivers.

As regards the machinery to be adopted, a difficulty arises from the method prescribed in the Dail Loans and Funds Act for calculation of interest as the incomplete data in existence will not, in the opinion of the Minister for Finance, allow him to ascertain the individual dates of subscription in many cases. The Minister for

Finance contemplates that a short Bill will be necessary to amend the Dail Loans and Funds Act to enable the procedure adopted in the case of the Internal Loan to be followed in redeeming the External Loan. Consideration will also have to be given to the question of altering the procedure prescribed by the Act in regard to the intermediate issue of Stock to be given to Bond holders in exchange for their Bonds.

Accept [etc.] P. McGILLIGAN

841D.51/162

The Secretary of State to Messrs. Frank P. Walsh and John T. Ryan, New York

WASHINGTON, *August 16, 1928.*

SIRS: Referring to the Department's letter of April 14, 1928, and to your communications of April 18 and May 28, 1928,[11] regarding the matter of the Irish bonds, the Department is pleased to enclose for your information copies of despatch No. 112 of July 28, 1928, from the American Minister to Dublin and the enclosure therewith, a note from the Department of External Affairs of the Irish Free State, dated July 26, 1928.[12]

You will observe from the note from the Department of External Affairs that the Irish Free State reasserts its intention to honor these bonds, but considers that no action to that end can be taken until the Receivers appointed by the Court in New York shall have distributed the assets turned over to them. The Department would be glad to receive from you any information which you may have as to the progress that is being made by the Receivers and when it is likely that a final report will be made to the Court.

I am [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.
Assistant Secretary

841D.51/165

The Secretary of State to Messrs. Frank P. Walsh and John T. Ryan, New York

WASHINGTON, *October 9, 1928.*

SIRS: The Department refers to its letter of August 16, transmitting a copy of a note of July 26, 1928 from the Department of External Affairs of the Irish Free State, and to your printed letter in

[11] None printed.
[12] *Supra.*

reply of August 22, 1928,[18] with which you enclosed a copy (without the exhibits) of the Second Intermediary Report of the Receivers in the Irish bond case filed by them with the Supreme Court of New York on July 20, 1928.

It is observed from this Intermediary Report that in addition to the notices published from time to time in various newspapers throughout the country, the Receivers caused to be mailed to each of the 303,678 subscribers to the loans, notices in the form prescribed by the judgment of the Court on June 17, 1927; that only 120,819 claims covering 127,784 certificates had been filed by the subscribers up to June 30, 1928; that of this number 91,344, or less than one-third of the total number of possible claims, had been passed and allowed by the Receivers; and that the remaining claims received, covering 36,440 certificates have been referred to the Honorable Henry M. Goldfogle, the Referee appointed by the Court, for the determination of disputed questions and questions arising as to the validity of assignments and transfers of certain of the certificates. It appears that the cash on hand was $2,624,860.51; that the total aggregate of claims allowed was $2,077,965 and that the aggregate amount of the remaining 36,440 claims had not been totaled but was estimated to be $866,582.

On the basis of the claims received to the date of the Intermediary Report, and aside from the interest due each bondholder, you state that "the Irish Free State will be required to pay on the principal, to settle its indebtedness to the bondholders who have presented their claims to the Receivers, the insignificant sum of $319,687.49." This represents less than $3.00 for each certificate.

Paragraph 10 of the Intermediary Report states:

"In view of the fact that the number of claims filed up to and including May 15, 1926, (1928?) the date last set for filing of claims, barely exceeds one-third of the claims outstanding, your Receivers believe that the time for filing claims should be again extended to and including December 31, 1928 and that a further notice should be published in the manner to be directed by this Court calling upon the holders of bond certificates to file their claims on or before said date or be forever barred from participation in the distribution of funds in your Receiver's hands."

You state in your letter that upon the report of the Receivers "the Court ordered the time for the filing of claims based on Bond Certificates be extended to December 31, 1928, and that the Receivers give notice of such extension. The Court further directed that the Receivers allow no claims to be filed after that date, and that they make their final report to the Court within a reasonable time thereafter."

The Department notes your comments regarding statements in

[18] Reply not printed.

the note of the Department of External Affairs of the Irish Free State of July 26, 1928, as well as your suggestions with regard to representations which you would like to have made. Without undertaking to enter into a detailed discussion of the points raised by you, the Department informs you that it does not consider unreasonable the position of the Government of the Irish Free State that it will have to await the final action of the Receivers before taking action looking to the compensation of the bondholders. The Department accordingly would not feel warranted in making further representations on this point at this time. Since the period in which claims can be filed with the Receivers has been extended until December 31 next, or less than three months from now; since the amount which the Irish Free State would be required to pay on the principal to settle its indebtedness to the bondholders who have to date presented their claims to the Receivers is, as you state, comparatively "insignificant", and since so far only a little over one-third of the total number of subscribers to the loans have indicated any interest in the question of repayment, it is believed that no serious hardship will be suffered in awaiting the final action of the Receivers.

Inasmuch as the note of July 26 last specifically confirms the acknowledgment heretofore made by the Irish Free State of its obligation to repay the bondholders, the Department does not consider that it would be warranted in making further representations on this point.

The Department notes your comments regarding the intimation in the note of the necessity for amendments of the Dail Loans and Funds Act of 1914 in order to facilitate the reimbursement of the subscribers. In this connection it is observed that Paragraph 2 of Section 6 of the Loans and Funds Act provides that:

"The Minister may at any time issue to every subscriber of the external loans or either of them a stock certificate for the sum equal to the amount so subscribed by him."

Paragraph 3 of Section 6 provides that:

"The Minister may at any time redeem all or any of the stock certificates issued under this Section either

(*a*) by paying to the holder thereof a sum equal to the nominal amount of the certificate, together with interest on that amount at the rate of five per cent per annum from the date on which the amount aforesaid was fully subscribed to the Loan to the date of redemption, or

(*b*) by purchasing such certificates for such price as the Minister shall think proper."

The Act contains no provision for the direct payment of the subscribers to the loans without the issuance of the stock certificates. It would seem, therefore, that as indicated in the note of July 26, an amendment would be necessary if it were desired to obtain direct

payment to the subscribers without first issuing such stock certificate. An amendment would also appear to be necessary if it were desired for practical reasons to figure interest from some fixed date rather than from the date on which the amount of each subscription was fully subscribed, as stipulated in Paragraph 3 (*a*) of Section 6 of the Act. You state that:

"We have long since recognized the amount of detailed labor required to ascertain the exact date of each subscription; and in that respect we desire that the Irish Free State Government be informed that we are prepared to, and are authorized under the law to, agree upon a date certain from which interest can be figured on behalf of all American nationals who have filed their claims with the Receivers in the Bond Action, and thereby constituted themselves parties to said action."

It seems, therefore, that, although you refer to the Loans and Funds Act as "a perfect piece of legislation", you are not opposed to proper amendments to the Act, but are desirous that any such amendments should not weaken its force in any way. The Department will be glad to consider any suggestions or comments that you may care to submit with regard to any amendments that may ultimately be proposed.

When the final report of the Receivers is filed the Department, upon being furnished with three duly authenticated copies thereof, will be glad to give consideration to the question of making further representations to the Government of the Irish Free State with regard to the early compensation of the subscribers of the loans.

I am [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.
Assistant Secretary

841D.51/166

Messrs. Frank P. Walsh and John T. Ryan, New York, to the Assistant Secretary of State (Castle)

NEW YORK, *October 11, 1928.*
[Received October 12.]

In re. Irish Bonds.

SIR: Yours of the 9th instant, in reference to the above matter, duly received.

Therein, beginning at the foot of page 4, you review to some extent the Loans and Funds Act (1924) Irish Free State. From said review it appears that said Act contains no provision for payment in cash in the first instance. You also quote from our letter to you of August 22nd, 1928,[14] as to our willingness to agree upon

---

[14] Not printed.

a date certain from which interest can be figured, so as to save the expense of much detailed labor, and you then say:

"It seems, therefore, that, although you refer to the Loans and Funds Act as 'a perfect piece of legislation', you are not opposed to proper amendments to the Act, but are desirous that any such amendments should not weaken its force in any way."

We are glad to say the foregoing exactly coincides with our views.

In reference to the following:

"The Department will be glad to consider any suggestions or comments that you may care to submit with regard to any amendments that may ultimately be proposed."

We desire to say we will be glad to take advantage of your kind offer, and as we presume copies of the proposed Amending Bill will be furnished the American Minister at Dublin, and by him forwarded to the Department of State, we will greatly appreciate it if a copy of the same is transmitted to us for examination and comment.

When the Receivers in the New York Action file their report showing the total claims allowed, and all other like information, we will cause three duly authenticated copies to be forwarded to you as requested.

We will also be glad to take up with you the question of further representations to the Government of the Irish Free State with regard to the early compensation of the subscribers to the Loans.

With assurances [etc.]

FRANK P. WALSH
JOHN T. RYAN

ITALY

TREATY OF ARBITRATION BETWEEN THE UNITED STATES AND ITALY, SIGNED APRIL 19, 1928

711.6512A/9 : Telegram

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

WASHINGTON, *March 8, 1928—4 p. m.*

23. Department handed Italian Ambassador March 8 a draft of a proposed treaty of arbitration between the United States and Italy. The provisions of the draft operate to extend the policy of arbitration enunciated in the Root Treaty of March 28, 1908,[1] which expired January 22, 1924. The language of the draft is identical in effect with that employed in the draft arbitration treaties recently submitted to the French, British and Japanese Governments.[2] Text of proposed treaty will be forwarded in next pouch.[3]

KELLOGG

Treaty Series No. 831

Treaty Between the United States of America and Italy, Signed at Washington, April 19, 1928 [4]

The President of the United States of America and His Majesty the King of Italy

Determined to prevent so far as in their power lies any interruption in the peaceful relations that happily have always existed between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

---

[1] *Foreign Relations*, 1909, p. 385.

[2] See vol II, pp. 810 ff. and pp. 943 ff; and *post*, pp. 135 ff.

[3] Draft treaty not printed.

[4] In English and Italian; Italian text not printed. Ratification advised by the Senate, May 10 (legislative day of May 3), 1928; ratified by the President, May 15, 1928; ratified by Italy, Nov. 27, 1930; ratifications exchanged at Washington, Jan. 20, 1931; proclaimed by the President, Jan. 21, 1931.

Have decided to conclude a new treaty of arbitration enlarging the scope and obligations of the arbitration convention signed at Washington on March 28, 1908, which expired by limitation on January 22, 1924, and for that purpose they have appointed as their respective Plenipotentiaries

The President of the United States of America, Frank B. Kellogg, Secretary of State of the United States, and

His Majesty the King of Italy, Nobile Giacomo de Martino, Ambassador Extraordinary and Plenipotentiary to the United States, who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the treaty signed at Washington May 5, 1914, between Italy and the United States and still in force, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907 or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of the Kingdom of Italy in accordance with the constitutional laws of that Kingdom.

ARTICLE II

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(*a*) is within the domestic jurisdiction of either of the High Contracting Parties;

(*b*) involves the interests of third Parties;

(*c*) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine;

(*d*) depends upon or involves the observance of the obligations of Italy in accordance with the Covenant of the League of Nations.

ARTICLE III

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by the Kingdom of Italy in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and Italian languages, both texts having equal force, and hereunto affix their seals.

Done at Washington the nineteenth day of April in the year of our Lord one thousand nine hundred and twenty-eight.

FRANK B KELLOGG [SEAL]
GIACOMO DE MARTINO [SEAL]

REPRESENTATIONS BY THE ITALIAN GOVERNMENT REGARDING ACTIVITIES IN ITALY OF AMERICAN CUSTOMS AGENTS INVESTIGATING VALUATION OF EXPORTS TO THE UNITED STATES

102.1702/272

The Italian Ambassador (De Martino) to the Secretary of State

The Italian Ambassador presents his compliments to His Excellency the Secretary of State and has the honor to call his kind attention on the following:

The Ambassador had repeated occasions in the course of the last few months to invite the Department of State's consideration on the activities—which under several aspects appear to be excessive—carried out in Italy by Agents of the United States Treasury with the purpose of ascertaining the value of goods exported to the United States. As known to the State Department, these Agents center around a special Office with quarters at Florence.

The Italian Ambassador has also pointed out how these activities go beyond the limits of the powers allowed by law to the Italian Officials themselves; and how they are frequently the cause of discontent on the part of manufacturing Concerns which are the object of the investigations conducted by said Agents of the United States Treasury. These Concerns have in fact brought their complaints before the Italian Government, showing how the persisting of such investigations harms their interests in their competition with other Concerns, disclosing data and information which any industrial or commercial organization has obviously the right and title not to divulge.

The Italian Government recently learned that the United States Treasury has substantially reduced the personnel assigned to this work in France and that at the same time their attributions have been notably limited.[5]

The Italian Government would much appreciate it if the same course were adopted in regard to Italy and the Ambassador would be much obliged to His Excellency the Secretary of State for his kind interest in the matter.

WASHINGTON, *February 17, 1928.*

102.1702/285

The Secretary of State to the Italian Ambassador (Martino)

The Secretary of State presents his compliments to his Excellency the Royal Italian Ambassador and, with reference to his note of February 17, 1928, relative to the activities in Italy of Agents of the United States Treasury Department, has the honor to advise him as follows.

As regards the Royal Italian Government's expressed desire for the reduction of the investigative personnel of the Treasury Department assigned to work in Italy, it may be stated that the investigative personnel of the Florence office was reduced by fifty per cent, effective March 31, 1928.

Respecting the suggested limitation of the activities of this reduced personnel, the Secretary of State deems it advisable, before the Italian Government decides whether to press its request, briefly to recapitulate for its consideration certain of the facts and explanations which were originally presented in note No. 117 of May 14, 1925, and its attached memorandum from the American Embassy in Rome to the Royal Italian Ministry of Foreign Affairs[6] and to point out certain difficulties which might possibly be met in case the activities of Treasury agents in Italy should further be curtailed.

The United States Customs tariff law[7] prescribes four alternative legal bases of appraisement, as stated below, upon one of which duty must be assessed:

"Section 402. Value.—(*a*) For the purposes of this Act the value of imported merchandise shall be—

(1) The foreign value or the export value, whichever is higher;

(2) If neither the foreign value nor the export value can be ascertained to the satisfaction of the appraising officers, then the United States value;

---

[5] Vol. II, pp. 820 ff.

[6] Not printed.

[7] Sept. 21, 1922; 42 Stat. 858, 949.

(3) If neither the foreign value, the export value, nor the United States value can be ascertained to the satisfaction of the appraising officers, then the cost of production."

Section 499 of the Tariff Act provides that imported merchandise shall not be delivered from customs custody until it is reported by the Appraiser to have been truly and correctly invoiced. Section 500 imposes the obligation on the appraiser of appraising merchandise by ascertaining or estimating the value thereof by all reasonable ways and means in his power, "any statement of cost or cost of production in any invoice, affidavit, declaration or other document to the contrary notwithstanding".

These sections, which are mandatory upon the Secretary of the Treasury and appraising officers, quite clearly indicate the legislative intent that statements of value which were not subject to verification would not be accepted as the bases for the assessment of ad valorem duties, and that, where recourse is had to "foreign value", "export value" or "cost of production", these should be subject to verification at the source by accredited representatives of the United States Treasury Department. Under the present law, in case foreign or export values cannot be verified at the sources, it becomes necessary to apply United States values, which may be verified in the United States without inquiry abroad. United States value is usually somewhat higher than the foreign value or the export value.

The relative merits of foreign values and domestic values as the basis for assessing ad valorem duties in times past has been the subject of considerable controversy. Those who had favored American valuation, so-called, based their claim on the alleged difficulties incident to verification of foreign values; advocates of foreign valuation, however, contended that basing duties on foreign values serves to remove an element of uncertainty which otherwise would exist, in so far as the exporter is concerned, as to the exact amount of duty to be paid. The inability of customs officers to verify foreign values may, under existing provisions of law, result in increased application of United States value as a basis for assessing duties. Whether the plan submitted would thus introduce an element of uncertainty regarding the amount of duties to be assessed on certain articles imported into the United States and interfere with the fixing and quoting of selling prices and placing of contracts, to the disadvantage of exporters and importers, is a question which seems to merit serious consideration.

It is believed that an attentive examination of the existing system and of its results will show:

1. That the number of bona fide protests against the activities of Treasury representatives in Italy is comparatively small, and that such protests have come from the very limited number of manufac-

turers and shippers of that country whose values have been found to be inaccurate.

2. That the proposed change might place Italian manufacturers whose merchandise comes to the United States at a disadvantage by depriving them of an opportunity they now have of presenting their records to accredited American customs experts for verification, in the absence of which United States value might be used as the basis of assessment of duty under the mandatory provisions of American customs law.

3. That since the passage of the American Tariff Act of 1922, Italian exporters have, with rare exceptions, shown themselves quite willing voluntarily to furnish necessary information to American Customs representatives and during this long period only two exporters "failed and refused" to show their books and records, resulting in the application of the measures prescribed in Section 510 of the American Tariff Act, which restrictions were, however, subsequently removed. This is a fair illustration of the extent to which refusals have been encountered.

It is of course impossible to predict the number of cases in which the further curtailment of activities of American Treasury agents in Italy might lead to application of the aforementioned alternative bases of valuation. In order, however, that the Italian Government may be fully apprised of the provisions of existing American law, it is deemed advisable to invite the attention of the Ambassador to the possibility of having to apply such alternative bases in a certain number of cases.

The Secretary of State has the honor to request the Royal Italian Ambassador to communicate to his Government the considerations outlined above.

WASHINGTON, *June 29, 1928.*

QUESTION OF CONTROL FROM ITALY OF FASCIST ORGANIZATIONS IN THE UNITED STATES

865.044/34

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

No. 1557 ROME, *February 9, 1928.*

[Received February 25.]

SIR: I have the honor to enclose herewith a copy in translation of the new Statutes of the Fascist Organizations abroad (*Fasci all'Estero*) as published in the Italian press on February 5, 1928.[8] The Statutes bear Mussolini's signature and the provisions embodied therein, or "commandments of the Duce" as they are called here, are said to have been worked out by Mussolini himself.

Signor Piero Parini, the new Secretary General of the Fascist Organizations abroad (See weekly report No. 1544 of January

[8] Not printed.

20, 1928)[8a] comments on the new Statutory regulations in an article published in *Il Legionario*, the organ of the Fascist Organizations abroad, of which the principal passage runs as follows:

"The Statutes which the Duce has dictated for the Italian Fasci Abroad are our faith and our law. The word of the Duce is a commandment which does not admit of gloss or of interpretations of any kind. The Duce has established the law which must be obeyed from now on by the fascists abroad. Up to today the foreign Fasci have lacked a set of precise regulations. Our duty is now clear; and the fascists abroad, the good fascists (happily there are many of these) know it and feel it. The Duce aims to develop the Fasci abroad into a disciplined and powerful organization, which must be the soul of our colonies. The Fascist Organizations abroad must gradually become identified with the colonies themselves, which shall be stirred to new life by Fascism. These objectives can easily be attained if we be at all times what the Duce wishes us to be."

Considerable importance is attached here to the new Statutes, which, according to the *Messaggero*, mark the beginning of a new phase of activity for the Fascist Organizations throughout the world. The regulations of the Statutes are such that every possible inconvenience or abuse is automatically eliminated. Hereafter the control of the Secretariat General over the individual "Fasci" abroad will be more direct, more efficacious, and more salutary. All useless and dangerous interference will also be eliminated. The "Fasci" will come under the immediate control of the diplomatic and consular authorities and, therefore, of the National Government. "We are certain," concludes the *Messaggero*, "that through the decisive will of Piero Parini, every Italian throughout the world will be made to observe the new by-laws of the foreign fascist organizations with inestimable moral and material advantage to our industrious and prosperous colonies and with the consequent furtherance of our national prestige."

According to *La Tribuna*, "the new Statutes consolidate all that which has been achieved in the past with so much effort."

It seems clear that these new orders centralize and strengthen the control over the Fascists abroad by the central home organization. I am told by one of the active younger members of the Fascist Party here that it has resulted from considerable bickering and misunderstanding between the local leaders of the Fascist Party in the Italian colonies and the Chiefs of Diplomatic Missions and Consuls, for in some cases it has been found that the Chiefs of Missions or Consuls have been dominated by the Fascist leaders of their respective colonies. Indeed, I am reliably informed that in one European post the Italian

[8a] Not printed.

Minister, who is apparently not a strong Fascist, was continually in fear of criticism and complaint at home by the Fascist leader of his own colony.

It would appear that in putting the direction of Fascism abroad in the hands of the Italian Diplomatic Agents and Consuls the above-mentioned situation will no longer occur. One may also deduce that in the future no diplomatic representatives or Consuls other than strong Fascists will be employed.

I have [etc.] WARREN D. ROBBINS

865.012/23

Memorandum by the Assistant Secretary of State (Castle) of a Conversation With the Italian Ambassador (Martino)

[WASHINGTON,] *February 10, 1928.*

The Italian Ambassador urged me to read an interview by Mussolini which came out in the January 27 number of the *Christian Science Monitor*. The interview is on the subject of naturalization and the Ambassador tells me that Mussolini has said just what he said to him in Rome.

In connection with this, he says that, of course, the general orders sent out to the Fascisti Society have made a good deal of talk here and that he has urged Mussolini, on account of special conditions in the United States, to make those orders not applicable in this country. In connection also with what Mussolini had to say about naturalization, the Ambassador said that the policy of Italy with regard to immigration laws has entirely changed, that, even if the American immigration laws were revised, at the present time Italy would not send her people to this country because they need them at home. He says that the process of drafting people on land which has not been cultivated is going on very successfully. He says also that the population is growing so fast that it is necessary to send some out of Italy and that the purpose is to send them to Mediterranean countries. This being the case, he said that it was inevitable that in from seven to fourteen years Italy would be facing a great crisis, that it had to have its place in the sun and that it was impossible to see what this crisis would develop. Clearly the Ambassador said it could not affect the United States because there would be no question of emigration to this country or any possibility that the United States might be involved in any trouble which might occur as a result of the Mediterranean colony policy.

W[ILLIAM] R. C[ASTLE, Jr.]

865.044/35

Memorandum by the Assistant Secretary of State (Castle) of a Conversation With the Italian Ambassador (Martino), February 23, 1928

[WASHINGTON,] *February 24, 1928.*

The Ambassador took up with me the question of the letter written by Mr. Hamilton Fish to the Secretary of State,[9] asking whether it was true that Mussolini demanded absolute obedience from the Fascisti the world over and whether it was true that the Fascisti in America tried to prevent Italians from becoming citizens. The Ambassador stated that, in so far as the order of obedience was concerned, this did not and could not apply to the Fascisti League in the United States for the reason that many of the members of these Leagues were American citizens. He said, on the other hand, that these Leagues were very troublesome and were often composed of cranks; that he was up against a dilemma. He said that if these Leagues should, as American incorporated bodies, be entirely released from the orders of Rome, they would proceed to do all sorts of things which would make trouble in this country and would give Italy a very bad name; that, on the other hand, Rome could not successfully assert complete domination for the reason, as stated above, that many members of the Leagues were American citizens and they were actually American corporations.

As to the influence of the Fascisti against permitting Italians in America to take out citizenship papers, the Ambassador said there was no ground whatever for the statement; that Mussolini himself had repeatedly said that he was glad to have Italians living in America become citizens; that the Fascisti League never tried to influence Italians not to become citizens, but on the other hand did everything possible to facilitate it. He said that it was, of course, true that the Government in Rome used every argument possible to prevent Italians living in the Mediterranean region from becoming citizens of the country where they live; that this was particularly true in Tunis and Syria, where Italy was determined to continue, for political reasons, the thoroughly Italian character of the population. This, of course, follows along the line of what he said to me the other day about the political crisis which would undoubtedly arise in a few years because of the desire of Italy to maintain its place in the sun.

W[ILLIAM] R. C[ASTLE, JR.]

[9] Not printed.

865.044/34

The Secretary of State to Representative Hamilton Fish, Jr.

WASHINGTON, *March 3, 1928.*

MY DEAR MR. FISH: In continuation of my letter to you of February 25th,[10] I enclose herewith a translation of a statement given by Signor Parini, Secretary General of the Fascist[i] abroad, to the representative of the United Press in Rome.[10] This statement confirms what the Italian Ambassador has said to an officer of the Department, that the Fascist League of North America is not dependent on the Secretary General in Rome. The Ambassador explains this from the fact that the Fascist Leagues here are largely composed of American citizens over whom the Fascist Government has no control.

I should like to point out, furthermore, that in the statute for the Fascist organizations abroad, as drafted by Mussolini, it says among other things:

"The orders given by the Duce to the Fascists abroad for their daily guidance are as follows:
"1. Fascists abroad must respect the laws of that country whose hospitality they enjoy; they must give daily proof of such respect and, if necessary, set the citizens themselves that example;
"2. Fascists abroad must not participate in the domestic politics of the countries wherein they reside."

As the Ambassador points out, these instructions are intended solely for Italian citizens and do not have anything to do with American citizens.

I am [etc.] FRANK P. KELLOGG

811.00F/87½

Memorandum by the Secretary of State of a Conversation With the Italian Ambassador (De Martino)

[WASHINGTON,] *December 5, 1929.*

The Ambassador told me he had received a cable from Mussolini authorizing him to disband the Fascist League. He thinks it best to wait a few days, particularly as the excitement over the Fascist situation in this country seems to be dying down. He suggested that he give it out just before we make our report on our investigation. I told him that I thought that would be a good plan, for that would permit me to express appreciation of the action in our report.

[10] Not printed.

811.007F/87

Statement Issued to the Press by the Secretary of State, December 27, 1929

The investigation of the incidents referred to in the article in *Harper's Magazine* has been completed by this Department and it has not revealed any activities on the part of any residents in this country of Italian extraction or on the part of any Italian officials which were directed against this government or against its institutions.

So far as the dissolution of the Fascist League is concerned, inasmuch as the existence and purposes of that League have been the subject of adverse speculative comment and possible misunderstanding, I am glad to express my appreciation that the League has dissolved itself in the interest of removing those misunderstandings and better relations between this country and Italy.

REPRESENTATIONS BY THE ITALIAN GOVERNMENT REGARDING ALLEGED INFRINGEMENT OF ITALIAN TREATY RIGHTS BY FLORIDA FISH AND GAME LAW

811.623 Florida/–

The Italian Ambassador (Martino) to the Secretary of State

The Italian Ambassador presents his compliments to His Excellency the Secretary of State and has the honor to draw his attention on the new law on fish and game which became effective in the State of Florida July 1st, 1927, the operation of which is harmful to Italian fish dealers residing in that State.

The law contains in fact a provision according to which a non-resident or alien retail dealer shall pay a license fee of $50.00 per annum, while other retail dealers pay for the same license fee only $5.00 per annum.

The Ambassador is informed that this provision is applied to Italians in Florida even when they have been for many years residents of the State.

The Ambassador has the honor to signify that the law in question seems to be fully in contradiction with the provisions contained in the Treaty of Commerce and Navigation of February 26th, 1871 in force between the United States and Italy [11] and he would therefore be very much obliged to His Excellency the Secretary of State for having such action taken as will result in eliminating from the legislation of the State of Florida the unjust discrimination infringing upon the rights of the Italians exercising the fish industry within its boundaries.

[11] Malloy, *Treaties*, 1776–1909, vol. I, p. 969.

The Italian Ambassador will be much obliged to His Excellency the Secretary of State for letting him know the results of his action and thanks in advance for this courtesy.

WASHINGTON, *August 9, 1927.*

811.623 Florida/1

The Italian Ambassador (De Martino) to the Secretary of State

The Italian Ambassador presents his compliments to His Excellency the Secretary of State and referring to the note of September 1st, 1927,[12] takes the liberty to ask whether the Department thinks that a prompt reply could be solicited from the Governor of the State of Florida concerning the Ambassador's communication regarding the new fish and game law which contravenes the provisions contained in the Treaty of Commerce and Navigation of 1871 between the United States and Italy.

This because of the fact that the Embassy is in receipt of new complaints from Italians whose interests are harmed by the operation of said law.

The Ambassador begs to express his sincere appreciation of any action the Department may take in order to expedite the Governor's reply.

WASHINGTON, *9 September, 1927.*

811.623 Florida/2

The Secretary of State to the Italian Chargé (Marchetti di Muriaglio)

The Secretary of State presents his compliments to the Chargé d'Affaires ad interim of Italy and, referring to the Ambassador's notes of August 9 and September 9, 1927, relative to a new fish and game law which became effective in the State of Florida on July 1, 1927, has the honor to advise him of the receipt of a communication from the Governor of that State relative to this matter.

In this communication the following statements have been made which the Secretary of State believes satisfactorily dispose of this matter:

"Under Articles 1 of the Treaty of Commerce and Navigation of February 26, 1871, in force between the United States and Italy, Italian fish dealers who wish to purchase license for operating in Florida, and who have resided in the State of Florida for at least six months immediately preceding the time that application for

[12] Not printed.

license is made would be entitled to purchase a license at the cost at which such a license would be issued to a resident of Florida.

"Under this provision Italian retail fish dealers who have not resided in the State for six months immediately preceding the time at which they make application for a license for handling fresh-water fish, will be required to pay $50 for such a license; those who establish the fact that they have resided in Florida during the six months immediately preceding the making of application for such license may obtain such a license for $5."

It may be added that according to information furnished by the Governor of Florida, American citizens who have not resided in Florida for six months immediately preceding the dates of their applications for licenses are required to pay a fee of $50. American citizens who have resided in Florida six months preceding the date of their applications are required to pay a fee of $5.

It seems from the foregoing that Italian subjects resident in Florida receive the same treatment in the matter of licenses to dealers in fish as resident American citizens receive and that non-resident Italians and non-resident citizens of the United States likewise receive equal treatment.

WASHINGTON, *October 11, 1927.*

811.623 Florida/3

The Italian Ambassador (De Martino) to the Secretary of State

The Italian Ambassador presents his compliments to H. E. the Secretary of State and, referring to the Secretary of State's note of October 31 [*11*], relative to a new fish and game law which became effective in the State of Florida on July 1, 1927, has the honor to advise him of the receipt of a letter from the Shell Fish Commissioner of the Department of Agriculture of the State of Florida, relative to this matter.

This letter, addressed to the Consular Agent of Italy at Tampa, contains the following statements:

"I do not agree with you in your interpretation of the treaty between the United States and Italy and this Department will continue to collect a license tax from all aliens regardless of their nationality as provided by law.

"If the people of your nationality wish to receive the benefits derived by becoming American citizens and citizens of the State of Florida, I think they had better take out naturalization papers which would place them on the same footing with American citizens and citizens of the State of Florida.

"If your people wish to take these matters into the Court, no doubt you can receive a court decision bearing on same but until you do so, license taxes will be collected as prescribed by law."

This letter is in open conflict with the point expressed in the Secretary of State's note of October 31 [*11*], and clearly states that the tax imposed by the State of Florida has to be paid by Italian subjects, because of the fact that they are aliens and not because of the fact that they have not resided in the State of Florida for at least six months, etc., etc.

The text of the law quite agrees with Commissioner Hodges' statement. The law provides as follows:

"A retail dealer shall be considered anyone who sells fish direct to the consumer or wholesale dealer and shall pay a license fee of $5.00 per annum.

"A non-resident or alien retail dealer shall pay a license fee of $50.00 per annum."

These provisions mean that, if there is not a discrimination between non-resident American citizens and non-resident aliens, there is one between resident Americans and resident aliens and such discrimination seems to be in contradiction with the provisions contained in the treaty of Commerce and Navigation of February 26th, 1871, in force between the United States and Italy.

The Italian Ambassador has the honor to signify that he feels obliged to insist for having such action taken as will result in eliminating from the legislation of the State of Florida the unjust discrimination infringing upon the right of the Italians exercising the fish industry within its boundaries.

WASHINGTON, *February 9, 1928.*

811.623 Florida/7

The Secretary of State to the Italian Ambassador (De Martino)

WASHINGTON, *April 6, 1928.*

EXCELLENCY: I have the honor to refer to your Excellency's note of February 9, 1928, in further relation to a fish and game law which became effective in the State of Florida on July 1, 1927, and to inform you that a communication in the matter has been received from the Governor of the State of Florida.

In this communication the Governor encloses a copy of an opinion of the Attorney General of Florida stating that in his estimation the statute of which Your Excellency complains is not in violation of existing treaty provisions between the United States and Italy. Referring to this opinion, the Governor states that it clearly sustains the position taken by the Shell Fish Commissioner of Florida and that in the circumstances there is nothing further which he is able to do in the matter.

While I regret this apparent reversal by the authorities of the State of Florida of the position previously taken by them as set forth in my note to you of October 11, 1927, I desire to point out that under the Constitution of the United States, treaties are a part of the supreme law of the land and are enforceable by the courts and that this principle is especially applicable where a complaint has been made that a State law is in conflict with existing treaty provisions. In the instant case the authorities of Florida have taken the view that such a conflict does not exist and are administrating the law accordingly. In such a case provision has been made by law for a review of the matter by the Federal Courts and it is competent for any Italian subject who feels aggrieved by the tax in question to apply to the courts of the United States, in which are vested under the Constitution and laws of the United States, the authority to interpret treaties and whose decisions are binding upon the courts and administrative officers of the several States.

Accept [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.

811.623 Florida/9

The Italian Ambassador (De Martino) to the Secretary of State

WASHINGTON, *April 30, 1928.*

EXCELLENCY: I have the honor to refer to your Excellency's note of April 6th, 1928, in further relation to a fish and game law which became effective in the State of Florida on July 1st, 1927, and to inform you that I have taken note of Your Excellency's regret of the apparent reversal by the Authorities of the State of Florida of the position previously taken by them as set forth in Your Excellency's note of October 11th, 1927.

In the note to which I have the honor to refer, Your Excellency points out that any Italian subject who feels aggrieved by the tax in question may apply to the Courts of the United States in which is vested, under the Constitution and laws of the United States, the authority to interpret treaties.

I thank Your Excellency very much for this suggestion, which concerns the defense of the private interests of the Italian subjects under the laws of the United States, but I wish to call Your Excellency's attention to the fact that, under the principle universally recognized as rules of international law, the Italian Government are entitled to have treaties respected by the American Authorities, apart from actions that Italian subjects may maintain in the American Courts. I desire also to point out that if the American Courts are competent to interpret treaties in such actions, they are not competent to inter-

pret treaty obligations in a claim of right to be settled between the two Governments. Nor could the Italian Government ever accept that treaty obligations be interpreted by the Governor or the Attorney General of the State of Florida.

It seems to me that since, by the act of American Authorities, the obligations of the Treaty of Commerce and Navigation now in force between the United States and Italy have been violated, the United States Government, recurring to the means which may seem advisable to them, should have this wrong readjusted.

Accept [etc.] G. DE MARTINO

811.623 Florida/10

The Secretary of State to the Italian Ambassador (De Martino)

WASHINGTON, *June 8, 1928.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of April 30, 1928, in further relation to a purported conflict between a statute of the State of Florida and existing treaty provisions between the United States and Italy in which you state that "the Italian Government are entitled to have treaties respected by the American Authorities, apart from actions that Italian subjects may maintain in the American Courts".

In reply I have the honor to state that under the constitutional régime obtaining in this country the Federal courts are the appropriate forum for the determination of questions involving the interpretation of treaties and that these courts are clothed with the power to declare invalid legislation of the several States which in their estimation may be in violation of existing conventional engagements of the United States. In the absence of a judicial pronouncement, the Executive branch of the Federal Government is not in a position to propose the repeal of legislation enacted by one of the States which is considered to be in conflict with existing treaty provisions to which the United States is a party.

It is not perceived, however, that the rights of Your Excellency's Government or Italian nationals under existing treaty provisions would suffer any prejudice through a determination thereof by the appropriate Federal judicial authorities of the United States. It is believed on the contrary that such a procedure—involving as it does a careful survey of the question, not only by the lower Federal courts but, through an orderly procedure of appeal, by the Supreme Court of the United States—affords to your Government the assurance that the matter will be given a painstaking and careful review by the agency of this Government best fitted to pass on questions of this character—which would seem to be primarily of a judicial nature.

It should be observed, finally, that while the procedure outlined of

necessity contemplates the bringing of a suit by an individual Italian national in the Federal courts of this country, such an action is the only means whereby the matter can be tested in the courts. It would seem clear, however, that the private suit is only incidental to the major issue of determining the validity of legislation in apparent conflict with treaty provisions.

In view of the foregoing considerations, I have the honor to inform Your Excellency that since the appropriate authorities of the State of Florida have found themselves unable to recognize the validity of Your Excellency's contentions in this case, this Department is not in a position, for the reasons recited above and in the Department's note to you of April 8 [6], 1928, to take any further action in this matter until a final adjudication shall have been obtained in the appropriate courts of the United States.

Accept [etc.] FRANK B. KELLOGG

811.623 Florida/11

The Italian Ambassador (De Martino) to the Secretary of State

[WASHINGTON,] *July 18, 1928.*

EXCELLENCY: In answer to your note of June 8th, 1928, concerning a conflict between a statute of the State of Florida and existing treaty provision between the United States and Italy, I wish to assure your Excellency that I am taking note of the fact that since the appropriate authorities of the State of Florida have found themselves unable to recognize the solidity of my contentions in the case, the Department is not in a position to take any further action in this matter until a final adjudication shall have been obtained in the appropriate Courts of the United States. At the same time, I am glad to know that Your Excellency does not admit that the rights of the Italian Government would suffer any prejudice through a determination by the appropriate Federal Judicial authorities of the United States. This is exactly what I wished, with my note of April 30th, to make clear, i. e., that you do not consider that the adjudication by the Federal Courts could be accepted by the Italian Government as a decision on a claim of right to be settled between the two Governments.

Accept [etc.] G. DE MARTINO

811.623 Florida/12

The Secretary of State to the Italian Ambassador (De Martino)

WASHINGTON, *August 2, 1928.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of July 18, 1928, in further relation to a purported conflict between a Statute of the State of Florida and existing treaty provisions between the United States and Italy in which you state that you are

glad to know that your Government would not suffer any prejudice through a determination of this question by the appropriate Federal judicial authorities of the United States and that this is exactly the position which you desired to make clear in your note of April 30, namely, that the adjudication by the Federal Courts could not be accepted by the Italian Government as a decision on a claim of right to be settled between the two Governments.

In reply I have the honor to inform Your Excellency that it was the purpose of my note of June 8, 1928, to convey to Your Excellency's Government the assurance that the Federal Courts constitute a particularly competent and impartial forum for the determination of questions of this nature. It was not intended, however, to pass upon the question of the scope, under international law, of a decision of a local tribunal interpretative of international contractual obligations, since it was considered that the necessity for discussing this question need only arise in the event of a decision of the Supreme Court of the United States adverse to the contentions of your Government in this case.

Accept [etc.] FRANK B. KELLOGG

416955—43——15

JAPAN

CONVENTION BETWEEN THE UNITED STATES AND JAPAN FOR THE PREVENTION OF SMUGGLING OF INTOXICATING LIQUORS, SIGNED MAY 31, 1928

711.949/12

Memorandum by the Assistant Secretary of State (Castle) of a Conversation With the Japanese Ambassador (Matsudaira)

[WASHINGTON,] *March 23, 1928.*

The Ambassador came to discuss with me the question of a liquor treaty with Japan, a draft of which was submitted by the Department in an instruction to Tokyo of April 5, 1924.[1]

The Ambassador says that he does not understand why there has been so long a delay on the part of his Government. He says that his Government is now, however, quite ready to conclude such a treaty and, in fact, he would be very grateful if this could be done promptly because his Government would like to have him sign it and, as he is leaving here on the first of June, it will take some time before he can receive his full powers.

The Ambassador left with me a copy of the instructions he had received from his Government in the way of comments on the American draft. I shall take up here what he said as to these various instructions as given in the copy he left with me.

Preamble. The Ambassador said he understood any comment was quite unnecessary since in the two copies of treaties it was always customary to transpose the order of the signatories.

Article 1. The Japanese Government suggested no changes in this article.

Article 2 (a). In this article I stated that we have no objection whatever to the change "The Japanese Government agree that they will" from "His Majesty agrees that he will."

(*b*). The Ambassador said that he hoped that it could be clearly understood, possibly by an exchange of notes, that the words "private vessels" absolutely excludes government vessels. I told him that the treaty, of course, was not meant to refer to government

[1] Not printed. The draft was similar to the treaty signed between the United States and the Netherlands on August 21, 1924, *Foreign Relations*, 1924, vol. I, p. 207. A copy of the draft was handed the Japanese Ambassador by the Secretary of State on March 20, 1924 (file No. 711.949/3).

vessels, but to merchant ships, private yachts, etc., that I saw no reason why he could not be given assurance of this.

(*c*). The Ambassador explained to me what was meant in this paragraph. He said that a misunderstanding was almost out of the question, but that the Japanese Government wanted to be sure that Section 3 referred only to territorial waters and to the high seas. He said, for example, that between Guam, which belongs to the United States, and Rota Island (the Ambassador had no idea how this Island was spelled as he had it only in Japanese) which belongs to Japan under mandate, the distance is only 32 miles. I am inclined to think the danger of smuggling from Rota Island to Guam is not a serious one.

(*d*). The Ambassador wanted it to be understood, as he said he believed it was understood in all the other treaties of this kind, that there would be no general order for all vessels to stop at a specified place, for example, all Japanese merchant ships going to San Francisco. He said that if every ship coming into this country had to stop at a specified place and wait for inspectors, it might be bad for trade. I told him that this was not in the least intended, that the only ships stopped would normally be ships which were suspected and that this merely gave the Coast Guard the right to stop such a ship. The Ambassador said this was his understanding of the matter, and that it was quite satisfactory, but that he wanted to confirm that understanding.

Article 3 (*a*). The Japanese Government suggested to the Ambassador that the question as to sea stores might be made clear by a separate protocol. The reason for this is that the Japanese Government feels that should there be a change in the domestic laws of the United States governing this point, the existing law should remain in force until the two governments could come to an agreement in the matter in so far as it affected the terms of the treaty. I told him that I thought an understanding could be clearly reached in this matter, but that I thought also a protocol would be an unfortunate method of reaching such an understanding, that if any definitions were necessary it might better be brought about by an exchange of notes. The Ambassador said he agreed with this entirely, but that as his Government instructed him to suggest a protocol, he had to do so, but if we preferred some other method he was sure his Government would agree and said he would be glad to telegraph.

(*b*). The Ambassador said his Government was not exactly clear as to the meaning of the latter part of the article. I told him that I thought it was meant to cover the passage of liquor under seal through the Panama Canal and that this was to make clear that such passage would not be prohibited. The principal point that he made as to this paragraph was the meaning of the term "unladen." He said

that if this term meant the ordinary discharge of cargo, it was, of course, satisfactory, but that, if possible, his Government wanted to prevent an embargo, for example, on transshipment of sealed stores from one Japanese ship to another within territorial waters. He said that it was conceivable that a cargo of sake might be sent from Japan to the Argentine and that it would be very important to transship to another Japanese vessel in San Francisco. He said the case was not likely to arise, but that if it could be made clear that "unladen" meant discharge into the United States, he did not want to press the point, but he would prefer to leave it for discussion should such a contingency ever arise.

Article 4. The Japanese Government accepts this article as it is.

Article 5. In this article the Japanese Government is only anxious that it be understood that if modifications in the terms of the treaty are to be proposed they should be proposed in time to give merchant vessels warning of the change. In other words, he did not feel that there should be any change in the terms of the treaty without a warning of three months.

Article 6 (a). The purpose of this comment is to make sure that ships should be protected against any sudden change. The Japanese Government had suggested the omission of this paragraph, but the Ambassador said that they would not press for such omission if it could be in some way made clear that either high contracting party should engage to give notice to the other contracting party one or two months at least before the automatic lapse of the treaty through, for example, a court decision.

(*b*). In this case the Ambassador simply wants assurance that if a case arises for adjudication while the treaty is in effect, but cannot come up for adjudication until after the lapse of the treaty, it should be decided in accord with the terms of the treaty. This would appear to me to be only common sense.

In the closing paragraph the Japanese Government naturally wants the words "of our Lord" omitted. The Ambassador said they would have no objection to the "year 1928 of the Christian Era", but that in many treaties which Japan had with other countries, it was simply "the year 1928" or whatever it might be without any further expression. He said that if we wanted to put in "of the Christian Era" his Government might insist on including the statement in the Japanese manner also. The Ambassador thought that this was unnecessary and confusing and hoped that we might be willing merely to say "year 1928."

I told the Ambassador that I would pass on his comments to the Solicitor of the Department immediately and that I should ask for a very prompt answer. He said that either he or the Counselor would be glad to come to the Department during my absence to talk with the

Solicitor, if it was considered necessary to discuss any of these points further, that it might be possible for the Department in writing to explain our understanding of the different sections.

(In leaving with me this copy of instructions the Ambassador said that he was not absolutely certain that he had another copy and, therefore, hoped the Department would keep this one intact as he might need to ask for its return.)

W. R. C[ASTLE, Jr.]

[Enclosure]

Copy of Instructions From the Japanese Foreign Office to the Japanese Ambassador (Matsudaira)

The Preamble. In the text to be retained by Japan, "His Majesty the Emperor of Japan" should precede "the President of the United States of America," and the name of the Japanese Plenipotentiary, that of the American Plenipotentiary.

Article 1.

Article 2.

(*a*) The first Section of this Article should begin with "The Japanese Government agree that they will", instead of "His Majesty agrees that he will".

(*b*) An understanding should be reached to the effect that "private vessels" mentioned in the first section signify "merchant vessels," which mean and include all vessels other than those over which the Japanese Government exercise control and for the conduct of which they assume full responsibility, as defined in Paragraph (*e*), Section 2201, Article 22 of Regulation 2, relative to Permits for Manufacture of and Traffic in Intoxicating Liquor.

(*c*) While Section (3) authorizes the authorities of the United States to exercise the rights conferred by this Article within the distance from the coast of the United States, its territories or possessions, which can be traversed in one hour by the vessel suspected of endeavoring to commit the offense, an understanding should be had that the sphere in which such rights are exercised should be limited to the territorial waters of the United States and the high seas, and that it should not under any circumstances be extended to territorial waters of the other party.

(*d*) In view of the treatment generally accorded by the authorities of the United States to the vessels of various countries, it is not likely that Japanese vessels would be requested to stop for inspection regularly at certain places and wait for the arrival of an inspection vessel without being given a specific order to do so by such vessel, yet a clear understanding on this point should be reached between both parties.

Article 3.

(*a*) Sea Stores. As existing domestic laws of the United States authorize the vessels in American ports to hold and use a certain amount of liquor for non-beverage purposes, an understanding should be had that in the application of the present Treaty, questions in regard to such liquor should be regulated by such domestic laws.

(*b*) The meaning of the latter part of this Article, which reads: "Such carriage shall be as now provided by law with respect to the transit of such liquors through the Panama Canal, provided that such liquors shall be kept under seal continuously while the vessel on which they are carried remains within said territorial waters and that no part of such liquors shall at any time or place be unladen within the United States, its territories or possessions;" is ambiguous. It should be clarified.

(*c*) While the closing part of this Article reads: "that no part of such liquors shall at any time or place be unladen within the United States, its territories or possessions;" it should be understood that the term "unladen" means ordinary discharge of cargo, and that it does not apply to transshipment of cargo to other vessels or to temporary landing for the purpose of such transshipment.

Article 4.

Article 5.

In regard to Paragraph 2, "three months before the expiration of the said period of one year" should be understood in the sense that either High Contracting Party may give notice of its desire to propose modification in the terms of the Treaty not later than three months before the expiration of the said period.

Article 6.

(*a*) Paragraph 1 of Article 6 should either be struck from the provisions of the Treaty, or be so amended as to signify that either of the High Contracting Parties shall engage to give notice to the other Party one or two months before the automatic lapse of the Treaty.

(*b*) All cases which may arise while the Treaty is still in effect should be adjudicated in accordance with its provisions after its lapse.

(*c*) In the second paragraph of this Article in the text to be retained by the Japanese Government, "His Majesty the Emperor of Japan" should precede "the President of the United States" in conformity with the provision of the Preamble.

The Closing Paragraph.

"Our Lord" before the numerals of the Christian Era should be omitted.

PROTOCOL

The Government of Japan and the Government of the United States have, through their respective Plenipotentiaries, agreed upon the following stipulation in regard to Article 3 of the Treaty between Japan and the United States for the Prevention of the Smuggling of Intoxicating Liquors signed this day:

Questions regarding sea stores of liquors shall be governed by the existing domestic laws of the United States.

In witness whereof, the respective Plenipotentiaries have signed this Protocol in duplicate and have hereunto affixed their seals.

Done at Washington this . . . . . Day of the Month of . . . . . of the Third Year of Showa, corresponding to the Year 1928 of the Christian Era.

711.949/14

Memorandum by the Chief of the Treaty Division (Barnes) and Mr. Stephen Latchford, of the same Division, of a Conversation With the Counselor of the Japanese Embassy (Sawada)

[WASHINGTON,] *May 3, 1928.*

The questions mentioned in a memorandum which the Japanese Ambassador discussed with Mr. Castle on March 23, 1928, and left with Mr. Castle on that date, were taken up in order.

An understanding was reached that except in respect of four questions, the Government of the United States was in accord with the views put forward in the Ambassador's memorandum, but Mr. Sawada was informed during the course of the discussion that further consideration would be given to the question of reaching a possible understanding with respect to points numbered two and four, below.

1. Article III (*a*) Sea Stores.

The request of Japan that it be understood that questions in regard to sea stores should be regulated by the existing domestic laws of the United States appeared to arise from the apprehension that the existing laws might be changed in such a way as to discriminate against Japanese vessels. Mr. Sawada stated that he understood that his Government had examined the existing laws and regulations and was willing to agree to be bound by them, and that, of course, he did not know what changes might be made in them.

Mr. Barnes stated that the carriage of liquors on Japanese vessels as sea stores would be regulated by the domestic laws of the United States in force at the time that the treaty came into operation, but that if amendments should be made in those laws during the life of the treaty, the carriage of such liquors on Japanese vessels would be subject to the laws as amended. It was stated to Mr. Sawada that if the laws were amended they would apply equally to all countries

having such treaties with the United States and that there would be no discrimination against Japanese vessels or liquors carried on them. Mr. Sawada appeared to be satisfied with this explanation.

2. Article III (*b*)

Mr. Sawada desired to be informed whether the provision in Article III that the carriage of liquors shall be as provided by law with respect to transit through the Panama Canal meant that the carriage of liquor as provided for in Article III would be as provided by law for transit through the Canal. It was explained to Mr. Sawada that this was not intended, that the transit of liquor through the Panama Canal is governed by the National Prohibition Act [2] and that the provision regarding transit through the Panama Canal was inserted in Article III merely to illustrate the point that there would be no penalty or forfeiture, provided such liquors are kept under seal, for transit of liquor through territorial waters of the United States, just as there is no penalty or forfeiture covering the transit of liquor through the Panama Canal under the National Prohibition Act.

Mr. Sawada stated that if this was so, he thought the Japanese Government might consider the reference of the Panama Canal to be unnecessary and might desire to have it omitted. Mr. Barnes stated that he thought there would be no objection on the part of the United States to omitting merely the words "such carriage shall be as now provided by law with respect to the transit of such liquors through the Panama Canal" but pointed out that the proviso which followed those words would necessarily be retained.

3. Article III (*c*)

It was explained to Mr. Sawada that the United States would be unable to agree, as proposed by the Japanese Government, that the term "unladen" as used in Article III means merely the ordinary discharge of cargo and does not apply to transshipment of cargo to other vessels or to a temporary landing for the purpose of such transshipment. It was explained to Mr. Sawada that "unladen" in Article III includes transshipment of intoxicating liquors from one vessel to another or temporary landing for the purpose of such transshipment as well as discharge of liquor.

Mr. Sawada stated that the understanding asked by his Government on this point was the crucial question in the negotiations, that he understood that his Government particularly desired that Japanese vessels coming from Japan should be allowed to transship cargo at American ports to other vessels which would carry them to South America or other countries. It was explained to Mr. Sawada that the Eighteenth Amendment of the Constitution of the United States and the Volstead Act had been construed by the Supreme Court of

[2] Eighteenth Amendment of the Constitution, 40 Stat. 1941; Act of October 28, 1919, 41 Stat. 305.

the United States [3] to prohibit such transshipments in the territorial waters or ports of the United States, insofar as it referred to liquor intended for beverage purposes, and that it would be impossible for this Government to agree to the understanding asked by his Government. Mr. Sawada stated that he would report the views of this Government to his Government. Mr. Barnes promised to send Mr. Sawada an informal memorandum with regard to the definition of the term "unladen". This memorandum, a copy of which is attached, was mailed to Mr. Sawada on May 4, 1928.[4]

4. Article VI (*a*)

Mr. Sawada was informed that it would be very difficult for the Department to keep itself informed in regard to legislation or judicial decisions that might conflict with the treaty and for this reason this Government would be unwilling to assume the obligation as proposed by the Japanese Government of giving a notice of the lapse of the treaty one or two months before the lapse became effective. Mr. Sawada pointed out that the distance from Japan to the United States was great, that freighters took about three weeks to make the trip and that it might easily happen that Japanese vessels arriving at ports of the United States would find that rights which they had expected to enjoy when they left a Japanese port had been abolished while they were crossing the ocean. He stated that in some instances this would work a hardship.

Mr. Sawada's position seemed to be reasonable and reference was made in the discussions thereon to the recent tariff proclamation which increased the import duty on rag rugs coming to the United States from Japan. Mr. Sawada remarked that the tariff proclamation was not as bad as the provision in the liquor treaty because under the proclamation they had fifteen days notice before the change in the duty became effective. It was suggested that provision be made in the treaty that in the event of the enactment of conflicting legislation, or the rendering of a conflicting judicial decision, the treaty should lapse at the end of thirty days. Mr. Barnes said that he was unable to say that the United States would agree to the inclusion of a thirty day period in the treaty, and that while he would take up this point and inform the Embassy, we feel that in any event the United States would not assume an obligation to give the Japanese Government a notice of the enactment of such legislation or the rendering of such a decision.

Finally, the question of the form in which the interpretations and assurances asked by the Japanese Embassy should be given, whether by protocol, exchange of notes or other form of memorandum, was

[3] *Grogan* v. *Walker and Sons, Ltd.* and *Anchor Line, Ltd.* v. *Aldridge*, 259 U. S. 80.
[4] Not printed.

discussed. Mr. Sawada seemed to think that his Government would not insist on any particular form, but that it did desire a document of some kind reciting the understandings. Mr. Barnes expressed the opinion that the United States would be very reluctant to supplement the treaty by any kind of written explanatory statement, that all the points on which an understanding had been reached were so clear from the text of the treaty as to require no further explanation, that the points on which the United States Government would not agree with the position of the Japanese Government could be solved only by the Japanese Government accepting the views of this Government, which also were clear from the language of the treaty, and that if the thirty day extension in Article VI were agreed upon it would be included in the text of the treaty.

It was agreed, however, that Mr. Sawada would prepare a draft of what his Government would desire to have in the form of a declaration, protocol or exchange of notes and that that would be considered when he presented it.

C. M. B[ARNES]
S. L[ATCHFORD]

711.949/7

The Chief of the Treaty Division (Barnes) to the Counselor of the Japanese Embassy (Sawada)

Unofficial WASHINGTON, *May 21, 1928.*

MY DEAR MR. SAWADA: At our Conference on May 3, 1928, in regard to the proposed Convention between the United States and Japan, for the Prevention of Smuggling of Intoxicating Liquors into the United States and the carriage of such liquors on Japanese vessels in the territorial waters of the United States, I suggested that the Department might consider the insertion of the words "at the end of thirty days" in Article VI which provides that the Treaty shall automatically lapse in the event that either Party shall be prevented by judicial decision or legislative action from giving full effect to its provisions.

The Solicitor for the Department considers that it would be inadvisable for this Government to adopt the suggestion. If Congress should enact legislation in contravention of the provisions of the Treaty, the provision extending the life of the Treaty for a period of thirty days subsequent to the enactment of such legislation, would be rendered inoperative as municipal law of the United States unless the thirty day extension should be recognized in the Act of Congress itself. The enforcement of such a law before the expiration of the thirty days would result in a violation of the Treaty by the United States, which this Government desires to avoid.

The observance of a thirty day extension in relation to judicial decisions conflicting with the Treaty would be even more difficult than its observance in relation to legislation.

For these reasons, and also in order that uniformity may not be departed from in the treaties which the United States is concluding in regard to the carriage of intoxicating liquors, of which twelve are now in force, it will be impracticable for this Government to agree to the insertion of the words "at the end of thirty days".

Sincerely yours,

CHARLES M. BARNES

711.949/16

Memorandum by Mr. Stephen Latchford, of the Treaty Division, of a Conversation With the Counselor of the Japanese Embassy (Sawada)

[WASHINGTON,] *May 24, 1928.*

Mr. Sawada stated that the Japanese Embassy had been instructed by his Government to agree to the Department's viewpoint with respect to all the questions raised by the Embassy, except the proposal that the first paragraph of Article VI be eliminated or amended so as to provide for the giving of notice before the lapse of the treaty. Mr. Sawada stated that his Government found it difficult to accept this paragraph as the stipulation therein that the treaty shall lapse upon the enactment of legislation or the rendering of a judicial decision inconsistent with the treaty was thought to be contrary to the principle, generally accepted in international practice, that a treaty should not be terminated by a unilateral act.

Mr. Sawada at first stated that it was the desire of his Government that the first paragraph of Article VI be eliminated. Mr. Barnes referred to the acceptance of a like paragraph by all the other Governments which have concluded liquor conventions with the United States. He stated that it has been the policy of this Government to have the text of the aforesaid paragraph included in all the liquor conventions, and that it was felt that this Government would not be warranted in agreeing to the elimination of the paragraph in the proposed treaty with Japan.

Mr. Sawada then stated that if the paragraph in question could not be eliminated, his Government proposed that it be so amended as to provide for the giving of notice prior to the lapse of the treaty. Mr. Barnes said he thought that there was but a remote possibility that the treaty would terminate in accordance with the first paragraph of Article VI, but that the termination of the treaty in accordance with this paragraph was not impossible. He informed Mr. Sawada that it was not considered to be practicable for this Gov-

ernment to undertake to give advance notice of a situation which would result in the lapse of the treaty in accordance with Article VI.

Mr. Sawada said that he thought that it was largely an academic question, and that the matter would again be taken up with his Government with a view to seeing whether it would agree to retain Article VI as worded in the original draft.

Mr. Sawada again mentioned the reference to the Panama Canal in Article III of the draft treaty, and stated that his Government desired to have the following words omitted from that Article: "such carriage shall be as now provided by law with respect to the transit of such liquors through the Panama Canal." Mr. Barnes said that the elimination of the words quoted would be acceptable to this Government.

Mr. Sawada said that his Government desired to have an exchange of memoranda, at the time of the signing of the treaty, setting forth the understandings of the two Governments in regard to the interpretation of the treaty. Interpretive memoranda were drawn up and agreed to tentatively, with the understanding that Mr. Sawada would be informed later as to whether this Government would be willing to exchange interpretive memoranda at the time of the signing of the treaty.

S. L[ATCHFORD]

711.949/18

Memorandum by Mr. Stephen Latchford, of the Treaty Division, of Conversations With the Counselor of the Japanese Embassy (Sawada) on May 26 and 28, 1928

[WASHINGTON,] *May 26, 1928.*

On May 25, Mr. Castle was requested to inform the Treaty Division whether the Secretary saw any objection to the exchange of interpretive memoranda with the Japanese Ambassador in connection with the signing of the Treaty. Mr. Castle replied that the Secretary had no objection to an exchange of notes, and Mr. Sawada was so informed by Mr. Barnes on May 25.

On May 26, Mr. Sawada called at the Treaty Division and stated that the Japanese Embassy had received a telegram from Tokyo authorizing it to agree to Article VI as originally drafted. He presented drafts of notes to accompany the interpretive memoranda and discussed these drafts as well as the preliminary draft of the interpretive memoranda drawn up while he was at the Treaty Division on May 24. As a result of the discussion some modifications in the draft notes and memoranda were agreed upon. Mr. Sawada stated that it would be necessary to ascertain whether the revised

memoranda would be acceptable to his Government, and promised to make known his Government's decision on May 28.

May 28, 1928.

Mr. Sawada called at the Treaty Division to state that the interpretive memoranda, as agreed upon during his conference on May 26, were acceptable to his Government, and that it was desired to have the Japanese Ambassador sign the treaty on May 31, 1928.

S. L[ATCHFORD]

Treaty Series No. 807

Convention Between the United States of America and Japan, Signed at Washington, May 31, 1928 [5]

The President of the United States of America and His Majesty the Emperor of Japan, being desirous of avoiding any difficulties which might arise between them in connection with the laws in force in the United States on the subject of alcoholic beverages, have decided to conclude a Convention for that purpose, and have appointed as their Plenipotentiaries:

The President of the United States of America, Frank B. Kellogg, Secretary of State of the United States;

His Majesty the Emperor of Japan, Tsuneo Matsudaira, Jusammi, the First Class of the Imperial Order of the Sacred Treasure, His Majesty's Ambassador Extraordinary and Plenipotentiary to the United States of America;

Who, having communicated their full powers, found in good and due form, have agreed as follows:

ARTICLE I

The High Contracting Parties declare that it is their firm intention to uphold the principle that three marine miles extending from the coastline outwards and measured from low-water mark constitute the proper limits of territorial waters.

ARTICLE II

(1) The Japanese Government agree that they will raise no objection to the boarding of private vessels under the Japanese flag outside the limits of territorial waters by the authorities of the United States, its territories or possessions, in order that enquiries may be addressed to those on board and an examination be made of

[5] Ratification advised by the Senate, Jan. 26, 1929; ratified by the President, Jan. 30, 1929; ratified by Japan, Nov. 22, 1929; ratifications exchanged at Washington, Jan. 16, 1930; proclaimed by the President, Jan. 16, 1930.

the ship's papers for the purpose of ascertaining whether the vessel or those on board are endeavoring to import or have imported alcoholic beverages into the United States, its territories or possessions, in violation of the laws there in force. When such enquiries and examination show a reasonable ground for suspicion, a search of the vessel may be initiated.

(2) If there is reasonable cause for belief that the vessel has committed or is committing or attempting to commit an offense against the laws of the United States, its territories or possessions, prohibiting the importation of alcoholic beverages, the vessel may be seized and taken into a port of the United States, its territories or possessions, for adjudication in accordance with such laws.

(3) The rights conferred by this article shall not be exercised at a greater distance from the coast of the United States, its territories or possessions, than can be traversed in one hour by the vessel suspected of endeavoring to commit the offense. In cases, however, in which the liquor is intended to be conveyed to the United States, its territories or possessions, by a vessel other than the one boarded and searched, it shall be the speed of such other vessel, and not the speed of the vessel boarded, which shall determine the distance from the coast at which the right under this article can be exercised.

ARTICLE III

No penalty or forfeiture under the laws of the United States shall be applicable or attach to alcoholic liquors or to vessels or persons by reason of the carriage of such liquors, when such liquors are listed as sea stores or cargo destined for a port foreign to the United States, its territories or possessions, on board Japanese vessels voyaging to or from ports of the United States, or its territories or possessions, or passing through the territorial waters thereof, provided that such liquors shall be kept under seal continuously while the vessel on which they are carried remains within said territorial waters and that no part of such liquors shall at any time or place be unladen within the United States, its territories or possessions.

ARTICLE IV

Any claim by a Japanese vessel for compensation on the ground that it has suffered loss or injury through the improper or unreasonable exercise of the rights conferred by Article II of this Convention or on the ground that it has not been given the benefit of Article III shall be referred for the joint consideration of two persons, one of whom shall be nominated by each of the High Contracting Parties.

Effect shall be given to the recommendations contained in any such

joint report. If no joint report can be agreed upon, the claim shall be referred to the Permanent Court of Arbitration at The Hague described in the Convention for the pacific settlement of international disputes, concluded at The Hague, October 18, 1907. The arbitral tribunal shall be constituted in accordance with Article 87 (Chapter IV) and with Article 59 (Chapter III) of the said Convention. The proceedings shall be regulated by so much of Chapter IV of the said Convention and of Chapter III thereof (special regard being had for Articles 70 and 74, but excepting Articles 53 and 54) as the tribunal may consider to be applicable and to be consistent with the provisions of this agreement. All sums of money which may be awarded by the tribunal on account of any claim shall be paid within eighteen months after the date of the final award without interest and without deduction, save as hereafter specified. Each Government shall bear its own expenses. The expenses of the tribunal shall be defrayed by a ratable deduction from the amount of the sums awarded by it, at a rate of five per cent on such sums, or at such lower rate as may be agreed upon between the two Governments; the deficiency, if any, shall be defrayed in equal moieties by the two Governments.

Article V

This Convention shall be subject to ratification and shall remain in force for a period of one year from the date of the exchange of ratifications.

Three months before the expiration of the said period of one year, either of the High Contracting Parties may give notice of its desire to propose modifications in the terms of the Convention.

If such modifications have not been agreed upon before the expiration of the term of one year mentioned above, the Convention shall lapse.

If no notice is given on either side of the desire to propose modifications, the Convention shall remain in force for another year, and so on automatically, but subject always in respect of each such period of a year to the right on either side to propose as provided above three months before its expiration modifications in the Convention, and to the provision that if such modifications are not agreed upon before the close of the period of one year, the Convention shall lapse.

Article VI

In the event that either of the High Contracting Parties shall be prevented either by judicial decision or legislative action from giving full effect to the provisions of the present Convention the said Convention shall automatically lapse, and, on such lapse or whenever this Convention shall cease to be in force, each High Contracting

Party shall enjoy all the rights which it would have possessed had this Convention not been concluded.

The present Convention shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof and by His Majesty the Emperor of Japan; and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed the present Convention in duplicate and have thereunto affixed their seals.

Done at the city of Washington this 31st day of May, in the nineteen hundred and twenty-eighth year of the Christian era, corresponding to the 31st day of the 5th month of the 3rd year of Shōwa.

[SEAL] FRANK B. KELLOGG
[SEAL] T. MATSUDAIRA

Treaty Series No. 807

The Japanese Ambassador (Matsudaira) to the Secretary of State

WASHINGTON, *31st May, 3 Shōwa (1928)*.

SIR: In proceeding today to the signature of the Convention between Japan and the United States for the purpose of avoiding difficulties which might arise in connection with the laws in force in the United States on the subject of alcoholic beverages, I am happy to attach hereto, for the purpose of future reference, a memorandum of the understanding that has been reached between us in regard to the interpretation of the Convention. I beg leave, therefore, to request that you kindly acknowledge and confirm this statement.

Accept [etc.] T. MATSUDAIRA

[Enclosure]

MEMORANDUM

It is understood

1. That the term "private vessels" as used in the Convention signifies all classes of vessels other than those owned or controlled by the Japanese Government and used for Governmental purposes, for the conduct of which the Japanese Government assumes full responsibility.

2. That the rights conferred on the authorities of the United States under Article II of the Convention do not relate to territorial waters of Japan or to waters of any territory over which Japan exercises a mandate under the authority of the League of Nations.

3. That there will be no advance requirement that Japanese vessels shall stop regularly at designated places to await such enquiries or examination as are authorized in Article II of the Convention.

4. That the Convention does not relate to alcoholic liquors for non-beverage, including medicinal, purposes, which are regulated by the domestic laws of the United States.

5. That the expression "three months before the expiration of the said period of one year" as used in the second paragraph of Article V is used in the sense of not later than three months before the expiration of the said period.

6. That questions involving the application of the Convention arising while it is in force will be adjudicated in accordance with the provisions of the Convention as in force at the time the circumstances occurred, even if the Convention should lapse or be terminated before the decision is rendered.

Treaty Series No. 807

The Secretary of State to the Japanese Ambassador (Matsudaira)

WASHINGTON, *May 31, 1928.*

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's note dated May 31, 1928, and the memorandum attached thereto of the understanding that has been reached between us in regard to the interpretation of the Convention between the United States and Japan for the purpose of avoiding difficulties which might arise in connection with the laws in force in the United States on the subject of alcoholic beverages.

I beg to state that I am happy to confirm that the said memorandum, a duplicate of which is attached hereto,[6] is a correct statement of the understanding reached by us in regard to the interpretation of the Convention.

Accept [etc.] FRANK B. KELLOGG

PROPOSED TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND JAPAN

711.9412A/1

The Secretary of State to the Japanese Ambassador (Matsudaira)

WASHINGTON, *December 31, 1927.*

EXCELLENCY: I have the honor to refer to our conversation of December 29, 1927, and to transmit herewith for the consideration of your Government, and as a basis for negotiation, a draft of a pro-

[6] See memorandum *supra.*

posed treaty of arbitration and conciliation. The provisions of this draft operate to extend the policy of arbitration enunciated in the convention signed at Washington on May 5, 1908,[7] which expires by limitation on August 24, 1928, and to establish as between Japan and the United States a mechanism for conciliation similar to that now in effect between the United States and a considerable number of other Governments as a result of the treaties for the advancement of peace concluded in 1914.[8] The draft treaty explicitly records the desire of the two Governments to condemn war as an instrument of national policy in their mutual relations. The language of the preamble and of Articles IV to VI, inclusive, is *mutatis mutandis* identical with that of the draft treaties which I have transmitted this week to the French and British Ambassadors for the consideration of their Governments.[9] The language of Articles I to III, inclusive, follows the language of similar articles in the treaty for the advancement of peace concluded between the United States and Great Britain on September 15, 1914.[10]

I feel that by adopting a treaty such as that suggested herein we shall not only promote the friendly relations between the Peoples of our two countries, but also advance materially the cause of arbitration and the pacific settlement of international disputes. If your Government concurs in my views and is prepared to negotiate a treaty along the lines of that transmitted herewith, I shall be glad to enter at once upon such discussions as may be necessary.

Accept [etc.] FRANK B. KELLOGG

[Enclosure]

Draft Treaty of Arbitration and Conciliation

The United States of America and Japan determined to prevent so far as in their power lies any interruption in the peaceful relations that have always existed between the two nations, desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them, and eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world, have decided to conclude a new treaty of arbitration and conciliation enlarging the scope and obligations of

[7] *Foreign Relations*, 1908, p. 503.

[8] For index references to the treaties for the advancement of peace see *ibid.*, 1914, p. 1130; *ibid.*, 1915, p. 1328–1329; and *ibid.*, 1916, p. 1007.

[9] For draft treaty submitted to the French Ambassador, see vol. II, p. 810; draft submitted to the British Ambassador not printed.

[10] *Foreign Relations*, 1914, p. 304.

the Arbitration Convention signed at Washington on May 5, 1908, which expires by limitation on August 24, 1928, and for that purpose they have appointed as their respective Plenipotentiaries

The President of the United States of America

His Majesty the Emperor of Japan

who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I

Any disputes arising between the Government of the United States of America and the Government of Japan, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent International Commission constituted in the manner prescribed in the next succeeding Article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

ARTICLE II

The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of the ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ARTICLE III

In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ARTICLE IV

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to the above-mentioned Permanent International Commission, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907,[11] or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Japan in accordance with the constitutional laws of Japan.

ARTICLE V

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(*a*) is within the domestic jurisdiction of either of the High Contracting Parties,

(*b*) involves the interests of third parties,

(*c*) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine.

ARTICLE VI

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate

[11] *Foreign Relations*, 1907, pt. 2, p. 1181.

thereof and by Japan in accordance with its constitutional forms. The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith thereof the respective Plenipotentiaries have signed this treaty in duplicate and hereunto affix their seals.

Done at Washington the . . . . . day of . . . . . in the year of our Lord one thousand nine hundred and twenty . . . . .

711.9412A/11

The Secretary of State to the Japanese Ambassador (Matsudaira)

WASHINGTON, *March 14, 1928.*

EXCELLENCY: On December 31, 1927, I had the honor to communicate to you for the consideration of your Government and as a basis for negotiation the draft text of a proposed treaty of arbitration and conciliation, the arbitration provisions of which were *mutatis mutandis* identical with those contained in the draft treaties which I had just submitted to the French and British Governments, and the conciliation provisions of which were based upon the Treaty for the Advancement of Peace concluded between the United States and Great Britain on September 15, 1914.

The new arbitration treaty with France, a copy of which is enclosed, was signed February 6, 1928,[12] and the Senate of the United States has already given its advice and consent to the ratification thereof. The question having arisen, however, as to whether that treaty affected the status of the conciliation treaty of 1914,[13] the matter was resolved by an exchange of notes[14] recording the understanding of both France and the United States that the earlier conciliation treaty was in no way affected by the later arbitration treaty. In order to obviate further questions of this nature, however, I deem it desirable to avoid the incorporation in other arbitration treaties of any portion of the language of the earlier conciliation treaties, where they exist, and where no such treaty is now in force to negotiate two separate and distinct treaties rather than to endeavor to deal with both subjects in a single instrument, and I have followed that course, for example, in the case of Germany to which I recently submitted the draft texts of two separate treaties, one an arbitration treaty based upon the treaty with France of February 6, 1928, and the other a conciliation treaty based upon the so-called Bryan

[12] Vol. II, p. 816.
[13] *Foreign Relations*, 1915, p. 380.
[14] Vol. II, p. 819.

treaties of 1913 and 1914.[15] In these circumstances I have the honor to suggest, in the interest of uniformity and for the purpose of preventing possible future misunderstanding, that your Government substitute for the draft treaty which I submitted with my note of December 31, 1927, the two drafts transmitted herewith.

The language of the enclosed draft arbitration treaty is identical with that of the Preamble and Articles IV, V and VI of the treaty submitted with my note of December 31, 1927, with the following exceptions: the words "and conciliation" have been omitted from the last paragraph of the Preamble; in Article IV (which is Article I of the enclosed draft) I have substituted for the words "the abovementioned Permanent International Commission" the words "an appropriate Commission of Conciliation"; I have added to Article V (which is Article II of the enclosed draft) a new paragraph lettered (*d*) identical with paragraph (*d*) of the corresponding article of the treaty signed by the United States and France on February 6, 1928; and the last word of the first sentence of Article VI (which is Article III of the enclosed draft) has been changed from "forms" to "laws".

Except for changing the word "forms" to "laws" in the first sentence of the final article, the language of the enclosed draft conciliation treaty is identical with that of Articles I, II, III and VI of the draft submitted with my note of December 31, 1927, and the language of the Preamble is taken from the Preamble of the abovementioned treaty of September 15, 1914, between the United States and Great Britain.

By the changes enumerated above and by substituting two separate treaties for the combined treaty suggested in my note of December 31, 1927, negotiations with your Government can now go forward on exactly the same basis as negotiations with the other Governments to which I am proposing new arbitration treaties and/or conciliation treaties similar to those concluded by the United States in 1913 and 1914.

Accept [etc.] FRANK B. KELLOGG

[Enclosure 1]

Draft Treaty of Arbitration

The President of the United States of America and His Majesty the Emperor of Japan

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have always existed between the two nations;

Desirous of reaffirming their adherence to the policy of submitting

[15] See vol. II, pp. 862 ff.

to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a new treaty of arbitration enlarging the scope and obligations of the Arbitration Convention signed at Washington on May 5, 1908, which expires by limitation on August 24, 1928, and for that purpose they have appointed as their respective Plenipotentiaries

The President of the United States of America

His Majesty the Emperor of Japan

who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

Article I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate Commission of Conciliation, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907, or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Japan in accordance with the constitutional laws of Japan.

Article II

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(*a*) is within the domestic jurisdiction of either of the High Contracting Parties,

(*b*) involves the interests of third Parties,

(*c*) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(*d*) depends upon or involves the observance of the obligations of Japan in accordance with the Covenant of the League of Nations.

ARTICLE III

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by Japan in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith thereof the respective Plenipotentiaries have signed this treaty in duplicate and hereunto affix their seals.

Done at Washington the . . . . . day of . . . . . in the year of our Lord one thousand nine hundred and twenty . . . . . .

[Enclosure 2]

Draft Treaty of Conciliation

The President of the United States of America and His Majesty the Emperor of Japan, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their Plenipotentiaries:

The President of the United States of America

His Majesty the Emperor of Japan

Who, having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I

Any disputes arising between the Government of the United States of America and the Government of Japan, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a Permanent International Commission constituted in the manner prescribed in the next succeeding Article; and they agree not to

declare war or begin hostilities during such investigation and before the report is submitted.

ARTICLE II

The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of the ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ARTICLE III

In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by Japan in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of

the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith thereof the respective Plenipotentiaries have signed this treaty in duplicate and hereunto affix their seals.

Done at Washington the . . . . . day of . . . . . in the year of our Lord one thousand nine hundred and twenty . . . . . .

711.9412A/18

The Assistant Secretary of State (Castle) to the Chief of the Treaty Division (Barnes)

[WASHINGTON,] *June 26, 1928.*

MR. BARNES: In connection with the treaties of arbitration and conciliation which we have submitted to Japan, Mr. Sawada [16] tells me that his Government is considering the matter very seriously. It telegraphed him yesterday certain questions which he wrote out in the attached informal memorandum.[17] I went through it with him and told him in general my understanding in the various cases. I also told him that I would have answers to the questions written up in an equally informal way. Could you have this done in your division as soon as possible and submit the answers to me? If it seems necessary I will take them up with the Secretary before seeing Mr. Sawada again.

W[ILLIAM] R. C[ASTLE]

711.9412A/27

The Department of State to the Japanese Embassy [18]

I. *Is the scope of the differences to be referred to arbitration by virtue of Article I of the draft Treaty of Arbitration, as proposed by the United States Government, identical with the scope of Article I of the existing Arbitration Convention between Japan and the United States, concluded in 1908, which is limited to "differences which may arise of a legal nature, or relating to treaties existing between the two Contracting Parties?" If the former is more comprehensive than the latter, then to what extent?*

The scope of the questions to be referred to arbitration by virtue

---

[16] Setsuzo Sawada, Japanese Chargé at Washington from June 1.

[17] Not printed; see Department's informal memorandum, *infra*.

[18] This undated, unsigned, and unaddressed memorandum was handed on August 7, 1929, by the Assistant Secretary of State (Castle) to the Japanese Ambassador (Debuchi). The italicized portions of the memorandum are questions submitted to the Department by the Japanese Chargé on June 26, 1928, in an informal memorandum (not printed).

of Article I of the draft Treaty of Arbitration and Article I of the Arbitration Convention between Japan and the United States of 1908 is substantially the same in respect to the nature of the referable questions. In both cases only differences of a legal or justiciable nature are referable. However, the draft Treaty is broader in scope, because the reservations described in Article II are more definite and limited than the reservations set forth in Article I of the Convention of 1908.

II. *Regarding the provisions of Article I of the proposed Treaty of Arbitration:*

(*a*) *What is the meaning of "a claim of right?" Is it synonymous with "a legal claim" and does it in essence differ from "differences which may arise of a legal nature" as provided in the Arbitration Convention of 1908?*

"A claim of right" denotes a claim based upon some legal right. It is synonymous "with a legal claim." It does not in substance differ from "differences which may arise of a legal nature" as provided in the Arbitration Convention of 1908.

(*b*) *Article I in part provides "a claim of right made by one against the other under treaty or otherwise, shall be decided . . . ." What does "otherwise" denote?*

The word "otherwise" in Article I of the draft Treaty denotes a claim which might arise under any established principle of international law.

(*c*) *What is the extent of being "justiciable?"*

(1) *Are such questions as those involving the existence of a nation to be regarded as non-justiciable and not to be referred to arbitration?*

In the absence of international agreements to the contrary, questions involving the existence of a nation are essentially political, rather than justiciable and hence beyond the scope of this Treaty.

(2) *Is it to be understood that the reservations enumerated in Article II of the draft Treaty of Arbitration are exempted from arbitration although they are justiciable in nature?*

The reservations enumerated in Article II of the draft Treaty operate in part to clarify and define the scope of the Treaty by excepting from arbitration non-justiciable questions. For example, Article II Clause (*a*) of the draft Treaty, exempting domestic questions, is implicit in Article I, which limits the scope of arbitration to international justiciable questions. However, the reservations operate to except from arbitration the enumerated categories of questions, whether justiciable or non-justiciable in character.

(3) *Further, is it to be construed that all disputes arising out of question not specifically mentioned in Article II are regarded as justiciable and subject to arbitration?*

All international disputes of a legal or justiciable nature, not specifically excepted in Article II, are subject to arbitration under the provisions of the draft Treaty.

(*d*) *In regard to the phrase, "principles of law or equity," does "equity" mean the general principle of justice as accepted both in international and domestic law? Is it to be understood to be synonymous with aequo et bono?*

The word "equity" is used in Article I to describe one branch of jurisprudence recognized by civilized nations as part of the general principles of objective law. The draft Treaty contemplates that a question is justiciable when it is susceptible of solution by the application of objective principles of law or equity. Consequently, the term "equity" is not to be understood to be synonymous with the term "ex aequo et bono" (in justice and good dealing), a subjective and variable standard depending upon the individual conscience of the judge.

III. *Are the differences as contemplated in Article I of the proposed Treaty of Arbitration to be referred first to arbitration or to a Permanent International Commission of the draft Treaty of Conciliation?*

The differences described in Article I of the draft Treaty of Arbitration may be referred in the first instance to a Permanent International Commission under the draft Treaty of Conciliation, when the Parties do not have recourse to adjudication by a competent tribunal. In the event a settlement is not effected through conciliation, however, the obligation to arbitrate persists.

IV. *Article III of the draft Treaty of Conciliation reads in part:*

"In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report."

Is it to be construed that a dispute should at once be referred to the International Commission when one of the parties in dispute is of the opinion that ordinary diplomatic proceedings have failed, or only when both recognize the failure of such diplomatic proceedings?

Under the draft treaty of Conciliation, both parties must recognize that there has been a failure of diplomatic settlement, before a case can be referred to the Permanent International Commission.[19]

[19] Negotiations were not continued.

PROPOSAL BY JAPAN THAT A CONFERENCE BE CALLED TO REVISE THE FUR SEALS CONVENTION SIGNED JULY 7, 1911[20]

711.417/782

The Japanese Embassy to the Department of State

With reference to the Memorandum handed by the Honorable Joseph C. Grew, then Under Secretary of State, to the Japanese Ambassador on November 28 [*29*], 1926,[21] in which it is stated that investigation made jointly by the scientists of the two countries would enable the two countries to determine what steps, if any, were necessary to correct conditions complained of by the Japanese Government, the Ambassador is now instructed by the Government to inform the American Government that full consideration has been paid to the significance of such investigation, and that in view of the discrepancy unfortunately existing between the views entertained by the authorities of the two countries concerned, it is of the opinion that a joint investigation seems most appropriate in order to make clear Japan's case. The investigation should cover such matters as migratory, breeding, and feeding habits of fur seals and other pertinent facts which would help to determine the relative merits and demerits of land killing and pelagic sealing and to examine the detrimental effect on the fishing industry of Japan. As the findings of this joint investigation should be used as the basis for the revision of the present Convention[22] to be made in a future conference, the Japanese Government further deems it proper and advisable that experts of Great Britain and Soviet Russia should be invited to co-operate with America and Japan in the undertaking.

[WASHINGTON,] *December 28, 1927.*

711.417/782

The Department of State to the Japanese Embassy[23]

Careful consideration has been given to the memorandum handed by the Japanese Ambassador on December 28, to Mr. Johnson,[24] and the Department of State is happy to note that the Japanese Government has been pleased to fall in with the suggestion made by Mr. Grew on November 29, 1926, in his conversation with the Japanese

---

[20] Continued from *Foreign Relations*, 1926, vol. II, pp. 462–478.

[21] See undated memorandum by the Chief of the Division of Far Eastern Affairs, *Foreign Relations*, 1926, vol. II, p. 473.

[22] Convention between the United States, Great Britain, Japan, and Russia, for the preservation and protection of fur seals, signed July 7, 1911, *Foreign Relations*, 1911, p. 260.

[23] Handed to the Japanese Ambassador, January 7, 1928, at 11:30 a. m.

[24] Nelson T. Johnson, Assistant Secretary of State. Memorandum *supra*.

Ambassador, for a joint investigation into the migratory and feeding habits of the seals of the Pribilof Islands by the scientists of the two countries in order to determine whether the American seal herd is becoming a menace to Japanese fisheries due to its increase under the protection of the present Convention for the Preservation and Protection of Fur Seals.

The Department has noted the suggestion of the Japanese Government that experts of Great Britain and Soviet Russia be invited to cooperate with experts of the United States and Japan in this scientific investigation.

In the memorandum which was handed to the Japanese Ambassador on November 29, 1926, by Mr. Grew, it was pointed out that the present Convention appears to be accomplishing its purposes satisfactorily. The Japanese Government contends that due to the protection which the Convention has given to the seals, the American herd has increased to such an extent that it has become a menace to Japanese fisheries. As stated in the memorandum above referred to, the American authorities are not convinced either that the American herd visits Japanese waters in the course of its summer migration, or that it is a menace to commercially valuable fish. However, in order that the difference of opinion now entertained by the Japanese and American authorities on this subject may be disposed of, the Government of the United States has indicated its willingness to join with the Japanese Government in a scientific investigation into the present habits of the American herd.

The Department is not convinced that present circumstances necessitate extending the scope of such investigation beyond the investigations which could be made by the scientists of the two countries immediately involved, and it therefore believes that such investigation can be adequately and expeditiously accomplished if the personnel involved were limited as indicated. It is prepared to appoint the necessary personnel and arrange other details of this joint investigation whenever the Japanese Government indicates its readiness to proceed with it.

WASHINGTON, *January 4, 1928.*

711.417/796

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] *February 14, 1928.*

The Japanese Ambassador called upon me this morning at twelve o'clock and referred to the conversation which I had with him on January 7 concerning the question of fur seals and the proposal which the Government of the United States had made informally to him on

November 29, 1926 for a joint Japanese-American scientific investigation into the migrating and feeding habits of fur seals. It will be recalled that replying to that proposition the Japanese Ambassador had stated that his Government accepted the suggestion of the United States Government but desired that experts of Soviet Russia and Great Britain be asked to participate with experts of the United States and Japan in making the proposed investigation, and that in the conversation which I had with him on January 7 we had demurred to the suggestion that the investigation be participated in by Russians and British on the ground that the question to be investigated was one that particularly concerned the habits of the American herd which was charged by the Japanese with becoming a menace to the Japanese fishing industry.

The Ambassador stated that he had not failed to telegraph at once the reply which we had made to the Japanese suggestion to his Government and that he now had received a reply from his Government stating that the Japanese Government was very anxious to have Russians and British experts participate in the proposed investigation, in view of the fact that the data to be investigated would be used in a conference which might be called in connection with a revision of the Convention which the Japanese desired very much to have revised, and that if we failed now to have the British and Russian experts present at this investigation the matter might be delayed a long time in order that the investigations made by the Japanese and Americans could be checked up by the British and Russian investigators after the present investigation had been completed.

He said that the Japanese Government was being very much pressed by Japanese interests concerned to accomplish something in this matter, as they were very much dissatisfied with the present situation and that the Japanese Government was very much embarrassed by this pressure, particularly at this time when the whole question was getting into the political situation, and that the Japanese Government while appreciating our position vis-à-vis Soviet Russia in any conference that might be called, felt that there could be no real objection on our part to participation by Russian and British scientists in an investigation which would be limited solely to fact-finding and that the Japanese Government hoped that we would reconsider our position in this matter and that we would give a favorable reply to their suggestions, particularly as such favorable reply would assist the Japanese very much under present conditions.

I told the Ambassador that I would bring this matter to the attention of the Secretary and that as soon as I learn the decision I would communicate it to him.

N[ELSON] T. J[OHNSON]

711.417/799

The British Ambassador (Howard) to the Assistant Secretary of State (Johnson)

WASHINGTON, *April 2, 1928.*

MY DEAR MR. JOHNSON: With reference to a conversation which you had with Mr. Balfour of this Embassy on February 18th last in regard to the proposal of the Japanese Government that experts of the four interested Powers should undertake a fact-finding enquiry into the "migratory breeding and feeding habits of fur seals and other pertinent facts to determine the relative merits and demerits of land killing and pelagic sealing and to examine the detrimental effect on the fishing industry of Japan", Sir Austen Chamberlain [25] has advised me that no expert representing His Majesty's Government in Great Britain will attend the enquiry proposed. As regards the attendance of a Canadian expert I am to request that you communicate with Mr. Massey, the Canadian Minister here.

I should add that Sir Austen Chamberlain assumes that the "fact-finding enquiry" will be held without prejudice to a possible future revision of the Fur Seals Convention.

Believe me [etc.] ESME HOWARD

711.417/792

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] *May 24, 1928.*

The Japanese Ambassador called upon the Secretary of State, by appointment, this morning to discuss the question of the Japanese Government's desire for a revision of the Fur Seals Convention of 1911. The Secretary reviewed the situation with regard to this matter along the lines of the attached memorandum. He stated that he could not see why either the Russians or the British would be interested in the question immediately at issue between the Japanese and the Americans, which concerned itself entirely with the feeding and migratory habits of the American herd of seals on the Pribilof Islands, and that therefore he did not see the necessity for having Russian or British experts present at any expert investigation into the feeding and migratory habits of these seals; that, as a matter of fact, we had inquired of the British whether they desired to be represented at any such investigation and had learned that they were not interested.

The Secretary pointed out to the Japanese Ambassador that the American herd on the Pribilof Islands had been the object of our

[25] British Secretary of State for Foreign Affairs.

special care from the beginning and that we had been forced to give outright to the British and to the Japanese each a 15% share in that herd, leaving to ourselves a 70% interest, and that this arrangement, while it had succeeded in establishing our claim that pelagic sealing only resulted in the eventual extermination of the herd and that it had resulted in improving the herd so that the herd was increasing in size, still it had not profited the American Government otherwise. The Secretary then handed to the Japanese Ambassador a copy of the summary of expenditures and receipts by the United States Government on account of the Alaskan Fur Seal Service for the fiscal years 1923–1927 inclusive, which was enclosed with the letter of May 19 from the Bureau of Fisheries of the Department of Commerce,[26] showing that during this five-year period the net loss to the Government of the United States on account of the Fur Seals Service was $780,872.30, whereas in the same period Great Britain and Japan received, under Treaty provision, without charge to themselves credits aggregating $546,076.92, or $273,038.46 each.

The Secretary stated it was of course true that any government party to the Convention had a right to request a revision of the Convention, but that we would be very much embarrassed if the Japanese Government pressed the request for a new convention at this time as we had not recognized the new Russian Government and could not negotiate with them on this subject. The Secretary stated that within the Convention we would be very glad to do anything possible to meet the difficulties of which the Japanese complained, if the Japanese would only tell us frankly what they wanted. The Secretary continued that up to the present time the only specific complaint made was that the American seals had increased in number to such an extent that they were now beginning to devastate Japanese fisheries. He said that the American experts were quite certain that the seals of the Pribilof Islands did not cross the Pacific Ocean to the neighborhood of Japanese fisheries and that in any case their feeding habits were such that they were not a menace to commercial fishes as we had very profitable fisheries in the immediate neighborhood of the seal rookeries which were not suffering. The Secretary said, however, that we were prepared to join with the Japanese in an investigation into the migratory and feeding habits of the seal for the purpose of discovering just what the situation was in this respect and with a view to doing anything which might be possible to meet the claims of the Japanese that the seals were harmful to their fisheries.

The Japanese Ambassador stated that of course the Japanese people had been very much dissatisfied with the Convention ever since its conclusion in 1911 and now that it was drawing to a close they were

[26] Not printed.

very anxious to have it amended. He said that pressure was so great there was some danger of its being denounced and the Japanese Government felt that if this did happen Japanese pelagic sealers would begin work on the herds. He said that of course the Japanese Government had not disclosed their desires in the matter and that probably the thing to do would be for his Government to explain frankly to the American Government just exactly what it was they wanted.

During a conversation which the Secretary had with the British Ambassador this morning the Secretary referred to the question of the Fur Seal Convention and explained to the British Ambassador what he had said to the Japanese Ambassador this morning on the same subject. The Secretary handed to the Ambassador a copy of the summary of the expenditures and receipts by the United States Government on account of the Alaskan Fur Seals Service for the fiscal years 1923–1927 inclusive. The British Ambassador thanked the Secretary for this information and ended by suggesting that we might desire to give this information also to the Canadian Minister. The Secretary asked Mr. Johnson, who was present, to do this.

N[ELSON] T. J[OHNSON]

[Annex]

Memorandum by the Assistant Secretary of State (Johnson)

1. The Japanese Government sometime ago called attention to the fact that the Fur Seals Convention was about to expire and requested that a conference be called for its revision as they have a right to do under the Convention.

2. We demurred to this proposal:

(*a*) because we could not sign a new Convention with Soviet Russia;

(*b*) because we were pleased with the Convention in its present form and did not want to change.

3. On November 29, 1926 we told the Japanese that we were very anxious to do what we could to meet their complaint in the matter, which was that the seals were increasing in number to the danger of their fisheries, and to that end we proposed a joint scientific investigation into the feeding and migratory habits of the fur seals to be participated in by the acknowledged authorities of the United States and Japan.

4. The Japanese accepted our proposal, but suggested that we invite Russian and British experts to participate in this scientific fact-finding investigation.

5. Our reply was that we did not see the need of Russian and British experts at this time.

6. The Japanese Ambassador now says that he communicated our reply, mentioned in paragraph 5, to his Government and that his Government has instructed him to ask whether we cannot find it possible to reconsider our decision, as it is very important to them that something be done at this time in the matter and they are very anxious that Russian and British experts be asked to participate for the reason that this investigation is to be a fact-finding investigation and that the facts discovered will be used at a conference for a revision of the Convention, and that in order to avoid unnecessary delay the British and Russians should participate at this time in order that there may be no dispute as to the facts.

7. On February 18 last, I called Mr. Balfour of the British Embassy in and outlined to him a history of our discussions with the Japanese up to this point and told him that the Japanese were anxious to include British and Soviet representatives in the investigation which we had proposed for the purpose of settling the disputed facts concerning the habits of the American seals. I now have a letter from Sir Esme Howard stating that he has been instructed by Sir Austen Chamberlain to say that no expert representing the British Government will attend the inquiry. He says that as regards the possibility of the attendance of a Canadian expert, he suggests that we communicate with the Canadian Minister. He adds that Sir Austen Chamberlain assumes that the fact-finding inquiry will be held without prejudice to the possible future revision of the Fur Seals Convention. I have not discussed this matter with the Canadian Legation. I have discussed it with the Commissioner of Fisheries who tells me that he expects to see the Canadian Expert on Fisheries within a week or two and that he intends to ascertain from him the Canadian attitude.

8. Mr. O'Malley, Commissioner of Fisheries, and I believe that we should limit this investigation to the question which we were prepared to discuss with them, namely, the steps which may be taken within the existing Convention to prevent American seals from injuring Japanese fisheries. We believe that the presence of Soviet and British experts will not be necessary for this purpose.

711.417/801

Memorandum by the Assistant Secretary of State (Johnson)

[WASHINGTON,] *August 24, 1928.*

Mr. Sawada [27] called and referred to previous conversations, particularly to the conversations which the Japanese Ambassador had

---

[27] Setsuzo Sawada, Japanese Chargé at Washington.

with the Undersecretary on November 26, 1926 (November 29),[28] and later with the Secretary on May 24, 1928, during the course of which Mr. Grew had stated that the United States Government would be willing to consider changes in the laws or regulations to meet the wishes of the Japanese in this matter. Mr. Sawada said that his Government had directed him to say that they would like to be more fully and completely informed as to what measures we would be willing to take either by a revision of regulations or otherwise in order to meet the wishes of the Japanese Government. I pointed out to Mr. Sawada that what Mr. Grew had said to the Ambassador was this, "that it was our desire so far as possible to try to find means to meet the Japanese viewpoint concerning the fur seals situation if this could be done short of altering the Convention and that as I had told the Ambassador before we would gladly consider and study any points the Japanese Government might raise with a view to ascertaining whether the situation could be improved by administrative regulations rather than by new treaty provisions". I reminded him that up to the present time we had never been informed as to just what the Japanese Government desired in this matter and that until the Japanese Government informed us of their desires short of the question of the revision of the Convention we could not tell just how we could meet the situation. I reminded him that we had informed the Japanese Ambassador that we could not change the Convention and that subsequently as it had developed in the exchange of views the Japanese Government considered that American seals were destroying Japanese fish, we had suggested a joint investigation on the part of the American and Japanese authorities into the feeding habits of the seals with a view to finding out the facts and with a view to enabling us to determine what might be done to remedy that situation, if it exists. I said that we were still willing to take on this investigation.

The Japanese Chargé said that he had given this question a great deal of thought and that he recalled within the course of discussions of the matter that a suggestion had been made to the effect that the killings on land be increased and he asked whether I thought that this might not be a suggestion that would take care of the situation. I told him that this suggestion had been made in connection with the statement that seals were destroying the Japanese fisheries; that it being our understanding that the Pribilof Island seal did not visit Japanese waters and therefore was not preying on the Japanese fish, the damage must be done by seals from Robben Island or from the Russian Islands and that this could be very easily regulated under the Convention, which did not provide as to the number of seals to

[28] See memorandum by Under Secretary of State Grew, November 29, 1926, *Foreign Relations*, 1926, vol. II, p. 472.

be killed on land each year, by increased killings at Robben Island and on the Commander Islands. I got out and showed him the statistical table covering the operation of the American seal service from 1923 to 1927, which the Secretary had given to the Ambassador on May 24, 1928, and I pointed out to him that killings on land of the Pribilof seals were increased year by year as the herd increased; that these killings were scientifically adjusted to the ratio between males and females on the islands as no females were killed and sufficient males had to be preserved in order to provide for the normal increase and growth of the herd and that I did not know that it would be possible for us to increase killings at the Pribilofs any faster than was already being done. I pointed out to him that under the present Convention as the Pribilof herd increased, the Japanese profited, naturally because the increased killings increased the amount of money to the Japanese Government for seals taken on the Pribilofs.

The Chargé stated that there was increased feeling among the people in his country in favor of the denouncement of the Convention.

I stated to the Chargé that of course if the Convention was denounced we would be right back where we were when we started out at the time the Convention was signed in 1911; that prior to that time we had possessed this herd and it was gradually being destroyed by pelagic sealing; that we had been helpless in the face of pelagic sealing and had tried by every means we could think of to obtain the consent of the countries interested in international cooperation for the purpose of doing away with pelagic sealing. I said that at one time we had seriously considered the question as to whether we should, not only in our own interests but in the interests of humanity, kill off the herd at the Pribilofs and thus end the whole question, as we had a perfect right to do, but eventually we had succeeded in getting the nations to agree under the Convention of 1911 to prohibit pelagic sealing on the understanding that we would give to the Japanese and British a share of our herd which amounted to 30%, leaving 70% to us; that since the signing of that Convention our herd on the Pribilofs had grown normally and well and that we were satisfied with the situation, although it was true that we were still out of pocket on the whole adventure while Great Britain and Japan were receiving without charge to themselves a share of our adventure in the shape of money. I said that we were so interested in the whole scheme that we were prepared to make up this deficit every year for preserving the herd not only for ourselves but for the world. I said that if, of course, we had to go back to the old situation which existed prior to 1911, we would once more have to consider whether it would not be wise to destroy our herd and thus prevent its inhuman destruction by means of the cruel methods of pelagic sealing.

The Chargé said that apparently there was a great deal of sentiment in this country in favor of preserving the Convention and in future rid the world of pelagic sealing. I said this was so according to my estimate of the situation.

The Chargé reminded me that in the conversation which the Ambassador had on May 24, with the Secretary, the Secretary had stated that he had mentioned the possibility of an investigation into the feeding habits of the seals with the British and that the British Government had stated it was not interested in participating and that the Secretary had promised to find out whether this view was shared by the Canadians. I said that I had communicated this request to the Canadians at that time and that only the other day Mr. Beaudry of the Canadian Legation had been in to see me and had told me that the Canadian Government was not interested in the proposed investigation and that the Canadian Government was interested in seeing the present Convention continued indefinitely.

The Chargé stated that he would report this conversation to his Government and state that we were prepared to give consideration to any suggestions which the Japanese Government might have to make with a view to discussing whether or not by amendment of our laws or regulations we could meet their desires.

N[ELSON] T. J[OHNSON]

LATVIA

TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS, AND ACCOMPANYING PROTOCOL, BETWEEN THE UNITED STATES AND LATVIA, SIGNED APRIL 20, 1928

611.60p31/42

The Chargé in Latvia (White) to the Secretary of State

No. 3739 RIGA, *May 3, 1926.*
[Received May 22.]

SIR: I have the honor to enclose herewith 5 copies of the *Valdibas Vestnesis* official Gazette of the 28th of April containing the text in English and Lettish of the temporary Provisional Agreement for the most favored nation treatment of commerce between the United States and Latvia.[1]

I presume that by the time this despatch reaches Washington, the Department will already have forwarded either through this Legation or through the Latvian Legation at Washington, a draft treaty of commerce, friendship, etc. with Latvia. If not, however, I venture to recall that, as an inducement to the conclusion of the provisional temporary agreement, the prospect was always held out of the prompt initiation of negotiations for a permanent treaty as soon as the temporary agreement had been concluded.

I have [etc.] J. C. WHITE

711.60p2/17

The Secretary of State to the Minister in Latvia (Coleman)

No. 406 WASHINGTON, *January 21, 1927.*

SIR: The Department acknowledges the receipt of your despatch No. 3739, dated May 3, 1926, and transmits herewith a draft of a Treaty of Friendship, Commerce and Consular Rights, for submission to the Government of Latvia. The enclosed draft is based upon the counterdraft submitted to you by the Latvian Foreign Office under date of February 15, 1924, and transmitted to the Department with your despatch No. 1803 of February 18, 1924, which in turn was based

[1] See *Foreign Relations*, 1926, vol. II, pp. 488 ff.

upon the draft which you submitted to the Government of Latvia pursuant to instruction No. 62 of August 21, 1923.[2] . . .

The Department desires that you now renew the treaty negotiations with the Latvian Government and bring to its attention the views of this Government in regard to the provisions of the Latvian counter-draft, and the provisions of the enclosed new draft as they are hereinafter presented. The memoranda of the negotiations of the Treaty of Friendship, Commerce and Consular Rights concluded by the United States and Estonia, December 23, 1925,[3] transmitted to the Legation with Despatch No. 326 of January 22, 1926,[4] may be helpful to you in the course of the negotiations.

The draft which you submitted to the Government of Latvia in September 1923 was drawn before the Treaty of Friendship, Commerce and Consular Rights of December 8, 1923, was concluded by the United States and Germany.[5] With a few minor exceptions it was identical with the draft on which the negotiations with Germany were begun.[6] In the process of the negotiations between the United States and Germany a number of questions arose which resulted in minor changes in the text of articles which also are in the draft which you submitted to the Latvian Government. The articles as thus revised were adopted not only in the Treaty with Germany but also in treaties of the same type concluded by the United States with Hungary, June 24, 1925 (Treaty Series No. 748),[7] Estonia, December 23, 1925 (Treaty Series No. 736), and Salvador, February 22, 1926.[8] (The text of the Treaty with Salvador, ratifications of which have not yet been exchanged,[9] is printed in the *Congressional Record* of May 28, 1926, pages 10241 and following.) As this Government attaches great importance to uniformity in the treaties of Friendship, Commerce and Consular Rights which it is negotiating, the articles referred to are included in the enclosed draft in the revised form. The points of difference between each Article in its original form and in the revised form are hereinafter referred to in the regular order of the Articles of the draft. This Government is hopeful that these minor changes will be acceptable to the Latvian Government.

Preamble. The title of the Treaty, as stated in the Preamble of the new draft is "Treaty of Friendship, Commerce and Consular Rights." The advantage of having the title indicate that consular

[2] None printed.
[3] Memorandum of the negotiations not printed; for text of the treaty, see *Foreign Relations*, 1925, vol. II, p. 70.
[4] Not printed.
[5] *Foreign Relations*, 1923, vol. II, p. 29.
[6] See *ibid.*, pp. 22 ff.
[7] *Ibid.*, 1925, vol. II, p. 341.
[8] *Ibid.*, 1926, vol. II, p. 940.
[9] Ratifications exchanged Sept. 5, 1930.

rights are covered by the treaty is obvious. This title is used in the Treaties with Germany, Hungary, Estonia and Salvador.

Article I. Right to enter, engage in business, etc. Before the Department indicates finally whether it will accept the amendment made by Latvia to the first paragraph of Article I whereby the provision "by submitting themselves to all local laws and regulations duly established" is placed near the beginning of the paragraph after the words "The nationals of each of the High Contracting Parties shall be permitted" instead of at the end of the paragraph where it was in this Government's original draft, the Department would like to be informed as to the change in meaning which Latvia considers would be given to the paragraph by the adoption of the proposed change in the position of the provision. Inasmuch as the paragraph in the form in which it was first submitted to Latvia by this Government is now in force in several treaties of the United States (Germany, Hungary), this Government greatly prefers not to accept the change proposed by Latvia. If, however, Latvia considers that the proposed amendment effects a change in the meaning of the provision which is important and which it desires to impart to the provision, the Department on receiving information in regard thereto will be glad to give further consideration to the matter. The paragraph in its original form is included in the enclosed draft. Your attention is also invited at this point to the new paragraph at the end of Article I of the new draft, excepting from the provisions of the Treaty the immigration laws of both countries, which is hereinafter further considered.

The second paragraph of Article I as contained in the United States draft and in the Latvian draft, is as follows:

UNITED STATES DRAFT	LATVIAN DRAFT
The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes higher than those that are exacted of and paid by its nationals.	The nationals of either High Contracting Party within the territories of the other shall not be subject in respect of their persons or property, or in respect of their commerce or industry, to any taxes, whether general or local, or to imposts or obligations of any kind whatever, other or greater than those which are or may be imposed upon nationals of the other, or nationals of the most favored nation.

This paragraph of the original draft related only to internal taxes and was designed to place the nationals of each country in the other on a basis not inferior to that of nationals of the country in respect of such taxation. It is not clear to this Government what is added to

the provision by the words "or to imposts or obligations of any kind whatever" which are contained in the Latvian draft and the Department can not authorize you to accept them unless it has a definite explanation of their purport.

While the other new phrases in the Latvian draft are unobjectionable to this Government, it would be glad if the Latvian Government would accept the paragraph in its original form, inserting however, the words "other or" from the Latvian draft, before "higher", thus making the paragraph identical with the corresponding provisions in the Treaty of 1923 between the United States and Germany, the Treaty of 1925 between the United States and Hungary and the Treaty of 1925 between the United States and Estonia. In this form it is included in the enclosed draft. If, however, the Latvian Government is strongly opposed to accepting the paragraph in the form in which it is included in the new draft, you are authorized to accept the counterdraft proposed by that Government, provided the phrase "or to imposts or obligations of any kind whatever", is struck out. As thus revised the paragraph would read:

"The nationals of either High Contracting Party within the territories of the other shall not be subject in respect of their persons or property, or in respect of their commerce or industry, to any taxes, whether general or local, other or higher than those which are or may be imposed upon nationals of the other or nationals of the most favored nation".

If the Latvian Government insists on including the words "or to imposts or obligations of any kind whatever" in the paragraph, this Government would be willing to give further consideration to the proposal, if it is furnished with information in regard to the kinds of "imposts" and "obligations" which are intended to be covered. This Government considers, however, that the paragraph as included in its enclosed draft meets the requirements of a treaty provision in regard to the taxation of nationals.

In the enclosed draft the following new paragraph is included at the end of Article I:

"Nothing contained in this treaty shall be construed to affect existing statutes of either of the High Contracting Parties in relation to the immigration of aliens or the right of either of the High Contracting Parties to enact such statutes."

The Senate of the United States in giving its advice and consent to the ratification of the treaty signed with Germany on December 8, 1923, made a reservation in the above words which was accepted by Germany.[10] From the point of view of this Government the views

[10] Senate resolution giving advice and consent to ratification was passed February 10, 1925; see bracketed note, *Foreign Relations*, 1923, vol. II, p. 45. Germany agreed to the Senate reservations in a note dated May 21, 1925.

thus expressed by the Senate must be recognized in all treaties concluded by the United States containing provisions relating to the right of aliens to enter the United States. This provision was accepted by Hungary, Salvador, and Estonia in the treaties recently signed by the United States with those countries.

Article II. Right of recovery in case of injury or death. In Article II the draft of the Latvian Government contains what is believed to be a typographical error in the clause reading "shall regardless to their alienage", and you will point out that it is understood that this Article will be accepted as it appears in this Government's original draft.[11]

Article III. Respect for dwellings and other premises. In the enclosed draft the first sentence of Article III of the original draft has been amended so as to read:

"The dwellings, warehouses, manufactories, shops and other places of business, and all premises thereto appertaining of the nationals of each of the High Contracting Parties in the territories of the other, used for any purposes set forth in Article I, shall be respected."

You will observe that the modification of the sentence involves the adding of "other places of business" to the provision and the placing of the phrase "and all premises thereto appertaining" nearer to the words to which they logically relate than they were in the original draft. In this form the provision was adopted in the treaties signed by the United States with Germany, Hungary, Estonia and Salvador.

Article IV. Rights of ownership and succession to real and personal property. In the enclosed draft the words "whether resident or non-resident" have been inserted in the first paragraph of Article IV of the original draft, which relates to real property, after the words "High Contracting Party" (tenth line of original draft, fifth line of Latvian draft). These words are included at this place in Article IV of the treaties signed by the United States with Germany, Hungary, Estonia and Salvador. The words "whether resident or non-resident" appear in the corresponding position in the second paragraph of Article IV of the original draft submitted to Latvia, as well as of the enclosed draft. Expressing them in the first paragraph has the advantage of giving uniformity of language in the two paragraphs where difference might give rise to a question whether a difference of meaning was intended.

This Government agrees that the words "to be" shall be replaced by "may be" in the phrase "this term to be reasonably prolonged", the word "which" then being substituted for "this".

---

[11] The original draft read: "shall regardless of their alienage."

The second paragraph of Article IV as contained in the United States draft and the Latvian draft is as follows:

UNITED STATES DRAFT	LATVIAN DRAFT
Nationals of either High Contracting Party may have full power to dispose of their personal property of every kind within the territories of the other, by testament, donation, or otherwise, and their heirs, legatees and donees, of whatsoever nationality, whether resident or non-resident, shall succeed to such personal property, and may take possession thereof, either by themselves or by others acting for them, and retain or dispose of the same at their pleasure subject to the payment of such duties or charges only as the nationals of the High Contracting Party within whose territories such property may be or belong shall be liable to pay in like cases.	Nationals of either High Contracting Party may have full power to dispose of their personal property of every kind within the territories of the other, by testament, donation or otherwise; they shall be at full liberty to hold and possess at their pleasure therein said property subject to the payment of such duties and charges only as the nationals of the High Contracting Party within whose territories such property may be or belong shall be liable to pay in like cases.

This Government does not perceive why this paragraph of its draft is unsatisfactory to the Latvian Government. As you pointed out in your despatch No. 1803 of February 18, 1924, the paragraph proposed by the Government of Latvia does not appear to guarantee to the heirs, legatees and donees of personal property, the same rights that are possessed by the original owner. The latter does not expressly recognize a right of succession to personal property such as is contained in the American draft. If such right of succession be implied from the language of the Latvian draft it is clear that under that language it would be afforded in each country only to nationals of the other Party to the treaty and would not extend to nationals of other countries, whereas under the United States draft it would extend to "heirs, legatees and donees, of whatsoever nationality, whether resident or non-resident". The right of equality of taxation in regard to the holding and possession of personal property which would be accorded by the provisions of the Latvian counterdraft is assured by the second paragraph of Article I whereas the right of equality in regard to taxation would under the language of the paragraph of the United States draft here under consideration, extend also to the disposition of personal property. This Government hopes, therefore, that the Government of Latvia will agree to the restoration of the second paragraph of Article IV of this Government's original draft. This Government considers that the provision contained therein assuring rights of succession to personal property is essential,

whereas the rights which would be accorded by the Latvian counter-draft either are inferior to those which would be accorded by the United States draft or are such as are accorded elsewhere in the draft under negotiation.

Article V. Freedom of Worship. Note has been made of the amendment suggested by the Government of Latvia to Article V, namely that the phrase "on compliance with the laws and regulations of the respective country" be inserted after the words "as herein above provided, may".

This Government believes that the rights of freedom of worship provided for by the Article should not be restricted by law. It therefore looks with disfavor upon the amendment made in the Latvian draft. This Government believes that the restriction "provided their teachings or practices are not contrary to public morals" which is contained in its original draft or the enlarged form of that restriction contained in the Treaty of the United States with Estonia, namely "provided their teachings or practices are not contrary to *public order or* public morals" affords the means for the exercise of all the control that it is necessary for either Government to exercise over the right of freedom of worship. The form of the Article as contained in the Treaty with Estonia is adopted in the draft enclosed herewith.

Article VII. Importations, exportations, most favored nation clause, etc. You are instructed to bring to the attention of the Latvian Foreign Office the fact that the fifth paragraph of Article VII has been enlarged so as to apply to exportations as well as importations. The changes in the paragraph are indicated by underlining:[12]

"All articles which are, or may be, legally imported from foreign countries into ports of the United States, *or are, or may be legally exported therefrom* in vessels of the United States, may likewise be imported into those ports, *or exported therefrom* in Latvian vessels, without being liable to any other or higher duties or charges whatsoever than if such articles were imported *or exported* in vessels of the United States; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Latvia *or are or may be legally exported therefrom* in Latvian vessels may likewise be imported into these ports *or exported therefrom* in vessels of the United States without being liable to any other or higher duties or charges whatsoever than if such articles were imported *or exported* in Latvian vessels."

This Government is hopeful that the Government of Latvia will accept this enlargement of the paragraph as contained in this Government's original draft. The revised form of the paragraph was adopted in the treaties with Estonia and Salvador.

The corresponding provision in the Treaty with Germany was made terminable on ninety days' notice at the expiration of one year

[12] The underlined passages are indicated by italics.

from the date of the coming into force of the treaty as a consequence of a condition on which the Senate of the United States gave its advice and consent to the ratification of that treaty. In the view of this Government the paragraph in similar treaties with other countries must be terminable on the same conditions. Provision to this effect was made by an exchange of notes signed in connection with the treaty with Hungary and in Article XXIX of the treaty with Estonia and Article XXVIII of the treaty with Salvador. Provision therefor is made in the third paragraph of Article XXX of the enclosed draft.

Your attention is invited to the sixth paragraph of Article VII of the enclosed draft, which did not appear in the original draft submitted to Latvia, and which is as follows:

"In the same manner there shall be perfect reciprocal equality in relation to the flags of the two countries with regard to bounties, drawbacks, and other privileges of this nature of whatever denomination which may be allowed in the territories of each of the High Contracting Parties, on goods imported or exported in national vessels so that such bounties, drawbacks and other privileges shall also and in like manner be allowed on goods imported or exported in vessels of the other country".

This paragraph was suggested by one of the foreign Governments with which the United States was engaged in the negotiation of a treaty similar to the treaty with Germany. As similar provisions are contained in a number of the older treaties to which the United States is a party, this Government decided to adopt the suggestion. It desires to include the above paragraph in the treaties of Friendship, Commerce and Consular Rights which it shall sign henceforth with maritime countries. As the suggestion was not made until after the treaty with Germany was signed, the provision is not contained in that treaty. It is, however, contained in the treaty signed with Salvador. The paragraph is made terminable on the same conditions as the preceding paragraph.

Article VIII. Internal taxes, transit duties, drawbacks and bounties. In the enclosed draft the words "internal taxes" have been inserted in Article VIII of the original draft immediately before the words "transit duties". The Article as thus amended is included in the treaties signed with Germany, Hungary, Salvador and Estonia.

Article IX. Tonnage duties and other charges on vessels. The Latvian Government added a paragraph to this Article stipulating that each country would recognize the ships' measurement books carried by vessels of the other that are compiled according to the Moorsom system. The policy of this Government with regard to ships' certificates issued by foreign Governments is defined by Section 4154 of the Revised Statutes as amended, which provides that the Secretary of Commerce may direct that vessels of a foreign country

be deemed to be of the tonnage denoted in their certificates of registry or other national papers when such country has substantially adopted the rules concerning measurement which are applied in the United States. The text of Section 4154 as amended is enclosed as Annex 2. In view of this statutory provision, it is deemed inadvisable to incorporate in a treaty any provision which might seem to limit the discretion of the Secretary of Commerce.

You may mention to the Latvian Government that a like proposal to that made by it was considered during the negotiation of the treaty between the United States and Estonia and that an informal understanding was entered into between the negotiators that the matter would be considered separately. The Secretary of Commerce after an examination of the Estonian regulations has recently ruled that the tonnage noted in the certificate of registry or other national papers of Estonian ships shall be accepted in the United States as the tonnage of the vessels. Copies of the correspondence between the Department and the Estonian Legation were sent to you with instruction No. 386 of October 4, 1926.[13] If the Latvian Government desires to enter into a similar arrangement with the United States, apart from the provisions of the treaty, this Government will be glad to give consideration to the matter. In the event the suggestion for such an arrangement be agreeable to the Latvian Government, the Department would be glad to have the matter presented in a separate note. A pamphlet containing the laws and regulations of the United States in regard to the measurement of vessels is enclosed.[14]

Article XI. Coasting Trade. The Latvian Government asks that the words "and the Republic of Latvia" be inserted at two places in Article XI, namely after "the coasting trade of the United States" and "according to the laws of the United States" respectively, thus exempting the coasting trade of Latvia as well as the coasting trade of the United States from the stipulations of the Article and of the Treaty. These amendments are acceptable to this Government. This Government suggests that the word "respectively" be inserted after the second of the insertions proposed by Latvia. The article thus revised is included in the enclosed draft.

Termination of Fifth and Sixth Paragraphs of Article VII and Articles IX and XI. At this point your attention is particularly called to the provision contained in the third paragraph of Article XXX of the enclosed draft under which the fifth and sixth paragraphs of Article VII and the whole of Articles IX and XI, are made terminable upon ninety days' notice, at the end of twelve months from the date of exchange of ratifications of the treaty, and thereafter by

[13] Instruction not printed; but for notes exchanged with the Estonian Legation, see *Foreign Relations*, 1926, vol. II, pp. 89–90.

[14] No pamphlet attached to file copy.

operation of legislation inconsistent with them, which may be enacted by the United States or Latvia. That provision is the consequence of a reservation made by the Senate of the United States in giving its advice and consent to the ratification of the Treaty of Friendship, Commerce and Consular Rights, signed by the United States and Germany on December 8, 1923. The reservation and exchange of notes effecting the acceptance thereof by Germany are printed with the Treaty in Treaty Series No. 725. A like reservation was made by exchange of notes in relation to the Treaty with Hungary. (Treaty Series No. 748). The provision as contained in the enclosed draft is included in the treaties with Salvador [15] and Estonia (Treaty Series No. 736).

Article XII. Recognition of corporations and their right to engage in business. This Government accepts the amendment proposed by the Government of Latvia to Article XII, namely that the words "and regulations" be inserted at the end of the second paragraph after the words "as expressed in its National, State or Provincial laws", thus making the right of corporations of one country to establish themselves in the other, etc., dependent upon regulations as well as laws. It is understood, of course, that regulations will not narrow rights granted by laws unless the power to do so is expressly conferred by law on the authorities issuing the regulations.

Article XIII. Right of nationals to organize corporations. At the end of the first paragraph of Article XIII of the Treaty with Germany, which Article corresponds to Article XIII of the draft, is the following sentence not included in the draft submitted to Latvia by this Government:

"The foregoing stipulations do not apply to the organization of and participation in political associations."

The above sentence is also included in the treaties signed with Hungary (Article X) and Estonia (Article XIII). It is not included in the treaty signed with Salvador. This Government does not propose it for inclusion in the treaty with Latvia. It desires, however, that you bring the sentence to the attention of the Latvian negotiators, and state to them that, if Latvia considers that such a provision in the treaty would have any value to that country, this Government will be glad to insert it at the end of the first paragraph of Article XIII.

Article XIV. Commercial travelers. It is noted that the Latvian Government omitted Articles XIV and XV of the original United States draft from its counterdraft and made no counter proposal in regard thereto. This Government will raise no objection to such omission provided provision granting most favored nation treatment to commercial travelers be inserted in the treaty. You will therefore

[15] Treaty Series No. 827.

propose to the Latvian Government the following Article XIV to take the place of Articles XIV and XV of the original draft.

Article XIV. Commercial travelers representing manufacturers, merchants and traders domiciled in the territories of either High Contracting Party shall on their entry into and sojourn in the territories of the other Party and on their departure therefrom be accorded the most favored nation treatment in respect of customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

If either High Contracting Party require the presentation of an authentic document establishing the identity and authority of a commercial traveler, a signed statement by the concern or concerns represented, certified by a consular officer of the country of destination, shall be accepted as satisfactory.

The first paragraph of the above Article is identical with Article XIV of the Treaty with Estonia. Point out to the Latvian Government that through this most favored nation stipulation Latvian commercial travelers would obtain in the United States all the benefits of Articles XIV and XV of the original draft, as these provisions are now in effect in the treaties of the United States with Germany and a number of other countries. A provision somewhat similar to the second paragraph is contained in the second paragraph of the protocol of the Treaty with Estonia. It is believed that a provision for the establishment of the identity and authority of a commercial traveler is desirable, and the Department of Commerce desires to have the second paragraph inserted in the text of the treaty. No authorities competent to issue such certificates are now established in the United States nor does there seem to be sufficient need at the present time for organizing them. The method set out above whereby the certificates would be furnished without intervention of the authorities of the country from which the traveler proceeded would seem to be satisfactory. In view of the provisions of Article VIII of the Treaty of Commerce and Navigation between Latvia and Great Britain, it is hoped that there will be no objection on the part of the Latvian Government to the acceptance of this paragraph.

Article XV. (Article XIV of Latvian draft). *Freedom of transit.* With reference to Article XIV of the Latvian Government's draft, which becomes Article XV of the enclosed draft, this Government accepts the addition of the words "or regulations" at the end of the first sentence of this Article, as proposed by Latvia, thus recognizing as exceptions to the right of transit persons and goods forbidden admission to the country by regulations as well as those forbidden admission by law. This Government regards the two new sentences proposed by the Government of Latvia, to be added to the first paragraph of this Article, as unnecessary. The sentences read as follows:

"It is understood that traffic in transit shall not be subject to any special dues in respect of transit (including entry and exit), except

for such dues as are intended solely to defray expenses of supervision and administration entailed by such transit. It is further understood that ordinary charges for the handling of the goods in the ports are not within the scope of this Article and may be levied."

This Government regards the last paragraph of this Article of the original draft, which is as follows:

"All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic."

as being sufficient to cover the situation understood to be contemplated by the two additional sentences proposed by Latvia. The article as presented in the draft first submitted to Latvia was agreed to in the treaties of the United States with Germany, Hungary, Estonia and Salvador. The Department desires that you make an earnest effort to have it accepted by Latvia agreeing however, to the addition of the words "or regulations" at the end of the first sentence.

If, however, the Latvian negotiators feel that further provision should be made along this line, you are instructed to inquire whether a provision such as the paragraph numbered three in the protocol accompanying the Treaty with Estonia would not be acceptable to Latvia, if incorporated in a protocol to the treaty. The provision referred to reads as follows:

"The provisions of Article XV do not prevent the High Contracting Parties from levying on traffic in transit dues intended solely to defray expenses of supervision and administration entailed by such transit, the rate of which shall correspond as nearly as possible with the expenses which such dues are intended to cover and shall not be higher than the rates charged on other traffic of the same class on the same routes."

The language follows closely the language of the Statute attached to the Convention on Freedom of Transit signed at Barcelona, April 20, 1921,[16] to which the United States is not a party. You are authorized to agree to such a paragraph in the protocol if that becomes necessary.

Article XVI. (Article XV of the Latvian draft). *Exceptions from most favored nation clause.* The Latvian Government proposed the following new article as Article XV of its draft:

"As an exception from the general undertaking given by the Latvian Government to accord most favored nation treatment to the commerce of the territories of the United States of America, it is understood that the Government of the United States of America will not claim the benefit of any Customs preferences or other facilities of whatever nature which are or may be granted by Latvia in favor of Russia, Finland, Esthonia, or Lithuania in regard to Russian, Finnish, Esthonian, or Lithuanian goods respectively so long as such prefer-

[16] League of Nations Treaty Series, vol. VII, pp. 11, 26.

ences or facilities are not extended by Latvia to any other foreign country."

You are instructed to inform the Latvian negotiators that this Government agrees to include this provision in the Treaty. It appears as Article XVI of the enclosed draft.

Article XVIII (Article XVII of the Latvian draft). *Criminal and civil jurisdiction over consular officers.* The first sentence of the first paragraph of Article XVIII of the enclosed draft differs from the corresponding sentence of this Government's original draft (Article XVII of the Latvian Government's draft), in that the words "other than misdemeanors" have been inserted after the word "crimes", and that the words "as a criminal" at the end of the sentence have been struck out. The first paragraph of the Article as thus revised reads as follows:

"Consular officers, nationals of the State by which they are appointed, shall be exempt from arrest except when charged with the commission of offenses locally designated as crimes *other than misdemeanors* and subjecting the individual guilty thereof to punishment. Such officers shall be exempt from military billetings, and from service of any military or naval, administrative or police character whatsoever."

In the form above quoted the paragraph is included in the Treaties signed with Germany (Article XVIII), Hungary (Article XV), Salvador (Article XVI), and Estonia (Article XVII). It is believed that it is a clearer and more satisfactory definition than that contained in the original draft submitted by this Government.

Article XX. (Article XIX of the Latvian draft). *Privileges of consular officers.* The Latvian Government includes as the first paragraph of Article XIX of its draft, the following definition of the term "consular officer":

"Under the name of Consular officers are regarded the following persons: Consuls-General, Consuls, Vice-Consuls and Consular Agents."

From the point of view of this Government it is unnecessary to have a definition of the term consular officer in the treaty. It might at some time become embarrassing to the United States or Latvia to have such a definition in the treaty because the grades of consular officers are subject to change by national laws and grades not mentioned in the treaty might subsequently be created by such law. This Government asks that if a definition of the term "consular officer" be regarded as necessary by the Latvian Government, it be included in a protocol to accompany the treaty, as was done in the Treaty between the United States and Estonia, rather than in the treaty itself. Paragraph 4 of that Protocol is as follows:

"Wherever the term 'consular officer' is used in this Treaty it shall be understood to mean Consuls General, Consuls, Vice Consuls and Consular Agents to whom an exequatur or other document of recognition has been issued pursuant to the provisions of paragraph 3 of Article XVI."

This Government would be glad if the Latvian Government would accept the definition there given in lieu of the one proposed by it and would agree to put it in the protocol.

Article XXII. (Article XXI of the Latvian draft). *Notarial acts by consular officers.* The texts of Article XXII of the United States draft and the Article substituted therefor by Latvia are as follows:

UNITED STATES DRAFT	LATVIAN DRAFT
Consular officers may, in pursuance of the laws of their own country, take, at any appropriate place within their respective districts, the depositions of any occupants of vessels of their own country, or of any national of, or of any person having permanent residence within the territories of, their own country. Such officers may draw up, attest, certify and authenticate unilateral acts, deeds and testamentary dispositions of their countrymen, and also contracts to which a countryman is a party. They may draw up, attest, certify and authenticate written instruments of any kind purporting to express or embody the conveyance or encumbrance of property of any kind within the territory of the State by which such officers are appointed, and unilateral acts, deeds, testamentary dispositions and contracts relating to property situated, or business to be transacted within, the territories of the State by which they are appointed, embracing unilateral acts, deeds, testamentary dispositions or agreements executed solely by nationals of the State within which	The Consular officers of either of the High Contracting parties as far as they are entitled by their respective States, which have appointed them, shall have the right:— 1) to take various depositions which may be given by captains, crew or passengers, negociants or any national of their respective country; 2) to receive, draw up and certify the juridical unilateral acts and testamentary dispositions of the nationals of their country, as well as any juridical bilateral acts, which may concern either the nationals of their country only or their nationals and other persons, the nationals of the country of residence, or the nationals of any third country; 3) to receive, draw up and certify the juridical unilateral and bilateral acts, which may concern either the nationals of the country of residence or the nationals of any third country, if such acts are purported to the rights, property or affairs, which are pending decision, or may have juridical effect in the territories of the State, to which

such officers exercise their functions.

Instruments and documents thus executed and copies and translations thereof, when duly authenticated under his official seal by the consular officer shall be received as evidence in the territories of the contracting parties as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if drawn by and executed before a notary or other public officer duly authorised in the country by which the consular officer was appointed; provided, always that such documents shall have been drawn and executed in conformity to the laws and regulations of the country where they are designed to take effect.

the Consul or Consular Agent, before whom these acts are made, belong;

4) to translate and certify any act or document, which has been issued by the functionaries and authorities either of the State by which they are appointed or of the State of their residence; these translations shall have the same force and effect in both States, as if drawn up and executed before a notary or duly authorized public interpreter of either High Contracting Party.

It is understood that the stipulations embodied in this Article shall not be applicable to the juridical bilateral acts relative to the transference of rights of property or mortgage of the immovable estates, situated in the territories of the State of Consul's residence.

Copies, extracts, and duplicates of acts, drawn up in accordance with the terms of the present Article relating to the Consuls, if by the said consular functionaries duly certified and bearing the seal of the Consulate, shall have in the territories of either of the High Contracting Parties legal power and juridical effect and, like their originals, shall have the same authentical character and the same force as if drawn by and executed before a notary or other public officer duly authorised in the territories of either of the High Contracting Parties, provided: 1) that these acts are drawn up in due form which is foreseen by laws of the State that appoints the Consul; 2) that these copies, extracts, and duplicates, like their originals, duly bear the revenue duties and are registered, and 3) that all formalities, required in these matters, are complied with in the country for which these acts are meant.

The Latvian Government made no statement of particulars in which the draft of the United States was objectionable or incomplete.

This Government, having previously included this Article in the form in which it was presented in its original draft to Latvia in treaties with a number of countries, earnestly requests in the interest of uniformity in its treaty provisions relating to the subject, that the Latvian Government agree to accept that Article in its original form. If the Latvian negotiators have objections to any of the provisions of this Government's draft, or consider any of them to be unsatisfactory, this Government will be glad to consider the particulars which may be brought to its attention. In the absence of essential differences between the enumerated powers of consular officers in the respective drafts, this Government is hopeful that the Latvian Government will consider the original Article XXII satisfactory. If on further consideration the Latvian Government insists on the Article drafted by it, this Government will consider any points of difference between the two drafts that may be pointed out to it.

Proposed Article. (*Article XXIII of Latvian draft*). *Assistance for recovery of deserting seamen.* The Latvian Government proposed a new Article, as follows:

"The Consular officers of each of the High Contracting Parties residing in the territories of the other shall receive from the local authorities such assistance as can by law be given to them for the recovery of deserters from the vessels of their respective country.

"Provided that this stipulation shall not apply to nationals of the High Contracting Party in whose territory the desertion takes place."

You are instructed to inform the Latvian negotiators that this Government regrets its inability to accept this Article. Point out to the Latvian authorities that Section 16 of the Act of Congress of March 4, 1915, commonly referred to as the "Seamen's Act", 38 Stat. 1164, 1184, provides as follows:

"That in the judgment of Congress articles in treaties and conventions of the United States, in so far as they provide for the arrest and imprisonment of officers and seamen deserting or charged with desertion from merchant vessels of the United States in foreign countries, and for the arrest and imprisonment of officers and seamen deserting or charged with desertion from merchant vessels of foreign nations in the United States and the Territories and possessions thereof, and for the cooperation, aid, and protection of competent legal authorities in effecting such arrest or imprisonment and any other treaty provision in conflict with the provisions of this Act, ought to be terminated, and to this end the President be, and he is hereby, requested and directed, within ninety days after the passage of this Act, to give notice to the several Governments, respectively, that so much as hereinbefore described of all such treaties and conventions between the United States and foreign governments will terminate on the expiration of such periods after notices have been given as may be required in such treaties and conventions."

Treaty provisions in a large number of treaties of the United States were terminated pursuant to the will of Congress as expressed in the

above quoted Act. (See *Foreign Relations of the United States*, 1915, page 6). Obviously the Article proposed by Latvia would conflict with the purpose of the "Seamen's Act". This Government would not consent to include such a provision in a Treaty with any country. You will point out, however, that pursuant to the immigration laws of the United States, the immigration authorities endeavor to apprehend all persons who have entered the United States unlawfully, including seamen who have deserted their vessels. Thus you can say to the Latvian negotiators that in practice the matter to which their proposed article relates will, in so far as concerns seamen deserting Latvian vessels in the United States, no doubt be taken care of satisfactorily without resort to a treaty stipulation.

Article XXIX. (Article XXIX of Latvian draft). Definition of territories and nationals. The enclosed draft does not contain the second paragraph of Article XXIX of the original draft submitted to Latvia by this Government and included in Article XXIX of the Latvian Government's draft. This Government does not desire to include the definition of the term "nationals" embraced in that paragraph in the Treaty. It would appear that cases might arise in which each party to the treaty would deem that the same person owed permanent allegiance to it. The proposed definition would seem to contribute nothing to the solution of such a question when it might arise, and would be unnecessary in other circumstances. The definition does not appear in the treaties of the United States with Germany, Hungary, Estonia or Salvador.

The first paragraph of the Article containing a definition in general terms of the territories to which the Treaty relates is retained in the enclosed draft as Article XXIX.

Article XXX. Ratification and duration. In lieu of Articles XXX and XXXI of this Government's original draft the Latvian Government proposed the following:

"The present treaty shall be ratified and the ratifications shall be exchanged at Riga as soon as possible. It shall come into force immediately upon ratification, and shall remain in force until the expiration of twelve months from the date on which either of the High Contracting Parties shall have denounced it."

It is noted that the Latvian draft makes the entire Treaty terminable at the end of one year. You explained that this change was made in view of possible alliances by Latvia with other Baltic States and the formation of a Baltic States Union which would require the revision of all treaties entered into by the various members in order to bring them into accord. In view of the acceptance by this Government of Article XV of the Latvian draft (Article XVI of the enclosed draft), it would appear that this reason would be inoperative. You are instructed, therefore, to endeavor to obtain the acceptance by

Latvia of the ten-year period for the duration of the treaty proposed in this Government's original draft, except in so far as it is necessary to adopt the one-year term in order to make the provisions of the treaty accord with the reservations made by the Senate of the United States in giving its advice and consent to the ratification of the treaty with Germany. Point out that this Government deems it inadvisable that the treaty should be terminable in so short a time as one year, with respect to matters concerning which the parties have a permanent policy, especially in view of the time required for negotiations, ratification by both Governments and exchange of ratifications. Paragraphs 5 and 6 of Article VII and Articles IX and XI relating to shipping contain provisions which the Senate at the time it gave its advice and consent to the ratification of the treaty with Germany considered this Government might desire to make the subject of consideration with a view to legislative action. It is for this reason that they are made terminable at the end of one year.

Article XXX of this Government's revised draft is as follows:

"Except as provided in the third paragraph of this Article the present Treaty shall remain in full force for the term of ten years from the date of the exchange of ratifications, on which date it shall begin to take effect in all of its provisions.

"If within one year before the expiration of the aforesaid period of ten years neither High Contracting Party notifies to the other an intention of modifying by change or omission, any of the provisions of any of the articles in this Treaty or of terminating it upon the expiration of the aforesaid period the Treaty shall remain in full force and effect after the aforesaid period and until one year from such a time as either of the High Contracting Parties shall have notified to the other an intention of modifying or terminating the Treaty.

"The fifth and sixth paragraphs of Article VII and Articles IX and XI shall remain in force for twelve months from the date of exchange of ratifications, and if not then terminated on ninety days' previous notice shall remain in force until either of the High Contracting Parties shall enact legislation inconsistent therewith when the same shall automatically lapse at the end of sixty days from such enactment, and on such lapse each High Contracting Party shall enjoy all the rights which it would have possessed had such paragraphs or articles not been embraced in the Treaty."

Estonia accepted in Article XXIX of the Treaty of 1925 with the United States the same proposal which this Government herein makes to Latvia.

Provisions relating to ratifications and the exchange of ratifications, such as are contained in Article XXXI of this Government's original draft should be included in the treaty at the end of the foregoing Article or as a separate Article. Article XXXI of the original draft is, therefore, retained as Article XXXI of the enclosed draft.

There is enclosed a draft of a protocol containing the provision in regard to the levying of dues on traffic in transit to defray expenses of

supervision and administration of transit and the definition of "consular officer" referred to above under Articles XV and XX, respectively.

If you are unable to obtain acceptance by the Latvian Government of Articles XV and XX of the enclosed draft because of that Government's insistence upon the substance of the additions suggested by it to those Articles, you are instructed to endeavor to have the protocol accepted rather than to include the additional provisions in the Articles of the treaty. The provisions of the Protocol are the same *mutatis mutandis* as those relating to the same subjects contained in the Protocol accompanying the Treaty of Friendship, Commerce and Consular Rights with Estonia. This Government considers that both provisions of the Protocol are merely interpretive of the stipulations of the respective Articles as proposed by it and that the provisions of the Articles would have the same effect if no Protocol be signed. You are instructed to bring this view to the attention of the Latvian authorities.

With a view to expediting the completion of the negotiations, the Department will be glad to have you report by telegram in regard to points on which you may desire to have further instructions unless such points are numerous or raise complicated questions.

I am [etc.] FRANK B. KELLOGG

[Enclosure 1—Annex 1]

Draft Protocol to Accompany the Treaty of Friendship, Commerce and Consular Rights

At the moment of signing the Treaty of Friendship, Commerce and Consular Rights between the United States of America and the Republic of Latvia, the undersigned plenipotentiaries duly authorized by their respective Governments, have agreed as follows:

1. The provisions of Article XV do not prevent the High Contracting Parties from levying on traffic in transit dues intended solely to defray expenses of supervision and administration entailed by such transit, the rate of which shall correspond as nearly as possible with the expenses which such dues are intended to cover and shall not be higher than the rates charged on other traffic of the same class on the same routes.

2. Wherever the term "consular officer" is used in this Treaty it shall be understood to mean Consuls General, Consuls, Vice Consuls and Consular Agents to whom an exequatur or other document of recognition has been issued pursuant to the provisions of paragraph 3 of Article XVII.

[Enclosure 2—Annex 2]

Revised Statutes, Section 4154, As Amended

"Whenever it is made to appear to the Secretary of Commerce that the rules concerning the measurement for tonnage of vessels of the United States have been substantially adopted by the government of any foreign country, he may direct that the vessels of such foreign country be deemed to be of the tonnage denoted in their certificates of register or other national papers, and thereupon it shall not be necessary for such vessels to be remeasured at any port in the United States; and when it shall be necessary to ascertain the tonnage of any vessel not a vessel of the United States, the said tonnage shall be ascertained in the manner provided by law for the measurement of vessels of the United States."

(R. S. 4154; August 5, 1882, Sec. 2; February 14, 1903, Sec. 10).

[Enclosure 3]

Draft Treaty of Friendship, Commerce and Consular Rights[17]

PREAMBLE

. . . . . .

ARTICLE I

The nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in professional, scientific, religious, philanthropic, manufacturing and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes; to employ agents of their choice, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the state of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established.

[17] Of the 31 articles of this draft, arts. II–VI, VIII–X, XII, XIV, XVII–XXVI, and XXVIII–XXXI are not printed; they were accepted by the Latvian Government in its memorandum dated March 5, 1927, p. 187. For the texts of those articles, see the signed treaty, p. 208.

The first sentence of par. 3 of art. XXX of this draft begins: "The fifth and sixth paragraphs of Article VII and Articles IX and XI shall remain in force." This sentence as revised in the signed treaty reads: "The sixth and seventh paragraphs of Article VII and Articles X and XII shall remain in force."

The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals.

The nationals of each High Contracting Party shall enjoy freedom of access to the courts of justice of the other on conforming to the local laws, as well for the prosecution as for the defense of their rights, and in all degrees of jurisdiction established by law.

The nationals of each High Contracting Party shall receive within the territories of the other, upon submitting to conditions imposed upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. Their property shall not be taken without due process of law and without payment of just compensation.

Nothing contained in this Treaty shall be construed to affect existing statutes of either of the High Contracting Parties in relation to the immigration of aliens or the right of either of the High Contracting Parties to enact such statutes.

ARTICLE II

. . . . . .

ARTICLE VII

Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation. The nationals of each of the High Contracting Parties equally with those of the most favored nation, shall have liberty freely to come with their vessels and cargoes to all places, ports and waters of every kind within the territorial limits of the other which are or may be open to foreign commerce and navigation. Nothing in this treaty shall be construed to restrict the right of either High Contracting Party to impose, on such terms as it may see fit, prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life, or regulations for the enforcement of police or revenue laws.

Each of the High Contracting Parties binds itself unconditionally to impose no higher or other duties or conditions and no prohibition on the importation of any article, the growth, produce or manufacture, of the territories of the other than are or shall be imposed on the importation of any like article, the growth, produce or manufacture of any other foreign country.

Each of the High Contracting Parties also binds itself unconditionally to impose no higher or other charges or other restrictions or

prohibitions on goods exported to the territories of the other High Contracting Party than are imposed on goods exported to any other foreign country.

Any advantage of whatsoever kind which either High Contracting Party may extend to any article, the growth, produce, or manufacture of any other foreign country shall simultaneously and unconditionally, without request and without compensation, be extended to the like article, the growth, produce, or manufacture of the other High Contracting Party.

All articles which are or may be legally imported from foreign countries into ports of the United States or are or may be legally exported therefrom in vessels of the United States may likewise be imported into those ports or exported therefrom in Latvian vessels, without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in vessels of the United States; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Latvia or are or may be legally exported therefrom in Latvian vessels may likewise be imported into these ports or exported therefrom in vessels of the United States without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in Latvian vessels.

In the same manner there shall be perfect reciprocal equality in relation to the flags of the two countries with regard to bounties, drawbacks, and other privileges of this nature of whatever denomination which may be allowed in the territories of each of the High Contracting Parties, on goods imported or exported in national vessels so that such bounties, drawbacks and other privileges shall also and in like manner be allowed on goods imported or exported in vessels of the other country.

With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels and goods of a third State, and regardless of whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third State shall simultaneously and unconditionally, without request and without compensation, be extended to the other High Contracting Party, for the benefit of itself, its nationals and vessels.

The stipulations of this Article do not extend to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United

States and Cuba on December 11, 1902,[18] or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws.

ARTICLE VIII [19]

. . . . . .

ARTICLE XI

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties shall be permitted to discharge portions of cargoes at any port open to foreign commerce in the territories of the other High Contracting Party, and to proceed with the remaining portions of such cargoes to any other ports of the same territories open to foreign commerce, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner at different ports in the same voyage outward, provided, however, that the coasting trade of the United States and the Republic of Latvia is exempt from the provisions of this Article and from the other provisions of this Treaty, and is to be regulated according to the laws of the United States and the Republic of Latvia, respectively, in relation thereto. It is agreed, however, that the nationals of either High Contracting Party shall within the territories of the other enjoy with respect to the coasting trade the most favored nation treatment.

ARTICLE XII [20]

. . . . . .

ARTICLE XIII [21]

The nationals of either High Contracting Party shall enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the organization of and participation in limited liability and other corporations and associations, for pecuniary profit or otherwise, including the rights of promotion, incorporation, purchase and ownership and sale of shares and the holding of executive or official positions therein. In the exercise of the foregoing rights and with respect to

[18] *Foreign Relations*, 1903, p. 375.
[19] Arts. VIII, IX, and X became arts. IX, X, and XI, respectively, and art. XI, when revised, became art. XII of the treaty signed Apr. 20, 1928, p. 208.
[20] Art. XII became art. XIII of the signed treaty.
[21] Art. XIII, when revised, became art. XIV of the signed treaty.

the regulation or procedure concerning the organization or conduct of such corporations or associations, such nationals shall be subjected to no conditions less favorable than those which have been or may hereafter be imposed upon the nationals of the most favored nation. The rights of any of such corporations or associations as may be organized or controlled or participated in by the nationals of either High Contracting Party within the territories of the other to exercise any of their functions therein, shall be governed by the laws and regulations, national, state or provincial, which are in force or may hereafter be established within the territories of the Party wherein they propose to engage in business.

The nationals of either High Contracting Party shall, moreover, enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain of the other.

ARTICLE XIV [22]

. . . . . .

ARTICLE XV [23]

There shall be complete freedom of transit through the territories including territorial waters of each High Contracting Party on the routes most convenient for international transit, by rail, navigable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries of the United States, to persons and goods coming from or going through the territories of the other High Contracting Party, except such persons as may be forbidden admission into its territories or goods of which the importation may be prohibited by law or regulations. Persons and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, and shall be given national treatment as regards charges, facilities, and all other matters.

Goods in transit must be entered at the proper custom house, but they shall be exempt from all customs or other similar duties.

All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic.

ARTICLE XVI

As an exception from the general undertaking given by the Latvian Government to accord most favored nation treatment to the commerce

[22] Art. XIV became art. XV of the signed treaty.
[23] Art. XV, when revised, became art. XVI of the signed treaty.

of the territories of the United States of America, it is understood that the Government of the United States of America will not claim the benefits of any customs preferences or other facilities of whatever nature which are or may be granted by Latvia in favor of Russia, Finland, Estonia, or Lithuania in regard to Russian, Finnish, Estonian, or Lithuanian goods respectively so long as such preferences or facilities are not extended by Latvia to any other foreign country.

ARTICLE XVII

. . . . . .

ARTICLE XXVII

Each of the High Contracting Parties agrees to permit the entry free of all duty and without examination of any kind, of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their baggage and all other personal property, whether accompanying the officer to his post or imported at any time during his incumbency thereof; provided, nevertheless, that no article, the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories.

It is understood, however, that this privilege shall not be extended to consular officers who are engaged in any private occupation for gain in the countries to which they are accredited, save with respect to governmental supplies.

ARTICLE XXVIII

. . . . . .

711.60p2/19 : Telegram

The Minister in Latvia (Coleman) to the Secretary of State

RIGA, *February 21, 1927—4 p. m.*
[Received February 21—2 : 18 p. m.]

16. Your instruction number 106 [*406*], January 21st. Has the Department any objection to combining suitably in article 16 the last paragraph of article 7 beginning "the stipulation[s]" and first eleven lines in last paragraph of article 7 in German treaty? [24] The latter is uniform in all treaties made by Latvia, being now in force between Latvia and Esthonia. Would appreciate reply by cable end of week.

COLEMAN

[24] *Foreign Relations*, 1923, vol. II, pp. 29, 32.

711.60p2/19 : Telegram

The Acting Secretary of State to the Minister in Latvia (Coleman)

WASHINGTON, *February 24, 1927—5 p. m.*

7. Your 16, February 21, 4 p. m. Department has no objection to including in Article 16 the last paragraph of Article 7 of draft and the first eleven lines of last paragraph of Article 7 of United States-German Treaty.

Please submit proposed text to Department before final agreement.

GREW

711.60p2/20 : Telegram

The Minister in Latvia (Coleman) to the Secretary of State

RIGA, *February 28, 1927—4 p. m.*

[Received March 1—8:06 a. m.]

17. Your 7, February 24, 5 p. m. Following article 16 is submitted by Latvian Government for the approval of the Department:

"As an exception from the general undertaking given by the High Contracting Parties to accord mutually the most-favored-nation treatment, it is understood the stipulations of this treaty shall not extend: (*a*) To the treatment which either contracting party shall accord to purely border traffic within a zone not exceeding ten miles (15 kilometers) wide on either side of its customs frontier; (*b*) to the special privileges resulting from an economic or customs union; (*c*) (here is Cuba and Panama exception in text of Department); (*d*) to the customs preferences or other facilities of whatever nature which are or may be granted by Latvia in favor of Esthonia, Finland, Lithuania or the United States [*sic*] S. R."

See my despatch No. 3561, February 2, 1926.[25] It is possible that Latvian Government might be willing to substitute the word "Russia" for "United States [*sic*] S. R." if the Department insists.

COLEMAN

711.60p2/20 : Telegram

The Acting Secretary of State to the Minister in Latvia (Coleman)

WASHINGTON, *March 7, 1927—6 p. m.*

8. Your telegram February 28, 4 p. m. Treaty of Friendship, Commerce and Consular Rights.

1. Exceptions to most favored nation treatment contained in the last paragraph of Article 7 of the treaties of the United States with

[25] Not printed.

Germany,[26] Hungary [27] and Estonia [28] relate only to the stipulations contained in that Article. With a view to maintaining uniformity in the treaties of the United States, this Government desires that exceptions proposed by the Latvian Government be limited to the provisions of Article 7. It asks that certain other minor changes also be made in the Article quoted in your telegram with a view to increased definiteness and clarity.

2. The Department desires that you propose an Article as follows:

"The stipulations of Article 7 of this Treaty shall not extend
(*a*) (exception in regard to border traffic as in your telegram).
(*b*) (exception in regard to Cuba and Panama).
(*c*) (to the customs preferences or other facilities of whatever nature which are or may be granted by Latvia in favor of Estonia, Finland, Lithuania or Russia and/or to the special privileges resulting to States in customs or economic union with Latvia so long as such preferences, facilities or special privileges are not accorded to any other State."

(Compare the last paragraph of Article 7 of the Treaty between the United States and Estonia.)

3. This Government has not hitherto used the term "Union of Soviet Socialist Republics" in any treaty or exchange of notes. It desires to insist on the use of the term "Russia".

4. In view of the reference to Article 7 now contained in the Article the Department suggests that the Article be placed immediately after Article 7 and be numbered Article 8.

5. Article 8 of the draft should then be renumbered Article 9 and succeeding Articles accordingly.

6. In the third paragraph of Article 30 reference must then be made to Articles 10 and 12 instead of Articles 9 and 11.

GREW

711.60p2/21

The Minister in Latvia (Coleman) to the Secretary of State

No. 4408 RIGA, *March 21, 1927.*
[Received April 5.]

SIR: I have the honor to refer to the Department's instructions Nos. 406 and 415, of January 21 and February 17, 1927,[29] respectively, concerning a proposed treaty of Friendship, Commerce and Consular Rights between the United States and Latvia, and to the following

[26] *Foreign Relations*, 1923, vol. II, pp. 29, 32.
[27] *Ibid.*, 1925, vol. II, pp. 341, 344.
[28] *Ibid.*, pp. 70, 73.
[29] Instruction No. 415 not printed; it transmitted the President's full power authorizing Minister Coleman to sign the treaty.

telegrams which were exchanged between the Department and the Legation on the same subject:

(1) My No. 13, of February 7, 10:00 A. M. (1927) [30]
(2) My No. 16, of February 21, 4:00 P. M. (1927)
(3) Department's No. 7, of February 24, 5:00 P. M. (1927)
(4) My No. 17, of February 28, 4:00 P. M. (1927)
(5) Department's No. 8, of March 7, 6:00 P. M. (1927)

In this connection, I have the honor to transmit herewith a copy of a note which I addressed to the Latvian Foreign Office on February 7, 1927,[31] together with copies of two memoranda, dated March 5 and 16, 1927, in reply, from the Foreign Office. It will be observed from these memoranda that the Latvian Government accepts the text of the following articles in the draft submitted by the United States Government:

2, 3, 4, 5, 6, 8, 9, 10, 12, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, Protocol paragraphs 1 and 2.

With regard to the remaining articles of the United States draft, the Latvian Government, in its two memoranda, proposes slight alterations, which were explained to me verbally by an official of the Latvian Foreign Office, and which are discussed numerically hereinafter in this despatch.

Preamble

The Foreign Office memorandum of March 5th states that "according to the constitutional practice of Latvia the authorization for the signature of the Treaty will be given by the Latvian Government". The Latvian Government would appreciate it if a change in the United States draft could be made so that the proposed U. S.-Latvian treaty would be identical in this respect with the U. S.-Esthonian treaty.

Article 1

The Foreign Office memorandum of March 5th proposes that the sentence "upon the same terms as nationals of the State of residence or as nationals of the nation hereafter to be most favored by it" be replaced by the sentence "upon the same terms as nationals of the most favored nation".

A Latvian Foreign Office official informed me that his Government desired to make this restriction on account of future negotiations with the Soviets.

Articles 7 and 16

The Foreign Office memorandum of March 5th stated "whilst accepting paragraphs 2–7 of Article 7, the Latvian Government

[30] Telegram not printed; it reported that draft treaty had been submitted to the Latvian Government on February 7.
[31] Not printed.

proposes to unite the exceptions from most favored nation treatment embodied in paragraph 8 of Article 7 and in Article 16 under one separate article and with the text as set forth in Annex 1 to this memorandum. This new article should be inserted at the end of the Treaty before Article 29 of the draft."

In this connection, the following telegrams were exchanged between the Department and the Legation:

My No. 16 of February 21, 4:00 P. M. (1927)
Department's No. 7, of February 24, 5:00 P. M. (1927)
My No. 17, of February 28, 4:00 P. M. (1927)
Department's No. 8, of March 7, 6:00 P. M. (1927).

A Foreign Office official informed me orally on March 16th that the Latvian Government would accept the proposals contained in the Department's telegram No. 8, of March 7, 6:00 P. M.

In connection with Article 7, the Foreign Office memorandum of March 5th further states that the end of paragraph 1 of that article should be worded as follows:

. . . "on such terms as it may see fit:

a) Prohibitions or restrictions relating to national defence, public security and public order;
b) Prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life;
c) Prohibitions or restrictions relating to articles, goods or products constituting a state of monopoly;
d) Regulations for the enforcement of police or revenue laws."

Clause *a*) is apparently designed to afford the Latvian Government greater protection against communism than would result from clause *d*) alone.

Article 11

The Latvian Government would like to insert after the words "coasting trade" (in two places) the words "and the towing service" and to add a second paragraph to the text of this Article with the following text:

"The provisions of this Treaty relating to the mutual concession of national treatment in matters of navigation do not apply to the special privileges reserved by either High Contracting Party for the fishing industry and for the national shipbuilding industry."

Article 13

The Latvian Government desires to add at the end of the first paragraph the sentence "The foregoing stipulations do not apply to the organization of and participation in political associations". (See Foreign Office memorandum of March 5th).

A Latvian Foreign Office official explained to me verbally that his Government desired to add the above quoted sentence on account

of its relations with the Soviets. The same clause exists in the United States-Estonian Treaty.

Article 15

The Latvian Government desires to insert between "importation" and "may be prohibited" the words "or transit". (See Foreign Office memorandum of March 5th). A Foreign Office official explained that Latvia is principally a transit nation. The Legation believes that the Latvian Government wants to be free to make regulations which will prevent the transit through Latvia of certain articles—such as ammunitions or poison gas—to Soviet Russia.

The Foreign Office's memorandum of March 16th states that "in order to avoid misunderstanding as to the significance of the stipulation embodied in Article XV of the Draft and exempting the Panama Canal and waterways and canals which constitute international boundaries from the application of the principle of freedom of transit, the words 'of the United States' should be left out".

Article 27

The Latvian Government wishes to replace paragraph 1 of this Article by the text set forth in Annex 2 to its memorandum of March 5th. The Latvian Foreign Office explained that the Latvian Government desires this change on account of Latvia's relations with Soviet Russia. The same clause exists in the United States-Estonian treaty.

Protocol

On account of its relations with the Soviets, the Latvian Government desires to add a third paragraph with the following text:

"In addition to consular officers, attaches, chancellors and secretaries, the number of employees to whom the privileges authorized by Article 27 shall be accorded shall not exceed five at any one post." (See Foreign Office memorandum of March 5th).

In its memorandum of March 16th, the Latvian Foreign Office states that "the Latvian rules concerning the measurement for tonnage of vessels being based on the Moorsom system and therefore substantially in conformity with the American system of measurement, it is proposed to agree by exchange of notes on the mutual recognition of certificates of measurement".

A translation of the Latvian rules concerning the tonnage measurement of vessels is enclosed herewith.[32]

The Latvian Foreign Office informed me orally that the privileges reserved in Article 27—i. e. exemption from examination of baggage, etc.—would be extended informally to United States Consuls.

I have [etc.] F. W. B. COLEMAN

[32] Not printed.

[Enclosure 1]

The Latvian Foreign Office to the American Legation

RIGA, *March 5, 1927.*

MEMORANDUM

(Re "Draft of Treaty of Friendship, Commerce and Consular Rights between the United States of America and Latvia", submitted to the Latvian Government on February 7, 1927).

I. The Latvian Government accepts the text of the following Articles of the Draft:

Art. 2, 3, 5, 6, 8, 9, 10, 12, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, Protocol par. 1 and 2.

II. *Ad "Preamble":* According to the constitutional practice of Latvia the authorization for the signature of the Treaty will be given by the Latvian Government.

Ad "Art. 4": The Latvian Government reserves the right to give its opinion on this Article after due examination by the Ministry of Justice.

Ad "Art. 14": The Latvian Government accepts the first paragraph of this Article, whilst reserving final decision on the second paragraph pending its examination by the Ministry of Finance.

III. The following alterations in the text of the Draft are proposed by the Latvian Government:

Ad "Art. 1": To replace the sentence "upon the same terms as nationals of the State of residence or as nationals of the nation hereafter to be most favored by it" by the sentence "upon the same terms as nationals of the most favored nation".

Ad "Art. 7" and "Art. 16": Whilst accepting paragraphs 2–7 of Article 7, the Latvian Government proposes to unite the exceptions from most favored nation treatment embodied in paragraph 8 of Article 7 and in Article 16 under one separate article and with the text as set forth in Annex 1 to this Memorandum. This new article should be inserted at the end of the Treaty before Article 29 of the draft.

The end of paragraph 1 of Article 7 should be worded as follows:

. . . "on such terms as it may see fit:

"*a*) Prohibitions or restrictions relating to national defense, public security and public order;

"*b*) Prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life;

"*c*) Prohibitions or restrictions relating to articles, goods or products constituting a state monopoly;

"*d*) Regulations for the enforcement of police or revenue laws."

Ad "Art. 11": To insert after the words "coasting trade" (in two places) the words "and the towing service".

To add a second paragraph to the text of this Article with the following text:

"The provisions of this Treaty relating to the mutual concession of national treatment in matters of navigation do not apply to the special privileges reserved by either High Contracting Party for the fishing industry and for the national shipbuilding industry."

Ad "Art. 13": To add at the end of the first paragraph the sentence "The foregoing stipulations do not apply to the organization of and participation in political associations".

Ad "Art. 15": To insert between "importation" and "may be prohibited" the words "or transit".

Ad "Art. 27": To replace paragraph 1 of this Article by the text as set forth in Annex 2 to this Memorandum.

Ad "Protocol": To add a third paragraph with the following text:

"In addition to consular officers, attachés, chancellors and secretaries, the number of employees to whom the privileges authorized by Article . . . shall be accorded shall not exceed five at any one post."

The question of measurement of tonnage of vessels will be discussed after examination of "Revised Statutes, Section 4154, As Amended" by the Maritime Department.

[Subenclosure 1—Annex 1]

ARTICLE

As an exception from the general undertaking given by the High Contracting Parties to accord mutually most favored nation treatment it is understood, that the stipulation of this Treaty shall not extend

a) to the treatment which either Contracting Party shall accord to purely border traffic within a zone not exceeding ten miles (15 klm.) wide on either side of its customs frontier;

b) to the special privileges resulting from an economic or customs union concluded by either High Contracting Party with a third State;

c) to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902,[33] or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws;

d) to the customs preferences or other facilities of whatever nature which are or may be granted by Latvia in favor of Estonia, Finland, Lithuania or the Union of S. S. R.

[33] *Foreign Relations*, 1903, p. 375.

[Subenclosure 2—Annex 2]

ARTICLE XXVI

Each of the High Contracting Parties agrees to permit the entry free of all duty of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their baggage and all other personal property, accompanying the officer to his post; provided, nevertheless, that no article, the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories. Personal property imported by consular officers, their families or suites during the incumbency of the officers in office shall be accorded the customs privileges and exemptions accorded to consular officers of the most favored nation.

[Enclosure 2]

The Latvian Foreign Office to the American Legation

RIGA, *March 16, 1927.*

MEMORANDUM

The Memorandum, dated March 5th, 1927, left open certain questions relating to the "Draft of Treaty of Friendship, Commerce and Consular Rights between the United States of America and Latvia."

The Latvian Government has now taken decision on all those questions, as follows:

I. *Ad "Art. 4":*, The text of the Draft is accepted.

II. *Ad "Art. 14":*, The text of the second paragraph of this Article as formulated in the Draft is accepted.

III. The Latvian rules concerning the measurement for tonnage of vessels being based on the Moorsom system and therefore substantially in conformity with the American system of measurement, it is proposed to agree by exchange of notes on the mutual recognition of certificates of measurement.

IV. Finally, in order to avoid misunderstanding as to the significance of the stipulation embodied in Article XV of the Draft and exempting the Panama Canal and waterways and canals which constitute international boundaries from the application of the principle of freedom of transit, the words "of the United States" should be left out.

711.60p2/21 : Telegram

The Secretary of State to the Minister in Latvia (Coleman)

WASHINGTON, *May 16, 1927—3 p. m.*

19. Your Despatch No. 4408, March 21, 1927.

1. The Department is pleased that the Latvian Government has agreed to accept so many of the Articles of the draft.

2. Department notes your statement that a Foreign Office official informed you that the Latvian Government would accept the proposals contained in the Department's telegram No. 8, March 7, 6 p. m.

3. You are authorized to accept the Latvian Government's proposals in regard to the Preamble, Article 13, the omission from Article 15 of the words "of the United States" and Article 27.

4. This Government desires you to insist upon provision for national treatment in first paragraph of Article 1 of draft. Point out that Estonia accepted this provision in the same terms contained in draft. The paragraph in the draft does, however, differ in some particulars from the Estonian treaty. You are authorized to propose to Latvia a text of this paragraph exactly like that of the treaty with Estonia.

5. Change proposed in last part of paragraph 1 of Article 7 is acceptable in respect of exceptions (*a*), (*b*) and (*d*). Department is not inclined to accept (*c*). There are no State monopolies in the United States. It is believed that if Latvian State monopolies do not discriminate against American nationals, vessels or merchandise as compared with those of other countries no questions of difference would arise if exception (*c*) is not included. It is further believed that there would rarely be occasions on which recourse would be had to exception (*c*) if it were included. If Latvia insists on this exception please inform Department in regard to character of monopolies and probable manner in which the proposed exception would operate.

6. In the opinion of this Government no provisions of the treaty relate to the towing service, fishing and national shipbuilding industries. The proposed additions in Article 11 are therefore deemed unnecessary.

7. Insertion of "or transit" in Article 15 as proposed would open way for prohibition of transit in every class of merchandise and thus for nullification of provisions of article by national legislation. Department would consider an exception specifically mentioning such articles as ammunition and poison gas.

8. Paragraph 5 of United States-Estonian protocol refers to Article 18 corresponding to Article 19 of draft. Proposed paragraph 3 of protocol refers to Article 27. You are, however, authorized to accept latter.

9. The Department is submitting a copy of the Latvian Rules Concerning Measurement of Tonnage to proper authorities of this Government for examination with a view to agreement for mutual recognition of certificates. This matter should be considered entirely apart from the Treaty.

KELLOGG

711.60p2/22 : Telegram

The Minister in Latvia (Coleman) to the Secretary of State

RIGA, *June 2, 1927—4 p. m.*
[Received June 2—11 : 30 a. m.]

43. Your 19, May 16, 3 p. m. Paragraph 4. This will be reconsidered by Government commissions. Paragraph 5. The exception (*c*) implies no discrimination against United States compared with other countries. Only present monopolies existing are alcohol and flax. Latvian Government desires free hand respecting such. Inclusion stated to be without slightest prejudice United States commerce. Paragraph 7. Latvian Government insists upon addition words "or in transit" to conform with obligations entered into such as Barcelona Convention of 1921 [34] which may be mentioned in treaty if thought desirable.

COLEMAN

711.60p2/23

The Minister in Latvia (Coleman) to the Secretary of State

No. 4542 RIGA, *June 6, 1927.*
[Received June 20.]

SIR: Referring to the Department's telegram No. 19, of May 16, 3 p. m., and my telegram No. 43, of June 2, 4 p. m., 1927, I have the honor to transmit herewith a copy of a note, dated June 1, 1927, from the Latvian Foreign Office, in answer to the points raised in the Department's telegram under reference.

The Department will observe that the Latvian Minister for Foreign Affairs states in his note of June 1st that he is authorized to propose to the United States Government a text similar to that of the treaty of commerce and navigation between Latvia and Great Britain.[35] In this connection, however, I informed Dr. Albats, Under-Secretary of the Foreign Office, verbally that I was certain that my Government could not accept anything less than "national treatment". Dr. Albats informed me that there had been a difference of opinion amongst the Latvian Government bodies, which are charged with considering

[34] League of Nations Treaty Series, vol. VII, pp. 11, 26.
[35] Signed June 22, 1923; League of Nations Treaty Series, vol. XX, p. 395.

treaties, concerning this matter. Two of the three Latvian commissions had perceived no objections to acceding to the United States point of view, but a third had raised difficulties. Mr. Albats promised to take the matter up again with the Latvian commissions with a view to obtaining a reply that would enable the Foreign Office to comply with the desire of the United States Government.

I have [etc.] F. W. B. COLEMAN

[Enclosure]

The Latvian Minister for Foreign Affairs (Cielens) to the American Minister (Coleman)

No. 652 RIGA, *June 1, 1927.*

EXCELLENCY: With reference to Your Excellency's Note of the 20th May 1927,[36] relating to the Draft of Treaty of Friendship, Commerce and Consular Rights between Latvia and the United States of America, I am glad to note that the proposals of the Latvian Government in regard to the Preamble, Article 13 and Article 27 are agreeable to Your Excellency's Government.

In respect of the first two paragraphs of Article 1 of the draft, I am authorized to propose to Your Excellency's Government a text similar to that of the treaty of commerce and navigation between Latvia and Great Britain as follows:

"The citizens of each of the two Contracting Parties shall have liberty freely to come, with their ships and cargoes to all places and ports in the territories of the other, to which citizens of that Party are, or may be, permitted to come, and shall enjoy the same rights, privileges, liberties, favors, immunities and exemptions in matters of commerce and navigation as are or may be enjoyed by citizens of that Party.

"The citizens of each of the Contracting Parties shall not be subject in respect of their persons or property, or in respect of their commerce or industry, to any taxes, whether general or local, or to imposts or obligations of any kind whatever, other or greater than those which are or may be imposed upon citizens of the other, or subjects or citizens of the most favored nation".

Regarding the last part of paragraph one of Article 7, the Latvian Government, however, is obliged to maintain the inclusion of Exception C.

Regarding the proposed additions in Article 11 this question should be left open until its due consideration by my Government.

The Latvian Government are glad to learn that Your Excellency's Government have consented to omit the words "of the United States" from Article 15. As regards the insertion of "or transit"

[36] Note not printed; it was transmitted in compliance with instructions in telegram No. 19, May 16, 1927.

in Article 15, the Republic of Latvia is bound in this respect by international conventions which are duly ratified and entered into force, consequently my Government are obliged to maintain the proposed insertion.

The Latvian Government agrees that the question of the mutual recognition of the respective certificates regarding measurement of tonnage be considered apart from the treaty provided the exchange of notes on it takes place before or on the signing of the Treaty.

I avail myself [etc.] F. CIELENS

711.60p2/22 : Telegram

The Secretary of State to the Minister in Latvia (Coleman)

WASHINGTON, *June 15, 1927—3 p. m.*

21. Your 43, June 2, 4 p. m.

1. Article 7. In Department's opinion treaty as drafted does not limit right of Latvia to impose prohibitions or restrictions relating to commerce in articles constituting state monopolies, if there is no discrimination against American nationals, vessels or goods. It is to be observed that the stipulations in regard to commerce other than navigation throughout the Treaty are on a most favored nation basis, and that no additional privileges are accorded to the United States. As Latvian Government does not contemplate any discrimination in respect of monopolies Department does not perceive that Section C would serve any purpose.

2. For reasons given in Department's 19 May 16, 3 P. M., Department does not agree to insertion of "or transit" in the exception to Article 15 but to enable Latvia to comply with treaties will accept following addition at end of first sentence "or of which the transit may be forbidden in accordance with the terms or the convention and statute on freedom of transit signed at Barcelona April 20, 1921."

KELLOGG

711.60p2/24

The Minister in Latvia (Coleman) to the Secretary of State

No. 4615 RIGA, *July 18, 1927.*

[Received August 16.]

SIR: Referring to the Legation's despatches Nos. 4408 and 4542, of March 21 and June 6, 1927, respectively, concerning the proposed Treaty of Friendship, Commerce and Consular Rights between the United States and Latvia, I have the honor to transmit herewith a copy of a note which I addressed to the Latvian Foreign Office on

June 17, 1927,[37] together with a copy of a note from the Latvian Minister for Foreign Affairs in reply bearing the same date.[37] For the completion of the Department's files, I also venture to enclose herewith a copy of a note which I addressed to the Latvian Foreign Office on May 20, 1927.[37] The Latvian Government's reply to the latter note was transmitted to the Department with my despatch No. 4542 of June 6, 1927.

The Department will note that Article 1 of the proposed treaty now seems to present the greatest difficulties. In compliance with the Department's telegram No. 19, of May 16, 3 p. m., I informed the Latvian Foreign Office, in my note of May 20, 1927, that the United States Government insisted upon provision for national treatment in the 1st paragraph of Article 1 of the draft. The Department will have observed that, in the Latvian Foreign Office note dated June 1, 1927, which accompanied the Legation's despatch No. 4542 of June 6, 1927, the Latvian Government proposed to the United States Government a text similar to that of the treaty of Commerce and Navigation between Latvia and Great Britain. I informed the Latvian Foreign Office that I felt sure that my Government would be unable to accept this proposal. I was then informed by a Foreign Office official that the Latvian Government would refer this Article back to the Latvian Government Commissions which are charged with considering treaty matters. I explained to the Foreign Office that the United States Government was especially anxious to retain the principle of uniformity in its treaties. In his note of June 17, 1927, the Latvian Foreign Minister stated that "the Commission is unable to change its attitude vis a vis Article 1 of the Draft, and the proposal contained in the mentioned note could be extended only to accord national treatment in matters of religion. In all other respects most favoured nation treatment is to be stipulated." Subsequently, the Foreign Office sent me, without a covering note, a new proposal concerning Article I. A copy of this proposal is enclosed herewith. The Department will note that the Latvian proposal makes certain alterations in the Department's draft of Article I. In paragraph 1, line 4, of the Latvian proposal the word "professional" is omitted; and in lines 5 and 11 "manufacturing" is omitted. The Latvian draft also proposes an alteration in the last paragraph of Article I. The Legation does not believe that the omission of these words will meet with the approval of the Department. The Commercial Attaché and I are of the opinion that it is essential that the word "manufacturing" should be included.

With regard to exception (*c*) in Article VII of the Draft, the Latvian Minister for Foreign Affairs states in his note of June 17, 1927,

[37] Not printed.

that his Government regrets that it is unable to accept the United States Government's suggestion and "maintains the necessity of including state monopolies in the specification of exceptions to the principle of freedom of commerce."

The Latvian Foreign Minister also states that "similarly, the Commission does not see its way to omitting the reference to the towing service, fishing, and national shipbuilding industries in Article II, bearing in mind that a similar text has been adopted in all Latvian treaties where matters of navigation are being regulated. The omission of the said exceptions could cause difficulties in the interpretation of the principle of national treatment accorded by Latvia in matters of navigation.

The fact that no provisions of the Draft refer to the towing service, fishing, and national shipbuilding industries is in no way sufficient to exempt these from the general clause of national treatment in matters of navigation."

The Department's attention is invited to the first paragraph in the Latvian Foreign Minister's note of June 17, 1927, which reads as follows: "Referring to Your Excellency's note of July [*June*] 17th last, I beg to inform Your Excellency that my Government is prepared to accept the proposal contained in the cited note in respect to Article 15 of the Draft of Treaty, stipulating that prohibition of transit may be maintained, if being in conformity with the Convention and Statute of Barcelona. The formula for the respective stipulation will be presented to Your Excellency in due course." Inasmuch as no formula has been submitted by the Latvian Government, I am inclined to believe that the Latvian Government will acquiesce in the formula proposed by the Department in the last sentence of its telegram No. 21, of June 15, 1927, 2 [*3*] p. m.

. . . . . .

I have [etc.] F. W. B. COLEMAN

[Enclosure]

Latvian Counter Draft of Article I

ARTICLE I

The Nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in scientific, religious, philanthropic and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, commercial and mortuary purposes; to employ agents of their choice, and generally to do anything incidental

to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the State of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established.

The Nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals.

The nationals of each High Contracting Party shall enjoy freedom of access to the courts of justice of the other on conforming to the local laws, as well for the prosecution as for the defense of their rights, and in all degrees of jurisdiction established by law.

The nationals of each High Contracting Party shall receive within the territories of the other, upon submitting to conditions imposed upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. Their property shall not be taken without due process of law and without payment of just compensation.

Nothing contained in this Treaty shall be construed to affect existing statutes of either of the High Contracting Parties in relation to the immigration of aliens or to the admission or sojourn of foreign nationals or the right of either of the High Contracting Parties to enact such statutes.

711.60p2/24

The Secretary of State to the Minister in Latvia (Coleman)

No. 479 WASHINGTON, *December 15, 1927.*

SIR: The Department has given consideration to your despatch No. 4615 of July 18, 1927, concerning the treaty of Friendship, Commerce and Consular Rights under negotiation between the United States and Latvia. It is pleased to note that the proposal concerning Article I submitted to you by the Foreign Office contains but few modifications of the Department's draft, and hopes that the remaining differences will soon be adjusted to the satisfaction of both Governments.

Article I, paragraph 1. Rights to engage in professions and manufacturing, and to lease lands for manufacturing purposes.

It is noted that the first paragraph of the Latvian counter-draft of Article I differs from the draft submitted by this Government in that it does not contain the word "professional" in the fourth line or the word "manufacturing" in the fifth and ninth lines. You are authorized to state that this Government agrees to the omission of

the word "professional" and of the word "manufacturing" at the place at which the latter omission first occurs provided that there be inserted after the words "the local law" in the seventh line of the paragraph the following: "to engage in every trade, vocation, manufacturing industry and profession, not reserved exclusively to nationals of the country". The first paragraph of Article I will then read as follows:

"The nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in scientific, religious, philanthropic, and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to engage in every trade, vocation, manufacturing industry, and profession, not reserved exclusively to nationals of the country; to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes; to employ agents of their choice, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the State of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established."

You will note that in the first paragraph of Article I of the Treaty of December 23, 1925, between the United States and Estonia, rights are granted to engage in manufacturing work of every kind without interference and to engage in every trade, vocation and profession, not reserved exclusively to nationals of the country. The proposal which you are authorized to make to the Latvian Government places the right to engage in manufacturing as well as the right to engage in trades, vocations and professions on the same footing as the right to engage in trades, vocations and professions rests in the Treaty between the United States and Estonia. This Government would find it very difficult to accept the first paragraph of Article I of the Latvian draft granting no right to engage in professions and manufacturing and it is hopeful that the counter-proposals herein made will be acceptable to Latvia.

This Government desires that a right be accorded to its nationals to lease lands for the manufacturing industries in which they may be permitted to engage in Latvia. It, therefore, does not desire to agree to the omission of the word "manufacturing" in connection with the right to lease lands. It is believed that if the right to engage in manufacturing, restricted as hereinabove proposed by this Government, is included in the Treaty the word "manufacturing" may be and should be retained in the clause "to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes". It would be obvious that the right to lease lands for

manufacturing purposes would be applicable only to the manufacturing industries in which the nationals of each party might be permitted to engage in the territories of the other party.

Article I, paragraph 5. Statutes relating to immigration.

It is observed that the last paragraph of the Latvian draft of Article I differs from the last paragraph of this Government's draft in that it is provided in the Latvian draft that nothing in the treaty shall be construed to affect existing statutes in relation "to the admission or sojourn of foreign nationals" or the right of either of the High Contracting Parties to enact such statutes as well as that nothing therein shall be construed to affect these rights in respect of the immigration of "aliens" which was the reservation in this Government's draft. This Government construes the paragraph as contained in its original draft to embrace statutes affecting aliens temporarily visiting the United States as well as those affecting intended immigrants. It is, therefore, in agreement with the purpose of the additional words proposed by Latvia.

As the terms, "foreign nationals" and "aliens" are not exactly synonymous, "aliens" including persons not nationals of any country as well as nations of foreign countries, it is believed that it is undesirable to use the two terms in a relation in which one meaning is intended. This Government proposes, therefore, that the last paragraph of Article I be rewritten as follows:

"Nothing contained in this Treaty shall be construed to affect existing statutes of either of the High Contracting Parties in relation to the immigration, admission or sojourn of aliens or the right of either of the High Contracting Parties to enact such statutes."

Article VII, paragraph 1. Right to impose prohibitions and restrictions on commerce.

This Government is unable to agree with the Latvian Government as to the necessity of including State monopolies in the specification of exceptions to the principle of freedom of commerce.

As stated in this Department's telegram No. 19 of May 16, 1927, and No. 21 of June 15, 1927, the operation of such State monopolies as Latvia now has would not be regarded by this Government as in conflict with the treaty, provided that the monopolies are not operated so as to discriminate against American nationals, vessels or goods, as compared with those of other countries. It was pointed out in the telegram of June 15, that the stipulations in regard to commerce contained in the draft, except those relating to shipping, are on a most favored nation basis and that no additional privileges are accorded to the United States. This clearly appears in the second sentence of the first paragraph of Article VII and in the second and fourth paragraphs of the same Article. That the treaty as drafted would not prevent the Latvian Government from imposing non-

discriminatory restrictions or prohibitions upon goods constituting a State monopoly is shown by the fact that paragraphs two and three of Article VII admit by implication that such restrictions or prohibitions may be imposed on any goods. The United States, therefore, would have no greater rights under the treaty in respect of commerce with Latvia in the articles subject to State monopoly in Latvia than are or may be granted to some other country.

The Department notes from the statements of the Latvian Government communicated in your telegram No. 43 of June 2 last, four p. m., that it appears there will be no discrimination against the United States as compared with other countries in the operation of the monopolies. It, therefore, is apparent that the question of a conflict between the operation of the monopolies and the Treaty will not arise.

In the opinion of the Department the provision suggested is not only unnecessary but is otherwise objectionable. As the Latvian Government is doubtless aware, there is a decided popular feeling in the United States against monopolies, which has found expression in numerous laws of the United States. The few provisions relating to monopolies in treaties of the United States are in accordance with this popular feeling. Thus the Treaty revising treaties hitherto existing between the United States and Siam, concluded December 16, 1920,[38] contains a provision to the effect that goods shipped from the United States shall be exempt from governmental restriction designed to create a monopoly, either government or private. Article III of that Treaty provides in part as follows:

" . . . the sale and resale, by any person or organization whatsoever, of goods which are the produce or manufacture of one of the High Contracting Parties, within the territories and possessions of the other, shall be exempt from all governmental restrictions and limitations designed or operating to create or maintain any monopoly or 'farm' for the profit either of the Government or of a private individual or organization." (3 Malloy's *Treaties*, etc., pages 2829, 2831).

There can be no doubt that this provision is in harmony with the consistent position of this Government and the desires of the people of the United States and that the provision which the Latvian Government proposes to insert in the treaty under negotiation would be contrary to them. For these reasons and likewise for the reason that the provision would in all probability meet with pronounced opposition and imperil the ratification of the Treaty by the United States this Government is extremely averse to inserting it in the treaty.

In view of the foregoing the Department hopes that the Latvian Government will not insist upon the proposed exception (*c*).

[38] *Foreign Relations*, 1921, vol. II, p. 867.

Article XI. Rights of vessels to discharge and load cargoes, reservation as to coasting trade, etc.

You report that the Latvian Minister for Foreign Affairs has stated that the Commission having the proposed treaty under consideration does not see its way to omitting a reference to the towing service, and to the fishing and ship-building industries by way of exceptions to the provisions of this Article, the reason being that as a similar exception has been adopted in all Latvian treaties in which matters of navigation are regulated, the omission of it from one Treaty could cause Latvia difficulties in the interpretation of the principle of national treatment in matters of navigation. You are authorized to agree on the Latvian proposals in regard thereto as reported on page 4 of your despatch No. 4408 of March 21, 1927.

The article as revised will then read as follows:

"Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties shall be permitted to discharge portions of cargoes at any port open to foreign commerce in the territories of the other High Contracting Party, and to proceed with the remaining portions of such cargoes to any other ports of the same territories open to foreign commerce, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner at different ports in the same voyage outward, provided, however, that the coasting trade and the towing service of the United States and the Republic of Latvia are exempt from the provisions of this Article and from the other provisions of this Treaty, and are to be regulated according to the laws of the United States and the Republic of Latvia, respectively, in relation thereto. It is agreed, however, that the nationals of either High Contracting Party shall within the territories of the other enjoy with respect to the coasting trade and the towing service the most-favored-nation treatment.

"The provisions of this Treaty relating to the mutual concession of national treatment in matters of navigation do not apply to the special privileges reserved by either High Contracting Party for the fishing industry and for the national ship-building industry."

Article XV. Freedom of Transit.

With a view to having the exceptions to freedom of transit which the Latvian Government desires shall be permissible under this Article stated more exactly than would be done by reference to the Convention and Statute of Barcelona in regard to freedom of transit, the Department desires that further consideration be given to the language relating to exceptions which will be contained in the first paragraph of the Article. You are instructed, therefore, not to reach a final agreement in regard to the proposal which you made to the Latvian Government pursuant to paragraph two of the Department's telegram No. 21 of June 15 last, 3 p. m., to include in the Article a reference to the Convention and Statute of Barcelona,

until you receive further instructions from the Department on this point. The Department would be glad if the Latvian Government would submit a draft for this Article expressing, without mentioning the Convention and Statute of Barcelona, the exceptions which it desires to have made.

This Government desires to propose two minor modifications to this Article as contained in the draft of the Treaty transmitted with instruction No. 406 of January 21, 1927, namely (1) that the words "coming from or going through" in lines 7 and 8 shall be replaced by the words "coming from, going to or passing through" and (2) that at the end of the first paragraph of the Article the words "or to any discrimination as regards charges, facilities or any other matter" be substituted in place of "and shall be given national treatment as regards charges, facilities and all other matters". The Article as thus revised will read as follows:

"There shall be complete freedom of transit through the territories including territorial waters of each High Contracting Party on the routes most convenient for international transit, by rail, navigable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries, to persons and goods coming from, going to or passing through the territories of the other High Contracting Party, except such persons as may be forbidden admission into its territories or goods of which the importation may be prohibited by law or regulations. Persons and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, or to any discrimination as regards charges, facilities, or any other matter.

"Goods in transit must be entered at the proper custom house, but they shall be exempt from all customs or other similar duties.

"All charges imposed or transport in transit shall be reasonable, having regard to the conditions of the traffic."

It is believed that the effect and advantage of these two modifications as clarifying the original draft of the Article will be obvious.

Copies of Articles I, XI, and XV as hereinabove revised are enclosed, Articles XI and XV being numbered Articles XII and XVI, respectively, on the assumption that a new Article VIII will be inserted in the Treaty pursuant to the Department's telegram No. 8 of March 7, 1927, 6 p. m.

If you are unable to reach a complete agreement with the Latvian Government pursuant to these instructions, the Department will be glad to have you report by telegram the points on which agreement is not reached. It will endeavor to expedite the completion of the negotiations as much as possible.

I am [etc.] FRANK B. KELLOGG

[Enclosure 1]

American Draft of Article I

ARTICLE I

The nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in scientific, religious, philanthropic and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to engage in every trade, vocation, manufacturing industry and profession, not reserved exclusively to nationals of the country; to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes; to employ agents of their choice, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the State of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established.

The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals.

The nationals of each High Contracting Party shall enjoy freedom of access to the courts of justice of the other on conforming to the local laws, as well for the prosecution as for the defense of their rights, and in all degrees of jurisdiction established by law.

The nationals of each High Contracting Party shall receive within the territories of the other, upon submitting to conditions imposed upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. Their property shall not be taken without due process of law and without payment of just compensation.

Nothing contained in this Treaty shall be construed to affect existing statutes of either of the High Contracting Parties in relation to the immigration, admission or sojourn of aliens or the right of either of the High Contracting Parties to enact such statutes.

[Enclosure 2]

American Draft of Article XII

ARTICLE XII

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties shall be permitted to

discharge portions of cargoes at any port open to foreign commerce in the territories of the other High Contracting Party, and to proceed with the remaining portions of such cargoes to any other ports of the same territories open to foreign commerce, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner at different ports in the same voyage outward, provided, however, that the coasting trade and the towing service of the United States and the Republic of Latvia are exempt from the provisions of this Article and from the other provisions of this Treaty, and are to be regulated according to the laws of the United States and the Republic of Latvia, respectively, in relation thereto. It is agreed, however, that the nationals of either High Contracting Party shall within the territories of the other enjoy with respect to the coasting trade and the towing service the most favored nation treatment.

The provisions of this Treaty relating to the mutual concession of national treatment in matters of navigation do not apply to the special privileges reserved by either High Contracting Party for the fishing industry and for the national ship-building industry.

[Enclosure 3]

American Draft of Article XVI

ARTICLE XVI

There shall be complete freedom of transit through the territories including territorial waters of each High Contracting Party on the routes most convenient for international transit, by rail, navigable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries, to persons and goods coming from, going to or passing through the territories of the other High Contracting Party, except such persons as may be forbidden admission into its territories or goods of which the importation may be prohibited by law or regulations. Persons and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, or to any discrimination as regards charges, facilities, or any other matter.

Goods in transit must be entered at the proper custom house, but they shall be exempt from all customs or other similar duties.

All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic.

711.60p2/27 : Telegram

The Minister in Latvia (Coleman) to the Secretary of State

RIGA, *January 10, 1928—1 p. m.*
[Received January 10—12:15 p. m.]

3. Latvian Government is in agreement with proposals of Department in its number 479, December 15th, except article 7; Latvian Government insists upon inclusion of state monopolies among exceptions on the ground that it is in all their treaties and because state monopolies involve sovereign power in their administration. Article 16, at the end of article as submitted by the Department, Latvian Government desires to add the first sentence of article 7 of Barcelona convention, "The measures of a general or particular". Please reply by telegraph.

COLEMAN

711.60p2/28 : Telegram

The Minister in Latvia (Coleman) to the Secretary of State

RIGA, *January 11, 1928—1 p. m.*
[Received January 11—9:30 a. m.]

5. Paragraph 3 of Department's telegram No. 19, May 16, 3 p. m., 1927, regarding proposed United States-Latvian commercial treaty. In authorizing Legation to accept Latvian proposal regarding article 27 did Department intend to approve omission of last paragraph of article 26 of United States-Estonian treaty?

COLEMAN

711.60p2/29 : Telegram

The Minister in Latvia (Coleman) to the Secretary of State

RIGA, *January 12, 1928—4 p. m.*
[Received 5:15 p. m.]

8. Referring to paragraph 8 of Department's telegram 19, May 16, 3 p. m. Latvian Government has just informed Legation that paragraph 3 of protocol proposed by it in its memorandum of March 5th, 1927,[89] refers to article 19 of United States draft. Is Legation authorized to accept paragraph 3 in this context?

COLEMAN

711.60p2/28 : Telegram

The Secretary of State to the Minister in Latvia (Coleman)

WASHINGTON, *January 12, 1928—6 p. m.*

5. Legation's No. 5, January 11, 1 p . m. Authorization of acceptance of Latvian proposal regarding Article 27 of proposed treaty did

[89] *Ante*, p. 187.

not authorize omission of last paragraph of that Article. Such omission was not proposed in Legation's despatch No. 4408 of March 21, 1927, nor in Latvian memorandum enclosed therewith. Department understands Article 27 will read like Article 26 of United States-Estonian Treaty. Please correct spelling of "incumbency."

KELLOGG

711.602/29 : Telegram

The Acting Secretary of State to the Minister in Latvia (Coleman)

[Paraphrase]

WASHINGTON, *January 16, 1928—4 p. m.*

6. Your telegram No. 8, dated January 12, 4 p. m. You may accept proposed paragraph 3 of protocol with insertion of reference to article 19 in text contained in Foreign Office memorandum of March 5, 1927, which was enclosed with Legation's despatch No. 4408 of March 21, 1927.

OLDS

711.60p2/27 : Telegram

The Secretary of State to the Minister in Latvia (Coleman)

WASHINGTON, *February 2, 1928—2 p. m.*

9. Your 3, January 10, 1 p. m. Transit Article. This Government would agree to insertion of following sentence after first sentence of first paragraph of Article 16: "However the measures which either of the High Contracting Parties may be obliged to take in case of emergency affecting the safety or vital interests of the State may, in exceptional cases and for as short a period as possible, involve a deviation from the provisions of this paragraph, it being understood, however, that the principle of freedom of transit must be observed to the utmost possible extent." Make a separate paragraph of sentence beginning with "Persons and goods", and ending with "other matter". Article 16 will then have four paragraphs. For your information (1) it is understood that the exception herein agreed to does not have reference to charges but only to temporary interruptions of transit. (2) The Department considers that this idea is better conveyed by Article 16 as herein amended than by the Latvian proposal.

The question of an exception in regard to State monopolies will be made the subject of a separate telegram.

KELLOGG

711.60p2/27 : Telegram

The Secretary of State to the Minister in Latvia (Coleman)

WASHINGTON, *February 29, 1928—3 p. m.*

14. Your 3, January 10, 1 p. m. and Department's 9, February 2, 2 p. m.

1. In view of the Department's interpretation of the treaty as set forth on pages 4 to 6 of instruction No. 479 of December 15, 1927, the only effect of an exception in regard to State monopolies would be to leave the parties free of any obligation to accord most favored nation treatment to each other in respect of them. As Latvian Government has stated that it does not desire to exercise such freedom with regard to United States, Department does not understand why Latvian Government insists upon the exception.

2. Department has been unable to verify statement that all treaties concluded by Latvia contain references to State monopolies, as no such reference has been found in treaties concluded by Latvia with following countries on dates given:

United Kingdom, June 22, 1923;[40] The Netherlands, July 2, 1924;[41] Norway, August 14, 1924;[42] Finland, August 23, 1924;[43] France, October 30, 1924;[44] Denmark, November 3, 1924[45] and Sweden, December 22, 1924.[46]

3. Department would be glad to have a more definite statement than has hitherto been furnished of the views of the Lavian Government in regard to position of this Government. It would therefore be glad to have you, unless you perceive objection, again bring to the attention of the Foreign Office the substance of the statements set forth on pages 4 to 6 inclusive of instruction No. 479 and paragraphs 1 and 2 of this telegram.

KELLOGG

711.60p2/30 : Telegram

The Minister in Latvia (Coleman) to the Secretary of State

RIGA, *March 8, 1928—5 p. m.*

[Received March 8—2:25 p. m.]

24. Department's 14, February 29, 3 p. m.

1. Latvian Foreign Minister believes he can induce Latvian Parliamentary Commission on Foreign Affairs to agree to suppression of exception relating to monopolies if Government of the United States

[40] League of Nations Treaty Series, vol. xx, p. 395.
[41] *Ibid.*, vol. xxxvii, p. 121.
[42] *Ibid.*, vol. xxxvi, p. 211.
[43] *Ibid.*, vol. xxxvii, p. 383.
[44] *Ibid.*, p. 399.
[45] *Ibid.*, vol. xxxiii, p. 393.
[46] *Ibid.*, vol. xxxvi, p. 283.

will agree to following changes in draft of article 7 as submitted by the Department in instruction 406 of January 21, 1927.

Final sentence of first paragraph to be omitted. The following new paragraph to be inserted after third paragraph of Department's draft:

"Nothing in this treaty shall be construed to restrict the right of either high contracting party to impose, on such terms as it may see fit, prohibitions or restrictions relating to national defense, public security and public order; prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life; regulations for the enforcement police or revenue laws."

2. Department's 9, February 2, 2 p. m. With respect to article 16 Latvian Government requests that the second sentence read as follows:

"The measures of a general or particular character which either of the high contracting parties is obliged to take in case of an emergency affecting the safety of the state or the vital interests of the country may in exceptional cases and for as short a period as possible involve a deviation from the provisions of this paragraph; it being understood that the principle of freedom of transit must be observed to the utmost possible extent."

COLEMAN

711.60p2/30 : Telegram

The Secretary of State to the Minister in Latvia (Coleman)

WASHINGTON, *March 13, 1928—6 p. m.*

17. You are authorized to accept the two proposals in your 24, March 8, 5 p. m.

KELLOGG

711.60p2/32 : Telegram

The Minister in Latvia (Coleman) to the Secretary of State

RIGA, *April 17, 1928—noon.*
[Received April 17—9:20 a. m.]

35. Department's instruction No. 415, February 17, 1927,[47] regarding proposed commercial treaty with Latvia.

Full accord now reached with Latvian Government on all points and final draft proposed by Foreign Office ready for signature in Legation's possession. Request immediate telegraphic authorization to sign.

COLEMAN

---

[47] Not printed; it transmitted the President's full power authorizing Minister Coleman to sign the treaty.

711.60p2/32 : Telegram

The Secretary of State to the Minister in Latvia (Coleman)

WASHINGTON, *April 18, 1928—3 p. m.*

24. Your 35, April 17th, noon. You are authorized to sign the Treaty of Friendship, Commerce and Consular Rights.

KELLOGG

711.60p2/33 : Telegram

The Minister in Latvia (Coleman) to the Secretary of State

RIGA, *April 20, 1928—1 p. m.*

[Received April 20—9 : 45 a. m.]

36. Department's 24, April 18, 3 p. m. United States-Latvian treaty of friendship, commerce and consular rights signed at noon today.

COLEMAN

Treaty Series No. 765

Treaty Between the United States of America and Latvia, Signed at Riga, April 20, 1928 [48]

The United States of America and the Republic of Latvia, desirous of strengthening the bond of peace which happily prevails between them, by arrangements designed to promote friendly intercourse between their respective territories through provisions responsive to the spiritual, cultural, economic and commercial aspirations of the peoples thereof, have resolved to conclude a Treaty of Friendship, Commerce and Consular Rights and for that purpose have appointed as their plenipotentiaries:

The President of the United States of America:

Frederick W. B. Coleman, Envoy Extraordinary and Minister Plenipotentiary,

and

The President of the Republic of Latvia:

Antons Balodis, Minister of Foreign Affairs,

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following articles:

---

[48] Ratification advised by the Senate, May 25 (legislative day of May 3), 1928; ratified by the President, June 9, 1928; ratified by Latvia, June 29, 1928; ratifications exchanged at Riga, July 25, 1928; proclaimed by the President, July 25, 1928.

ARTICLE I

The nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in scientific, religious, philanthropic and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to engage in every trade, vocation, manufacturing industry and profession, not reserved exclusively to nationals of the country; to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes; to employ agents of their choice, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the State of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established.

The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals.

The nationals of each High Contracting Party shall enjoy freedom of access to the courts of justice of the other on conforming to the local laws, as well for the prosecution as for the defense of their rights, and in all degrees of jurisdiction established by law.

The nationals of each High Contracting Party shall receive within the territories of the other, upon submitting to conditions imposed upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. Their property shall not be taken without due process of law and without payment of just compensation.

Nothing contained in this Treaty shall be construed to affect existing statutes of either of the High Contracting Parties in relation to the immigration, admission or sojourn of aliens or the right of either of the High Contracting Parties to enact such statutes.

ARTICLE II

With respect to that form of protection granted by National, State or Provincial laws establishing civil liability for injuries or for death, and giving to relatives or heirs or dependents of an injured party a right of action or a pecuniary benefit, such relatives or heirs or dependents of the injured party, himself a national of

either of the High Contracting Parties and within any of the territories of the other, shall regardless of their alienage or residence outside of the territory where the injury occurred, enjoy the same rights and privileges as are or may be granted to nationals, and under like conditions.

ARTICLE III

The dwellings, warehouses, manufactories, shops, and other places of business, and all premises thereto appertaining of the nationals of each of the High Contracting Parties in the territories of the other, used for any purposes set forth in Article I, shall be respected. It shall not be allowable to make a domiciliary visit to, or search of, any such buildings and premises, or there to examine and inspect books, papers or accounts, except under the conditions and in conformity with the forms prescribed by the laws, ordinances and regulations for nationals.

ARTICLE IV

Where, on the death of any person holding real or other immovable property or interests therein within the territories of one High Contracting Party, such property or interests therein would, by the laws of the country or by a testamentary disposition, descend or pass to a national of the other High Contracting Party, whether resident or non-resident, were he not disqualified by the laws of the country where such property or interests therein is or are situated, such national shall be allowed a term of three years in which to sell the same which term may be reasonably prolonged if circumstances render it necessary and withdraw the proceeds thereof, without restraint or interference, and exempt from any succession, probate or administrative duties or charges other than those which may be imposed in like cases upon the nationals of the country from which such proceeds may be drawn.

Nationals of either High Contracting Party may have full power to dispose of their personal property of every kind within the territories of the other, by testament, donation, or otherwise, and their heirs, legatees and donees, of whatsoever nationality, whether resident or non-resident, shall succeed to such personal property, and may take possession thereof, either by themselves or by others acting for them, and retain or dispose of the same at their pleasure subject to the payment of such duties or charges only as the nationals of the High Contracting Party within whose territories such property may be or belong shall be liable to pay in like cases.

ARTICLE V

The nationals of each of the High Contracting Parties in the exercise of the rights of freedom of worship, within the territories of the

other, as hereinabove provided, may, without annoyance or molestation of any kind by reason of their religious belief or otherwise, conduct services either within their own houses or within any appropriate buildings which they may be at liberty to erect and maintain in convenient situations, provided their teachings or practices are not contrary to public order or public morals; and they may also be permitted to bury their dead according to their religious customs in suitable and convenient places established and maintained for the purpose, subject to the reasonable mortuary and sanitary laws and regulations of the place of burial.

Article VI

In the event of war between either High Contracting Party and a third State, such Party may draft for compulsory military service nationals of the other having a permanent residence within its territories and who have formally, according to its laws, declared an intention to adopt its nationality by naturalization, unless such individuals depart from the territories of said belligerent Party within sixty days after a declaration of war.

Article VII

Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation. The nationals of each of the High Contracting Parties equally with those of the most favored nation, shall have liberty freely to come with their vessels and cargoes to all places, ports and waters of every kind within the territorial limits of the other which are or may be open to foreign commerce and navigation.

Each of the High Contracting Parties binds itself unconditionally to impose no higher or other duties or conditions and no prohibition on the importation of any article, the growth, produce, or manufacture, of the territories of the other than are or shall be imposed on the importation of any like article, the growth, produce, or manufacture of any other foreign country.

Each of the High Contracting Parties also binds itself unconditionally to impose no higher or other charges or other restrictions or prohibitions on goods exported to the territories of the other High Contracting Party than are imposed on goods exported to any other foreign country.

Nothing in this Treaty shall be construed to restrict the right of either High Contracting Party to impose, on such terms as it may see fit, prohibitions or restrictions relating to national defense, public security and public order; prohibitions or restrictions of a sanitary

character designed to protect human, animal or plant life; regulations for the enforcement of police or revenue laws.

Any advantage of whatsoever kind which either High Contracting Party may extend to any article, the growth, produce, or manufacture of any other foreign country shall simultaneously and unconditionally, without request and without compensation, be extended to the like article, the growth, produce, or manufacture of the other High Contracting Party.

All articles which are or may be legally imported from foreign countries into ports of the United States or are or may be legally exported therefrom in vessels of the United States may likewise be imported into those ports or exported therefrom in Latvian vessels, without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in vessels of the United States; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Latvia or are or may be legally exported therefrom in Latvian vessels may likewise be imported into these ports or exported therefrom in vessels of the United States without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in Latvian vessels.

In the same manner there shall be perfect reciprocal equality in relation to the flags of the two countries with regard to bounties, drawbacks, and other privileges of this nature of whatever denomination which may be allowed in the territories of each of the High Contracting Parties, on goods imported or exported in national vessels so that such bounties, drawbacks and other privileges shall also and in like manner be allowed on goods imported or exported in vessels of the other country.

With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels and goods of a third State, and regardless of whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third State shall simultaneously and unconditionally, without request and without compensation, be extended to the other High Contracting Party, for the benefit of itself, its nationals and vessels.

ARTICLE VIII

The stipulations of Article VII of this Treaty shall not extend

a) To the treatment which either High Contracting Party shall accord to purely border traffic within a zone not exceeding ten miles/15 kilometers/wide on either side of its customs frontier;

b) To the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11th, 1902, or any other commercial convention which hereafter may be concluded by the United States with Cuba, or to the commerce of the United States with any of its dependencies and the Panama Canal Zone under existing or future laws;

c) To the customs preferences or other facilities of whatever nature which are or may be granted by Latvia in favor of Estonia, Finland, Lithuania or Russia and/or to the special privileges resulting to States in customs or economic union with Latvia so long as such preferences, facilities or special privileges are not accorded to any other State.

ARTICLE IX

The nationals and merchandise of each High Contracting Party within the territories of the other shall receive the same treatment as nationals and merchandise of the country with regard to internal taxes, transit duties, charges in respect to warehousing and other facilities and the amount of drawbacks and bounties.

ARTICLE X

No duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties or charges of whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories of either country upon the vessels of the other, which shall not equally, under the same conditions, be imposed on national vessels. Such equality of treatment shall apply reciprocally to the vessels of the two countries respectively from whatever place they may arrive and whatever may be their place of destination.

ARTICLE XI

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties, and carrying the papers required by its national laws in proof of nationality shall, both within the territorial waters of the other High Contracting Party

and on the high seas, be deemed to be the vessels of the Party whose flag is flown.

ARTICLE XII

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties shall be permitted to discharge portions of cargoes at any port open to foreign commerce in the territories of the other High Contracting Party, and to proceed with the remaining portions of such cargoes to any other ports of the same territories open to foreign commerce, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner at different ports in the same voyage outward, provided, however, that the coasting trade and the towing service of the United States and the Republic of Latvia are exempt from the provisions of this Article and from the other provisions of this Treaty, and are to be regulated according to the laws of the United States and the Republic of Latvia, respectively, in relation thereto. It is agreed, however, that the nationals of either High Contracting Party shall within the territories of the other enjoy with respect to the coasting trade and the towing service the most favored nation treatment.

The provisions of this Treaty relating to the mutual concession of national treatment in matters of navigation do not apply to special privileges reserved by either High Contracting Party for the fishing industry and for the national ship-building industry.

ARTICLE XIII

Limited liability and other corporations and associations, whether or not for pecuniary profit, which have been or may hereafter be organized in accordance with and under the laws, National, State or Provincial, of either High Contracting Party and maintain a central office within the territories thereof, shall have their juridical status recognized by the other High Contracting Party provided that they pursue no aims within its territories contrary to its laws. They shall enjoy free access to the courts of law and equity, on conforming to the laws regulating the matter, as well for the prosecution as for the defense of rights in all the degrees of jurisdiction established by law.

The right of such corporations and associations of either High Contracting Party so recognized by the other to establish themselves within its territories, establish branch offices and fulfil their functions therein shall depend upon, and be governed solely by, the consent of such Party as expressed in its National, State or Provincial laws and regulations.

Article XIV

The nationals of either High Contracting Party shall enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the organization of and participation in limited liability and other corporations and associations, for pecuniary profit or otherwise, including the rights of promotion, incorporation, purchase and ownership and sale of shares and the holding of executive or official positions therein. In the exercise of the foregoing rights and with respect to the regulation or procedure concerning the organization or conduct of such corporations or associations, such nationals shall be subjected to no conditions less favorable than those which have been or may hereafter be imposed upon the nationals of the most favored nation. The rights of any of such corporations or associations as may be organized or controlled or participated in by the nationals of either High Contracting Party within the territories of the other to exercise any of their functions therein, shall be governed by the laws and regulations, National, State or Provincial, which are in force or may hereafter be established within the territories of the Party wherein they propose to engage in business. The foregoing stipulations do not apply to the organization of and participation in political associations.

The nationals of either High Contracting Party shall, moreover, enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain of the other.

Article XV

Commercial travelers representing manufacturers, merchants and traders domiciled in the territories of either High Contracting Party shall on their entry into and sojourn in the territories of the other Party and on their departure therefrom be accorded the most favored nation treatment in respect of customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

If either High Contracting Party require the presentation of an authentic document establishing the identity and authority of a commercial traveler, a signed statement by the concern or concerns represented, certified by a consular officer of the country of destination, shall be accepted as satisfactory.

416955—43——21

ARTICLE XVI

There shall be complete freedom of transit through the territories including territorial waters of each High Contracting Party on the routes most convenient for international transit, by rail, navigable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries, to persons and goods coming from, going to or passing through the territories of the other High Contracting Party, except such persons as may be forbidden admission into its territories or goods of which the importation may be prohibited by law or regulations. The measures of a general or particular character which either of the High Contracting Parties is obliged to take in case of an emergency affecting the safety of the State or the vital interests of the country may in exceptional cases and for as short a period as possible involve a deviation from the provisions of this paragraph; it being understood that the principle of freedom of transit must be observed to the utmost possible extent.

Persons and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, or to any discrimination as regards charges, facilities or any other matters.

Goods in transit must be entered at the proper custom house, but they shall be exempt from all customs or other similar duties.

All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic.

ARTICLE XVII

Each of the High Contracting Parties agrees to receive from the other consular officers in those of its ports, places and cities, where it may be convenient and which are open to consular representatives of any foreign country.

Consular officers of each of the High Contracting Parties shall, after entering upon their duties, enjoy reciprocally in the territories of the other all the rights, privileges, exemptions and immunities which are enjoyed by officers of the same grade of the most favored nation. As official agents, such officers shall be entitled to the high consideration of all officials, national or local, with whom they have official intercourse in the State which receives them.

The Government of each of the High Contracting Parties shall furnish free of charge the necessary exequatur of such consular officers of the other as present a regular commission signed by the chief executive of the appointing State and under its great seal; and it shall issue to a subordinate or substitute consular officer duly appointed by an accepted superior consular officer with the approbation of his Government, or by any other competent officer of that

Government, such documents as according to the laws of the respective countries shall be requisite for the exercise by the appointee of the consular function. On the exhibition of an exequatur, or other document issued in lieu thereof to such subordinate, such consular officer shall be permitted to enter upon his duties and to enjoy the rights, privileges and immunities granted by this Treaty.

Article XVIII

Consular officers, nationals of the State by which they are appointed, shall be exempt from arrest except when charged with the commission of offenses locally designated as crimes other than misdemeanors and subjecting the individual guilty thereof to punishment. Such officers shall be exempt from military billetings, and from service of any military or naval, administrative or police character whatsoever.

In criminal cases the attendance at the trial by a consular officer as a witness may be demanded by the prosecution or defense. The demand shall be made with all possible regard for the consular dignity and the duties of the office; and there shall be compliance on the part of the consular officer.

Consular officers shall be subject to the jurisdiction of the courts in the State which receives them in civil cases, subject to the proviso, however, that when the officer is a national of the State which appoints him and is engaged in no private occupation for gain, his testimony shall be taken orally or in writing at his residence or office and with due regard for his convenience. The officer should, however, voluntarily give his testimony at the trial whenever it is possible to do so without serious interference with his official duties.

Article XIX

Consular officers, including employees in a consulate, nationals of the State by which they are appointed other than those engaged in private occupations for gain within the State where they exercise their functions shall be exempt from all taxes, National, State, Provincial and Municipal, levied upon their persons or upon their property, except taxes levied on account of the possession or ownership of immovable property situated in, or income derived from property of any kind situated or belonging within the territories of the State within which they exercise their functions. All consular officers and employees, nationals of the State appointing them shall be exempt from the payment of taxes on the salary, fees or wages received by them in compensation for their consular services.

Lands and buildings situated in the territories of either High Contracting Party, of which the other High Contracting Party is the

legal or equitable owner and which are used exclusively for governmental purposes by that owner, shall be exempt from taxation of every kind, National, State, Provincial and Municipal, other than assessments levied for services or local public improvements by which the premises are benefited.

ARTICLE XX

Consular officers may place over the outer door of their respective offices the arms of their State with an appropriate inscription designating the official office. Such officers may also hoist the flag of their country on their offices including those situated in the capitals of the two countries. They may likewise hoist such flag over any boat or vessel employed in the exercise of the consular function.

The consular offices and archives shall at all times be inviolable. They shall under no circumstances be subjected to invasion by any authorities of any character within the country where such offices are located. Nor shall the authorities under any pretext make any examination or seizure of papers or other property deposited within a consular office. Consular offices shall not be used as places of asylum. No consular officer shall be required to produce official archives in court or testify as to their contents.

Upon the death, incapacity, or absence of a consular officer having no subordinate consular officer at his post, secretaries or chancellors, whose official character may have previously been made known to the Government of the State where the consular function was exercised, may temporarily exercise the consular function of the deceased or incapacitated or absent consular officer; and while so acting shall enjoy all the rights, prerogatives and immunities granted to the incumbent.

ARTICLE XXI

Consular officers, nationals of the State by which they are appointed, may, within their respective consular districts, address the authorities, National, State, Provincial or Municipal, for the purpose of protecting their countrymen in the enjoyment of their rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul general or the consular officer stationed at the capital may apply directly to the government of the country.

ARTICLE XXII

Consular officers may, in pursuance of the laws of their own country, take, at any appropriate place within their respective

districts, the depositions of any occupants of vessels of their own country, or of any national of, or of any person having permanent residence within the territories of, their own country. Such officers may draw up, attest, certify and authenticate unilateral acts, deeds, and testamentary dispositions of their countrymen, and also contracts to which a countryman is a party. They may draw up, attest, certify and authenticate written instruments of any kind purporting to express or embody the conveyance or encumbrance of property of any kind within the territory of the State by which such officers are appointed, and unilateral acts, deeds, testamentary dispositions and contracts relating to property situated, or business to be transacted within, the territories of the State by which they are appointed, embracing unilateral acts, deeds, testamentary dispositions or agreements executed solely by nationals of the State within which such officers exercise their functions.

Instruments and documents thus executed and copies and translations thereof, when duly authenticated under his official seal by the consular officer shall be received as evidence in the territories of the High Contracting Parties as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if drawn by and executed before a notary or other public officer duly authorized in the country by which the consular officer was appointed; provided, always, that such documents shall have been drawn and executed in conformity to the laws and regulations of the country where they are designed to take effect.

Article XXIII

A consular officer shall have exclusive jurisdiction over controversies arising out of the internal order of private vessels of his country, and shall alone exercise jurisdiction in cases, wherever arising, between officers and crews, pertaining to the enforcement of discipline on board, provided the vessel and the persons charged with wrongdoing shall have entered a port within his consular district. Such an officer shall also have jurisdiction over issues concerning the adjustment of wages and the execution of contracts relating thereto provided the local laws so permit.

When an act committed on board of a private vessel under the flag of the State by which the consular officer has been appointed and within the territorial waters of the State to which he has been appointed constitutes a crime according to the laws of that State, subjecting the person guilty thereof to punishment as a criminal, the consular officer shall not exercise jurisdiction except in so far as he is permitted to do so by the local law.

A consular officer may freely invoke the assistance of the local police authorities in any matter pertaining to the maintenance of

internal order on board of a vessel under the flag of his country within the territorial waters of the State to which he is appointed, and upon such a request the requisite assistance shall be given.

A consular officer may appear with the officers and crews of vessels under the flag of his country before the judicial authorities of the State to which he is appointed to render assistance as an interpreter or agent.

ARTICLE XXIV

In case of the death of a national of either High Contracting Party in the territory of the other without having in the territory of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the State of which the deceased was a national of the fact of his death, in order that necessary information may be forwarded to the parties interested.

In case of the death of a national of either of the High Contracting Parties without will or testament, in the territory of the other High Contracting Party, the consular officer of the State of which the deceased was a national and within whose district the deceased made his home at the time of death, shall, so far as the laws of the country permit and pending the appointment of an administrator and until letters of administration have been granted, be deemed qualified to take charge of the property left by the decedent for the preservation and protection of the same. Such consular officer shall have the right to be appointed as administrator within the discretion of a tribunal or other agency controlling the administration of estates provided the laws of the place where the estate is administered so permit.

Whenever a consular officer accepts the office of administrator of the estate of a deceased countryman, he subjects himself as such to the jurisdiction of the tribunal or other agency making the appointment for all necessary purposes to the same extent as a national of the country where he was appointed.

ARTICLE XXV

A consular officer of either High Contracting Party may in behalf of his non-resident countryman receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of so-called Workmen's Compensation Laws or other like statutes provided he remit any funds so received through the appropriate agencies of his Government to the proper distributees, and provided further that he furnish to the authority or agency making distribution through him reasonable evidence of such remission.

ARTICLE XXVI

A consular officer of either High Contracting Party shall have the right to inspect within the ports of the other High Contracting Party within his consular district, the private vessels of any flag destined or about to clear for ports of the country appointing him in order to observe the sanitary conditions and measures taken on board such vessels, and to be enabled thereby to execute intelligently bills of health and other documents required by the laws of his country, and to inform his Government concerning the extent to which its sanitary regulations have been observed at ports of departure by vessels destined to its ports, with a view to facilitating entry of such vessels therein.

ARTICLE XXVII

Each of the High Contracting Parties agrees to permit the entry free of all duty of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their baggage and all other personal property accompanying the officer to his post; provided, nevertheless, that no article, the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories. Personal property imported by consular officers, their families or suites during the incumbency of the officers in office shall be accorded the customs privileges and exemptions accorded to consular officers of the most favored nation.

It is understood, however, that the privileges of this Article shall not be extended to consular officers who are engaged in any private occupation for gain in the countries to which they are accredited, save with respect to governmental supplies.

ARTICLE XXVIII

All proceedings relative to the salvage of vessels of either High Contracting Party wrecked upon the coasts of the other shall be directed by the consular officer of the country to which the vessel belongs and within whose district the wreck may have occurred. Pending the arrival of such officer, who shall be immediately informed of the occurrence, the local authorities shall take all necessary measures for the protection of persons and the preservation of wrecked property. The local authorities shall not otherwise interfere than for the maintenance of order, the protection of the interests of the salvors, if these do not belong to the crews that have been wrecked, and to carry into effect the arrangements made for the entry and exportation of the merchandise saved. It is understood

that such merchandise is not to be subjected to any custom house charges, unless it be intended for consumption in the country where the wreck may have taken place.

The intervention of the local authorities in these different cases shall occasion no expense of any kind, except such as may be caused by the operations of salvage and the preservation of the goods saved, together with such as would be incurred under similar circumstances by vessels of the nation.

Article XXIX

Subject to any limitation or exception hereinabove set forth, or hereafter to be agreed upon, the territories of the High Contracting Parties to which the provisions of this Treaty extend shall be understood to comprise all areas of land, water, and air over which the Parties respectively claim and exercise dominion as sovereign thereof, except the Panama Canal Zone.

Article XXX

Except as provided in the third paragraph of this Article the present Treaty shall remain in full force for the term of ten years from the date of the exchange of ratifications, on which date it shall begin to take effect in all of its provisions.

If within one year before the expiration of the aforesaid period of ten years neither High Contracting Party notifies to the other an intention of modifying, by change or omission, any of the provisions of any of the articles in this Treaty or of terminating it upon the expiration of the aforesaid period, the Treaty shall remain in full force and effect after the aforesaid period and until one year from such a time as either of the High Contracting Parties shall have notified to the other an intention of modifying or terminating the Treaty.

The sixth and seventh paragraphs of Article VII and Articles X and XII shall remain in force for twelve months from the date of exchange of ratifications, and if not then terminated on ninety days' previous notice shall remain in force until either of the High Contracting Parties shall enact legislation inconsistent therewith when the same shall automatically lapse at the end of sixty days from such enactment, and on such lapse each High Contracting Party shall enjoy all the rights which it would have possessed had such paragraphs or articles not been embraced in the Treaty.

Article XXXI

The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at Riga as soon as possible.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the same and have affixed their seals hereto.

Done in duplicate, at Riga, this 20th day of April, 1928.

[SEAL] F. W. B. COLEMAN [SEAL] A. BALODIS

Treaty Series No. 765

Protocol Accompanying the Treaty of Friendship, Commerce and Consular Rights, Signed at Riga, April 20, 1928

At the moment of signing the Treaty of Friendship, Commerce and Consular Rights between the United States of America and the Republic of Latvia, the undersigned plenipotentiaries, duly authorized by their respective Governments, have agreed as follows:

1. The provisions of Article XVI do not prevent the High Contracting Parties from levying on traffic in transit dues intended solely to defray expenses of supervision and administration entailed by such transit, the rate of which shall correspond as nearly as possible with the expenses which such dues are intended to cover and shall not be higher than the rates charged on other traffic of the same class on the same routes.

2. Wherever the term "consular officer" is used in this Treaty it shall be understood to mean Consuls General, Consuls, Vice Consuls and Consular Agents to whom an exequatur or other document of recognition has been issued pursuant to the provisions of paragraph 3 of Article XVII.

3. In addition to consular officers, attachés, chancellors and secretaries, the number of employees to whom the privileges authorized by Article XIX shall be accorded shall not exceed five at any one post.

IN WITNESS WHEREOF the undersigned Plenipotentiaries have signed the present Protocol and affixed thereto their respective seals.

Done in duplicate, at Riga, this 20th day of April, 1928.

[SEAL] F. W. B. COLEMAN [SEAL] A. BALODIS

711.60p2/34

The Minister in Latvia (Coleman) to the Secretary of State

No. 5237 RIGA, *April 21, 1928.*

[Received May 7.]

SIR: Confirming my telegram No. 36, of April 20, 1 p. m., 1928, in which I reported that the Treaty of Friendship, Commerce and Consular Rights between the United States and Latvia was signed at the Latvian Foreign Office on April 20, 1928, I have the honor

to transmit the United States original of the Treaty and the accompanying Protocol, together with six carbon copies thereof; also one carbon copy of the Latvian original.[49]

In view of the frail manner in which the United States original is bound, it is being forwarded to the Department under separate cover.

It will be observed that in Article 27 of the enclosed Treaty the High Contracting Parties agree that "personal property imported by consular officers, their families or suites during the incumbency of the officers in office shall be accorded the customs privileges and exemptions accorded to consular officers of the most favored nation." Under this Article Latvian Consular officers in the United States have "the privilege of entry free of duty of their baggage and all other personal property, whether accompanying the officer to his post or imported at any time during his incumbency thereof." (See United States-German Treaty of December 8, 1923, Article 27.)

Since Latvia has not up to the present time granted similar privileges to Consular officers of other countries, American consular officers in Latvia, under the terms of this Article, would have the privilege of entry free of duty of only such baggage and other personal property as might accompany them to their post.

In order to remedy this inequality of treatment, I obtained a promise from the Latvian Minister for Foreign Affairs during the course of the negotiations that the Latvian Government would make administrative arrangements whereby American Consular Officers in Latvia would receive the same treatment as that to which Latvian Consular Officers in the United States are entitled under the provisions of the Article as it now stands.

For the purpose of making this agreement a matter of record, I addressed a communication to the Latvian Minister for Foreign Affairs under date of January 7, 1928, concerning this point. A copy of my communication and of the Foreign Minister's reply thereto, dated April 16, 1928, is enclosed for the Department's information.[50] The Latvian Foreign Office has requested that these administrative arrangements remain confidential between the two Governments.

I have [etc.] F. W. B. COLEMAN

711.60p2/37

The Secretary of State to the Minister in Latvia (Coleman)

No. 539 WASHINGTON, *July 10, 1928.*

SIR: I transmit herewith the President's instrument of ratification [51] of the Treaty of Friendship, Commerce and Consular Rights be-

---

[49] Texts of treaty and protocol printed *supra.*

[50] Neither printed.

[51] Not printed.

tween the United States and Latvia, signed at Riga on April 20, 1928, for exchange by you for a similar instrument of ratification of the Treaty by the President of Latvia.

I enclose herewith the President's full power [52] authorizing you to effect the exchange. At the time of making the exchange a protocol attesting the exchange should be signed by you and the Latvian Plenipotentiary in duplicate, one signed copy of which you should forward to the Department, the other being retained by the Latvian Plenipotentiary. A copy of the form of protocol of exchange used at Washington is enclosed for your convenience.[52] Before effecting the exchange you should satisfy yourself that, with the exception of the observance of the *alternat*, the text of the Treaty as contained in the Latvian instrument of ratification is in exact conformity with the text of the Treaty as incorporated in the United States ratification.

Upon the completion of the exchange you will please promptly advise the Department by cable of the date on which the exchange took place and the date of the Latvian instrument of ratification in order that the Treaty may be promptly proclaimed by the President.

With respect to the promise you obtained from the Latvian Minister of Foreign Affairs, reported in your No. 5237 of April 21, 1928, that the Latvian Government would make administrative arrangements whereby consular officers of the United States in Latvia will receive the benefit of free entry of personal property during their incumbency on the ground that Latvian consular officers in the United States would be accorded this privilege under the most-favored-nation provision of Article XXVII, I desire to point out that it is and has long been the policy of this Government to construe the most-favored-nation clause in respect of consular privileges and immunities and in particular in respect of fiscal concessions to consular officers as conditioned on reciprocity.

The condition of reciprocity has been insisted upon by this Government in instances in which foreign Governments have relied upon a most-favored-nation provision to obtain in behalf of their consular officers in the United States the benefit of the particular privilege of free entry in the Treaty between the United States and Germany.

This Government would apply the same rule of construction to the most-favored-nation clause as agreed to in Article XXVII of the Treaty with Latvia. It would not construe the most-favored-nation provision as embracing the specific privilege of free entry of personal property of consular officers during their incumbency, which Latvia objected to including expressly in the Treaty, and as obligating the United States to accord this privilege to Latvian con-

[52] Not printed.

sular officers in the United States, unless the same privilege is in fact accorded to consular officers of the United States in Latvia.

In view of the different interpretation which you placed on the most-favored-nation provision in Article XXVII, the Department regrets that you did not ask for instructions before addressing your note of January 7, 1928, to the Latvian Foreign Office.[53]

The Department would be glad to have you make to the Latvian Foreign Office the foregoing explanation of this Government's construction of the most-favored-nation clause and withdraw your note of January 7, 1928, before you make the exchange of ratifications.

This Government will be glad to accord the privilege of free entry of personal property during their incumbency to Latvian consular officers in the United States by administrative action whenever it receives assurances from the Latvian Government in writing that the same privilege will be accorded to American consular officers in Latvia.

I am [etc.] FRANK B. KELLOGG

711.60p2/40

The Minister in Latvia (Coleman) to the Secretary of State

No. 5477 RIGA, *July 26, 1928.*
[Received August 13.]

SIR: I have the honor to refer to the Department's Instruction No. 539, of July 10, 1928, inclosing, for exchange, the President's instrument of ratification of the Treaty of Friendship, Commerce and Consular Rights between the United States and Latvia, signed at Riga on April 20, 1928, and to my telegram No. 64, of July 25, 12 noon, 1928,[53] announcing that ratifications were exchanged on July 25, 1928, at 12 o'clock noon. The Latvian instrument of ratification, dated June 29, 1928, and the United States copy of the signed protocol of exchange are enclosed.[53]

In compliance with the Department's Instruction referred to above, the Legation withdrew its Note of January 7, 1928, to the Latvian Foreign Office,[53] regarding Article 27, and explained orally and by Note, a copy of which is enclosed, the United States Government's construction of the most-favored-nation clause with respect to consular privileges and immunities and in particular in respect of fiscal concessions to consular officers as conditioned on reciprocity. Mr. Munter, who is in charge of the Foreign Office section which negotiates and assists in the enforcement of commercial treaties accepted the construction placed upon the article by the Department. He requested, however, that the Foreign Office be informed if the American Government construed the most-favored-nation clause in

[53] Not printed.

respect of other obligations which it has undertaken in the Treaty as conditioned on reciprocity.

With respect to immunities to be granted American Consular Officers, Mr. Munter stated that the Foreign Office would consult with the appropriate Department of the Latvian Government regarding the advisability of giving assurances in writing that it would accord the privilege of free entry of personal property during their incumbency to Consular Officers of the United States in Latvia. The Latvian Government has been granting this privilege to American Consular Officers since the signing of the Treaty, and Mr. Munter stated that notwithstanding the withdrawal of the Legation's Note of January 7, 1928, it would continue to do so, at least temporarily.

I have [etc.] F. W. B. COLEMAN

[Enclosure]

The American Minister (Coleman) to the Latvian Minister for Foreign Affairs (Balodis)

RIGA, *July 24, 1928.*

EXCELLENCY: I have the honor to inform Your Excellency that I am now in receipt of documents from my Government granting me full power to exchange the instruments of ratification of the Treaty of Friendship, Commerce and Consular Rights between the United States and Latvia, signed at Riga on April 20, 1928, and to state that I am prepared to effect such an exchange at a time convenient to Your Excellency.

My Government desires me at this time, however, to point out that it has long been its policy to construe the most-favored-nation clause in respect of consular privileges and immunities and in particular in respect of fiscal concessions to consular officers as conditioned on reciprocity. This rule would be applied by my Government in the construction of the most-favored-nation clause as agreed to in Article XXVII of the Treaty with Latvia. The most-favored-nation provision in Article XXVII would not be construed as embracing the specific privilege of free entry of personal property of consular officers during their incumbency, which the Latvian Government objected to including expressly in the Treaty, and as obligating the United States to accord this privilege to Latvian consular officers in the United States, unless the same privilege is in fact accorded to consular officers of the United States in Latvia.

My Government has also authorized me to inform Your Excellency that it will be glad to accord the privilege of free entry of personal property during their incumbency to Latvian consular officers in

the United States by administrative action whenever it receives assurances from the Latvian Government in writing that the same privilege will be accorded to American consular officers in Latvia.

I avail myself [etc.] [File copy not signed]

660p.11241/2 : Telegram

The Chargé in Latvia (Sussdorff) to the Secretary of State

RIGA, *October 12, 1928—4 p. m.*
[Received October 12—11:20 a. m.]

87. Department's 539, July 10th, last paragraph. Have received note from Latvian Foreign Office stating as from October 15, 1928, United States consular officers of career in Latvia shall enjoy on the basis of reciprocity the privilege of free entry of personal property during their incumbency. Please telegraph date on which similar privileges will be accorded to Latvian consuls of career in the United States.

SUSSDORFF

711.60p2/42

The Chargé in Latvia (Sussdorff) to the Secretary of State

No. 5616 RIGA, *October 15, 1928.*
[Received October 27.]

SIR: I have the honor to refer to the Department's Instruction No. 539, of July 10, 1928, transmitting the President's instrument of ratification of the Treaty of Friendship, Commerce and Consular Rights between the United States and Latvia, signed at Riga on April 20, 1928, for exchange by the Legation for a similar instrument of ratification of the Treaty by the President of Latvia. In the last paragraph of the Instruction under reference, the Department informed the Legation that the United States Government will be willing to accord the privilege of free entry of personal property during their incumbency to Latvian consular officers in the United States by administrative action whenever it receives assurances from the Latvian Government in writing that the same privilege will be accorded to American consular officers in Latvia.

In this connection, I have the honor to transmit herewith copies of a Note which the Legation addressed to the Latvian Foreign Office on July 24, 1928,[54] concerning the interpretation given by the Government of the United States to the most-favored-nation clause with respect to consular privileges and immunities, together with copies of a Note dated October 5, 1928, from the Latvian Foreign Office

[54] *Ante*, p. 227.

stating that, in view of the fact that the United States Government is willing to accord the privilege of free entry of personal property during their incumbency to Latvian consular officers in the United States on condition of reciprocity, consular officers of the United States in Latvia during their incumbency shall enjoy the privilege of free entry of personal property, beginning on October 15, 1928.

The substance of the Foreign Office Note of October 5, 1928, was transmitted to the Department in the Legation's telegram No. 87, on October 12, 4 p. m., 1928, with the request that the Department telegraph to the Legation the date on which similar privileges will be accorded to Latvian Consuls of career in the United States.

I have [etc.] LOUIS SUSSDORFF, Jr.

[Enclosure]

The Latvian Minister for Foreign Affairs (Balodis) to the American Chargé (Sussdorff)

RIGA, *October 5, 1928.*

SIR: Referring myself to the note of His Excellency the American Minister dated July 24th, 1928, I take notice of the interpretation given by the Government of the United States to the most-favoured-nation clause in respect of consular privileges and immunities.

In view of the fact that your Government is willing to accord the privilege of free entry of personal property during their incumbency to Latvian consular officers in the United States on condition of reciprocity, I have the honour to state in the name of my Government that consular officers of the United States in Latvia during their incumbency shall enjoy the privilege of free entry of personal property.

I desire to point that the aforesaid privilege shall apply only to State consular officers (*consules missi*).

The present agreement shall become effective as from October 15th, 1928.

I beg [etc.] A. BALODIS

660p.11241/2 : Telegram

The Secretary of State to the Chargé in Latvia (Sussdorff)

WASHINGTON, *November 9, 1928—5 p. m.*

62. It appearing from your 87, October 12, 4 P. M. that Latvian Government has given assurance in writing that it would from October 15 accord to American consular officers of career in Latvia on the basis of reciprocity the privilege of free entry of personal property during their incumbency, the condition of reciprocity mentioned in Department's 539, July 10, seems to be met. Government

of the United States will therefore by administrative action reciprocally accord from October 15 privilege of free entry of personal property to Latvian consular officers of career in the United States during their incumbency.

KELLOGG

REPRESENTATIONS TO THE LATVIAN GOVERNMENT REGARDING CERTAIN REQUIREMENTS AFFECTING AMERICAN INDIRECT TRADE WITH LATVIA

660p.11212 Lard/1

The Consul at Riga (Kliefoth) to the Secretary of State

No. 125 RIGA, *January 14, 1928.*

[Received February 4.]

SIR: I have the honor to enclose herewith five copies of a recent decree dated January 10, 1928, issued by the Government of Latvia [55] regarding the authentication by the Latvian representatives abroad of the certificates of origin accompanying shipments of lard imported into Latvia and to point out that the decree, while there is no spirit of discrimination, is largely directed against the American product. The regulation becomes effective on March 10, 1928. The decree at first glance appears to be reasonable measure, and from the point of view of the American manufacturer is an added weapon to prevent the sale of impure or imitated American lard. In practice the regulation will make the export of lard from the United States to Latvia a difficult problem to solve. This situation is due to the fact that the Latvian importers of American lard buy the product on the exchange rather than by orders placed with the manufacturer or his European representative. Practically the entire amount consumed in Latvia is purchased from "floating" stocks, that is stocks en route to Europe, when it is too late to authenticate the accompanying documents in the United States and which are consequently reshipped from Hamburg or Copenhagen. This form of trade is one that is rapidly assuming large dimensions, particularly in countries like Latvia, Lithuania, Estonia, Finland, Poland, Czechoslovakia and others, where it is not feasible for American exporters to ship goods on consignment to their agencies. This trade is worthy of encouragement rather than suppression. In fact it is this method of trade that has been conspicuously important in the sale of such American products as lard, fresh and dried fruits, shoes, oil and grain. In view of the foregoing, the Consulate has the honor to recommend that measures be taken to comply with the requirements of the decree or that steps be taken to secure the acceptance of the

[55] Not printed.

American certificate of origin in its present form by the Latvian officials.

I have [etc.] A. W. KLIEFOTH

660p.11212 Lard/8

The Minister in Latvia (Coleman) to the Secretary of State

No. 5111 RIGA, *March 9, 1928.*

[Received March 28.]

SIR: I have the honor to refer to despatch No. 125, of January 14, 1928, from the American Consul at Riga, enclosing copies of a decree dated January 10, 1928, issued by the Government of Latvia regarding the authentication by the Latvian representatives abroad of the certificates of origin accompanying shipments of lard imported into Latvia, to the Department's telegram No. 15, of March 6, 4 p. m.,[56] instructing the Legation to endeavor to persuade the Latvian Government to be satisfied with the regular Department of Agriculture Export Certificate without a visa by Latvian Consuls, and to my telegram No. 23, of March 7, 1928,[56] stating that as a result of representations made by the Legation, Consulate and Commercial Attaché, the Latvian regulation requiring a consular visa was cancelled on March 3rd and that the export certificates of the Department of Agriculture will again be accepted in Latvia.

On February 18, 1928, the Legation received a letter, dated February 14, from the American Consulate at Hamburg, enclosing a copy of the Department's telegram of February 13, 6 p. m., to the Consulate,[56] concerning this subject. Upon receipt of this telegram, the Legation took up the matter with the Latvian Foreign Office and secured a promise that the decree requiring the visaeing by Latvian Consuls of certificates of origin covering lard shipments into Latvia would be cancelled. The order of cancellation was published in *Valdibas Vestnesis* No. 51, of March 3, 1928.

In this connection, I have the honor to report that the question of certificates of origin had been discussed for several weeks at the weekly meetings which take place between a member of my staff, the American Consul at Riga and the Commercial Attaché of the Legation for the purpose of discussing commercial matters. The American Consul at Riga, who, it will be observed, first brought the question of certificates of origin on lard to the Department's attention in his despatch of January 14th, discussed the matter with the organized commercial circles here and pointed out that the decree of January 10th instituted an unusual procedure not in force in

[56] Not printed.

other countries. The Commercial Attaché also discussed the question on several occasions with the Latvian Department of Agriculture and with the local representatives of the American lard exporters.

A copy of this despatch is being transmitted to the American Consul at Hamburg for his information.

I have [etc.] F. W. B. COLEMAN

660p.11212/12

The Minister in Latvia (Coleman) to the Secretary of State

No. 5439 RIGA, *July 10, 1928.*
[Received July 30.]

SIR: I have the honor to refer to my telegram No. 62 of July 7, 12 noon, 1928, to the Department's telegrams, No. 31, of May 21, 1928, and No. 36, of June 9 [8], 2 p. m. 1928,[57] and to previous correspondence between the Department and this Legation regarding the new Latvian customs regulations, a translation of which was submitted to the Department by the American Consulate at Riga in its Report No. 90, of April 16, 1928.[58] These regulations require certificates of origin in connection with imports into Latvia of merchandise from countries the products of which are entitled to most favored nation customs treatment.

Consequent to a number of informal conversations between members of my staff and representatives of the Latvian Foreign Office, a Memorandum discussing the effect of the regulations upon the sale of American products to Latvian merchants was handed to the Foreign Office on June 15, 1928. On the same day a representative of the Legation discussed the Memorandum informally with Mr. Olins, Chief of the Division of Western Affairs of the Foreign Office, and at Mr. Olins' suggestions with Mr. Dundurs, Director of Customs.

It will be observed that this Memorandum, a copy of which is attached hereto,[58] contained four suggestions regarding the application and interpretation of the customs regulations, the adoption of which would be beneficial to American-Latvian trade. These suggestions were as follows:

1. That in cases of trans-shipment to Latvia from European free ports or bonded warehouses of merchandise originating in the United States, the Latvian authorities will not demand as they have done hitherto, a certificate of origin issued in the United States in addition to a certificate issued by the officials in charge of the free port of the Chamber of Commerce of the city in which the free port or bonded warehouse is located stating that the goods originated in the United States.

[57] None printed.
[58] Not printed.

2. That the Latvian authorities will find it possible to admit into Latvia at minimum tariff rates without certificates of origin merchandise which unmistakeably indicates by trade marks, addresses of manufacturers, and place of production, that they originate in the United States.

3. That the Latvian authorities accept, in lieu of certificates of origin, certificates issued by the Department of Agriculture of the United States testifying to the purity of food products such as lard, fatbacks, etc.

4. That the Latvian authorities accept, in lieu of certificates of origin, United States grain inspection certificates issued under the auspices of responsible American Grain Exchanges and signed by United States grain inspectors, and that they also accept, in lieu of certificates of origin, Canadian grain inspection certificates issued under the authority of the Canadian Government and stating on their faces that the grain which they cover is of United States origin.

With respect to suggestion No. 1, Mr. Dundurs, the Director of Customs, stated that his office had decided to reverse its original decision to demand two certificates and that he would in the future be satisfied with a certificate issued by the free port or bonded warehouse authorities. In case these authorities would not be able to state formally the origin of the merchandise under consideration, he would be satisfied with a statement from the Chamber of Commerce of the city in which the free port or bonded warehouse is located to the effect that after examining the goods, their nature, the papers which accompanied them, and the circumstances surrounding their arrival and storage it can certify that they are of United States origin. Since this arrangement is simpler than any arrangement involving the services of an American Consular officer, it was approved by the Legation and is now in effect.

With respect to suggestion No. 2, Mr. Dundurs stated that there were differences of opinion among his own officials and among the various departments and bureaus of the government regarding the advisability of accepting markings upon goods as indicative of their origin. He stated that markings in some instances are not dependable and cited the case of the factory in Libau which, under contract with a Swedish firm, stamps on its products "Made in Sweden". He said that despite cases of fraud, his own office would prefer to give credence to markings upon goods. He suggested that the Legation discuss the matter further with Mr. Munter of the Latvian Foreign Office, who has been for some time in south-eastern Europe negotiating commercial treaties. He added confidentially that, in his opinion, some arrangement would be made in the next five or six months whereby goods bearing markings indicative of American origin would be admitted into Latvia as American merchandise, even though unaccompanied by certificates of origin.

With respect to suggestions No. 3 and 4, Mr. Dundurs after some hesitation stated that in so far as his office was concerned there would be no objection to the acceptance, in lieu [of] certificates of origin, of certificates issued by the United States Department of Agriculture testifying to the purity of certain food products such as lard, fat-backs, etc., to the acceptance of United States grain inspection certificates, or to the acceptance of Canadian grain inspection certificates which state that the grain which they cover is of United States origin. He said that he must consult with other Departments of the Government, however, before he could make a definite promise. As a temporary measure it was agreed that he would in the meantime accept Department of Agriculture purity and grain certificates provided they were accompanied by a statement from the American Consul at Riga to the effect that in his opinion they were genuine.

The form of statement agreed upon, copy of which is enclosed,[60] was submitted to the American Consul, who saw no objection to issuing it.

Upon the further suggestion of Mr. Olins, Chief of the Division of Western Affairs of the Latvian Foreign Office, the Legation under date of June 19, 1928, submitted a Note to the Minister for Foreign Affairs, copy of which is enclosed,[60] in which were formally incorporated the last three suggestions contained in its Memorandum referred to above. Two of these suggestions were adopted by the Latvian Government and put into effect by means of Order No. 202, which appeared in the *Valdibas Vestnesis*, No. 143, of June 30, 1928. A translation of this Order is enclosed.[60] It provides for the acceptance, in lieu of certificates of origin, of United States Department of Agriculture certificates covering shipments of lard and fat-backs, of United States grain certificates covering shipments of grain from the United States, and of Canadian grain certificates covering grain of United States origin shipped from Canada.

The Legation anticipates further conversations with the Foreign Office in the near future with respect to the question of the admission under minimum tariff, without certificates of origin, of merchandise the American origin of which is indicated by markings.

I have [etc.] F. W. B. COLEMAN

[60] Not printed.

REPRESENTATIONS AGAINST THE APPLICATION OF A RESIDENCE OR SOJOURN TAX ON AMERICAN CITIZENS IN LATVIA

860p.512 Residence/1 : Telegram

The Minister in Latvia (Coleman) to the Secretary of State

RIGA, *September 7, 1928—3 p. m.*
[Received September 7—12:30 p. m.]

75. Does Department perceive any objection to Legation sending a note to the Latvian Foreign Office stating that Latvian nationals resident in the United States are not subject to the payment of a residence tax and requesting that American citizens in Latvia be accorded similar treatment? Under the present law, American citizens residing in Latvia are obliged to pay a residence tax of 2 lats a week or 60 lats per annum.

British Government through a similar note has obtained a reduction of residence tax to 2 lats per annum on the basis of reciprocity.

COLEMAN

860p.512 Residence/2 : Telegram

The Secretary of State to the Minister in Latvia (Coleman)

[Paraphrase]

WASHINGTON, *September 15, 1928—2 p. m.*

53. Your telegram No. 75, September 7, 3 p. m. You should ask that American citizens in Latvia receive tax treatment as favorable as that accorded to the citizens of any other foreign country. You should point out that by article 1 of the treaty of April 20, 1928,[61] it is provided that the nationals of each country may "reside" in the other on the same terms as nationals of the country hereafter to be most favored.

While the Department in principle does not consider that the Government of the United States is warranted in asking exemption from particular taxes of general application merely because the Government of the United States imposes no similar tax, the fact that the Government of Latvia has accorded exemption to British nationals on that ground justifies you in requesting the Government of Latvia to grant similar privileges to American citizens.

KELLOGG

---

[61] Treaty of friendship, commerce and consular rights, between the United States and Latvia, p. 208.

860p.512 Residence/4 : Telegram

The Chargé in Latvia (Sussdorff) to the Secretary of State

[Paraphrase]

RIGA, *September 19, 1928—1 p. m.*

[Received 1:40 p. m.]

80. Department's telegram No. 53, September 15, 2 p. m. This Legation has ascertained informally that the Government of Latvia regards the question of the sojourn tax as an administrative matter which does not fall under the most-favored-nation provision of article 1 of the treaty. The Government of Latvia has always arranged for the abolition or reduction of the sojourn tax on foreigners on the basis of reciprocity by means of an exchange of notes with the interested Governments. The Latvian Foreign Office considers that the Government of the United States is justified in requesting exemption of its nationals from sojourn taxes because such taxes are not imposed in the United States, and it proposes the procedure suggested in Legation's No. 75, September 7, 3 p. m. Instructions requested.

SUSSDORFF

860p.512 Residence/5 : Telegram

The Secretary of State to the Chargé in Latvia (Sussdorff)

[Paraphrase]

WASHINGTON, *September 25, 1928—11 a. m.*

58. (1) You may address a note to the Latvian Foreign Office stating that you have been advised that the Government of Latvia follows the practice of granting exemption from residence tax with respect to the nationals of certain countries because these countries impose no such tax on the nationals of Latvia.

(2) You should examine the provisions of the Latvian law and request the most favorable treatment authorized thereby. In doing so, however, you may refrain from making any claim under the treaty; but it would appear advisable in such case to state at least orally that in refraining from doing so it is not to be understood that you are admitting that the situation is not covered by the treaty, which question is fully reserved.

KELLOGG

860p.512 Residence/v

The Chargé in Latvia (Sussdorff) to the Secretary of State

No. 5601 RIGA, *October 3, 1928.*
[Received October 22.]

SIR: I have the honor to refer to the Department's telegram No. 58, of September 25, 11 a. m., authorizing the Legation to address a Note to the Latvian Foreign Office concerning the desire of the United States Government to secure the exemption of American citizens from the residence tax imposed on foreigners in Latvia.

As a result of further informal conversations with the Latvian Foreign Office, the Legation has decided to withhold the despatch of the Note in the form suggested by the Department until it has submitted to the Department further particulars concerning the practice and views of the Latvian Government with respect to the residence tax on foreigners.

The first sentence of the draft suggested by the Department contains an inaccurate statement of fact, since, according to the Latvian Foreign Office, the Latvian Government does not follow the practice of granting nationals of foreign countries residing in Latvia exemption from the residence tax although it has made an agreement with Estonia whereby on the basis of reciprocity nationals of each country residing in the other are exempted from this tax. Latvia has so far made only one other agreement with respect to exempting citizens of foreign countries from the residence tax—namely, the agreement with Great Britain, to which the Legation referred in its telegram No. 75, of September 7, 3 p. m. The Latvian Foreign Office states that nationals of all foreign countries, except Estonia and Great Britain, residing in Latvia are paying the same residence tax as that now paid by American citizens.

The Latvian Government considers agreements such as the two referred to above as being of a purely administrative nature and maintains that it is not bound by any treaty provision and that it is not under any other obligation to make such an agreement with any country. The Legation is of the opinion that the Latvian Foreign Office will adhere firmly to this point of view, . . .

The Latvian Foreign Office states, however, that it is willing, by special agreement, to exempt citizens of certain countries, including the United States, from the Latvian residence tax, providing the Governments of those countries assure the Latvian Government by Note that Latvian citizens residing in their territory are exempt from such taxes.

In order to avoid a protracted correspondence which may delay the relieving of American citizens from the burden of the Latvian residence tax, it is suggested that the Legation be authorized to

submit a Note to the Latvian Foreign Office along lines similar to the British Note, a copy of which is transmitted herewith.[62] I am enclosing a draft of a Note [62] which I believe will result in bringing about the desired action on the part of the Latvian Government and which will not, in my opinion, admit in any way that the situation is not fully covered by treaty. It would be appreciated if the Department would telegraph me whether it approves of my delivering this Note to the Latvian Government and at the same time making an oral statement that the failure of the United States Government to refer to the Treaty is not to be construed as an admission that the situation is not covered therein.

I have [etc.] LOUIS SUSSDORFF, Jr.

860p.512 Residence/7 : Telegram

The Chargé in Latvia (Sussdorff) to the Secretary of State

RIGA, *November 21, 1928—4 p. m.*
[Received November 21—11:15 a. m.]

94. Would appreciate an immediate telegraphic reply to my urgent despatch No. 5601 of October 3rd, submitting proposal which would eliminate residence tax on American citizens in Latvia. Consulate reports that failure to settle the matter is causing serious inconvenience to American citizens here.

SUSSDORFF

860p.512 Residence/8 : Telegram

The Secretary of State to the Chargé in Latvia (Sussdorff)

WASHINGTON, *November 21, 1928—6 p. m.*

68. Your 94, November 21, 4 p. m. Telegraph whether tax in question is applied to Latvian nationals as well as foreign nationals.

KELLOGG

860p.512 Residence/9 : Telegram

The Chargé in Latvia (Sussdorff) to the Secretary of State

RIGA, *November 22, 1928—10 a. m.*
[Received November 22—9:10 a. m.]

95. Your 68, November 21, 6 p. m. Tax in question does not apply to Latvian nationals.

SUSSDORFF

---

[62] Not printed.

860p.512 Residence/10 : Telegram

The Secretary of State to the Chargé in Latvia (Sussdorff)

WASHINGTON, *November 27, 1928—4 p. m.*

69. Your 95, November 22, 10 a. m. Request exemption from tax for American nationals under paragraph 2, Article 1, of the treaty concluded April 20, 1928, which accords national treatment in matters of internal charges or taxes.

KELLOGG

860p.512 Residence/11 : Telegram

The Chargé in Latvia (Sussdorff) to the Secretary of State

RIGA, *November 30, 1928—11 a. m.*

[Received 12:53 p. m.]

98. Your 69, November 17 [*27*], 4 p. m. Latvian Foreign Office states sojourn tax on foreign nationals is not an internal charge or tax since Latvian nationals are not subject to it and that, therefore, paragraph 2 of article 1 does not apply. Foreign Office asserts that question of sojourn tax on foreigners is dealt with specifically in last paragraph of article 1. Foreign Office further states that Latvian sojourn tax on foreigners was enacted before United States-Latvian treaty of April 21 [*20*], 1928, entered into force. Request further instructions.

SUSSDORFF

LIBERIA

APPOINTMENT OF JOHN LOOMIS AS FINANCIAL ADVISER TO THE REPUBLIC OF LIBERIA SUCCEEDING SIDNEY DE LA RUE

882.6176 F 51/250a

The Assistant Secretary of State (Castle) to the Minister in Liberia (Francis)

WASHINGTON, *December 12, 1927.*

MY DEAR MR. FRANCIS: In recent conversations both with the Firestones [1] and with Mr. Bussell [2] of the Liberian Receivership, now home on leave, it has been made quite obvious that a good deal of friction of one sort or another has developed in the relations between the Liberian Government, the Receivership and the Firestone organization in Liberia. Of course a certain amount of this is inevitable as it cannot be expected that the interests of the Liberian Government, the Receivership and the Firestone Company will, in all cases, be identical. However, the present atmosphere of mutual distrust and suspicion accentuated as it appears to be by a number of personal dislikes impresses me as most unfortunate, as the success of the whole scheme of Liberian development through the loan and the Firestone project is dependent primarily upon a spirit of cordial cooperation between the Government, the Receivership and Firestone.

The Department naturally has no intention of apportioning credit or blame in the matter or of involving itself or the Legation in any way. However, the successful development of Liberia is an object of distinct interest to us both on account of the Department's traditional friendly interest in the welfare of Liberia and on account of its desire to assist American business and to obtain new sources of rubber supply. In consequence the misunderstandings which appear to have arisen can only be deplored, especially as I am convinced that each of the parties concerned is acting with perfectly honest motives.

In my conversations with Mr. Firestone and also in the conversations which Firestone and Bussell had with Mr. Marriner [3] and Mr. Carter [4] we have emphasized our position as outlined above and we

[1] Harvey S. Firestone, president, and Harvey S. Firestone, Jr., vice president of the Firestone Plantations Co.

[2] Conrad T. Bussell, supervisor of Liberian Customs.

[3] J. Theodore Marriner, Chief of the Division of Western European Affairs.

[4] Henry Carter, of the Division of Western European Affairs.

have expressed our hope that they would endeavor to work harmoniously together. You are in an even better position in Monrovia to carry on the good work and through your informal and personal contacts to help create a spirit of mutual confidence that will obviate most, if not all, of the disagreements and misapprehensions.

I have written De la Rue a personal letter on the subject [5] and have thought it well to write you in this way so that you could keep posted on what has been happening here in Washington.

With my best wishes [etc.] W. R. CASTLE, Jr.

882.51/1974

The Assistant Secretary of State (Castle) to the Vice President of the National City Bank of New York (Hoffman)

WASHINGTON, *January 21, 1928.*

MY DEAR MR. HOFFMAN: I have received your letter of January 16 transmitting copy of a cable received by you from Mr. Birkmire [6] regarding the necessity of replacing Mr. Colegrove, at present Assistant Auditor of Liberia, at an early date, and have noted your request that the Department discuss the matter of his replacement with General McIntyre.[7]

With every desire in the world to be helpful to you in connection with the administration of the Liberian loan, I regret very much to state that this appears to be, under the terms of Article 9 of the Loan Agreement,[8] a matter concerning only the Bank and the Liberian Government and one in which the Department can take no action no matter how informal or slight, even to the extent of consulting General McIntyre. However, I am quite certain that General McIntyre will be glad to cooperate with you in this matter if you approach him directly and in this connection, I may say that I have no objection to your showing him this letter.

Regretting that in this instance the Department is unable to act on your request, I am [etc.] W. R. CASTLE, Jr.

882.51/1977 : Telegram

The Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, *January 27, 1928—2 p. m.*

3. Your 3, January 20, 11 a. m.[9] National City Bank informs Department that it has received a cable stating that de la Rue has been

---

[5] Not found in Department files.

[6] Neither printed.

[7] Major General Frank McIntyre, chief of the Bureau of Insular Affairs, War Department.

[8] Signed September 1, 1926; *Foreign Relations*, VTBF, vol. II, pp. 574, 579.

[9] Not printed.

ordered by his doctor to leave Monrovia by the steamer sailing the 31st. The Department greatly regrets to hear of de la Rue's illness and hopes that you will convey to him its sympathy and its hopes for his early recovery as well as its high appreciation of the work which he has done in Liberia.

In view of the possibility that de la Rue's health may preclude the possibility of his returning to Monrovia, the Department intends to name as Acting Financial Adviser a man of broad experience and high qualifications in this particular type of work who will eventually be named as Financial Adviser *en titre* should de la Rue be unable to resume his duties. The Department is at present in touch with a number of outstanding men of this type and hopes shortly to be able to notify to you the name and qualifications of this Government's nominee and to inform you how soon he will be able to assume his duties in Monrovia. In the meantime, in order that the work of the Financial Adviser's Office may be carried on, this Government hereby nominates Bussell to act as Financial Adviser until the arrival of the new Acting Financial Adviser.

You should inform the Liberian Government of the intentions of this Government with regard to the nomination of an Acting Financial Adviser and report Bussell's nomination to act in this capacity until the arrival of the new man.

It is the opinion of the Finance Corporation and of the National City Bank, with which the Department is inclined to concur, that the remuneration of an Acting Financial Adviser of the type which the Department expects to name should be the same as de la Rue's, and the Department understands that, in as much as the Loan Agreement makes no provision for such remuneration, it will be made the subject of a Supplementary Agreement to be arranged direct between the Liberian Government, the Finance Corporation, and the Fiscal Agents.

. . . . . .

KELLOGG

882.51/1994

The Liberian Secretary of State (Barclay) to the American Minister in Liberia (Francis)[10]

72/D. MONROVIA, *February 4* [, *1928*].

MR. MINISTER: I have the honour to acknowledge receipt of your despatch dated January 30, 1928,[11] by which I am informed that in view of the fact that the health of Mr. Sidney de la Rue, Financial

[10] Copy transmitted to the Department by the Minister in Liberia in his despatch No. 29, Feb. 7, 1928; received March 22.

[11] Not printed.

Adviser of the Republic of Liberia, may preclude the possibility of his returning to Monrovia, the Department of State at Washington intends naming an Acting Financial Adviser who will eventually be named as Financial Adviser should Mr. de la Rue be unable to resume his duties.

I am further advised by your despatch that in order that the work of the Financial Adviser's office might be carried on, your Government, pending the nomination referred to in the preceding paragraph, nominates Mr. Conrad T. Bussell, Supervisor of Customs to act as temporary Financial Adviser until the arrival of the new Acting Financial Adviser.

You further intimate that it is the opinion of the Finance Corporation and of the National City Bank with which opinion your Department of State is inclined to agree, that the remuneration of an Acting Financial Adviser of the type which your Department of State expects to name should be the same as that received by Mr. de la Rue.

You then add that the understanding of your Department of State is that in as much as the loan agreement makes no provision for such remuneration it will be made the subject of a supplementary agreement beween the three parties to the loan agreement.

I did not delay to bring the contents of your despatch to the attention of the Liberian Government who after careful consideration of the suggestions contained therein, have instructed me to say in reply that the temporary supervision of the Financial Adviser's office and the discharge of his functions by Mr. Bussell, being in accord with the administrative practice of the Liberian Government meet with no objection from my Government. This is, however, without prejudice to the view expressed in the paragraph immediately following.

My Government feel bound to observe that in their opinion, the loan agreement, which is the unalterable criterion by which the powers exercised thereunder by the Government of the United States are controlled, furnished no authority for the appointment of an Acting Financial Adviser in the sense suggested by the despatch now under reply. The Government of Liberia therefore regret being unable to concur in the proposed intention of your Department of State, which if carried out would be modifying the loan agreement by reading into it a provision not contemplated nor agreed to at the making of the Contract.

Moreover, the Liberian Government would find themselves embarrassed in a financial sense, if whilst paying Mr. de la Rue's salary during his leave, they would also be called upon to expend a like sum for an Acting Financial Adviser, which expenditure, it must be observed, is not authorized in the Budget, the amount of which is not

otherwise available, and the payment of which, if the sum were available, would in itself constitute a violation of the provisions of the loan agreement in respect of extra Budget payments.

As far as my Government's official information goes, Mr. de la Rue, the Financial Adviser, is on leave. The administrative practice of Liberia in such a case is that the next ranking official performs the duties of the official on leave in addition to his own duties, and in compensation for his extra services receives out of the contingent fund such a temporary increment on his ordinary pay as will make it equal to the pay of the official whose duties he temporarily discharges.

My Government suggests that in the present circumstance this procedure should be followed as being more economical, and since it does not endanger any interest concerned, cannot in any sense be objectionable.

Should, however, the health of Mr. de la Rue, as your Department of State seems to apprehend, render his relinquishment of his post under the Government of the Republic necessary, the Government of Liberia would not hesitate to accept a new nominee proposed by the Department of State. They cannot, however, see their way to carry the additional burden which would be involved in their acquiescence in the intention of the Department of State as notified in your despatch. In view of the foregoing, it is evident that the Government of Liberia share neither the opinion nor the understanding set forth in the last two paragraphs of your despatch.

The Liberian Government feel assured that the view expressed herein will meet with the sympathetic acceptance of your Department of State.

With sentiments [etc.] EDWIN BARCLAY

882.51/1983

The Assistant Secretary of State (Castle) to Mr. Harvey S. Firestone

WASHINGTON, *February 7, 1928.*

MY DEAR MR. FIRESTONE: As you know, the Department cabled the American Legation at Monrovia on January 27 nominating Bussell as Acting Financial Adviser in de la Rue's absence but making it clear that this Government intended to send another man out as soon as possible who would take over the position of Acting Financial Adviser on arrival and who would be confirmed as actual Financial Adviser should de la Rue be unable to return. At the same time the Department suggested that the remuneration of the new man should be the same as de la Rue's and pointed out that inasmuch as the Loan Agreement makes no provision for such remuneration it would

probably have to be made the subject of a supplementary agreement to be arranged direct between the Liberian Government, the Finance Corporation and the Fiscal Agent.

A telegram has now been received from the American Legation at Monrovia dated February 4 which reads in substance as follows:

"Just advised by the Liberian Government no objection to Bussell's temporary supervision of financial advisers office but feels bound to observe the loan agreement, 'unalterable criterion by which the powers' exercised thereunder by Government of the United States are controlled, furnishes no authority for appointment acting financial adviser in the sense suggested by Department and therefore regrets inability to concur in proposed intention of the Department which if carried out would modify loan agreement 'by reading into it a provision not contemplated nor agreed to at making of contract.' Further that government will be embarrassed in financial sense by paying De la Rue's salary during leave and also pay new man equal of salary not in budget which in itself would constitute violation of the loan agreement *re* extra budget payments. Therefore government shares neither opinion nor understanding with regard to remuneration on new man and supplementary agreement referred to. Should De la Rue not return government will not hesitate to accept new nominee and feels assured views expressed will meet sympathetic acceptance by Department.

"I am satisfied government will not change position."

From this it appears that the Liberian Government intends to stand upon the letter of the Loan Agreement and that it is not disposed to make a supplementary agreement of the sort contemplated, and I am compelled to say that in taking this position the Liberian Government seems to be on strong ground. In the circumstances the Department can do nothing further unless the Finance Corporation and the Fiscal Agent can reach an agreement on the subject with the Liberian Government by direct negotiation, as the only alternative would be definitely to recall de la Rue and to designate a new Financial Adviser of the type desired, a measure which the Department is not prepared to take at the present time for obvious reasons.

Another telegram from the American Legation at Monrovia likewise dated February 4 [12] regarding the question of the appointment of American officers to the Liberian frontier force states that the Liberian Government will not consent to white officers, that it is willing to retain Outley as captain,[13] that it has asked that this Government nominate a negro major but that the salaries may not exceed $8,000 per annum for both. Here again the Liberian Government appears to be well within its recognized prerogatives and the Department accordingly is estopped from taking any action that would be

[12] Not printed.

[13] Capt. Hanson Outley; see last paragraph of the letter of July 14 to Messrs. Shearman & Sterling, *Foreign Relations*, 1927, vol. III, p. 151.

inconsistent with the terms of the Loan Agreement and the expressed wishes of the Liberian Government.

The Department would appreciate receiving any further information which you may have regarding these matters and I shall, of course, be glad to discuss them with you or your representatives.

I have addressed a similar letter to Mr. Hoffman of the National City Bank [14] and have mailed a copy of this letter to Mr. Robinson [15] at Akron.

I am [etc.] W. R. CASTLE, Jr.

882.51/1995

The Acting Financial Adviser to the Republic of Liberia (Bussell) to the American Minister in Liberia (Francis) [16]

MONROVIA, *February 15, 1928.*

SIR: I have the honor to advise that on February 14, 1928, I received a Commission, dated February 13, 1928, as Acting Financial Adviser from His Excellency the President of Liberia, and on February 14th I assumed the duties of that position.

2. I wish to take this opportunity of expressing my appreciation of the courteous cooperation received by me from the American Legation in the past and venture to hope that the same will continue in the future.

I have [etc.] C. T. BUSSELL

882.51/1997 : Telegram

The Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, *April 17, 1928—7 p. m.*

9. Inform Bussell as follows: With reference to your two cables to National City Bank [17] Department after consulting De la Rue is of the opinion that Article IX, Paragraph 4 of Loan Agreement stipulates that auditors and supervisors are responsible to the Financial Advisor but primarily under the direction of the Secretary of the Treasury who must be governed by the methods of accounting, rules and regulations devised by the Financial Advisor, the authority for which is provided for in Article XII, Paragraph 1.

The Loan Agreement does not give the Financial Advisor any

---

[14] Not printed.

[15] B. M. Robinson of the Firestone Tire Co.

[16] Copy transmitted by the Minister in Liberia in his despatch No. 33, Feb. 15, 1928; received March 22.

[17] Not printed; copies were transmitted on Apr. 11, 1928, by the Bank to the Department (file No. 882.51/1997).

power over expenditures contemplated by the Government as long as these are within the sum appropriated in an existing budget.

KELLOGG

882.51A/3

The Secretary of State to President Coolidge

WASHINGTON, *July 13, 1928.*

MY DEAR MR. PRESIDENT: Under date of July 14, 1927, I had the honor of recommending to you [18] that you designate Mr. Sidney De la Rue as Financial Advisor to the Republic of Liberia under the terms of Article VIII of the Loan Agreement of 1926 between the Republic of Liberia and the Finance Corporation of America. Your approval of my recommendation was notified to me by Mr. Sanders in a letter, dated July 18, 1927,[19] upon the basis of which I advised the Liberian Government of Mr. De la Rue's designation.

Mr. De la Rue was then duly appointed to the office of Financial Advisor to the Republic of Liberia as provided in Article VIII of the Loan Agreement of 1926 and exercised the functions of that office up to the end of January, 1928, when a severe attack of illness necessitated his departure from Liberia on a long sick leave. Mr. De la Rue has been advised that the state of his health will not permit him to return to Liberia and he has accordingly offered his resignation as Financial Advisor to the Liberian Government in a letter, dated July 1,[20] which is being transmitted to the Liberian Government through the American Legation at Monrovia.[21]

It is accordingly necessary that a new Financial Advisor be designated under the terms of the Loan Agreement of 1926, and in this connection I have the honor to recommend that you designate Mr. John Loomis of Strasburg, Virginia, to the post left vacant by Mr. De la Rue's resignation.

Mr. Loomis was employed in the Philippine Government 1905 to 1916, in the Division of Supply, of which he became Chief, was then appointed to a position in the Customs Receivership of San Domingo and served as Treasurer General of the Republic of San Domingo, 1920 to 1922. He was engaged in the sugar business in Cuba, 1923 to 1925, when he became a member of the American Financial Mission to Persia being assigned as Provincial Director of Finance of the three eastern provinces of Persia. His duties in this capacity terminated in March, 1928, with the withdrawal of the American Financial Mission. He is highly recommended by the Bureau of

[18] *Foreign Relations*, 1927, vol. III, p. 152.
[19] *Ibid.*, p. 156.
[20] Not printed.
[21] Instruction No. 400 of June 12; not printed.

Insular Affairs and by ranking American naval officers with whom he served in San Domingo and the Department has informally ascertained that his designation as Financial Advisor to Liberia would be welcomed by the Finance Corporation of America, the National City Bank, Fiscal Agents of the 1926 Loan, and the Firestone Plantations Company, all of whom are interested in the successful operation of the Loan Agreement. The inquiries made by the Department regarding Mr. Loomis indicate that he is properly equipped both technically and personally for the position and I therefore feel no hesitancy in recommending that you designate him as Financial Advisor to the Republic of Liberia.

In the event that this recommendation meets with your approval, may I ask that I be advised by telegraph in order that the designation may be notified to the Liberian Government at the earliest possible?

I am [etc.] FRANK B. KELLOGG

882.51A/7 : Telegram

The Secretary to the President (Sanders) to the Secretary of State[22]

SUPERIOR, WIS., *July 16, 1928.*

[Received July 16.]

The President approves designation of Mr. John Loomis, of Strasburg, Virginia, as Financial Adviser to the Republic of Liberia as recommended in your letter of July 13.

EVERETT SANDERS

882.51A/9 : Telegram

The Secretary of State to the Minister in Liberia (Francis)

[Paraphrase]

WASHINGTON, *July 17, 1928—2 p. m.*

15. (1) Financial Advisor de la Rue's resignation, which was contained in his letter dated July 1 and addressed to President King of Liberia, was forwarded to you by mail with the Department's instruction No. 400, June 12.[23] You should forward it immediately to President King, with a covering note in which, strictly confidentially, you inform him of President Coolidge's designation of John Loomis, Strasburg, Virginia, as successor to De la Rue as Financial Advisor to the Republic of Liberia, under the terms of article 8 of the loan agreement. [Here follows a brief biographical sketch of Mr. Loomis.]

---

[22] This telegram was confirmed by letter of the same date (file No. 882.51A/8).

[23] Instruction No. 400 and its enclosures not printed.

The nominee is prepared to start at an early date for Liberia, so you should cable as soon as his designation has been approved by the Liberian Government, as provided in article 8.

(2) As soon as Mr. Loomis is appointed by the Liberian Government, he will proceed to select a nominee for the position in Liberia of Inspector of Internal Revenue, as provided in article 9. Further instructions will then be sent you on this subject.

(3) You should deliver the other three letters which were transmitted with the Department's above-mentioned mail instruction as soon as the Liberian Government accepts De la Rue's resignation.

(4) Please telegraphically report the results of action taken by you.

KELLOGG

882.51A/15 : Telegram

The Minister in Liberia (Francis) to the Secretary of State

[Paraphrase]

MONROVIA, *July 31, 1928—2 p. m.*

[Received August 1—6:34 a. m.]

22. Your telegram 15, July 17, 2 p. m. I today received notice of acceptance of the resignation as Financial Adviser of De la Rue and approval of the designation as his successor of Loomis. The Liberian Secretary of the Treasury is instructed to make the necessary arrangements for the departure at an early date of Mr. Loomis.[24] The three letters referred to will be sent.

FRANCIS

DENIAL BY PRESIDENT KING OF LIBERIA OF ALLEGATIONS MADE BY RAYMOND LESLIE BUELL REGARDING FIRESTONE CONCESSION

882.5048/4a : Telegram

The Acting Secretary of State to the Minister in Liberia (Francis)

[Paraphrase]

WASHINGTON, *August 18, 1928—3 p. m.*

26. The Department anticipates a repetition shortly by Buell[25] of his charges concerning the Firestone concession and the American loan in the lectures he plans delivering at the Williamstown Institute of Politics. The advisability of preparing a statement in refu-

---

[24] On August 30, 1928, President King of Liberia notified Mr. Loomis that his selection of Charles I. McCaskey as Supervisor of Internal Revenue was approved (file No. 882.51A/32). On October 3 Mr. Loomis reported his arrival, with Mr. McCaskey, at Monrovia (file No. 882.51A/38).

[25] Raymond Leslie Buell, author of *The Native Problem in Africa* (New York, 1928).

tation, along the lines of the telegram Hines[26] recently sent Firestone, is, so the Department understands, being discussed by Hines with President King. If the latter should desire to issue a statement for distribution to the American press on the subject, you should inform the President of Liberia that the Associated Press is ready to handle his statement which should be sent by him as a direct message to the Associated Press, with a request for appropriate publicity for the statement.

CASTLE

882.5048/5 : Telegram

The Acting Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, *August 29, 1928—11 a. m.*

27. Your 33, August 28, 10 a. m.[27] I regret to hear of President King's illness which I trust is not serious but believe that he will wish to see you regarding the charges which Buell is making regarding the Firestone concession and American loan to Liberia at Williamstown today. Buell's speech will be published in today's afternoon papers and the Department understands that Firestone is telegraphing the pertinent passages to Hines for transmission to President King.

The Department believes that a statement from President King sent direct to the Associated Press, New York City, along the lines recently suggested by him to Hines, would receive wide and favorable publicity in the American press, particularly if he can send it in time for publication in Thursday morning's papers while Buell's charges are still fresh and before there has been opportunity for editorial comment.

You may discuss this telegram as well as the Department's 26, August 18, with President King and Hines and should telegraph the Department regarding President King's decision in the matter.

CASTLE

882.5048/6 : Telegram

The Minister in Liberia (Francis) to the Secretary of State

MONROVIA, *August 30, 1928—6 p. m.*

[Received 11 p. m.]

34. Department's 27, August 29, 11 a. m. President King today issued a statement to the Associated Press and copy to the Depart-

[26] W. D. Hines, Firestone representative in Liberia.
[27] Not printed.

ment [28] refuting allegations in Buell's speech. Refer to enclosure 4, despatch 348, Diplomatic, March 13, 1926.[29]

FRANCIS

882.5048/7 : Telegram

President King of Liberia to the Secretary of State

MONROVIA, *August 30, 1928.*
[Received August 31—3:35 a. m.]

I have noted with surprise the alleged statements made in an address delivered yesterday at Williamstown Political Institute by Professor Raymond L. Buell, particularly the suggestion therein made that the Liberian Government was coerced by the United States Department of State in the matter of the Firestone rubber concession and the 7 percent loan of 1927.

This suggestion is without any foundation in fact. The approach to the agreement was made by the private enterprise of Mr. Firestone and neither directly nor indirectly was any influence brought to bear upon the Government of Liberia by the Department of State or any other department or official of the United States compelling the granting of the Firestone concession.

The fact that the negotiations between Firestone and the Liberian Government were protracted over a period of two and a half years should conclusively show that there was no coercion but rather that full consideration was given to the views of each party by the other.

In respect to the loan of 1927, internal economic conditions growing out of the World War dictated to the Government of Liberia the propriety and necessity of funding its indebtedness and reorganizing its finances. It was this which led to the offer of the United States Government in 1921 [30] to make available funds which in the Wilson administration had been allocated to Liberia during the war. This proposal did not meet with the approval of Congress and the tentative agreement which had been reached by the two Governments lapsed. Nevertheless the need for reorganizing Liberian finances still existed and Liberia, like other states in similar circumstances, took advantage of the opportunity offered by the American money market.

In the negotiations between the Government of Liberia and the Finance Corporation of America there was no participation by the Department of State and the only reference in the agreement to the Government of the United States is the provision for the designation by the President of the United States of a Financial Advisor.

[28] *Infra.*
[29] Enclosure not printed; despatch No. 348 printed in *Foreign Relations*, 1926, vol. II, p. 541.
[30] *Ibid.*, 1921, vol. II, pp. 363 ff.

Up to the present the effect of this loan in addition to stabilizing our finances has been to give greater internal strength to the Government of Liberia and to avert alien intervention in our domestic affairs upon grounds which imperialists usually advance for this purpose.

The country generally is satisfied with the policy which has been pursued by the administration. Besides this there would seem to be historical fitness in a financial project which lines up Liberia with the United States.

There have been crises in our relations with the French Government growing out of undetermined frontiers,[31] but these have never been represented to us as a "menace" by the United States Department of State nor was the Firestone project represented to the Government of Liberia by that Department as the means by which the menace could be removed. On the contrary when in certain quarters opposed to the Firestone scheme it was suggested that the United States Department of State was behind the Firestone proposals the Secretary of State of the United States took occasion formally to notify the Government of Liberia that the administration was neither directly nor indirectly behind Firestone.

The statement of Professor Buell that the scheme involves the control of Liberia by American officials is untrue and mischievous.

There is under the loan agreement, as has already been pointed out, but one official, the Financial Advisor, designated by the President of the United States upon the request of the Government of Liberia, and even this designation is not final unless acceptable to the President of Liberia.

Liberia like every other country has suffered from an unemployment problem.

The Firestone operation was an opportunity seized with alacrity by the Liberian laboring classes. The Government has had no occasion whatever to coerce labor and reports seem to indicate that far from suffering from a dearth of laborers the Firestone plantations are suffering from an embarrassment of riches in this respect. Nothing in the Firestone agreement obligates the Government of Liberia to impress labor for the company even should an occasion to do so present itself. On this point the Government of Liberia would welcome an investigation on the spot by an impartial commission.

---

[31] See *Foreign Relations*, 1926, vol. II, pp. 600 ff.

This apparent attempt to bring Liberian affairs in an unfavorable light before the American people as a factor in the present political controversy is much to be regretted. Most interesting to me is the fact that Professor Buell is able to predict Liberia's future and impugn the soundness and integrity of its statesmen after a visit of only 15 days during which he could have seen but a few of our high officials and leading citizens.

C. D. B. KING

882.5048/7 : Telegram

The Acting Secretary of State to President King of Liberia

WASHINGTON, *September 1, 1928.*

I have the honor to acknowledge your Excellency's telegram of August 30 regarding the statements made by Professor Buell at Williamstown concerning the Firestone concession and the American loan to Liberia. The text of your telegram was communicated to the Press which has given it full publicity and it should effectively dispose of any erroneous or misguided impressions which may have been created in this country or elsewhere by Professor Buell's statements.

J. REUBEN CLARK, Jr.

882.5048/6 : Telegram

The Acting Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, *September 1, 1928—1 p. m.*

29. Your 34, August 30, 6 p. m. King's telegrams to the Department and the Associated Press have received full publicity in the press and I have telegraphed to him direct on the subject. The extreme nature of Buell's charges would in any event have tended to offset their effectiveness while the speech delivered by Thomas Jesse Jones at Williamstown on August 29 commending the Firestone concession and the American loan and the Department's Liberian policy, the extensive comments made by the Department to the press regarding Buell's speech, and President King's statement should dispose of Buell's charges and clear the air of misunderstandings.

CLARK

ESTABLISHMENT OF RADIO COMMUNICATION BETWEEN THE UNITED STATES AND LIBERIA

811.7482/11 : Telegram

The Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, *December 3, 1927—3 p. m.*

53. Firestone has shown the Department Hines' [*Ross'*] cable to Akron No. 16 November 28 [32] concerning the Liberian Executive Order regarding the use of radio. Firestone points out that Article 2, Paragraph E of Planting Agreement [33] is general in character and does not limit the use of radio to the confines of Liberia.

He further states that the wave bands reserved by the Liberian Government are of such magnitude that it would be extremely difficult if not impossible to set up practical transatlantic service in the wave bands allowed, as this would require the construction of a high power and extremely expensive transmitter and the chances are that even then interference in the United States would prevent successful reception. He observes that it would appear that the Executive Order works such undue hardship on him as to amount in effect to nullification of the privileges granted by Article 2, Paragraph E.

The Department believes that Firestone's position is consistent with a reasonable interpretation of Article 2, Paragraph E and it therefore desires that you tender your good offices with a view to effecting an amicable arrangement. In this connection Mr. Firestone suggests

---

[32] A copy of this cable was left at the Department by Mr. Firestone on December 2. It reads as follows:

"FIRESTONE,
Akron.
#16. Hines Code. Recent Government executive order covering radio regulations prohibits the use of radio equipment by individuals or corporations within the limits of aerial bands reserved by the Government, with a radius of 60,000 kilocycles to 1,000 and from 600 kilocycles to 429.
Interpretation of agreement by Government is that we are entitled to use from our plantations station to this port but not for trans-Atlantic use. Secretary of State Barclay referred to conversation with Mr. H. S. Firestone, jr. after Agreements were signed as follows:

> 'Mr. Firestone, jr., called at the Department and had a long discussion with us with reference to the then nebulous project of your Company getting an additional and separate franchise for the establishment of a wireless station for trans-Atlantic communication. He made then no definite proposal, but suggested that if experiment which was to be taken in hand demonstrated the practicability of the scheme, a proposal would be then made to Liberian Government for such a franchise.'

He further states that the executive order does not conflict with Article No. XI [*II*], Section (*e*), and should our contention be admitted, there would be no hindrance to our using frequency outside that reserved for the Government.
We are proceeding with the installation at the Du Group Center.
Ross"

[33] *Foreign Relations*, 1926, vol. II, p. 562.

that a change in the Executive Order to permit the private use of wave bands similar to those recently set up by the United States Radio Commission, that is one band from 5,700 to 7,005 kilocycles and a second band from 18,100 to 56,000 kilocycles would permit point to point communication between the United States and Liberia with a minimum of interference.

Please report action taken and the attitude of the Liberian Government by cable.

KELLOGG

811.7482/13 : Telegram

The Minister in Liberia (Francis) to the Secretary of State

MONROVIA, *December 6, 1927—3 p. m.*
[Received December 7—4 : 35 p. m.]

53. The Department's number 53, December 3, 3 p. m. Liberian Government's position as follows:

[1.] Concedes right internal communication but:

(1) Transatlantic short wave neither known nor contemplated by parties when agreement signed;

(2) Government's experiments having proved successful see no reason why Firestone should reap benefits;

(3) Why if regarded as rights under the concession did Firestone Junior year ago verbally sound out Barclay *re* operation trans-Atlantic station and local counsel in present issue first sound out Cabinet for permit? Government adamant in this position but probably receptive to special rate agreement, more economical for Firestone than erection station.

2. Foreign application for Liberian concessions now pending, present time inopportune to force issue. Insistence will seriously antagonize public opinion. Amicable adjustment through good offices Legation will be made difficult by failure Firestone fulfill promises to Liberian Government. See unofficial note Macy [34] to Castle,[35] October 10th.[36]

. . . . . .

Until certain Department understands peculiar situation reluctant proceed tender good offices. Please instruct.

FRANCIS

---

[34] Clarence E. Macy, vice consul and third secretary at Monrovia, Apr. 18, 1927, to Nov. 17, 1927.

[35] William R. Castle, Jr., Assistant Secretary of State.

[36] Note not found in Department files.

811.7482/17

The Minister in Liberia (Francis) to the Secretary of State

No. 6 MONROVIA, *December 17, 1927.*
Diplomatic [Received January 30, 1928.]

SIR: I have the honor to forward herewith duplicate originals of the traffic agreement entered into between the Liberian Government and the Radio Corporation of America, which was executed on behalf of the Government on the 31st day of October, 1927.[37] With the above I also enclose two copies of said agreement together with a copy of a letter from the Financial Adviser of the Republic of Liberia, under date of December 14, 1927, addressed to the Radio Corporation of America, New York City;[37] and a copy of a letter from the Financial Adviser to me.[37] You will note that the Financial Adviser states that at the request of His Excellency the Secretary of State of the Republic of Liberia he deposits said duplicate originals with the American Legation for transmission to the main offices of the Radio Corporation of America in New York City.

In the absence of other instructions I send the papers to you for delivery to the Radio Corporation of America, New York City, through the Department of State.

Paragraph 4 of the Agreement provides "communications of the Government[s] of the United States and Liberia shall be handled at one-half of the radio rate between New York City and Monrovia, Liberia, to which shall be added the tolls 'beyond the radio termini' ".

In this connection I refer to Department's telegram, December 6, 7 P. M., 1927,[37] in regard to interchange of Government radio traffic with Liberia free. I called upon Secretary Barclay, December 8, in this matter and was informed by him that the Liberian Government had signed an agreement with the Radio Corporation of America, October 31, 1927, but that he would take up the matter with the President and advise me further on Monday (December 12).

Not having heard further from Mr. Barclay, and on receipt of the duplicate original agreement from the Financial Adviser on the 15th, I sent a note to Secretary Barclay asking for further conference in the matter, to which I have had no reply.

Apparently the execution of the enclosed agreement indicates the attitude of the Liberian Government on the question raised in the telegram above referred to.

I have [etc.] W. T. FRANCIS

[37] Not printed.

811.7482/14 : Telegram

The Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, *December 21, 1927—2 p. m.*

55. The substance of your 53, December 6, 3 p. m., was communicated to Firestone who has written to the Department expressing his disagreement with the views of the Liberian Government, but stating that he wishes the matter kept in abeyance until his arrival in Monrovia the latter part of January. Department agrees that this course offers the best opportunity for an amicable solution of the difficulties which have arisen.

KELLOGG

811.7482/18

The Minister in Liberia (Francis) to the Secretary of State

No. 13 MONROVIA, *January 14, 1928.*
Diplomatic [Received February 9.]

SIR: I have the honor to refer to this Mission's telegram of December 6, 3 P. M., 1927, in answer to Department's telegram No. 53, December 3, 3 P. M., 1927, and to Department's telegram No. 55, December 21, 2 P. M., 1927, and to say that nothing further has been done in the matter.

I agree with the Department that Firestone's position is consistent with a reasonable interpretation of Article II, paragraph (*e*) of the agreement, but the Liberian Government is so determined to insist upon exclusive rights in the use of radio that, for the reasons expressed in my telegram, it appeared to Macy, Wharton [88] and me to be inopportune to raise the issue if it could be avoided at that time.

Mr. William D. Hines, Mr. Firestone's representative, arrived December 12, 1927, but has not yet been granted an interview by the President. He has been instructed by Mr. Firestone, Jr., through cable, to hold radio matter in abeyance until Mr. Firestone's arrival in February.

. . . . . .

After the arrival of Mr. Firestone, Jr., and/or whenever the issue arises I will be pleased to use our good offices with a view to effecting an amicable adjustment between the parties.

I have [etc.] W. T. FRANCIS

[88] Clifton R. Wharton, vice consul and third secretary at Monrovia.

882.74/39

The Minister in Liberia (Francis) to the Secretary of State

No. 40 MONROVIA, *February 24, 1928.*
Diplomatic [Received April 5.]

SIR: I have the honor to confirm this Mission's cablegram No. 8, February 29, 11 A. M., in response to Department's cablegram No. 6, February 25, 5 P. M.,[40] in the matter of the establishment of a transatlantic wireless station in Liberia by the Firestone Plantations Company, and to report that Mr. Harvey S. Firestone, Jr., had a conference on that subject, February 22, 1928, with a Commission appointed by the Liberian Government consisting of Mr. Edwin Barclay, Secretary of State, Mr. Louis A. Grimes, Attorney General and Mr. Samuel A. Ross, Postmaster General. I am informed that at this conference a tentative verbal agreement was reached and it was understood that Mr. Firestone would write a letter to Postmaster General Ross formally setting forth his desires in accordance with that agreement. On the same day (February 22) and subsequent to the conference Mr. Firestone wrote Postmaster General Ross stating that he desired to establish wireless stations at various locations on his developments in Liberia for communication between those stations and the head office at Akron to facilitate the operation of his business, and requesting that the following wave-lengths be allocated to his Company for that purpose:

75	to	54	meters
105	"	85	"
109	"	105	"
45	"	42.8	"
31.2	"	27.3	"
25.2	"	24.4	"
20.8	"	19.85	"
16.85	"	14	"

On February 25, Postmaster General Ross replied to Mr. Firestone saying, "you are here-by advised that the Government allocates the following wave-lengths to your company, namely:

1. 20.8 Meters
2. 43 "
3. 105 "
4. 106 "

subject, however, to the 'Act Regulating the Operation of Radio or Wireless, Telegraph, Telephone or Broadcasting Stations in the Republic of Liberia', and under the following conditions:

[40] Neither printed.

a) Messages to be transmitted shall be only such as refer to the business of the company and not to the private affairs of their employees;
b) The Government reserves to itself the right to take over and use the station, or to suspend the operation of same in case of war or other public emergency;
c) The trans-Oceanic communication shall be confined solely to the station established at the headquarters of the Company in Monrovia;
d) The Government reserves to itself the right unconditionally to close the station in the event of any violations of the 'Act Regulating the Operation of Radio or Wireless Telegraph, Telephone or Broadcasting Stations in the Republic of Liberia'."

Attached to this letter was a copy of the Radio Act passed on the last day of the last session of the Legislature which adjourned February 17, 1928.

On February 29, Mr. Firestone replied to Postmaster General Ross' letter saying:

"We will commence as soon as possible to determine whether these wave-lengths are suitable for the above purpose. If it should be found after experimentation that certain other wave-lengths are more practical and satisfactory for successful communication, we understand that you will allocate to us such wave-lengths, providing no interference with the Liberian Government's Wireless Station would result by so doing.

In Paragraph (*c*) on page two of your letter, you mention 'the Station established at the headquarters of the Company in Monrovia'. We understand that by 'Monrovia' you mean 'Monrovia District' and that the station referred to is the station we are constructing at our Du River Development."

Mr. Firestone says he does not understand why the Government seeks to restrict him to the four wave-lengths named and to but one station; that he will try the wave-lengths allocated at the station at the Du Plantation and if they prove satisfactory he will be content, but if not he will request such further and sufficient wave-lengths as are necessary for successful operation.[41]

The station call suggested by Mr. Firestone is "ELFP".

For the Department's information copies in duplicate of the following papers are enclosed:[42]

Mr. Firestone's letter of February 22, 1928, to Postmaster General Ross; Postmaster General Ross' letter of February 25, 1928, to Mr. Firestone, with copies of the Radio Act referred to therein, and

[41] The Minister in Liberia reported in his despatch No. 54, Mar. 22, 1928 (file No. 882.6176 F 51/262), that the Firestone wireless station on the Du plantation had been established and that he had been informed that the first message was transmitted to Akron on March 17.

[42] Enclosures not printed, except for the radio act printed *infra*.

Mr. Firestone's letter to Postmaster General Ross of February 29, 1928.

I have [etc.] W. T. FRANCIS

[Enclosure]

An Act Passed by the Liberian Legislature, February 17, 1928, Regulating the Operation of Radio or Wireless Telegraph, Telephone or Broadcasting Stations in the Republic of Liberia

It is enacted by the Senate and House of Representatives of the Republic of Liberia in Legislature Assembled:

SECTION 1

That from and after the passage of this Act it shall be unlawful for any person, company, association or corporation to use any apparatus for radio communication or experimentation within the Republic of Liberia when such apparatus radiates energy at any frequency from 60,000 kilocycles to 1,000 kilocycles; and also when such apparatus as may be used as above radiates energy at any frequency from 600 kilocycles to 429 kilocycles.

SECTION 2

It is further enacted that it shall be unlawful to use any apparatus to receive radio telegraph or radio telephone signals within the frequency specified in the foregoing paragraph; and provided further that it shall be unlawful to import into the Republic of Liberia or to have and maintain any apparatus which may be used to receive radio telegraph or radio telephone signals within the frequencies specified in the foregoing paragraph, provided, however, that the Government may permit the importation of such apparatus and may formally license such apparatus in its discretion when such apparatus is for some specific necessity and the receiving apparatus so permitted will not be used for the purpose of violating the secrecy of the Government Station messages.

SECTION 3

It shall be unlawful to import in to the Republic of Liberia, or to have in one's possession any apparatus for radio communication or experimentation which may be used to violate the provisions of Paragraph One; provided, however, that the Government may permit the importation and may license specially such apparatus when it appears that to the satisfaction of the Government that said apparatus will not be used in violation of Paragraph One.

SECTION 4

It shall be unlawful for any person or persons, company, association or corporation to establish any station for radio communication or experimentation within a radius of five nautical miles of any Government radio station, even though said station uses apparatus which does not conflict within the provisions of Paragraph 1.

SECTION 5

It shall be unlawful for any person to use any static machine, X-ray apparatus and/or any machine or device which may cause interference with the Government radio telegraph and telephone stations, within any radius of said stations within which such interference becomes manifest. Upon proof of such interference, the Postmaster General is hereby authorized to subject the use of such machine or apparatus to the penalty hereinafter provided for the violation of this Act.

SECTION 6

Any patent which may be hereafter applied for under the general law of the Republic or under any special law which patent includes devices, machines, systems or the use of chemical or electrical energy or any other energy, or which may be used for the reception or transmission of power or for the reception or transmission of messages, pictures, photographs, speech or which may be used now or hereinafter in connection with any machine, apparatus or devices which may be used by the Government of the Republic of Liberia, or in the radio telegraph and telephone stations of the Government of the Republic of Liberia or any power station of the Government of the Republic of Liberia, shall be held subject to the right of the Government to use without charge or claim on the part of the patentee. Any patent which shall be granted hereafter shall be subject to the conditions hereinabove specified.

SECTION 7

No person or persons engaged in or having knowledge of the operation of any station or stations for radio telephone or telegraph operated by the Government of the Republic of Liberia, shall divulge or publish the contents of any message transmitted or received by such station or stations except to the person or persons to whom the same may be directed, or their authorized agent, or to another station employed to forward such message to its destination, unless legally required so to do by the Court of competent jurisdiction or other competent authority. Any person guilty of divulging or publishing any such message except as herein provided, shall on conviction thereof, be punished by a fine of not more than $250.00 or imprisonment for a

period not exceeding three months, or both fine and imprisonment in the discretion of the Court of competent jurisdiction.

SECTION 8

For the violation of any of these Regulations, except Paragraph 9, for which a special penalty is provided, the owner or operator of the apparatus or both, shall be liable to a penalty of $100.00 and shall forfeit the apparatus, provided, however, that said fine may be reduced or remitted by the President; and provided further that in case of a second violation of these regulations by any person, company, association or corporation holding a license from the Government, the said license shall be revoked and the said person, company, association or corporation shall not be again licensed for a period of five years thereafter.

SECTION 9

It shall be unlawful for any person, company, association or corporation to use or operate any apparatus for radio communication on a foreign ship in the territorial waters of the Republic of Liberia when such ship is at any Port of Entry of the Republic of Liberia, at which port of Entry, the Liberian Government shall operate a radio station, except that such messages be directed to or through said Government's radio Station.

SECTION 10

Any person, company, association or corporation within the jurisdiction of the Republic of Liberia shall not knowingly utter or transmit or cause to be uttered or transmitted any false or fraudulent call or radiogram of any kind. The penalty for so uttering or transmitting any false or fraudulent signal or call shall be a fine not more than $2,000 or imprisonment for not more than five years in the discretion of the Court of competent jurisdiction.

SECTION 11

The trial of any offense under this Act shall be in the country in which it is committed, or if the offense is committed on the high seas, or out of the jurisdiction of any particular country, the trial shall be in the country where the offender may be found or into which he shall be first brought.

SECTION 12

The Postmaster General, with the approval of the President, shall make and publish such regulations and rates for the transmission and reception of messages and for the conduct of the business of the Government Radio Telephone and Telegraph Stations as he shall from

time to time in his discretion deem necessary, and when such Regulations are issued and published, they shall be of full force and effect.

882.74/39

The Secretary of State to the Chairman of the Federal Radio Commission (Robinson)

WASHINGTON, *June 27, 1928.*

SIR: I beg to refer to the informal conversation of June 26 between Mr. Butman [43] and Mr. Carter of this Department, regarding the situation created by the action of the Federal Radio Commission in granting to Mr. Harvey S. Firestone of Akron, Ohio, a license for general radio communication with Liberia, and denying a similar license to the Radio Corporation of America.

As Mr. Carter pointed out, this action on the part of the Federal Radio Commission would appear to interrupt the operation of the traffic agreement entered upon by the Liberian government and the Radio Corporation in the autumn of 1927, and the Department's information would indicate that in such an event the Liberian government would be at liberty to turn to a foreign radio concern for its wireless communications with the United States and with the outside world.

In order that this eventuality may be obviated, it seems highly important that Mr. Firestone and the Radio Corporation of America should be given opportunity to discuss the situation with the Federal Radio Commission, with a view to effecting some arrangement that will assure an efficient American-controlled radio service between the United States and Liberia. I have written both Mr. Firestone and the Radio Corporation to this effect and have suggested that they present their views to you at the earliest opportunity. Pending the results of their discussions with you and the outcome of any hearings you may hold upon the subject, I greatly hope that you will find it possible to permit both Mr. Firestone's and the Radio Corporation's Liberian circuits to continue to operate, without thereby exposing themselves to adverse action on the part of the Federal Radio Commission under the provisions of the Radio Act of 1927.[44]

I am [etc.] FRANK B. KELLOGG

---

[43] Carl H. Butman, secretary of the Federal Radio Commission.
[44] 44 Stat. 1162.

882.74/44

The Chairman of the Federal Radio Commission (Robinson) to the Secretary of State

WASHINGTON, *June 28, 1928.*

SIR: Reference is made to your letter of the 27th relative to the grant to Firestone Plantations Company of a license for general radio communication to Liberia, and the protest of the Radio Corporation of America against the same.

Please be advised that the latter Company was notified several days ago of the denial of its application for license to communicate with Liberia and informed that a hearing would be granted it thereon if requested.

Respectfully,

IRA E. ROBINSON

882.74/39 : Telegram

The Acting Secretary of State to the Minister in Liberia (Francis)

[Paraphrase]

WASHINGTON, *July 2, 1928—2 p. m.*

14. Referring to your despatch No. 40, Diplomatic, of February 24.

(1) The Department is informed by Firestone that the United States Federal Radio Commission has granted him a permit for general commercial radio communication with Liberia. Also that the Liberian Government has altered its position described in your despatch referred to above, and that for the past three weeks the Firestone representatives in Monrovia have been negotiating a traffic agreement with the Government of Liberia. Firestone describes these negotiations as having resulted in an agreement in principle, and he expects the few remaining questions, involving matters of detail, such as division of revenue, etc., to be arranged within a few days.

(2) The Department has also been informed by the Radio Corporation of America that it is carrying on active negotiations with the Government of Liberia, looking to an extension of the traffic agreement signed by the corporation with the Liberian Government last fall and intended to cover radio communication between Liberia and the world at large.

(3) Endeavor to ascertain the present status of these two negotiations and inform the Department, together with appropriate comments of your own. Please ascertain particularly whether negotiations have been carried on between any other radio concerns and the Liberian Government or whether such are likely in the near future.

(4) What will be the effect upon the Radio Corporation's existing traffic agreement if the radio agreement between the Liberian Government and Firestone is consummated?

CASTLE

882.74/52

The Minister in Liberia (Francis) to the Secretary of State

No. 91 MONROVIA, *July 9, 1928.*
Diplomatic [Received August 6.]

SIR: I have the honor to acknowledge receipt of Department's cable No. 14, July 2, 2 P. M., and to confirm this Mission's cable No. 18, July 7, 2 P. M.,[45] referring to the attempt of the Firestone Plantations Company to secure public service license for wireless service from the Liberian Government.

Further in that matter I desire to respectfully report that about a month ago the Firestone Company at Akron wirelessed Mr. William D. Hines, its representative here, saying that the Federal Radio Commission had cancelled the license for all private wireless stations and directed him to secure, if possible, public service license with the Liberian Government on the best terms obtainable. The purpose apparently being to put the Firestone Company in the public service class and thus enable it to continue its wireless operations between Akron and Liberia, perhaps with no thought of commercial profit.

Mr. Hines entered into negotiations with President King and Postmaster General Ross. While these negotiations were pending Mr. Hines received another wireless from Akron saying that the Federal Radio Commission had granted the Firestone Company a Public Service License June 15. Mr. Hines continued his efforts to secure the Liberian license and after several conferences, suggestions and changes, including an appearance before the full Cabinet, an agreement, subject to the approval of the Legislature which meets in October, and which would not interfere with the agreement entered into between the Liberian Government and the Radio Corporation, was about to be consummated. At this juncture and on July 3, a cable was received from the Radio Corporation by the Liberian Government saying "Radio license authorities Washington now seem disposed withdraw from Radio Corporation of America license for operating Liberian service, acting on assumption Firestone station Akron could as well handle all Liberian traffic and that two services between the United States and Liberia were unnecessary. Until this misapprehension is corrected we are unable to continue

[45] Latter not printed.

further negotiations for license. It would be helpful to have copy of Liberian Government grants of radio license to Firestone. Can you assist us by supplying us with copy?"

On receipt of this message the Government became alarmed, stopped all negotiations with Mr. Hines and on July 5 cabled the Radio Corporation through the Acting Financial Adviser in effect that it desired to have two wireless stations provided it has monopoly on commercial business; that with two stations one could support the other in time of trouble; that the Government was willing to make reasonable regulations with Firestone for public service license provided the Government could also maintain its contract relations with the Radio Corporation, but if there is to be but one connection the Government desired that connection with the Radio Corporation and would not consent to Firestone having exclusive stations. Doubtless nothing further will be done here until the Government is advised of the final action of the Federal Radio Commission.

The writer is informed by Mr. McCaleb, Chief Radio Engineer, that overtures have been made to the Liberian Government for wireless service on behalf of some German interests through the German Consul General here, and also by the British Marconi Company, but that those efforts were "side-tracked". Mr. McCaleb feels that there is no likelihood of such relations being established if connections can be maintained with the United States. He also says he can see no disadvantage to the Liberian Government in an exclusive contract with the Firestone Company as the Government's business can be handled through its own station in exactly the same way as it would be with the Radio Corporation of America. In fact he thinks it might be to the Government's advantage, if it must accept an exclusive contract with either one or the other, to have that contract with the Firestone Company. It occurs to me that this might be true if for no other reason than that in case of instrument or other trouble over here the Firestone Company would be in better position and have more reason to come to the aid of the Government than would the Radio Corporation. . . .

If the Firestone people desire only to find some method by which they can maintain their radio connection with Liberia and are not seeking to enter commercial business for profit, I have no doubt some reasonable arrangement can be made with the Liberian Government for public service license which will in no way interfere with the Government's agreement with the Radio Corporation.

When the contract with the Radio Corporation was drawn in 1927, and sent over in December, the intention was that it should become effective on January 1, 1928. It was later discovered, however, that the Government's apparatus was not sufficiently powerful to maintain with regularity daytime transmission necessary for com-

mercial purposes and the date of commencement of commercial operations was reset for June 1, 1928, to give the Government opportunity to construct new and adequate apparatus.

On receipt of the contract the Radio Corporation, I am told, discovered some typographical errors and suggested some corrections and changes, requesting authority from the Government by radio to make them. Receiving no reply from the Government to its first request the Radio Corporation repeated the request by radio and after waiting and receiving no response made the changes suggested, notified the Government of its action stating it was mailing the duplicate of the contract as changed to the Government. So far as I am able to ascertain the corrected copy has not been received here.

Owing to failure to complete construction of the new apparatus by June 1, the date of establishing commercial communication was again postponed and the first of July fixed for that purpose. On July 1, for various causes, the new apparatus was still unfinished and it now appears that it will be as late as September, at the earliest, before commercial communication can be established through the Government's station.

. . . . . .

I have [etc.] W. T. FRANCIS

882.74/48 : Telegram

The Minister in Liberia (Francis) to the Secretary of State

[Paraphrase]

MONROVIA, *July 25, 1928—2 p. m.*
[Received July 26—2: 55 a. m.]

20. President King states that it is extremely desirable that the American end of the Government's trans-Atlantic radio circuit be in the hands of a radio company of the broadest possible experience with facilities for international radio communication. It is his belief that refusal of a license to the Radio Corporation of America would bring about a practical impasse, because the Liberian Government cannot consistently give Firestone the right to operate an independent public radio station in that country, since the policy of the Government is to maintain a monopoly of the commercial radio business of Liberia, and such refusal would compel his Government, even though reluctantly, to attempt to establish foreign radio connections elsewhere than in the United States. He requests me to say that the Liberian Government would greatly appreciate your good offices in facilitating the issuance of the necessary licenses to both the Radio Corporation and Firestone. The President expects

me to inform him of the attitude of the Department of State on his request for good offices.

FRANCIS

882.74/49 : Telegram

Mr. Harvey S. Firestone, Jr., to the Chief of the Division of Western European Affairs (Marriner)

AKRON, OHIO, *July 27, 1928.*

President King authorized Hines send me following statement outlining position Liberian Government on radio:[46]

"The Liberian Government considers direct communication via wireless with the United States and Liberia of paramount importance to its national interest[s] and to the continuance of the traditional friendship between the two countries.

The Government recognizes the importance of radio [communication] in the efficient and economical operation of the Firestone development here and following out its policy and agreement to assume [*assist*] and encourage this America[n] enterprise, is agreeable to granting a public utility radio license to Firestone [on terms already discussed with their representative here], but in doing so also feels that in behalf of its national interest[s] and as a guarantee of continuous and uninterrupted service, as well as to care for the [rapidly] increasing volume of traffic due to the big development of American interest[s] in the country, that Liberia needs and should have more than one radio public utility origin [*system*] of communication between the two countries.

The Government hopes that its position in this matter will be brought to the attention of the authorities in control of radio communication in America and that consideration will be given to it."

HARVEY S. FIRESTONE, Jr.

882.74/48 : Telegram

The Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, *July 30, 1928—3 p. m.*

18. Your 20, July 25, 2 p. m. There is a seeming inconsistency between President King's statement to you that he could not grant Firestone a right to operate an independent public radio station in Liberia in view of the Liberian Government's policy of maintaining a monopoly of commercial radio business and that he hoped that the Federal Radio Commission would issue general commercial radio licenses to both Firestone and the Radio Corporation, as against the

[46] This slightly garbled text of the statement of Liberian Government's position has been corrected after comparison with the text of the statement as cabled by President King direct to Harvey Firestone, Jr., on July 30, 1928, and received in Akron, Ohio, on August 1, 1928 (file No. 882.74/54).

statement which Firestone says President King gave to Hines to the effect that he was willing to grant Firestone a public utility license but desired the establishment of an additional channel of radio communication between Liberia and the United States (which would presumably be through the Radio Corporation or through a foreign company.)

The Department will, of course, be glad to communicate President King's views to the Radio Commission but feels that a clearer statement as to the nature and extent of the license he is willing to grant Firestone, as well as a further clarification of the Liberian Government's policy as regards general commercial radio business in Liberia, would materially assist this Government's consideration of the matter of issuing general commercial licenses in this country for communication with Liberia.

Please ask Hines for a verification of President King's reported statement to him and then discuss the foregoing with the President and reply by cable.

KELLOGG

882.74/50 : Telegram

The Minister in Liberia (Francis) to the Secretary of State

MONROVIA, *August 3, 1928—4 p. m.*

[Received 4:40 p. m.]

23. Your telegram number 18. Interview with the President requested but [I was] informed that he is ill and not strong enough to take up office duties, will see me as soon as conditions permit. Refer to my despatch number 91 due at New York City *Berengaria* today or tomorrow.[47]

FRANCIS

882.74/50 : Telegram

The Secretary of State to the Minister in Liberia (Francis)

[Paraphrase]

WASHINGTON, *August 7, 1928—2 p. m.*

20. Your telegram 23 of August 3, 4 p. m.

(1) Please forward by cable complete text of the license for operation of a general commercial radio station in Liberia which the Liberian Government proposes to issue to Firestone. This is being requested for use in a hearing scheduled to be held by the Federal Radio Commission on August 17 on the matter of the issuance to American companies of commercial radio licenses for communication with Liberia.

---

[47] Despatch of July 9, p. 265.

(2) The issuance of a license by the Federal Radio Commission to the Radio Corporation of America for this purpose has encountered difficulties here, due to the decision of the Radio Commission to assign but one wave length for communication between the United States and Liberia. Such a decision is based upon a comparison of the present requirements of Liberian traffic with the pressing demand for wave lengths for communication with many other parts of the world. It seems unlikely that the decision will be modified until Liberian traffic shows a marked increase. The result is to limit direct radio communication between the United States and Liberia to a single company, either the Radio Corporation of America or the Firestone interests, depending on the Commission's final decision as to issuance of a license.

(3) Under the provisions of the Radio Act, Firestone must present evidence to the Commission showing that he has made arrangements in Liberia to enable him to conduct a general commercial radio business between the two countries before he can obtain a permanent operating license from the Commission. It is important for this reason to learn the exact terms of the operating license which the Liberian Government would grant to Firestone.

(4) You may discuss the situation strictly confidentially with President King on the basis of the information given above and of the Department's telegram 18 of July 30, 3 p. m., and report to the Department by cable.

KELLOGG

882.74/56 : Telegram

The Minister in Liberia (Francis) to the Secretary of State

MONROVIA, *August 15, 1928—9 a. m.*

[Received 3:08 p. m.]

29. Your cable No. 18 and 20, July 30, 3 p. m. and August 7, 2 p. m., respectively.

President says Government's position is made plain in his telegram to Firestone, July 30,[48] and in Firestone reply August 3rd.[49] Assume the Department has secured copy of proposed license from Akron.

FRANCIS

---

[48] See footnote 46, p. 268.

[49] *Post*, p. 275.

882.74/43

The Secretary of State to the Chairman of the Federal Radio Commission (Robinson)

WASHINGTON, *August 15, 1928.*

SIR: I beg to refer to the Department's letter of June 27, 1928, and your acknowledgment of June 28 regarding the question of the granting of licenses for general commercial radio communication with Liberia.

The considerations advanced in the Department's letter of June 27 led the Department to make inquiries of the Liberian Government on the subject, and in the correspondence which ensued President King of Liberia requested the good offices of this Department in bringing the views of the Liberian Government to the attention of the Federal Radio Commission. Owing to a seeming inconsistency in the statements made by the Liberian Government to the American Minister to Liberia and to Mr. Hines, the Firestone representative in Liberia, respectively, the Department sought to obtain from the Liberian Government a clearer statement as to the nature and extent of the license which it proposes to grant to the Firestone Plantations Company as well as a further clarification of its policy as regards general commercial radio business in Liberia. A reply has now been received stating that the position of the Liberian Government is that set forth in President King's telegram of July 30 to Mr. Firestone, the text of which is enclosed.[50]

From this it appears that President King is anxious that licenses be granted both to the Firestone Plantations Company and to the Radio Corporation of America to operate general commercial radio services with Liberia. From the point of view of this Department it would be desirable that the course suggested by President King be followed, provided that such action can be reconciled with the needs of other American radio companies for wave lengths. In the event that you should find it impracticable to issue licenses to more than one of the applicants, the Department feels that before final action in the premises is taken, you may wish to give careful consideration to the statement made by President King to the American Minister as reported in the latter's telegram of July 26 [*25*] in order that the possibility of Liberia's radio communications falling into other than American hands may be obviated.

In bringing President King's request to your attention the Depart-

[50] See footnote 46, p. 268.

ment encloses for your possible use in your consideration of the matter copies of the following documents bearing on the subject:[51]

1) Excerpt from Legation's despatch No. 40, February 25 [*24*].
2) Department's telegram to Legation, Monrovia, July 2.
3) Legation's reply of July 7.
4) Legation's telegram of July 25, transmitting President King's request for good offices.
5) Telegram sent Harvey S. Firestone, Jr., by President King, dated August 1 [*July 30*].
6) Department's telegram to American Legation, July 30, asking further clarification of the Liberian position.
7) Legation's reply of August 3 (also copy of its despatch No. 91 of July 9).
8) Department's telegram to Legation, August 7.
9) Legation's reply, August 11.
10) Legation's telegram, August 15.

I am [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.

882.74/56 : Telegram

The Acting Secretary of State to the Minister in Liberia (Francis)

WASHINGTON, *August 17, 1928—2 p. m.*

25. Your 29, August 15, 9 a. m. At hearing of Federal Radio Commission held August 17 both Firestone and the Department presented and supported the views of President King as indicated in his telegram to Firestone of July 30 [52] and in your 29 [53] with the result that the Commission has granted the Radio Corporation of America a license for general radio communication with Liberia, thus making possible the establishment of the double line of direct public service radio communications between Liberia and the United States desired by the Liberian Government.

CASTLE

882.74/62

The Minister in Liberia (Francis) to the Secretary of State

No. 113 MONROVIA, *August 22, 1928.*
Diplomatic [Received September 19.]

SIR: I have the honor to acknowledge Department's cable No. 18, July 30, 2 [*3*] P. M.; Department's cable No. 20, August 7, 2 P. M.; Department's cable No. 25, August 17, 2 P. M., and to confirm this

---

[51] Of the documents listed, enclosures 3 and 9 are not printed; for the other documents, see pp. 258–270 *passim*.
[52] See footnote 46, p. 268.
[53] Telegram of August 15, p. 270.

Mission's cable No. 23, 4 P. M., August 3; cable No. 27, August 11, 2 P. M.,[54] and cable No. 29, 9 A. M., August 15, 1928, concerning the issuance of public utility license to Firestone Plantations Company and the Radio Corporation of America for transmission of commercial business between the United States and the Republic of Liberia.

The Department's attention is respectfully referred to this Mission's despatch (Diplomatic) No. 103, August 2, 1928.[55]

In an interview with the President on the 14th instant in which the writer called His Excellency's attention to the apparent inconsistency between his memorandum to the writer and the statement made by His Excellency to Mr. Hines, the President informed the writer that the Liberian Government's position was set forth in the wireless message which he sent to Mr. Harvey S. Firestone, Jr., under date of July 30, 1928, to which Mr. Firestone replied on August 3. The writer asked the President if he might be permitted to so advise his Department of State, to which the President replied in the affirmative stating that he would furnish copies of his message to Mr. Firestone and Mr. Firestone's reply. Upon that authority this Mission's cable No. 29, 9 A. M., August 15, was based.

In accordance with his promise the President, under date of August 16, wrote this office enclosing copy of the two messages referred to above, and in addition thereto a copy of a letter from Postmaster General Ross, June 15, 1928, to Mr. Hines, stating the Government's original position in response to the Plantation Company's request for public utility license.[56]

Inasmuch as the terms of the Postmaster General's letter of June 15, were modified and amended by a letter from Mr. Hines in answer thereto on June 21,[57] and the modifications and amendments were discussed and in substance accepted by the Liberian Government and such amendments and modifications form the actual basis upon which the proposed agreement was to be executed, I acknowledged receipt of the President's letter of August 16 and asked him for a copy of Mr. Hines' letter of June 21.[58]

On receipt of Department's cable No. 25, August 17, 2 P. M., announcing that the Radio Commission of America had granted the double line of direct public service radio communication with Liberia, desired by the Liberian Government, I immediately advised Presi-

[54] Cable No. 27 not printed.
[55] Not printed.
[56] See enclosure 1, *infra*, and two subenclosures. For information concerning the cable of July 30 which was the third subenclosure, and which is not printed, see footnote 46, p. 268.
[57] See enclosure 2, *infra*.
[58] Minister's note dated August 18, not printed.

dent King, who on August 20,[59] in reply to my note of the 18th,[60] said "I cannot too strongly express to your Excellency my high appreciation of the amicable understanding reached with the Federal Radio Commission which now insures Transatlantic communication between Liberia and the United States, in the way and manner desired by the Liberian Government".

. . . . . .

Under date of August 20 the Radio Corporation of America cabled President King [61] the result of the hearing before the Federal Radio Commission stating that through the good offices of the American Department of State the Corporation had received license; thanking the President and stating that the Corporation was ready to engage in commercial business with Liberia as soon as Liberia was able to do so. The President replied to this cable on the same day and a copy of his reply is enclosed.

A copy of Mr. Hines' letter of June 21, 1928, is also enclosed.

I have [etc.] W. T. FRANCIS

[Enclosure 1]

President King of Liberia to the American Minister (Francis)

691/241 MONROVIA, *August 16, 1928.*

DEAR MINISTER FRANCIS: In keeping with my promise at our last interview, I have the honour to transmit [to] you herewith copies of correspondence and cablegrams exchanged between the Liberian Government and the Firestone Plantations Company, relative to granting the latter a public Utility License for operating a Radio Station between the United States and Liberia.

With due regards [etc.] C. D. B. KING

[Subenclosure 1]

The Liberian Postmaster General (Ross) to Mr. W. D. Hines

No. 651/37/28D MONROVIA, *June 15, 1928.*

SIR: With reference to your letter of the 11th instant, to His Excellency, the President, on the subject of the Radio Station of the Firestone Plantations Company, as a public utility,[62] I have the honour to forward you the following as a basis of the decision of the Cabinet, on the matter, subject however, to Legislative approval.

(*a*) That the Firestone radio station be listed as a subsidiary Government Station.

(*b*) That all messages for transmission via Firestone Radio shall

[59] See enclosure 4, *infra.*
[60] See enclosure 3, *infra.*
[61] No copy enclosed with this despatch.
[62] Copy not attached to file copy of this letter.

be handed in at the Government radio Station Monrovia where it shall be endorsed for transmission via Firestone station.

(*c*) All public messages, including Government messages which may be presented at the Firestone Station at Akron, Ohio, U. S. A. shall be forwarded by that station directly to the Liberian Government Station at Monrovia, unless, at the time of forwarding such messages, the Government Station is not in condition for receiving them.

(*d*) The total tolls collected from messages transmitted through Firestone Station shall be paid to the Government.

(*e*) This Agreement may be terminated by either party thereto after six month[s'] notice previously given to the other party.

If you are in accord with the points above mentioned, I shall be pleased to have you nominate a day for an interview with me on the matter, in order that appropriate agreement on the subject matter might be entered into by the respective parties.

I have [etc.] S. A. Ross

[Subenclosure 2—Telegram]

Mr. H. S. Firestone, Jr., to President King of Liberia

THE DU, *August 3, 1928.*

Your message stating the position of the Liberian Government on Radio communication between the United States and Liberia [63] has been received and we greatly appreciate the Liberian Government's consideration in agreeing to grant us a Public Service License. In accordance with your desire in the matter we will be pleased to bring your Government's position regarding radio as expressed in your message to the attention of the Federal Radio Commission. We feel sure that you appreciate our position as regards the entire situation and our desire to cooperate with your Government in attaining the objects sought. As evidence of this we would be agreeable if the Federal Radio Commission decided to grant an additional service to Liberia to share the wavelength already granted to us with the RCA although we are already required to share this wavelength with a South American System by allowing RCA one third time on our wavelength.

However should the Federal Radio Commission decide otherwise we respectfully offer the service of our Station at Akron as the contact point for communication between the Liberian Government Station and the United States and in such case you may be assured we could and would render the best possible service to the Liberian Government in its Radio Communication.

H. S. FIRESTONE JR.

[63] See footnote 46, p. 268.

[Enclosure 2]

Mr. W. D. Hines to the Liberian Postmaster General (Ross)

June 21, 1928.

SIR: I have the honor to acknowledge receipt of your letter of June 15, 1928 [64] and desire to express our appreciation of the Government's consideration of our request for a radio public utility license. In reply thereto I beg to submit for your consideration some modifications to your proposed basis of understanding that would assist us to meet the difficulties with which we are confronted.

(*a*) That the public service rendered by the Firestone radio stations be listed as supplementary to the Government's public service.

(*b*) That copies of all public service messages received at the Firestone radio station on the Du for transmission to America shall be delivered to the Government radio station immediately after their receipt at the Du station.

(*c*) That all public service messages accepted at the Firestone radio station at Akron, Ohio, U. S. A. for transmission to Liberia shall be sent direct to the Government station at Monrovia, unless at the time such messages are accepted at Akron, the Government station is unable to receive them, in which case such messages shall be routed through the Firestone radio station on the Du.

(*d*) The net revenue accruing from the transmission of public service messages shall be divided upon a basis of 75 percent to the Government and 25 percent to the Firestone radio stations. Provided, however, that if the Government is unable to transmit public service messages and the Firestone radio stations are therefore required to handle the full public service traffic between Liberia and America for a period of more than one month, then the same terms as extended to any other radio public service corporation by the Government shall become effective between the two parties hereto.

(*e*) That this agreement may be terminated by either party whenever it is no longer necessary for the Firestone radio stations to remain public utilities in order to maintain proper radio communications with Liberia.

(*f*) That this agreement is considered supplementary to and in no way affects the previous arrangement entered into between the Government and the Firestone Company providing for the free transmission by radio of messages relating to its own private business and operations.

I beg permission to explain the reasons for the suggested qualifications. In respect to the tolls we consider it necessary to receive some compensation for public service rendered in order to qualify as a public utility. We understand that the proposed radio arrangement with us in no way conflicts with your present public service traffic agreement and that the Government may retain the full amount (75 percent) of revenue allocated in Paragraph (*d*) of these pro-

[64] *Ante*, p. 274.

posals as Paragraph 2 of the Governments present public service traffic agreement specifically implies that each party thereto has the right and privilege of making other radio connections and agreements as it refers to messages "within its control" only and messages not "routed otherwise by the sender".

In view of the extremely small portion of the tolls which we retain and the cooperative spirit in which our request has been met, we assume that the Government has no intention of taking advantage of the position this agreement places us in in case we are required at any future time to carry all commercial traffic. Without the modification relating thereto we would bind ourselves to carry all commercial traffic whenever called upon to do so without adequate compensation for same.

In respect to the substitution of the word supplementary for subsidiary, I understand it is not the Government's intention to claim any proprietory interest in the property of the Firestone radio stations but that the Government only seeks to have our public service conform to its policy of providing additional communication facilities for the benefit of the public.

As to the termination clause I beg permission to ask consideration of this modification on the basis that in reality the provision for six months' notice only gives us public service rights for that specific period of time. In view of the large investments required to establish and maintain radio stations and their importance to our primary object of rubber development here, reasonable assurance of continued operation without interruption are necessary from an economic as well as efficiency standpoint.

Again expressing our thanks for the Government's consideration and with expressions of respect and esteem,

I have [etc.] W. D. HINES

[Enclosure 3]

The American Minister (Francis) to President King of Liberia

MONROVIA, *August 18, 1928.*

MY DEAR MR. PRESIDENT: I have the honor to inform Your Excellency that I am this day advised that at the hearing of the Federal Radio Commission held August 17, both Mr. Firestone and the Department presented and supported the views indicated in your telegram to Mr. Firestone of July 30;[65] and that the Commission has granted the radio communication with Liberia, thus making possible the establishment of the double line of direct public service radio communications between Liberia and the United States desired by the Liberian Government.

I am [etc.] W. T. FRANCIS

[65] See footnote 46, p. 268.

[Enclosure 4]

President King of Liberia to the American Minister (Francis)

707/241 MONROVIA, *August 20, 1928.*

MY DEAR MINISTER FRANCIS: I have the honour to thank you very much for the kind information conveyed by your letter of the 18th instant,[66] informing me that at a hearing of the Federal Radio Commission held on August 17th 1928, the Commission granted radio communication with Liberia.

I cannot too strongly express to Your Excellency my high appreciation of the amicable understanding reached with the Federal Radio Commission which now insures transatlantic communication between Liberia and the United States, in the way and manner desired by the Liberian Government.

With due regards [etc.] C. D. B. KING

[Enclosure 5—Telegram]

President King of Liberia to the Radio Corporation of America

MONROVIA, *August 20, 1928.*

Received your radio August 20th. Thanks for message. Appreciate amicable understanding with the Federal Radio Commission which insures Transatlantic radio communication between Liberia and the United States.

KING

882.74/64

The Minister in Liberia (Francis) to the Secretary of State

No. 124 MONROVIA, *September 6, 1928.*
Diplomatic [Received October 19.]

SIR: For the information of the Department I have the honor to state that on September 1, the Liberian Government Radio Stations at Monrovia and Cape Palmas were opened for general commercial radio traffic with the United States and all European countries, jointly with the Radio Corporation of America. All Liberian and United States Government business is to be handled at one-half the regular rate.

Enclosed find copy of Departmental Notice No. 4–28, issued by the Postmaster General and approved by the President, August 31, 1928.[67]

I have [etc.] W. T. FRANCIS

---

[66] *Supra.*
[67] Not printed.

882.74/70

The Minister in Liberia (Francis) to the Secretary of State

No. 216 MONROVIA, *January 23, 1929.*
Diplomatic [Received February 23.]

SIR: I have the honor to confirm this Mission's telegram No. 7, January 23, 2 P. M.,[68] reporting the signing of an agreement between the Republic of Liberia and the Firestone Plantations Company granting to the Plantations Company a public service radio license.

This agreement covers a period of fifteen years and is renewable for additional five year terms at the option of the parties. It provides, among other things, that the Government shall receive seventy-five percent. of the net profits, and that the messages of the Government of the United States of America "shall be handled at one-half the radio rate between Liberia and Akron, Ohio, United States of America, to which shall be added the toll beyond the radio termini".

. . . . . .

I have the further honor to enclose copy of the agreement.

I have [etc.] W. T. FRANCIS

[Enclosure]

Radio Agreement Between the Republic of Liberia and the Firestone Plantations Company, Signed January 22, 1929

This AGREEMENT made by and between the Government of the Republic of Liberia and the Firestone Plantations Company, a corporation organized under the laws of the State of Delaware, with its principal offices in the City of Akron, State of Ohio, United States of America.

(*a*) The Firestone Plantations Company is hereby authorized and licensed by the Government of the Republic of Liberia to use and operate radio apparatus for the reception and transmission of public radio communication between Liberia and the United States of America subject to the following terms and conditions: It is understood that the nature of the service authorized to be rendered under this Agreement is as follows: public service point to point to communicate with the Company's stations in Liberia and the United States of America; the authorized frequencies granted the Company for such communication are as follows: 7580, 10310, 18460, 19780 and 19940; and the time of operation allowed is a maximum of twenty four hours daily.

[68] Not printed.

(*b*) It is further understood that the public service rendered by the Firestone radio station on the Du shall be listed as supplementary to the Government's public radio service in that it will provide additional communication facilities for the general public. It is understood that this is not intended to mean that the Government has any claim, ownership or interest of any kind in the Firestone radio stations nor has the Company any claim, ownership or interest of any kind in the Government radio stations. It is further understood that in the operation of the public service licensed herein that all public service messages originating in the United States of America routed over the Firestone circuits shall be relayed without charge from the Firestone radio station on the Du to the Liberian Government station, Monrovia, for delivery and that all public service messages originating in Liberia and offered and accepted at the Firestone stations shall be relayed to the Liberian Government radio station at Monrovia by the Firestone Plantations Company without charge and shall be by the latter station transmitted to the Firestone station at Akron for delivery. It is further understood however that the above arrangement for transmission of public service messages under this Agreement does not apply to private messages of employees of Firestone Plantations originating in or destined for the area of the Firestone Company's operations. Such messages may be sent and received direct by the Firestone radio stations under the terms and conditions hereinafter set forth. If, in the future, during the period of this Agreement either party desires a change in this Agreement, it is understood such change can be made by mutual consent of both parties.

(*c*) Copies of all public service messages transmitted or received over radio circuits licensed hereby shall be filed with the Post Office Department of the Government by the Tenth Day of Each Month following and thereupon the Licensee shall pay to the Liberian Government a sum equal to Seventy Five percent of the Net revenue accruing to the Licensee from the transmission of such public service messages.

It is further understood and agreed that all messages of the Firestone Plantations Company concerning its business shall be exempt from payment of any toll or charge or part thereof to the Liberian Government and shall not be subjected to the aforementioned filing and accounting. It is further understood that this license shall not be extended or interpreted to extend to or modify any prior written understanding or agreement between the Government and the Firestone Plantations Company as to the latter's messages relating to its own private business.

(*d*) It is understood however that exemption from toll or charge of business messages of Firestone Plantations Company shall not

extend to or include private messages of its employees which shall be subject to accounting and charge as hereinbefore set out as public service messages.

(*e*) The rate of charge per word for communications passing over the circuits of Licensee shall be fixed by agreement between the two parties hereto but such rate of charge shall in no event be higher than charged for any competing radio service between Liberia and the United States of America.

(*f*) Tolls or charges for forwarding or delivery of messages beyond the stations of the Licensee shall be deducted before computation and settlement of the net revenue as herein provided.

(*g*) Messages of the Government of the Republic of Liberia and of the Government of the United States of America shall be handled at one half the radio rate between Liberia and Akron, Ohio, U.S.A., to which shall be added the toll beyond the radio termini. Government messages transmitted over radio circuits of the company shall take precedence over all other public service messages.

(*h*) This license shall not be assigned or transferred except to a bona fide subsidiary or affiliated company of Firestone Plantations Company organized to carry on the business of transmission and receipt of public service radio communication and subject to the terms hereof. The Government shall be duly informed of the organization of such a subsidiary or affiliated company and of the transfer to said company of the rights herein granted.

(*i*) It is further understood that if for any reason the Liberian Government radio station is unable to transmit public service messages and the Firestone radio stations are required to handle the public service radio traffic between the United States of America and Liberia for a period of more than three months then the net tolls accruing shall be divided equally between the parties hereto, as long as such inability on the part of the Government radio station exists.

(*j*) If, in the event of war or other public emergency, the Government of the Republic of Liberia or the Government of the United States of America should take over control of the Licensee's radio stations in their respective countries, this license shall be regarded as on suspension to be automatically renewed when the cause of such suspension shall have been removed.

(*k*) The Licensee and the Government of the Republic of Liberia shall aspire in a friendly manner to adjust and dispose of any dispute or disagreement which may arise under this Agreement. However, in the event that any such dispute or disagreement cannot be settled between the two parties the same shall be determined by arbitration in accordance with the provisions of Article Four, Par-

agraph N, of Agreement Number two, dated October 2, 1926 between the Government of the Republic of Liberia and Firestone Plantations Company.[69]

(*l*) It is further understood and agreed that this license is granted subject to compliance of the Licensee with the provisions of the Radio Act of 1927 and the conditions herein contained.

(*m*) This Agreement shall remain in force for a period of Fifteen Years from the date hereof and thereafter it shall automatically be renewed for additional terms of Five Years each unless terminated at the end of the said original Fifteen Years or any Five Year additional term by written notice to be served by either party upon the other at least One Year prior thereto.

Wherefore, the parties hereto have caused this Agreement to be executed by their respective Officials, duly authorized, on the day and year set out above the signatures of each party.

Witnesses: *22nd day of January, 1929*

C. S. SIMPSON — THE GOVERNMENT OF THE REPUBLIC OF LIBERIA
SAMUEL A. ROSS, *Postmaster General*

22nd day of January, 1929

R. S. CORWIN — FIRESTONE PLANTATIONS COMPANY
W. D. HINES, *General Manager (Acting)*

[69] *Foreign Relations*, 1926, vol. II, pp. 561, 566.

LITHUANIA

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND LITHUANIA, SIGNED NOVEMBER 14, 1928

711.60 M 12A/5

The Lithuanian Chargé (Bagdonas) to the Secretary of State

No. 723 WASHINGTON, *August 3, 1928.*

SIR: Referring to your note dated April 5, 1928,[1] regarding the proposed treaties of arbitration and conciliation to be concluded between the United States and Lithuania, I have the honor to inform you that I am in receipt of a communication from my government stating that the government of Lithuania has accepted with great satisfaction your proposal to sign the above mentioned treaties.

I have been instructed by my government to inform you also that the treaties of arbitration and conciliation will be signed by the new Minister of Lithuania to the United States, who will be appointed in the near future and who is expected to arrive in Washington in October of this year.

Please accept [etc.] MIKAS BAGDONAS

Treaty Series No. 809

Arbitration Treaty Between the United States of America and Lithuania, Signed at Washington, November 14, 1928 [2]

The President of the United States of America and the President of the Republic of Lithuania

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have always existed between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

---

[1] Not printed; it was the same, *mutatis mutandis*, as note of Apr. 9, 1928, to the Finnish Minister, vol. II, p. 804.

[2] Ratification advised by the Senate, Dec. 18 (legislative day of Dec. 17), 1928; ratified by the President, Jan. 4, 1929; ratified by Lithuania, Nov. 19, 1929; ratifications exchanged at Washington, Jan. 20, 1930; proclaimed by the President, Jan. 20, 1930.

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a treaty of arbitration and for that purpose they have appointed as their respective Plenipotentiaries

The President of the United States of America:

Mr. Frank B. Kellogg, Secretary of State of the United States of America;

The President of the Republic of Lithuania:

Mr. Bronius K. Balutis, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Lithuania at Washington;

Who, having communicated to each other their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907,[3] or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Lithuania in accordance with its constitutional laws.

ARTICLE II

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(*a*) is within the domestic jurisdiction of either of the High Contracting Parties,

[3] *Foreign Relations*, 1907, pt. 2, p. 1181.

(*b*) involves the interests of third Parties,

(*c*) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(*d*) depends upon or involves the observance of the obligations of Lithuania in accordance with the Covenant of the League of Nations.

ARTICLE III

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by Lithuania in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate and hereunto affixed their seals.

Done at Washington the fourteenth day of November in the year of our Lord one thousand nine hundred and twenty-eight.

FRANK B KELLOGG [SEAL]
B. K. BALUTIS [SEAL]

Treaty Series No. 810

Conciliation Treaty Between the United States of America and Lithuania, Signed at Washington, November 14, 1928[4]

The President of the United States of America and the President of the Republic of Lithuania

Being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their Plenipotentiaries:

The President of the United States of America:

Mr. Frank B. Kellogg, Secretary of State of the United States of America;

The President of the Republic of Lithuania:

Mr. Bronius K. Balutis, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Lithuania at Washington;

---

[4] Ratification advised by the Senate, Dec. 20, 1928; ratified by the President, Jan. 4, 1929; ratified by Lithuania, Nov. 19, 1929; ratifications exchanged at Washington, Jan. 20, 1930; proclaimed by the President, Jan. 20, 1930.

Who, after having communicated to each other their respective full powers, found to be in proper form, have agreed upon and concluded the following articles:

ARTICLE I

Any disputes arising between the Government of the United States of America and the Government of Lithuania, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent International Commission constituted in the manner prescribed in the next succeeding Article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

ARTICLE II

The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ARTICLE III

In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

The High Contracting Parties agree to furnish the permanent International Commission with all the means and facilities required for its investigation and report.

The report of the Commission shall be completed within one year after the date on which it shall declare its investigation to have

begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof, and by Lithuania in accordance with its constitutional laws.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate and hereunto affixed their seals.

Done at Washington the fourteenth day of November in the year of our Lord one thousand nine hundred and twenty-eight.

FRANK B KELLOGG [SEAL]
B. K. BALUTIS [SEAL]

REPRESENTATIONS TO THE LITHUANIAN GOVERNMENT REGARDING CERTAIN REQUIREMENTS AFFECTING AMERICAN INDIRECT TRADE WITH LITHUANIA

660m.11212/a : Telegram

The Acting Secretary of State to the Chargé in Lithuania (Sussdorff)

WASHINGTON, *November 10, 1928—8 p. m.*

64. Consul at Kovno reports certificates of origin required under amended Lithuanian Tariff. It is not clear whether or not new Lithuanian regulations will give rise to difficulties, particularly with reference to shipments of American goods from third countries, such as arose in connection with Latvian regulations. Please consult Consul and if necessary endeavor to work out with Lithuanian Government arrangement similar to that effected with Latvia as reported by your telegram 62, July 7, 1928, (noon) [5] and your

[5] Not printed.

despatch 5439 July 10, 1928.[6] Specimen certificates for grain lard fatbacks et cetera are being mailed.

CLARK

660m.11212/1

The Chargé in Lithuania (Sussdorff) to the Secretary of State

No. 5728 RIGA, *November 23, 1928.*

[Received December 6.]

SIR: Referring to the Department's telegram No. 64, of November 10, 8 p. m., 1928, concerning the question of certificates of origin under the revised Lithuanian customs regulations, I have the honor to report that the Legation promptly took up the matter with the American Consul in Kovno, Mr. Fullerton, by telephone, in the sense of the Department's telegram. On November 17, I transmitted to Mr. Fullerton a copy of the Legation's despatch No. 5439, of July 10, 1928, concerning customs regulations and certificates of origin in Latvia.[6]

In this connection, I now have the honor to transmit copies of two communications, dated November 13 and 21, 1928, from the American Consul at Kovno, setting forth the substance of his conversations with Lithuanian officials concerning the question of certificates of origin in Lithuania.

I have [etc.] LOUIS SUSSDORFF, Jr.

[Enclosure 1]

The Consul at Kovno (Fullerton) to the Chargé in Lithuania (Sussdorff)

KOVNO, *November 13, 1928.*

SIR: I have the honor to refer to the Legation's telephonic communication with this office yesterday relative to a telegram recently received from the Department inquiring with respect to Lithuanian regulations governing certificates of origin under the recently amended tariff, and to state that I to-day called on the appropriate authorities in the Lithuanian Ministry of Finance and discussed with them the importation of American goods into Lithuania, either directly or through third countries.

Under date of October 8, 1928, I provided the Department with a report entitled "Regulations for the Enforcement of the New Lithuanian Import Tariff Amendment",[7] which must by this time be in possession of the Department and which includes a description of

[6] *Ante*, p. 232.
[7] Not printed.

certificates of origin and of the procedure now governing imports into Lithuania from abroad. The officials with whom I discussed this matter this morning stated that they did not anticipate difficulties in connection with the importation of American goods, provided firms shipping to Lithuania obtained proper instructions and the necessary documents of origin from Lithuanian consular representatives in the United States. Goods purchased in such countries as Germany or Denmark, having their origin in the United States, which are resold to Lithuanian importers, must be covered by certificates issued by Lithuanian consular representatives stationed in the country from which the goods are immediately imported.

The Lithuanian Ministry of Finance is inclined to believe that very few questions will arise over the entry of American goods, properly documented. Indirect imports from the United States into this country are in most cases accomplished through Germany or through Scandinavia, and Germany and the Scandinavian countries have commercial agreements with Lithuania which place them practically upon an identical basis with the United States in so far as the application of the tariff is concerned. It is understood that the origin of material is being scrutinized most carefully where it is indirectly imported from a country enjoying no commercial agreement with Lithuania and therefore subject to the application of the maximum duties provided by the amended Lithuanian Import Tariff . . . .

[Enclosure 2]

The Consul at Kovno (Fullerton) to the Chargé in Lithuania (Sussdorff)

KOVNO, *November 21, 1928.*

SIR: I have the honor to refer to the Legation's telephonic communications of November 15 and 16, 1928, and to its letter of November 17, 1928, enclosing a copy of despatch No. 5439, dated July 10, 1928, with enclosures, relative to the certificates of origin question under the revised Lithuanian customs regulations, and to state that I approached the Lithuanian Ministry of Finance again today in order to make sure that no difficulties might meet the importation of certain types of American goods into Lithuania, either directly or through a third country.

With regard to the specific points raised by the Legation with the Latvian Government, the competent authorities of the Lithuanian Ministry of Finance state that they anticipate no difficulties in connection with the entry into Lithuania of such food products as lard, fatbacks, et cetera, under certificates issued by the Department of Agriculture of the United States, in lieu of the customary certificates

of origin, and that the same applies to the United States grain inspection certificates issued under the auspices of responsible American Grain Exchanges, signed by United States grain inspectors. It is understood that the authorities here will also accept, in lieu of certificates of origin, Canadian grain inspection certificates, issued under the authority of the Canadian Government, which state on their faces that the grain which they cover is of United States origin.

The new Lithuanian Regulations (Paragraph VIII), effective October 1, 1928, provide for the admission into Lithuania without certificates of origin of merchandise which unmistakably indicates by trade marks or otherwise its origin in the United States.

It should be pointed out in this general connection that the purpose of the new regulations is to prevent the possible importation of material subject to maximum duties under the revised tariff, effective October 1, 1928, when originating in countries with which Lithuania has no commercial agreement providing for most favored nation treatment. The importation direct or through a third country of goods which, irrespective of their origin, fall under the minimum tariff, is apparently not of particular interest to the Lithuanian authorities and the identity of the country of origin is vital where the imports if coming from a country not enjoying a commercial accord with Lithuania would be subject to maximum duties. The United States, having a commercial accord with Lithuania,[9] enjoys most favored nation consideration for its imports into this country.

It is now stated by the Ministry of Finance that in cases of transshipment to Lithuania from the free port of Danzig, the customs authorities will not be willing to accept documents of identity issued by officials in charge of bonded warehouses or by the Chamber of Commerce, as no Lithuanian consular representative is maintained in Danzig whose certificate might be attached thereto. Documents of origin, duly certified by the appropriate Lithuanian consular or diplomatic representatives, should, therefore, cover all American goods subject to transshipment through the free port of Danzig, if they might be subject to maximum duties under the revised tariff in the event that they were confused with materials originating in countries with which Lithuania has no commercial agreement. It is understood that goods transshipped through other free ports will not be subjected to similar requirements due to the presence elsewhere of Lithuanian consular or diplomatic officers qualified to certify to their origin upon the basis of such documents as those outlined in Paragraph V of the revised

[9] Agreement between the United States and Lithuania according mutual unconditional most-favored-nation treatment in customs matters, signed December 23, 1925, *Foreign Relations*, 1925, vol. II, pp. 500–503.

regulations, which became effective October 1, 1928. It should be added that, as the Lithuanian revised regulations provide that merchandise whose origin is unmistakably identified by trade marks or other distinguishing marks (Paragraphs IV and VIII) may enter without certificates of origin there should be no obstacle to the importation, transshipped through the free port of Danzig, of American products which are obviously of American and no other origin.

The attitude of the Ministry of Finance is a liberal one as applied to the importation of merchandise of United States origin, and it is thought that, in practice, only in the event of the suspicion arising of the substitution of Polish goods through transshipment at Danzig may difficulties be anticipated in this regard. The compliance of American shippers with the requirements outlined in the regulations for the enforcement of the new Lithuanian Import Tariff Amendment, which was sent to the Department in translation in this Consulate's report No. 74, of October 8, 1928,[10] should, of course, remove any obstacle to the importation into Lithuania of goods of United States origin, but it is thought that the Legation may now care to apprise the Department of the attitude of the Lithuanian Government with respect to the establishment of the origin of goods transshipped through the free port of Danzig.

I have [etc.] HUGH S. FULLERTON

[10] Not printed.

MEXICO

PROTECTION OF RIGHTS OF AMERICAN OWNERS OF OIL LANDS IN MEXICO[1]

812.6363/2473

The Ambassador in Mexico (Morrow) to the Secretary of State

No. 215 MEXICO, *December 30, 1927.*

[Received January 9, 1928.]

SIR: Referring to my despatch No. 198 of December 27, 1927,[2] reporting the introduction of a bill by the President of the Republic in the Mexican Congress for the amendment of articles 14 and 15 of the Petroleum Law now in force,[3] I have the honor to inform the Department that according to the local press on December 28 the Chamber of Deputies on December 27 passed the proposed legislation but with the following addition to the amended article 15:

"This term having passed, those rights shall be held as renounced and there shall have no effect whatever against the Federal Government the rights the confirmation of which may not have been requested."

This action was taken by the Chamber of Deputies by unanimous vote and under suspension of the rules.

The report of the Second Committee on Constitutional Points recommending the passage of the legislation is enclosed herewith in translation.[2]

Today, I am informed that after reconsideration by both houses of Congress, the bill was passed yesterday as originally introduced with the addition of the word "confirmatory" in describing the concessions stipulated in the introductory clause of Article 14 and with the sanction recommended by the Chamber of Deputies in Article 15. I enclose herewith a copy and translation of the bill as passed for submission to the President.

I have [etc.] DWIGHT W. MORROW

---

[1] Continued from *Foreign Relations*, 1927, vol. III, pp. 176–209.

[2] Not printed.

[3] For text of the petroleum bill approved by the Chamber of Deputies, November 26, 1925, see *Foreign Relations*, 1925, vol. II, p. 531. For text of the petroleum law of December 26, 1925, see *Diario Oficial*, December 31, 1925.

[Enclosure—Translation]

Bill Amending Articles 14 and 15 of the Petroleum Law of December 26, 1925

SOLE ARTICLE. Articles 14 and 15 of the Law Regulating Article 27 of the Constitution [4] in the Petroleum Branch, dated December 26, 1925, are amended in the following terms:

ARTICLE 14. The following rights shall be confirmed without cost by means of the issuance of confirmatory concessions:

I. Those derived from lands upon which petroleum exploitation works were commenced prior to May 1, 1917;

II. Those derived from contracts entered into prior to May 1, 1917, by the owner of the surface or his representatives for petroleum exploitation purposes.

Confirmations of these rights shall be granted without limit of time when they must be made in favor of the owners of the surface; and according to the time stipulated in the contract in the case of rights from contracts entered into by owners of the surface or their representatives.

III. To the holders of pipe lines and refiners who may be working at present by virtue of concession or authorization issued by the Department of Industry, Commerce and Labor, and with reference to those same concessions or authorizations.

ARTICLE 15. A period of one year shall be given, counted from the day following the publication of these reforms to the same day, inclusive, of the following year, to solicit the confirmation of the rights to which the preceding article refers and which have not been the object of confirmatory petitions during the period primarily set in this article.

This term having expired, those rights shall be considered renounced, and rights the confirmation of which has not been solicited shall have no effect whatever against the Federal Government.

TRANSITORY ARTICLE. Confirmations solicited within the year 1926 and upon which the respective title has not been issued, shall be granted, if lawful, in accordance with these reforms. Confirmatory titles already issued shall likewise be rectified in accordance therewith.

812.6363/2475 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, *January 9, 1928—7 p. m.*
[Received January 10—7:05 a. m.]

16. We were advised that the President today signed the recent amendment to the petroleum act referred to in my despatch No. 215

[4] See *The Mexican Constitution of 1917 Compared With the Constitution of 1857* (Washington, Government Printing Office, 1926).

and that the form of the bill as signed is as quoted in that despatch. It is expected that the official text of the bill will be printed in the *Diario Oficial* tomorrow.

Pursuant to an arrangement made with the President and Secretary Morones the following communication was sent today by the Huasteca Company to the Secretary of Industry, Commerce and Labor:

"Citizen Secretary of Industry, Commerce and Labor: H. N. Branch, representing the Huasteca Petroleum Company, very respectfully comes before you to state: that with regard to the provision of article 14 of the law of December 26, 1925, recently amended, I have the honor to approach you on behalf of my principals to beg that you be so good as to advise me whether the request for confirmatory concessions by a foreign company implies any surrender of rights acquired prior to May 1, 1917. I proffer the assurances of my courteous consideration. Mexico, D. F., January 9, 1928."

To the foregoing communication the Secretary of Industry, Commerce and Labor sent the following answer:

"Mr. H. N. Branch, representative of the Huasteca Petroleum Company, City. In reply to your communication No. 11-28 of today I inform you as follows: The Federal Executive in compliance with the decision handed down by the Supreme Court of Justice in the *amparo* of the Mexican Petroleum Company [5] proposed to the honorable Congress the amendment of articles 14 and 15 of the petroleum law of December 26, 1925, and the study of this amendment belonged to the Second Committee on Constitutional Points of the Chamber of Deputies, which rendered to the Chamber a report that says in its fundamental part: 'The confirmation of a right is its express recognition in all its amplitude and with the conditions inherent therein so that no restriction whatever can be established in respect of the term or conditions imposed with relation to the rights that are confirmed, since any restriction in this respect implies a modification of the right confirmed and a retroactive application of the law, contrary to article 14 of the Constitution, since the rights confirmation of which is provided for in article 14 of the law, are prior to the date on which the fundamental law went into force.' [6]

Therefore, in view of the consideration which preceded the bill of amendment submitted by the Executive, this Department believes that the petition for confirmatory concession on the part of a national or foreign company does not imply the renunciation of rights acquired before May 1 of 1917, such confirmatory concession operating as the recognition of rights which will continue in force subject only to police regulations.

I repeat to you the assurances of my courteous consideration. Effective suffrage; no reelection. Mexico, D. F., January 9, 1928, the Secretary, signed L. Morones."

---

[5] For the decision of November 17, 1927, see *Foreign Relations*, 1927, vol. III, p. 197.

[6] For the corrected text of this quoted sentence, see telegram No. 23, Jan. 12, 1928, noon, from the Chargé in Mexico, p. 295.

Mr. H. N. Branch of the Huasteca Company is preparing a printed book setting out in English the decision of the Supreme Court rendered on November 17, the President's message to Congress enclosed with my despatch No. 198, December 27,[7] the report of the Constitutional Committee [of] Congress, enclosed with my No. 215, December 30, the act itself and the correspondence given above. [Paraphrase.] I hope that the companies will await the full report from Branch before they make their decision . . . [End paraphrase.]

MORROW

812.6363/2478 : Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

MEXICO [*undated*].
[Received January 11, 1928—7:25 p. m.]

22. My telegram number 19 today.[7] *Diario Oficial* dated January 10, which appeared today, contains official promulgation of law amending articles 14 and 15 of petroleum law of December 26, 1925, in the precise terms of enclosure number 2, Embassy's despatch number 215, December 30 last. President signed the amending act January 3. Copies by the pouch.

SCHOENFELD

812.6363/2479 : Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

MEXICO, *January 12, 1928—noon.*
[Received 7:08 p. m.]

23. My telegram number 19, January 11, noon.[7] I am informed that the Minister of Industry has no objection to Department releasing for publication correspondence exchanged with Branch.

Meanwhile Branch received yesterday corrected text of letter from Department of Industry quoted in Ambassador's telegram mentioned[8] but this corrected version is signed by Eduardo Butron, Chief Clerk of the Department of Industry, "By order of the Secretary," Morones having left the city. The corrected quotation from the report of the Second Committee on Constitutional Points is as follows in translation:

"To confirm a right is to recognize it expressly in its whole extent and with the conditions inherent therein in such a way that no re-

[7] Not printed.
[8] Telegram No. 16, Jan. 9, 7 p. m., p. 293.

striction whatever can be established with regard to the extent or conditions of the right which is confirmed because any restriction in these particulars implies a modification of the right confirmed and a retroactive application of the law contrary to article 14 of the Constitution, since the rights, confirmation of which is ordered by article 14 of the petroleum law, are prior to the going into effect of our fundamental law."

[Paraphrase.] I have been informed by Branch that a district court in the Federal District recently rendered a decision in an *amparo* action brought by an oil company against the constitutionality of the petroleum law of December 26, 1925. This decision holds that the law is unconstitutional in certain articles in addition to articles 14 and 15. Branch will furnish me with the details of the decision very shortly. Branch suggests, and Clark concurs, that in giving publicity to the Branch-Morones correspondence as now revised that the Department would do well also to give publicity to the decision of the district court last above mentioned. Since the full particulars on this decision will be sent to the Department when available, it is suggested that publicity be deferred until the receipt of this information. [End paraphrase.]

SCHOENFELD

812.6363/2480 : Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

MEXICO, *January 12, 1928—2 p. m.*

[Received 7:30 p. m.]

24. [Paraphrase.] Reference my telegram No. 23, January 12, noon. The following is a memorandum which Branch gave me today in regard to the decision rendered on January 7 by the third supernumary district judge of the Federal District in granting *amparos* to the Huasteca, Mexican, Tuxpan and Tamiahua oil companies. [End paraphrase.]

"1. The decision of the district court in favor of the Huasteca, Mexican, Tuxpan and Tamiahua petroleum companies declares unconstitutional articles 2, 4, 14 and 15 of law of December 26, 1925.

2. The district court's decision not only refers to fee properties but also to leases in the case of the Huasteca (fee and leases) and Tuxpan and Tamiahua (leases exclusively).

3. The district court decision is based on the 'jurisprudence' of the Supreme Court in the group of five cases known generally as the Texas case.[11] As is known, this 'jurisprudence' establishes that

[11] See *Foreign Relations*, 1921, vol. II, pp. 461 ff.; *ibid.*, 1922, vol. II, pp. 680–681; and Estados Unidos Mexicanos, *Semanario Judicial de la Federacion* (México, Antigua Imprenta de Murguía, 1922), quinta época, tomo x, p. 1308.

article 27 of the Constitution in the matter of petroleum is not retroactive 'in spirit or in letter.' The district judge holds that inasmuch as this 'jurisprudence' is binding on him as a Federal judge that until such time as it may be modified by the Supreme Court it binds him in his decisions.

4. The effect of this district court decision is to place the properties of the four companies, both fee and leasehold, beyond the pale of articles 2, 4, 14 and 15 of the law of December 26, 1925."

SCHOENFELD

812.6363/2480 : Telegram

The Secretary of State to the Chargé in Mexico (Schoenfeld)

[Paraphrase]

WASHINGTON, *January 13, 1928—3 p. m.*

12. Your telegrams Nos. 23, January 12, noon, and 24, January 12, 2 p. m. The Department is giving a statement to the press based upon the above-mentioned telegrams.

KELLOGG

812.6363/2515

The Ambassador in Mexico (Morrow) to the Under Secretary of State (Olds)

MEXICO, *February 10, 1928.*

[Received February 20.]

DEAR MR. OLDS: Confirming our telephone conversation, I understand from representatives of the oil companies here that the companies in New York feel that while the untagged land [12] question is not important in itself to them, they have felt a moral obligation to make no settlement of their preconstitutional rights until the untagged land question is settled to the satisfaction of the State Department.

I understand that you will find an opportunity to make clear to representatives of the oil companies that so far as the State Department is concerned, it has no objection to the oil companies taking such action as they desire with reference to their preconstitutional rights. The State Department is, of course, entirely free to consider its interest in the question of untagged lands if and when a concrete case arises. Meanwhile Mr. Clark is making a careful review of

[12] Lands acquired in fee by American oil producers or other foreigners prior to May 1, 1917, but upon which no works of petroleum exploitation were begun prior to that date (file No. 812.6363/1672).

that whole question and expects to be able to render an opinion within a short time.

With kindest regards,

Very truly yours,

DWIGHT W. MORROW

(Inadvertently not signed by Mr. Morrow before his departure for the week-end.) [13]

812.6363/2524

The Ambassador in Mexico (Morrow) to the Secretary of State

No. 421 MEXICO, *March 6, 1928.*

[Received March 13.]

SIR: I have the honor herewith to enclose for the Department's confidential information a draft of proposed amendments [14] to the Regulations of the Mexican Petroleum Law necessitated by the amendment of the Law itself passed by the Mexican Congress in December, last, and published in the *Diario Oficial* of January 10, 1928.

These amended articles are the result of informal conferences held on behalf of myself by Mr. J. Reuben Clark, Jr., with Señor Paredes, of the Department of Industry acting on behalf of Señor Morones. I understand that Mr. Paredes will recommend the adoption of these amended Regulations to Señor Morones, Minister of Industry.

It will be recalled that an informal understanding existed between the Department of Industry and the petroleum companies with a view to a formal hearing of representatives of the latter. Two hearings were given the representatives of the companies. A draft of amended Regulations was submitted to the Department of Industry by the companies. It was considered unsatisfactory so far as the Department of Industry was concerned. In a personal way I was given by Señor Morones a copy of Regulations drafted in the Department of Industry which were on the point of promulgation about three weeks ago. Upon examination of this draft, it seemed to fail in some respects to meet the position of the Department of State in the diplomatic correspondence on the subject. I secured suspension of the publication of the Department of Industry's draft Regulations. Subsequently, I arranged for consultation between Mr. Clark on my behalf and Señor Paredes, on behalf of the Secretary of Industry, with the result, as above stated, that Señor Paredes has expressed conformity with the draft Regulations herewith enclosed.

[13] Parenthetical remark in original.

[14] Draft amendments not printed.

Mr. Clark feels that these Regulations are drawn with strict regard to the terms of the amendments to the Petroleum Law promulgated January 10, 1928, and to the decision of the Supreme Court in the Mexican Petroleum Company case, dated November 17, 1927, as well as to the minutes of the negotiations between the American and the Mexican Commissioners in the summer of 1923.[15]

The language of the diplomatic correspondence exchanged between the two Governments on the subject has also been kept in mind.

I also enclose the text of the proposed transitory articles[16] in the Regulations of the Petroleum Law. These have been submitted to Señor Paredes today and the latter has indicated that he would recommend the amendment to Article 3 and the first amendment in Article 4 but that he did not see his way clear to recommend the amendment forming the last half of Article 4 or the amendment to Article 9.

I invite attention to the marginal comments in the draft Regulations, both permanent and transitory, as enclosed herewith. These marginal comments explain substantially the origin in each case of the changes made.

As the result of a conversation today between Secretary Morones, Mr. Clark and myself, it has been arranged that the Department of Industry will comment on the proposed amendments to the regulations, both permanent and transitory, and that we shall have an early meeting for the purpose of discussing the matter further.

I have [etc.] DWIGHT W. MORROW

812.6363/2536

The Ambassador in Mexico (Morrow) to the Secretary of State

No. 471 MEXICO, *March 27, 1928.*

[Received April 3.]

SIR: Confirming my telegram No. 90 of today's date, 5 P. M.,[16] reporting that I had addressed to the Mexican Minister of Industry, Commerce and Labor a letter setting forth my understanding of the purport of Article 152, amended, of the Regulations of the Mexican Petroleum Law, promulgated by Executive Decree today,[17] I have the honor to enclose for the Department's information a copy of that letter.

I have [etc.] DWIGHT W. MORROW

---

[15] *Proceedings of the United States–Mexican Commission Convened in Mexico City, May 14, 1923* (Washington, Government Printing Office, 1925).

[16] Not printed.

[17] *Post*, p. 301.

[Enclosure]

The American Ambassador (Morrow) to the Mexican Minister of Industry, Commerce and Labor (Morones)

MEXICO, *March 27, 1928.*

MY DEAR MR. MINISTER: Referring to our recent oral discussions regarding the amended regulations of the Petroleum Law, my understanding is the same as yours:—that the final clause of the amended article 152 does not cover a mere abstract intention that has not been accompanied or evidenced by an act similar to those mentioned in the preceding part of the article.

I can not allow to pass this opportunity of telling you of my sincere appreciation of the spirit of fairness which has characterized the attitude of yourself and of the members of your staff in the informal discussions which have taken place regarding the amended regulations.

I am [etc.] DWIGHT W. MORROW

812.6363/2537

The Ambassador in Mexico (Morrow) to the Secretary of State

No. 474 MEXICO, *March 27, 1928.*

[Received April 3.]

SIR: Referring to previous correspondence regarding the amendment of the Regulations of the Mexican Petroleum Law, necessitated by the amendment of the Law itself, which was approved by the Mexican Congress in December, last, and published in the *Diario Oficial* of January 10, 1928, I have the honor to report that the Department of Industry today handed to the representatives of the local and foreign press the text of the Executive Decree signed by President Calles today containing the amendments in question, together with the form to be used in issuing confirmatory concessions on petroleum lands acquired prior to May 1, 1917. I enclose a single copy of the Spanish text of the decree in question as handed to the representatives of the press by the Department of Industry today. It is anticipated that this decree will appear in the *Diario Oficial* in the course of the next few days. Clippings from the *Diario Oficial* will be sent to the Department as soon as the decree appears in that publication.[19]

I also enclose an English translation of the amendments in question and of the proposed form of confirmatory concession.[20] This translation, which indicates the origin of the changes made in each case,

[19] Decree published in the *Diario Oficial*, March 28, 1928.
[20] Neither printed.

has been used by Mr. J. Reuben Clark, Jr. in his negotiations on my behalf with Señor Paredes, of the Department of Industry, acting on behalf of Minister Morones, and represents the substance of the amendments agreed on between them.

Finally, I enclose a copy of a statement handed to the press on my behalf today, in connection with the amended regulations.

I have [etc.] DWIGHT W. MORROW

[Enclosure 1—Translation]

Mexican Decree of March 27, 1928, Containing Amendments of the Petroleum Regulations Promulgated April 8, 1926 [21]

Plutarco Elias Calles, Constitutional President of the Mexican United States, to its inhabitants, know ye:

That in the use of the power conferred upon the Executive of the Union by *Fracción* I of Article 89 of the Constitution and of the power set forth in Article 22 of the Law of December 26, 1925, I have decided to issue the following modifications and additions to the corresponding regulations in accordance with the amendments of January 3 of this year of Articles 14 and 15 of the Law itself.

There are modified in the terms hereinafter expressed the respective articles:

ARTICLE 147. In conformity with the provisions of Article 15, amended, of the Law, private individuals or companies possessing rights referred to in Article 14 shall petition for confirmation before the respective Agency, according to its jurisdiction, or directly, before the Department of Industry, Commerce and Labor, within the period of one year, counted from January 11, 1928.

[ARTICLE 148. Confirmation of the concessions referred to in Article 12 of the law shall be effected through a concession executed in accordance with the provisions in these regulations, and the security that shall have been deposited under the former concession will be applicable to the same purpose in the new concession on the one condition that it was made in national gold.]

[ARTICLE 149. In accordance with the provisions in Article 12 of the law the concessions which may have been granted between the first of May, 1917, and the 31 of December, 1925, with power to explore and exploit land under Federal jurisdiction throughout the territory of the nation, or without exactly defining the area and

[21] Articles and portions of articles in brackets are existing regulations which were not in the decree signed by President Calles on March 27, 1928, but which were included in the translation transmitted by Ambassador Morrow.

For text of articles 147, 150, 152, 153, 154, 155, 156, and article 4 transitory, of the regulations of the petroleum law of December 26, 1925, prior to amendment, see *Diario Oficial*, April 8, 1926.

site on which such exploration and exploitation work is to be done, shall be exchanged for others drawn up in accordance with the terms that these regulations indicate in lands also under Federal jurisdiction, the area of which as a whole shall not exceed the figure given in Article 39 of these Regulations. The former deposit will be applicable to the new concession provided it was made in national gold.

The federal zones for whose exploration and exploitation the said rights were conferred by some of these concessions shall be left out of the new ones; but the beneficiaries of those which on the date of the enactment of the law had been in full enjoyment of their rights may obtain a contract in accordance with Article 81 by which they will be empowered to carry on their work.]

ARTICLE 150. The confirmation of rights, as mentioned in Article 14 of the Law, shall be effected without cost and by virtue of a concession after proof of said rights, in the manner provided by Articles 151 and 152.

[ARTICLE 151. The rights derived from works done prior to May 1, 1917, referred to in Section 1 of Article 14 of the law should be proved in the manner established by the laws on the subject or on the strength of documents authentic in the opinion of the Ministry of Industry, Commerce and Labor which technically prove that the said work has been done.]

ARTICLE 152. For the purposes of the foregoing Article the following should be considered as petroleum exploitation work:

The performance prior to May 1, 1917, of some positive act which would manifest the intention of the owner of the surface or of the persons entitled to exercise his rights to the oil under the surface to make use of or obtain the oil under the surface such as;—drilling, leasing, entering into any contract relative to the sub-soil, making investments of capital in lands for the purpose of obtaining the oil in the sub-soil, carrying out works of exploitation and exploration of the sub-soil, and in cases where from the contract relative to the sub-soil it appears that the grantors fixed and received a price higher than would have been paid for the surface of the land because it was purchased for the purpose of looking for oil and exploiting same if found; and in general performing or doing any other positive act or manifesting an intention of a character similar to those heretofore described.[22]

ARTICLE 153.—suppressed.

ARTICLE 154.—suppressed.

---

[22] See *Proceedings of the United States-Mexican Commission Convened in Mexico City, May 14, 1923*, p. 47.

ARTICLE 155. The confirmatory concessions shall be issued in accordance with the provisions of Article 14 of the Law, without limitation of time when they be issued in favor of surface owners, and for the term stipulated in the contracts when they be issued in favor of lessees or cessionaires. Said concessions shall be drawn in the terms in which the form annexed to these Regulations is expressed, except those which may require modifications or additions by reason of the special circumstances of the case.

ARTICLE 156. The confirmatory concessions issued in accordance with Article 14 of the Law do not require guarantee deposits, nor the execution of the regular works prescribed for other concessions granted in accordance with these regulations.

In the said confirmatory concessions there shall only be established police and security conditions in the petroleum works, in accordance with these regulations, and those which may be issued on these matters, and failure to comply shall give rise to the sanctions provided by Article 18 of the Law and those stipulated in the fiscal laws.

[ARTICLE 157. The last assignee of any contract executed since May 1, 1917, and before December 31, 1925, for express petroleum purposes will hold a preferential right from December 31, 1925, to the same time in 1926 to obtain concessions in accordance with the provisions of the law and those laid down in these Regulations.]

[ARTICLE 158. The rights derived from denouncements in accordance with the provisions in Article 13 of the law shall be ratified through applications which must be filed within the first three months of the year 1927. After that time the right of confirmation which was not sought shall be considered as having been relinquished.]

[ARTICLE 159. For the purposes of Article 4 of the law if the holder of the rights recognized by Articles 12 and 14 of the said law and 157 of these Regulations is a foreign company or a Mexican company with foreign stockholders in accordance with the provisions in Article 5 of the organic law and Section I of Article 27 of the Constitution, and Article 10 of its regulations, such rights may be held by the said company during the life of the contracts from which they flow, or if the case arise, for the life of the company according to the articles of association.]

TRANSITORY

[*Article 1.* Pending a meeting of the board referred to in Section IV, Article 7 of the law there shall not be granted any concession with the special privileges to which the said section refers.]

[*Article 2.* In compliance with the provisions in Article 15 of the law, during the year 1926 no application shall be received or

other concessions granted than those resting on the rights recognized by Articles 12 and 14 of the law and 157 of these Regulations.]

The new petitions for confirmation of rights shall be accepted within the period of one year established by Article 15, amended, of the Law.

[*Article 3.* During the year 1926 in addition to the general grounds provided by these Regulations, opposition to an application may be based on the rights emanating from Articles 12 and 14 of the law.]

In the term of the year fixed by Article 15, amended, of the Law, there shall also be a cause of opposition to a petition for a petroleum concession, in addition to the general ones, that which may be based upon rights emanating from Article 14 thereof, the confirmation of which may not have been requested during the year 1926.

Article 4. The petitions for concessions confirmatory of rights, as well as the oppositions to their granting, shall be subject to the procedure (*tramite*) indicated for those for ordinary concessions, with the exception of what is provided by Articles 11 and 12 of this Regulation, and saving that which refers to the presentation of proof documents, which can be done at the will of the interested party before the corresponding Agency or directly before the Department of Industry, Commerce and Labor.

[*Article 5.* During the three months referred to in Article 158 of these Regulations the existence of a claim (*denuncio*) not patented (*titulado*) on the whole or part of the zone applied for shall be regarded as a ground of opposition to an application for a petroleum concession provided the opponent be the denouncer in person or his legal representative.]

[*Article 6.* In concessions which may be granted as a result of applications filed up to December 31, 1926 it will be stated that they are issued without prejudice to the rights named in Articles 12, 14 and 15 of the law and the preference established by Article 157 of these Regulations.

In those which are granted as a consequence of the applications filed between the first of January, 1927 and the 31 of March of the same year it shall be stated that they are issued without prejudice to the rights referred to in Article 158 of these Regulations.]

And in those based upon ordinary petitions presented within the period of the year, counted from January 11, 1928, and which may be granted in the course of the said term, it shall be stated that they are issued without prejudice to the rights recognized by Article 14 of the Law and which may not have been the object of a confirmatory petition.

[*Article 7.* In order to be taken into consideration applications for

concessions filed in the Ministry of Industry, Commerce and Labor or its Petroleum Agencies prior to the date of the promulgation of these Regulations must be ratified by the parties concerned within sixty days counted from that same date in the manner and in the offices determined by the said Regulations and at the same time the declaration of the office and date of filing of the first application shall be made so that upon the substantiation of those facts the ratification may be considered as submitted on the date of the first application.]

[*Article 8.* The provisions of the Regulations in force up to date will continue to apply to every matter that is not inconsistent with these Regulations pending the issuance of the regulations on petroleum work.]

The following Transitory Articles are added:

Article 9. In order to carry out the provisions of Article 15, amended, of the Law, there shall be admitted petitions for confirmatory concessions in the period indicated by the same article, even when the lands may have been the object of prior confirmatory petitions presented by the surface owners, when the new confirmations are requested by the lessees or cessionaires; and vice versa.

Article 10. During the period of ninety days, counted from the date on which these amendments go into effect, there shall be suspended the admission of petitions for ordinary petroleum concessions on free lands, as well as the *tramitación* of those already accepted and of those presented based on Articles 13 of the Law and 158 of these Regulations.

On the expiration of the ninety days, the substantiation of the petitions suspended shall be concluded and the admission of ordinary petitions shall be renewed; but always provided both the former and the latter refer to lands as to which until that moment a confirmatory petition may not have been formulated.

The titles which may be issued in respect of those petitions shall contain a clause in which it is stated that their granting does not prejudice the confirmable rights which might exist in the lands they cover and which may have been invoked in due form in the remainder of the term established in Article 15, amended, of the Law.

Article 11. In every case in which within the year indicated by Article 15, amended, of the Law there is presented a petition for confirmation on lands asked for in an ordinary concession or (a petition) of those based upon Article 13 of the Law, or as to which titles have already been issued in consequence of a petition of one or the other kind, the substantiation of the petitions in process (*en tramitación*) shall be suspended and the effects of the titles issued

(shall be suspended) pending the *tramitación* of the file of the confirmatory petition.

If the latter prospers and the respective concession is therefore issued, the prior petition shall be declared unfounded, whether ordinary or based upon denouncement, when it might affect the same lands, or the title which upon the basis of one of these petitions may have been already granted.

Article 12. The companies or private individuals who may have in their favor rights of those specified in Article 14 of the Law and the confirmation of which may not have been requested in the year 1926, shall be able to exercise them directly by means of a confirmatory petition or in the form of opposition to the petitions for ordinary concessions which may be presented, or to ordinary ones and those derived from Article 13 of the Law already in *tramitación* and of which they may have knowledge. For the latter purpose the term of opposition shall be considered amplified for the whole period of Article 15, amended, of the Law and the substantiation of the ordinary petition or one based upon denouncement, regarding which opposition may be formulated, shall not be suspended.

Therefore, I order it to be printed, published, circulated and given due compliance.

Given in the Palace of the Executive Power of the Union in Mexico on the 27th day of March, 1928.

(Signed) By the President.

(Countersigned) By the Secretary of Industry, Commerce and Labor.

[Enclosure 2]

Statement Handed to the Press, March 27, 1928, on Behalf of Ambassador Morrow [22a]

These Regulations when taken with the Supreme Court decision handed down November 17, 1927, the legislation passed by the Mexican Congress on December 26, 1927, and promulgated on January 10, 1928, and the letter of Minister Morones issued on January 9, 1928, evidence the determination by the judicial, the executive, the legislative, and the administrative departments of the Mexican Government to recognize all rights held by foreigners in oil properties prior to the adoption of the 1917 Constitution.

The Supreme Court decision declared that the cutting down of the oil companies' rights to a fifty-year period was unconstitutional. In connection with that decision the Court said that "the confirmation of a right is the express recognition of the same, to limit it is to modify that right instead of confirming it." Following this decision the President asked Congress is [*to*] modify the law of 1925 to con-

[22a] For release in the morning papers of Wednesday, March 28, 1928.

form with the Constitution as interpreted by the Court. The committee of Congress reporting upon this law said:

"To confirm a right is to recognize it expressly in its whole extent and with the conditions inherent therein in such a way that no restriction whatever can be established with regard to the extent or conditions of the right which is confirmed."

After the legislation had been passed certain oil companies still had doubts as to whether those who took confirmatory concessions under the new law would get a new grant or have their old rights confirmed. Because of these doubts Minister Morones, the head of the Department of Industry, Commerce and Labor, wrote a letter in answer to an inquiry from an oil company, stating that such confirmatory concession would operate "as the recognition of rights which will continue in force subject only to police regulations."

President Calles, on the advice of Minister Morones, has now issued new Regulations modifying the old Regulations in accordance with the decision of the Supreme Court and the new act of Congress. These new Regulations make clear what Minister Morones had already made clear in his letter, that those who take confirmatory concessions under the amended law get a confirmation of their old rights rather than a new grant of rights. The form of confirmatory concession as set out in the new Regulations expressly declares that it is to "operate as a recognition of acquired rights which continue in force."

There remains, of course, the determination of what rights the oil companies had on May 1, 1917. While there may well be honest differences on this point, there is no reason why such differences, if any, cannot be satisfactorily settled through the due operations of the Mexican governmental departments and the Mexican courts.

The changes in the Mexican laws and regulations have been made by the voluntary act of the Republic of Mexico. In the informal conversations which have taken place, Minister Morones and his official staff have approached the whole matter with a disposition to frame the Regulations in such a way as to meet such essential points as are susceptible of adjustment by general provisions.

Statement Issued to the Press by the Department of State, March 27, 1928

The petroleum regulations just promulgated by President Calles constitute executive action which completes the process beginning with the decision made by the judicial branch of the Mexican Government on November 17, 1927, and followed by the enactment of the new petroleum law by the legislative branch on December 26th last.

Together these steps voluntarily taken by the Mexican Government would appear to bring to a practical conclusion the discussions which began ten years ago with reference to the effect of the Mexican Constitution and laws upon foreign oil companies. The Department feels, as does Ambassador Morrow, that such questions, if any, as may hereafter arise can be settled through the due operation of the Mexican administrative departments and the Mexican courts.

812.6363/2549 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, *April 16, 1928—1 p. m.*

101. For the Ambassador. *New York Times* of today carries despatch from Mexico City dated April 14th to the effect that the Huasteca Petroleum Company has advised the Mexican Government through H. N. Branch that it accepts the recent petroleum regulations.

Please telegraph whether this report is correct.

KELLOGG

812.6363/2550 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, *April 16, 1928—6 p. m.*

[Received 9:45 p. m.]

112. Department's telegram 101 for the [Ambassador]. We are advised by Branch that newspaper report as set out by you is correct. Branch was received by President Calles at 1 o'clock Saturday, April 14, and informed the President of the Huasteca Company's intention to make application at once for confirmatory concessions under the amended petroleum law and regulations.

MORROW

CONVENTION BETWEEN THE UNITED STATES AND MEXICO SAFEGUARDING LIVESTOCK INTERESTS THROUGH THE PREVENTION OF INFECTIOUS AND CONTAGIOUS DISEASES, SIGNED MARCH 16, 1928

611.125/63

The Ambassador in Mexico (Sheffield) to the Secretary of State

No. 2061 MEXICO, *April 13, 1926.*

[Received April 23.]

SIR: Referring to my despatch No. 499 of April 6, 1925,[23] in which I alluded to the purpose of the United States Department of Agriculture to bring about a conference between representatives of the

[23] Not printed.

American and the Mexican Departments of Agriculture in order to discuss and formulate an agreement on various matters of mutual interest, I have the honor herewith to enclose for the Department's confidential information copy of a letter from Doctor S. O. Fladness, Agricultural Commissioner here, to the Mexican Minister of Agriculture, dated April 5, last,[24] together with translation of the reply of the Minister under date April 9.[24]

The Department will observe from this correspondence that it confirms an oral understanding arrived at in a conference between Doctor Fladness and Señor León in the recent past as a result of which it was informally agreed that, should the United States Government through diplomatic channels extend an invitation to the Mexican Government to send representatives to such a conference with representatives of the United States Department of Agriculture, the invitation would be accepted so far as the Minister of Agriculture could assume personal responsibility.

In this connection I beg leave to invite the Department's attention to the fact that I learn from Doctor Fladness that, should such a conference come about, the Mexican Government may desire to include in the agenda questions of plant quarantine and similar matters not necessarily connected with the aims of the United States Department of Agriculture in holding the conference. Doctor Fladness has also suggested that in his recent conversation with the Mexican Minister of Agriculture the latter mentioned in passing the possibility of inviting Canada to attend the conference; in the opinion of the American Agricultural Commissioner this would complicate matters considerably and probably greatly delay the making of arrangements for the conference. . . .

As recently reported, the Mexican Government has accepted the invitation of the United States Department of Agriculture to send a representative to Washington for the purpose of studying the cattle industry and Doctor Fladness informs me that it may be advisable to discuss the preliminaries of the proposed conference with this representative, Doctor José Figueroa, during his forthcoming visit in the United States, which is expected to take place upon his return from the Argentine Republic.

In view of the importance of the proposed conference and the probable desire of the Mexican Government to take up in connection with it questions which the United States' authorities may not wish to discuss, it is respectfully suggested that this phase of the question be given due consideration.

I have [etc.] JAMES R. SHEFFIELD

[24] Not printed.

611.125/66

The Secretary of State to the Ambassador in Mexico (Sheffield)

No. 900 WASHINGTON, *May 19, 1926.*

SIR: Referring to your No. 2061, of April 13, 1926, in regard to the proposed conference between representatives of the Department of Agriculture and the Mexican Department of Agriculture and Fomento in relation to certain problems of the livestock industry, I enclose a copy of a letter from the Acting Secretary of Agriculture,[25] stating that, if this matter can be presented to the appropriate officials of the Mexican Government and they are favorable to the plan, he will be glad to name three representatives of the Bureau of Animal Industry to confer with a like number of delegates of the livestock sanitary branch of the Mexican Department of Agriculture and Fomento. He suggests that, if agreeable to the Mexican authorities, the conference be held at an early date and at some convenient place mutually satisfactory to the two Governments, possibly at El Paso, Texas.

You are requested to bring the matter to the attention of the Mexican Government.

I am [etc.]

For the Secretary of State:
ROBERT E. OLDS

611.125/70 : Telegram

The Ambassador in Mexico (Sheffield) to the Secretary of State

MEXICO, *July 15, 1926—5 p. m.*
[Received July 16—12:45 a. m.]

312. Department's instruction 900, May 19th. Note just received from Foreign Office states that Mexican Government accepts invitation of United States Department of Agriculture and is agreeable to holding of agricultural conference in Washington instead El Paso during present month. Mexican representatives will be Jose Figueroa and Daniel Ortiz Berumen, who are now in Washington studying methods of Bureau of Animal Industry. Copy by pouch tomorrow.[26]

SHEFFIELD

611.125/75 : Telegram

The Secretary of State to the Ambassador in Mexico (Sheffield)

WASHINGTON, *July 24, 1926—noon.*

244. Your 321, July 23, 2 p. m.[25] Your despatch 2532 has just been received.[25] It will be entirely agreeable to this Government to

[25] Not printed.
[26] Despatch No. 2532, July 15; not printed.

hold conference in Washington instead of El Paso. Please so advise Foreign Office.

KELLOGG

611.125/78 : Telegram

The Ambassador in Mexico (Sheffield) to the Secretary of State

MEXICO, *August 4, 1926—11 a. m.*
[Received 7 p. m.]

327. Department's 244, July 24, noon. Representative of Foreign Office at conference will be Antonio Castro Leal, Counselor of Mexican Embassy at Washington.[27]

SHEFFIELD

611.125/86

The Mexican Chargé (Castro Leal) to the Secretary of State
[Translation[28]]

WASHINGTON, *October 8, 1926.*

MR. SECRETARY: I have the honor to inform Your Excellency that the Government of Mexico has seen fit to approve the decisions and recommendations reached by the delegates of Mexico and of the United States at the conferences held in this city for the prevention of cattle diseases. These decisions and recommendations appear in the joint report of August 7 of this year which the delegates submitted to the Governments of Mexico and of the United States of America for their approval.[29] I therefore take pleasure in stating to Your Excellency that the Government of Mexico is prepared, in case these decisions and recommendations are also approved by the Government of the United States of America, to appoint a plenipotentiary to conclude and sign the draft convention proposed by the delegates.

Awaiting a statement on this subject from Your Excellency, I take pleasure in renewing [etc.]

ANTONIO CASTRO LEAL

---

[27] The American representatives were Dr. John R. Mohler, Chief of the Bureau of Animal Industry; Dr. Arthur W. Miller, Chief of the Field Inspection Division of that Bureau; and Mr. Richard W. Flournoy, Jr., Assistant to the Solicitor of the Department of State (file No. 611.125/73).

[28] File translation revised.

[29] The report (file No. 611.125/104) consists of a draft convention and the following recommendations:

"It is respectfully recommended that this Convention be signed by the plenipotentiaries of our respective governments as soon as practicable in order that it may be ratified and its provisions used to the advantage of each government. It is further recommended that representatives of both countries meet as soon as possible to draft such uniform regulations as may be found necessary to carry out the purposes of this Convention."

611.125/87

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, *November 15, 1926.*

EXCELLENCY: I have the honor to acknowledge receipt of the Embassy's note of October 8, 1926, concerning the proposed convention between the United States and Mexico to govern the admission of animals from either country into the other and to prevent spread of contagious animal diseases.

The draft convention prepared by representatives of the two Governments has received careful study by this Department. In general it appears to be satisfactory, but it is believed that Article XIII should be amended. In the English draft this Article reads as follows:

"ARTICLE XIII

Certificates of inspection and testing of live stock issued by duly authorized veterinarians of either country shall be recognized by the other country."

The Department considers the proposed Article just quoted to be broader than is necessary and believes that it might in fact give rise to some difficulty in operation. It is conceivable that while animals may be free from disease at the time they are inspected by veterinarians on either side, they may develop disease before they reach the border, which fact would be disclosed by examination at the time of such arrival. A literal interpretation of the provision that certificates of the testing of live stock issued by veterinarians of either country "shall be recognized" by the other country, might conceivably be thought to preclude any further test or investigation by the importing country as a condition of entry. This Government would not desire to be denied the right to make such test or investigation and does not believe that the Mexican Government would desire to be restricted in this respect. This Government, however, is prepared to sign the convention provided Article XIII is changed to read as follows:

"Certificates of inspection and testing of livestock, issued by duly authorized veterinarians of either country, shall be accepted as proof that such inspection and testing have been made; but, in any case of the offer of livestock for importation into either country, the issuance of such certificate shall not preclude further tests of such animals, or further investigation with respect thereto, to determine their freedom from or exposure to disease, before entry is permitted."

Accept [etc.] FRANK B. KELLOGG

611.125/97

The Mexican Ambassador (Téllez) to the Secretary of State

[Translation [30]]

WASHINGTON, *January 21, 1927.*

MR. SECRETARY: I have the honor to acknowledge the receipt of Your Excellency's kind note of the 15th of November last in which you were pleased to inform me that the Government of the United States is prepared to sign the convention for the prevention of livestock diseases, provided article 13 of the draft convention be modified in the manner proposed by the Department of State.

In reply, it is my pleasure to inform Your Excellency that the Government of Mexico, in view of the reasons advanced by Your Excellency in the note I am answering, has found it expedient to agree that the said article 13 be amended as follows:

"Article 13. The certificates of inspection and disclosing tests issued by duly authorized veterinarians of either country shall be accepted as proof that such inspection and tests have been made; but in the cases in which livestock intended for importation into either of the two countries is concerned, the issuance of the said certificates shall not preclude further examination of such animals nor proper investigation in order to determine whether or not they are free from diseases before the permit for entry is issued."

Your Excellency will please note that the article above transcribed is exactly like that proposed by the Department of State save for slight changes in the wording.

With the statement to Your Excellency that my Government is ready to appoint a plenipotentiary to conclude and sign the draft convention as soon as convenient to the Government of Your Excellency, I take pleasure [etc.]

MANUEL TÉLLEZ

611.125/99

The Secretary of State to the Mexican Ambassador (Téllez)

WASHINGTON, *February 17, 1927.*

EXCELLENCY: With reference to your note of January 21 and the Department's reply of February 1 [31] concerning Article XIII of the proposed treaty governing the admission of animals from either country into the other, I have the honor to inform you of the re-

[30] File translation revised.

[31] Latter not printed; it stated that the subject of the Ambassador's note was receiving the attention of the appropriate authorities.

ceipt of a letter of February 8 from the Secretary of Agriculture, from which I quote the following:

"With your communication there was enclosed the translation of a letter to you from the Mexican Ambassador setting forth an amended form of Article 13 of the Convention as that Government would like to have it worded. This form is so nearly the exact equivalent of the form suggested in my letter to you of October 20, 1926,[32] in the same matter, that I should have been glad to give it my approval had I not found that, apparently by oversight, some very important words have been entirely omitted in the next to the last line of the Article as so amended.

"The purpose of this Article is to provide that certificates given by the veterinarians of either country should be accepted as proof that proper examination and tests have been made prior to offering the animals for import, but that such certificates were not to preclude further examination by either country before entry to determine whether the animals were actually free from disease *or exposed thereto*, before they were permitted entry. The words just underscored [33] constitute the omission above referred to and the inclusion of this provision is most important—and equally to each country,—because it is quite possible, in cases where certificates are given in the interior of the country, that, in the movement of the animals to the border, they may become exposed to disease and that information might be secured to that effect before the animals were actually entered. Of course, neither country would be willing to admit animals thus exposed and yet, by the Article in its present amended form, the only ground of exclusion of such cattle after the certificates had been given would be a subsequent finding that the animals were actually diseased.

"In view of the above, I take the liberty to suggest that the form presented by His Excellency, the Mexican Ambassador, be amended in just one place, that is by adding after the word 'diseases', in the next to the last line, a comma and the words 'or exposure thereto' followed by a comma. The Article as already suggested by the Mexican Ambassador but with the added words underscored [33] in accordance with the above suggestion would then read as follows:

> "'Article 13.—The certificates of inspection and disclosing tests issued by duly authorized veterinarians of either country shall be accepted as proof that such inspection and tests have been made; but in the cases in which live-stock intended for importation into either of the two countries is concerned, the issuance of the said certificates shall not preclude further examination of such animals nor proper investigation in order to determine whether or not they are free from diseases, *or exposure thereto*, before the permit for entry is issued.'

"As so worded, Article 13 of the Convention has my entire approval."

---

[32] Not printed.
[33] Printed in italics.

You are requested to be so kind as to inform the Department whether the Mexican Government will agree to Article XIII of the proposed treaty with the amendment proposed by the Secretary of Agriculture.

Accept [etc.]

For the Secretary of State:
ROBERT E. OLDS

611.125/100

The Mexican Chargé (Castro Leal) to the Secretary of State

[Translation [34]]

WASHINGTON, *March 16, 1927.*

MR. SECRETARY: I have the honor to acknowledge the receipt of Your Excellency's kind note of February 17th of this year relative to article 13 of the draft convention for the prevention of livestock diseases, in which Your Excellency was pleased to quote a statement from the Department of Agriculture setting forth the reasons why that Department deems it important to the interests of both countries that there be added to article 13 as proposed by my Government the following words: "or exposure thereto" in the English text and "o expuestos a ellas" in the Spanish text.

In reply, I have the honor to inform Your Excellency that the Government of Mexico agrees to the amendment suggested by the Department of Agriculture of the United States and therefore agrees that the said article 13 be worded as follows:

"Article 13. The certificates of inspection and disclosing tests issued by duly authorized veterinarians of either country shall be accepted as proof that the said inspection and tests have been made; but in the cases in which live-stock intended for importation into either of the two countries is concerned, the issuance of the said certificates shall not preclude further examination of such animals nor proper investigation in order to determine whether or not they are free from diseases, or exposure thereto, before the permit for entry is issued." [35]

With the statement that my Government is ready to appoint a plenipotentiary to conclude and sign the said draft convention as early as it may suit Your Excellency's Government, it affords me pleasure to renew [etc.]

ANTONIO CASTRO LEAL

---

[34] File translation revised.

[35] The English text used in the translation of art. 13 is that which appears in Department's note of February 17, 1927, *supra*.

611.125/104a : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

[Paraphrase]

WASHINGTON, *February 24, 1928—10 a. m.*

49. Referring to Embassy's despatch No. 2586, July 23, 1926,[37] and to previous correspondence with regard to the drafting of a convention to be signed by representatives of the Governments of the United States and Mexico with the object of preventing the introduction of infectious and contagious diseases of livestock, an agreement as to the provisions of the convention was informally reached between representatives of both Governments in 1926. In its note of March 16, 1927, the Government of Mexico informed the Department that it was prepared to appoint a plenipotentiary to sign the convention on behalf of that Government. No further steps were taken at that time, however, by the Department. You will recall that on March 21, 1927,[38] the Government of the United States notified the Government of Mexico that it desired to terminate the convention between the United States and Mexico to prevent smuggling, signed December 23, 1925.[39]

The Department is now ready to proceed with the signing of the convention which was drawn up in Washington in the summer of 1926, and if you perceive no objection, the Department would be pleased to have you inquire informally of the Acting Minister for Foreign Affairs if the Government of Mexico would now be disposed to do likewise. If the Government of Mexico agrees to the proposal, the Department will address a note to the Mexican Embassy in Washington in reply to its note of March 16, 1927, stating that the Government of the United States will now be pleased to proceed to conclude the convention. Wire answer.

KELLOGG

611.125/105 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

[Paraphrase]

MEXICO, *February 29, 1928—1 p. m.*

[Received 3:39 p. m.]

63. Department's telegram No. 49, dated February 24, 1928, 10 a. m. I have been informed by the Foreign Office that the Government of Mexico is ready to sign the convention to prevent the introduction of livestock diseases. On March 2 the President will sign full powers

[37] Not printed.

[38] See telegram No. 69, Mar. 21, 1927, 4 p. m., to the Ambassador in Mexico, *Foreign Relations*, 1927, vol. III, p. 230.

[39] *Ibid.*, 1925, vol II, p. 510.

for Ambassador Téllez to sign the convention, which powers will be sent immediately to Washington by mail. The Foreign Office added that the Department may therefore reply to the note of the Mexican Embassy of March 16, 1927, as indicated in its telegram above referred to.

MORROW

611.125/105 : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, *March 2, 1928—7 p. m.*

62. Your #63, February 29, 1 p. m. Department handed note to Mexican Ambassador today[40] expressing its understanding that Mexican Government is prepared to sign Convention and that Tellez will be empowered to sign on behalf of his Government. Tellez stated that he would be ready to sign on receipt of full powers. Convention will probably be signed during week beginning March 12th.

Please inquire of Foreign Office whether it will agree that simultaneous press announcements regarding proposal to sign Convention be made by both Governments, date of announcement to be mutually agreed upon as soon as date of signature is fixed. In the meantime Department will regard matter as confidential.

Please telegraph.

KELLOGG

611.125/107 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

MEXICO, *March 8, 1928—noon.*

[Received 2:10 p. m.]

73. Department's 65, March 7, 6 p. m.[40] Foreign Office states March 16 will be entirely satisfactory for signing of convention. Foreign Office will issue statement to this effect for publication in the morning press of March 9.

MORROW

Treaty Series No. 808

Convention Between the United States of America and Mexico, Signed at Washington, March 16, 1928 [41]

The Government of the United States of America and the Government of the United Mexican States, being desirous to safeguard more

[40] Not printed.

[41] In English and Spanish; Spanish text not printed. Ratification advised by the Senate, Mar. 28 (legislative day of Mar. 27), 1928; ratified by the President, Apr. 7, 1928; ratified by Mexico, Dec. 13, 1929; ratifications exchanged at Washington, Jan. 17, 1930; proclaimed by the President, Jan. 18, 1930.

effectually the live stock interests of their respective countries through the prevention of the introduction of infectious and contagious diseases, have, for that purpose, agreed to conclude a Convention, and have to that end appointed as their respective plenipotentiaries:

The President of the United States of America, Frank B. Kellogg, Secretary of State of the United States of America; and

The President of the United Mexican States, His Excellency Señor Don Manuel C. Téllez, Ambassador Extraordinary and Plenipotentiary of the United Mexican States at Washington;

Who, having exhibited to each other their respective full powers, which were found to be in good and due form, have agreed upon the following Articles:

ARTICLE I

The High Contracting Parties agree to maintain at designated border and sea ports authorized for the importation of animals an adequate live stock sanitary police service to guard against the introduction of animals affected with or exposed to contagious disease, and to notify each other at least ten days in advance whenever a port is to be closed or a new one is to be opened. In case of live stock imported or in bond the official veterinary inspectors of either country are authorized to make inspections, supervise dippings, and apply the necessary tests upon either side of the border as may be convenient.

ARTICLE II

Quarantine stations shall be maintained by the High Contracting Parties at designated border and sea ports for animals imported from foreign countries. Such animals shall be kept under observation and subjected to tuberculin, mallein, blood, or other tests as may be necessary for the diagnosis of disease.

ARTICLE III

The High Contracting Parties agree to supervise the sanitary handling of animal by-products, forage, and other commodities offered for importation that may be carriers of infectious and contagious diseases and to prohibit the importation of forage or other articles accompanying live stock affected with such diseases or suspected of being so affected.

ARTICLE IV

The appropriate authorities of each of the High Contracting Parties shall incorporate in their regulations the necessary measures

governing the disinfection of vessels and all kinds of vehicles used in the transportation of animals and of the quarantine stations or other premises occupied by animals affected with dangerously acute and rapidly spreading contagious diseases such as foot-and-mouth disease, rinderpest, contagious pleuro-pneumonia, and hog-cholera.

Article V

The competent officials of each of the High Contracting Parties shall prescribe the form and requirements of the permit and certificates to be presented as evidence that the animals are eligible for importation; of the manifests, bills of lading and other papers to be submitted by importers, captains of vessels, or others in charge of live stock offered for importation; and of the records to be kept by the veterinary officials at the ports of entry.

Article VI

The form and requirements of certificates which shall accompany shipments of animal by-products, hay, straw, and other imported commodities shall be specified by the duly authorized officials of each of the High Contracting Parties.

Article VII

It is agreed that an efficient veterinary live stock sanitary police service shall be maintained under the Department of Agriculture in the United States and the Secretaria de Agricultura y Fomento in Mexico to combat infectious, contagious, or parasitic diseases of live stock.

Article VIII

The live stock sanitary officials shall define the specific territory in their respective countries in which any contagious or infectious disease exists and shall indicate zones which may be considered as exposed, in order to prevent the propagation and dissemination of the infection of such disease.

Article IX

The High Contracting Parties shall not issue permits for domestic ruminants or swine originating in any foreign countries or zones where highly infectious and rapidly spreading diseases such as foot-and-mouth disease and rinderpest appear frequently, until at least sixty days have elapsed without any outbreak of the disease in such countries or zones. When a disease of this kind occurs in any

part of a foreign country any other part of the same country shall be considered as exposed until the contrary is positively shown, that is, until it is shown that no communication exists between the two parts by which the disease may be readily transmitted. When such a disease occurs near the land border of a foreign country, the neighboring part of the adjacent country shall be considered as exposed until the contrary is positively shown.

ARTICLE X

It is agreed that the respective governments shall notify each other promptly, through the usual diplomatic channels, of the appearance and extent of seriously acute, contagious diseases. In the case of outbreaks of diseases of this character not recently existing in either country information may be transmitted immediately in the most expeditious manner.

ARTICLE XI

The High Contracting Parties agree to exchange the official regulations, periodicals, and other publications that may come out in their countries on the subject matter of this Convention and information concerning changes and substitutions which may be developed in the methods of prophylaxis, control, and care of animal diseases; and also to establish an interchange of students and experts and visits of representatives of the respective governments, for the purpose of studying and observing on the ground methods of control and eradication of such diseases as may break out in the territory of either of the nations.

ARTICLE XII

Special regulations shall be issued by each of the High Contracting Parties governing the movement of live stock between the respective countries. These regulations shall specify in each case the veterinary sanitary police measures applicable.

ARTICLE XIII [43]

Certificates of inspection and testing of live stock, issued by duly authorized veterinarians of either country, shall be accepted as proof that such inspection and testing have been made; but, in any case of the offer of live stock for importation into either country, the issuance of such certificate shall not preclude further tests of such animals, or further investigation with respect thereto, to determine their freedom from or exposure to disease, before entry is permitted.

[43] A few minor changes in the English text of art. XIII as set forth in the Secretary of State's note to the Mexican Ambassador, Feb. 17, 1927, appear to have been made at the time of the signing of the convention.

ARTICLE XIV

This Convention shall be ratified, and the ratifications exchanged at the city of Washington as soon as possible.

The Convention shall come into effect at the date of publication in conformity with the laws of the High Contracting Parties, and it shall remain in force until thirty days after either party shall have given notice to the other of a desire to terminate the Convention.

IN WITNESS WHEREOF, they have signed the present Convention and have affixed thereto their respective seals.

Done in duplicate, in the English and Spanish languages, at the City of Washington, this sixteenth day of March, one thousand nine hundred and twenty-eight.

FRANK B. KELLOGG [SEAL]
MANUEL C. TÉLLEZ [SEAL]

OPPOSITION OF THE DEPARTMENT OF STATE TO ANY UNDUE PREFERENCE FOR ANY GROUP OF CREDITORS OF THE MEXICAN GOVERNMENT

812.51/1460a : Telegram

The Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, *November 2, 1928—noon.*

287. Press reports indicate that representatives of the foreign holders of Mexican bonds are in Mexico City attempting some adjustment of the issued and outstanding bonded indebtedness of Mexico, of which it is understood American citizens hold approximately 20 per cent. The Department has not been consulted regarding and is not advised concerning the nature of these negotiations. While the Department does not at this time wish to express any views or opinions whatsoever regarding these negotiations, nevertheless it desires that in your discretion, formally or informally as you deem wisest, you call to the attention of the Mexican Government the fact that there are other obligations, liquidated and unliquidated, of the Mexican Government to American citizens, the existence of which should not be overlooked in connection with any financial adjustments which the Mexican Government may have under consideration with its foreign bondholders of whom, as stated, only one-fifth approximately in amount are American citizens. While the Department does not at this time feel it necessary to make any determination or indeed to enter upon any discussion of the question of the relative priorities of various Mexican obligations to American citizens or others, either with reference to the time of origin or to the character of such obliga-

tions, yet the Department is prepared now to say that it would consider that the obligation of Mexico to compensate an American citizen upon a claim espoused by his Government for property appropriated or destroyed, or for life lost, or for arrest and imprisonment, or for a personal assault in Mexico, contrary to the laws and principles of international law controlling in the circumstances surrounding such appropriation or destruction or loss of life, arrest, imprisonment, or assault, is not inferior to the obligation running in favor of one who had voluntarily lent money to Mexico upon the faith of a bond.

Under the existing financial condition of Mexico the Department would feel that it must carefully consider whether it should not earnestly protest any adjustment by Mexico with any class of its creditors either American, foreign, or domestic, which appeared to the Department to constitute an undue or unfair preference in favor of such creditors to the detriment of other American creditors of equal rank.

In connection with the general financial condition of Mexico and with any proposed adjustment connected therewith and involving Mexican creditors, there should not be overlooked the gold obligations of Mexico maturing under the American-Mexican claims conventions as also the obligations maturing under similar conventions with other countries.

KELLOGG

812.51/1462

The Ambassador in Mexico (Morrow) to the Secretary of State

[Extracts]

No. 1114 MEXICO, *November 9, 1928.*

[Received November 16.]

SIR: I have the honor to report in reply to the Department's instructions No. 287 of November 2, 1928, that Mr. Arthur M. Anderson and Mr. Joseph E. Sterrett, representing the International Committee of Bankers on the Mexican debt, have been in consultation with the Minister of Hacienda and his representatives during the past three weeks. The purpose of these consultations has been to discuss the general principles which might form the basis for a new agreement in regard to the external debt.

. . . . . .

I have made no formal representations to the Mexican Government in regard to the possible effect of a new agreement with the International Committee on their ability to make proper provision for the payment, as occasion arises, of other classes of obligations in which American citizens are interested. I have, however, informally called the attention of both the Minister of Hacienda and the Acting Minister of Foreign Affairs to the unfortunate situation which would arise if

they now conclude a new agreement on the external bonded debt of such a nature that it might break down when the country is faced with the necessity of providing for the payment of other obligations including the claims sponsored by various foreign governments.

I have [etc.] DWIGHT W. MORROW

812.00/29370 : Telegram

The Chargé in Mexico (Schoenfeld) to the Secretary of State

[Extract—Paraphrase]

MEXICO, *December 9, 1928—noon.*
[Received December 10—1:08 a. m.]

319.

. . . . . .

The Minister of Finance, Montes de Oca, has requested that Mr. Morrow be informed that political events of the past week have rendered it desirable to leave debt negotiations and plans for railroad reorganization *in statu quo* until the situation becomes somewhat clarified, which might be within a few days or a few weeks. The Minister of Finance does not know, as yet, just what effect General Calles' change in political plans may have on his position in regard to railroad reorganization.

SCHOENFELD

ESTABLISHMENT OF AIR MAIL SERVICE BETWEEN THE UNITED STATES AND MEXICO

811.71212/60

The Second Assistant Postmaster General (Glover) to the Assistant Secretary of State (White)

WASHINGTON, *March 23, 1928.*

MY DEAR MR. SECRETARY: Following up our telephone conversation of today, I am asking if it will be possible for the State Department to find out, through its diplomatic channels, whether the approval of the Mexican Government could not be obtained for the operation of an Air Mail line from Brownsville, Texas, to Mexico City, via Tampico and Vera Cruz.

The Post Office Department is very anxious to include an advertisement for such a route in the advertisements for two other routes to Central and South America which it will shortly put out, using the authority given to the Postmaster General under the recent legislation passed, known as HR 7213.

The Department is very shortly to ask the Director of the Budget for an appropriation and, of course, if it is going to be possible to

include the Mexican route in this group of Air Mail routes to the countries south of us, this Department would be more than glad to include that advertisement along with the others which are so shortly to be put out.

Will be more than glad to receive an answer to this letter at the early convenience of your good self through the State Department.

I am [etc.] W. IRVING GLOVER

811.71212/60 : Telegram

The Acting Secretary of State to the Ambassador in Mexico (Morrow)

WASHINGTON, *March 24, 1928—5 p. m.*

79. Under authority given to the Postmaster General under recent legislation passed by Congress Post Office Department is anxious to advertise in the United States for the operation of an air mail line from Brownsville, Texas to Mexico City via Tampico and Vera Cruz. Advertisements will shortly be put out also for routes to Central and South America.

Please address note to Foreign Office inquiring whether foregoing project would have the approval of the Mexican Government and pointing out that air line would be operated by commercial enterprise not connected with United States Government.

Please endeavor to expedite reply.

OLDS

811.71212/62

The Ambassador in Mexico (Morrow) to the Secretary of State

No. 493 MEXICO, *April 3, 1928.*

[Received April 10.]

SIR: I have the honor to refer to the Department's telegram No. 79 of March 24, 1928, 5 P. M., relating to the intention of the Postoffice Department of the United States to advertise for the operation of an airmail line from Brownsville, Texas, to Mexico City via Tampico and Veracruz, and in confirmation of my telegram No. 98 of March 31, 1928, 1 P. M.,[44] I have the honor to transmit herewith a copy and translation of a communication received from the Foreign Office dated March 31, 1928, in response to the Embassy's representations, stating in substance that under certain conditions the Government of Mexico perceives no objection to the contemplated advertisements.

I have [etc.] DWIGHT W. MORROW

[44] Not printed.

[Enclosure—Translation]

The Mexican Acting Minister of Foreign Affairs (Estrada) to the American Ambassador (Morrow)

4777 MEXICO, *March 31, 1928.*

The Undersecretary of Foreign Relations in charge of the Ministry of Foreign Relations presents his compliments to His Excellency the Ambassador of the United States of America, and, with reference to his Note Verbale No. 257 of the 27th instant, has the honor to advise him that there is no objection whatever to the United States Post-Office Department's advertising for the operation of an air-mail service from Brownsville, Texas, to Mexico City, via Tampico and Veracruz, provided this does not imply any financial obligation on the part of the Mexican Government for the maintenance of said service, and that it is used merely as a means for carrying the correspondence sent over that route.

It would be well to observe, in this respect, that the air route from Matamoros to Tampico has been given by concession to the Compañía Mexicana de Aviación, S. A.; that from Tampico to Tuxpam, to Mr. A. A. Zambrano; and that from Tampico to Veracruz, to Mr. Enrique Schoendube; therefore, only the route from Veracruz, to Mexico City remains free from any concession.

Genaro Estrada takes the liberty to suggest to His Excellency, Mr. Morrow, that it would be expedient for the postal authorities of the United States of America interested in the operation of the air-mail route under reference, to get in touch with the Compañía Mexicana de Aviación, S. A., and Messrs. Zambrano and Schoendube, with a view to the establishment of said line.

811.71212/66 : Telegram

President Calles to President Coolidge [45]

[Translation [46]]

MEXICO, *October 1, 1928—11:30 a. m.*

I congratulate Your Excellency most cordially on the establishment of the air mail service between our countries, which, being initiated today, now marks a new spirit looking toward better relations between the peoples of Mexico and the United States.

P[LUTARCO] ELIAS CALLES

[45] Received in the Department of State October 3.
[46] File translation revised.

811.71212/66 : Telegram

President Coolidge to President Calles

WASHINGTON, *October 1, 1928—5 p. m.*

Upon the occasion of the inauguration of the air mail service between this country and Mexico, it gives me great pleasure to express to you my felicitations on this important step in the advancement of the communication between our two countries, which will become a new bond in bringing together more closely the relations between Mexico and the United States.

CALVIN COOLIDGE

GOOD OFFICES OF AMBASSADOR MORROW IN FACILITATING NEGOTIATIONS BETWEEN THE MEXICAN GOVERNMENT AND REPRESENTATIVES OF THE ROMAN CATHOLIC CHURCH

812.404/895½

The Ambassador in Mexico (Morrow) to the Secretary of State

MÉXICO, *July 23, 1928.*

[Received July 30.]

MY DEAR MR. KELLOGG: As you are already aware Mr. Olds and I have kept up a personal correspondence during the past year with reference to the religious controversy in Mexico. My letters to him of December 9, 1927, February 21, March 16 and April 10, 1928, set forth in some detail the situation down to and including the first visit of Father John J. Burke and Mr. Montavon to Mexico City on April 3rd to 5th. Due to Mr. Olds' departure from Washington it appears desirable for your information that I should review very briefly the earlier events and in some detail the developments in the situation since the date of my last letter mentioned above.

Before I came to Mexico last October I talked in Washington with Father John J. Burke, the General Secretary of the National Catholic Welfare Conference, who was sent to me by Judge Morgan J. O'Brien and Cardinal Hayes. Subsequently, in January during my visit to Havana for the Pan-American Conference, Father Burke again called on me for the purpose of discussing the religious situation in Mexico. As a consequence of these talks Father Burke requested me to ascertain whether President Calles would receive him if he asked for an interview and came to Mexico for that purpose. After my return to Mexico I ascertained that President Calles would receive Father Burke and communicated the fact to the latter. At this juncture publicity was given in the United States press to the probability of such an interview. As a result of this publicity, the President felt that no good purpose could at that time be served

by Father Burke coming to Mexico. Subsequently the difficulties caused by this incident were smoothed away and Father Burke, accompanied by Mr. Montavon, the legal adviser of the National Catholic Welfare Conference, came to Mexico and on April 4th in Veracruz, where the President was spending a week's holiday, the former had a long interview with the President, lasting throughout the day. President Calles and Father Burke appeared to make an excellent mutual impression one on the other and were able to discuss the situation in a broad and liberal way and without rancor. They exchanged letters which, if they had been ratified by Father Burke's superiors, would have led to a prompt resumption of public worship in the churches and might well have laid the basis for a later modification of the objectionable laws.

Father Burke on his return home had an unfortunate and untimely illness. Instead of the matter being reported promptly to Rome by cable, as had been anticipated, it was delayed apparently for the purpose of obtaining an expression of opinion on a possible method of settlement from a group of Mexican Bishops. A meeting of Mexican Bishops was held in San Antonio the latter part of April. I am not clear whether this meeting was specially called to consider the possibility of a settlement. At all events, Archbishop Ruiz, who upon the death of Archbishop Mora y del Rio became the senior prelate of the Mexican Church and as such presided at this meeting, was the only person present who knew of the exchange of letters between the President and Father Burke. There were ten bishops at this conference and they unanimously expressed a willingness to return to Mexico under the present administration, and to leave the decision unconditionally to the Holy See, but did, however, make some suggestions as to the terms that should be included in any adjustment.

Mr. Olds' cables of May 9th and 10th, and his letters of May 5th and 9th, informed me of the results of the San Antonio conference. Father Burke also wrote me on May 9th covering the same ground and enclosing a letter signed by himself and addressed to President Calles, in which he expressed the hope that the President might give certain additional and more explicit assurances than those contained in his letter of April 4th. After receipt of Mr. Olds' cables, but prior to the receipt of his and Father Burke's letters, I talked with the former by telephone. He agreed with me that it would be very difficult, if not impossible, to get any further assurances from President Calles and that in any event it would be quite useless to take the matter up with him by letter. I suggested that it would be wise for Father Burke to make another visit to Mexico and to bring with him Archbishop Ruiz. Although the latter had become the

416955—43——28

senior Mexican prelate, this, of course, did not mean that he had any authority over the other Mexican bishops and archbishops, nor authority to deal finally with the question of a settlement.

Mr. Olds, after a conference with Father Burke, telephoned me that Father Burke and Archbishop Ruiz would be glad to come to Mexico. I at once tried to arrange with President Calles for permission to have them come. President Calles was absolutely opposed to Archbishop Ruiz coming. He stated that it would be impossible for him to come without getting into discussions with Mexican prelates and with prominent Catholic laymen in Mexico, and that publicity would consequently result, as there was a small but powerful element in Mexico who had steadfastly opposed any adjustment and would welcome the opportunity to impede the work that Father Burke was trying to do. When I reported this to Mr. Olds by telephone he conferred with Father Burke. Father Burke asked Mr. Olds to explain that he would be greatly embarrassed if he were unable to bring Archbishop Ruiz with him. I, therefore, made another effort with President Calles, and he reluctantly assented to Archbishop Ruiz accompanying Father Burke.

Father Burke, Archbishop Ruiz and Mr. Montavon, after being again met at the border by the President's representative, Mr. A. F. Smithers, proceeded as far as Tacuba, a suburb of this city, on a private car which I had arranged to have awaiting them at Laredo. From Tacuba they were taken by motor to the house of Captain McBride, a member of the Embassy staff, where they remained from their arrival on the morning of May 17th until their departure on the evening of May 19th. During this time they held no conferences except with the President and with myself and in fact talked with no one else except those immediately concerned in these conferences. It was, of course, desired to avoid premature newspaper publicity and to defer to the wishes of the President as indicated in the previous paragraph.

On the day of their arrival I conferred at length with all three individually and collectively. This conference lasted from 8 o'clock until 4, when I called on President Calles and discussed the situation with him, after which at 5 o'clock he received Father Burke, Archbishop Ruiz and Mr. Montavon, and myself. As at the previous conference in Veracruz, Mr. James Smithers and Mr. A. F. Smithers were also present, the former acting as interpreter. Father Burke presented the suggestions of the Mexican Bishops as made at the San Antonio meeting. The President answered and explained briefly why he could not comply with these suggestions. Archbishop Ruiz then made a short statement to which the President replied. Archbishop Ruiz expressed himself as willing to address a new letter

to President Calles in substantially the form of the letter written by Father Burke to President Calles on March 29, 1928, with the important addition that a special reference was made to a public speech made by Dr. Puig Casauranc, Minister of Education, on April 15, 1928, at Celaya, which speech had been pleasing to the Church. It was contemplated that this letter of Archbishop Ruiz should be answered in some such form as that in which the President had already answered Father Burke, and that when the proper authority had been received the two letters should be made public and the priests then should be directed by the proper authorities to return to their churches.

In anticipation of the reaching of such an agreement as was reached, Mr. Olds and I had arranged that he should remain available in Washington all of the night of May 17th, so that any message we sent him by cable should be delivered during the night to the office of the Papal Delegate in Washington, and cabled over to Rome immediately so that an answer might be received as soon as possible. Father Burke's message to his associates was transmitted by me to Mr. Olds late in the evening of May 17th. As the message indicates, it was contemplated that an answer would be received from Rome in time to open the churches on Sunday, May 27th, which is the day celebrated as the Feast of the Pentecost.

Father Burke, Archbishop Ruiz and Mr. Montavon had planned to wait here until they received the answer from Rome. On the 19th, however, a telegram was received directing their immediate return to Washington for the purpose of proceeding to Rome. They accordingly left Mexico City that evening. For some reason, that neither Mr. Olds nor I have understood, it was apparently decided that Archbishop Ruiz alone should go to Rome, despite the fact that Father Burke had been the one who had carried on the negotiations from the outset. Archbishop Ruiz, unaccompanied either by Father Burke or Mr. Montavon, accordingly left New York for Rome on May 26th on the S. S. *Leviathan.*

When Archbishop Ruiz reached Paris the fact of his journey to Rome became known through a cable to the *New York Times* of June 1. A day or two later when Archbishop Ruiz reached Rome there was considerable publicity, a portion of which got into the Mexican press. From the messages which came from Archbishop Ruiz to Father Burke I was fully satisfied that Archbishop Ruiz had been misquoted. The fact remains, however, that his visit to Rome became known, and that this fact led to a great deal of pressure being brought upon the authorities in Rome by those associated with the Church in Mexico who bitterly opposed a settlement.

While I was in the North I had several conferences with Father Burke, at some of which Mr. Olds was present. The matter by this time was quite out of Father Burke's hands. Through Father Burke, Mr. Olds and I met the Papal Delegate, Archbishop Fumasoni Biondi, twice. Our first talk with the delegate was in the early part of June, and our second talk was almost the last of June. Apparently the only official action at Rome was the reference of the subject to the Congregation on Extraordinary Foreign Affairs. Such personal communications as had come from Rome to Father Burke indicated, however, that while no definite decision had been reached, the Vatican was very reluctant to authorize the delivery of the letter which Archbishop Ruiz had prepared and left for delivery when the proper authority was received. This reluctance of Rome to act seemed to be due partly to representations which came from Mexico opposing any settlement, and partly due to representations from Mexico that it would be better to await and make the settlement with General Obregon, and partly due to the unwillingness of the authorities at Rome to proceed without more specific assurances than those provided in the interchange of letters.

I got back to Mexico on the evening of July 3rd. I saw the President on the morning of the 7th of July for an hour and a half and discussed the whole question with him. James Smithers acted as interpreter. I told the President about my talks with Father Burke in the United States, and explained some of the difficulties. I further told him that I was certain that Archbishop Ruiz had not expressed the opinions attributed to him in the press. I told him further that Father Burke was still hopeful of a favorable outcome, but that there was no doubt that some pressure was being brought upon the Vatican authorities to make no adjustment until General Obregon came in, or to make no adjustment unless further and more definite assurances were given. President Calles reviewed the whole course of the negotiations with me with care and with accuracy. He expressed a very high opinion of Father Burke. He said that he had never expected any favorable outcome after he heard that Father Burke, himself, was not going to Rome. He stated that when the matter became public the Government had received inquiries from its foreign representatives in many countries. They also had received inquiries from priests in Mexico as to whether they could go back into the churches. They also had received criticism from prominent supporters of the Government objecting to what was called surrender to the Church. All of this had been very embarrassing to his Government. He had thought at first that it was his duty to make a statement, but he had concluded that the advice I had sent him through Mr. Clark was wise and that he would make no statement

until the Vatican announced its decision, that when that decision was announced it would be necessary for him to make a statement, at which time he would probably state exactly what he had done, probably making public the correspondence already exchanged.

He further stated that while the number of people in Mexico opposing the adjustment was small, they were people who had been very influential in the old regime and that if they were to direct the activities of the Church when it came back he should much prefer that the Church should not come back.

On Monday, July 16th, Governor Aaron Saenz of Nuevo Leon, formerly Minister for Foreign Affairs in the Cabinet of President Calles, and long time intimate friend of, and recently campaign manager for, General Obregon, informed me that President-elect Obregon, who had arrived in Mexico City the preceding day, wanted to have a long talk with me. I made an appointment to meet General Obregon the next afternoon, Tuesday, at 5 o'clock. On Tuesday morning Governor Saenz came to the Embassy and talked with me at considerable length about governmental matters, including the religious question. He assured me that there was absolutely nothing in the story that General Obregon was interfering in any way with the proposed adjustment, that President Calles had consulted fully with General Obregon about it, and that General Obregon was hoping that the *modus vivendi* might be worked out as soon as possible to the end that a later readjustment of the laws might be made during the era of peace which he hoped would prevail during his administration. Governor Saenz left me to go to the luncheon at which General Obregon was shot.

The foregoing is a rough review and record of the actual course of events and the conversations and principal correspondence which I have had in regard to the religious situation here. This seems to have been necessary because I think that both Father Burke and myself are in danger of getting somewhat off the track and that others concerned directly or indirectly in any possible settlement are perhaps gravely in error in regard to the real facts of the situation. There is no doubt that certain Catholics here and elsewhere believe that President Calles is seeking some sort of peace. They do not know that Father Burke's letter of March 29, 1928, asked for the interview of April 4th, which President Calles agreed to with some reluctance, and that the subsequent talk with Father Burke and Archbishop Ruiz was brought about on their initiative and was agreed to by the President with still greater reluctance. The President, ever since his answer of August 19, 1926, to the Mexican Episcopate, has been consistent in expressing his inability to initiate or promise any changes in the Constitution or laws, at least under existing conditions. I

believe Father Burke is fully aware of these facts and understands the conditions from which they arise. It was his clear grasp of the situation which not only permitted him to discuss the question with the President in such a broad minded and liberal spirit as to obtain from him a more sympathetic response than had previously appeared possible, but also enabled him to convince some of his associates, both of the American and of the Mexican church, with whom he has had opportunity to discuss the matter. It is for these reasons that I have felt strongly the desirability of his being able to place the case personally before those with whom rests the final authority.

To show how widely different the feeling of Father Burke and some of the Mexican prelates is, I am enclosing a translation of a memorandum which came to me through Mr. Amor.[47] The author of the memorandum was Bishop Mora. Mr. Amor called on me the other day to talk about his San Gabriel property. During the course of the talk he referred to the Church question and said that I ought to talk with Bishop Mora, that he understood the situation better than anybody else. I told him that I should consider it improper to discuss the Church matter with Bishop Mora, that the matter was one which the State and the Church should settle between themselves, and that there was nothing the United States Government could do in the matter; that I, as a person, was entirely sympathetic with both sides and regretted that they could not get together, but that if men like Bishop Mora would assist the efforts of Archbishop Ruiz instead of trying to impede them, it might be possible that the Church and the State could work out some *modus vivendi.* A day or two later Mr. Amor called and left with Mr. Alan Winslow [48] a memorandum in Spanish, of which the enclosed is a translation.[47]

I am also enclosing you a translation of an anonymous document purporting to be the June Bulletin of the "National League for the Defense of Religious Liberty".[47] Similar bulletins are issued from time to time anonymously. It is probable that bulletins of this type, which actually take credit for the derailing of trains, are put out by the most irresponsible type of person. The Government, of course, is able to obtain copies of all these documents, and naturally associates this "League" with the "Federation for the Defense of Religious Liberty" which is referred to in terms of approbation in the Encyclical of November 18, 1926. While the "League" may, and in all probability has, no connection whatever with the Church, this confusion in names does, however, add to that distrust of church authorities inside and outside of Mexico which people in the Government undoubtedly have.

---

[47] Not printed.
[48] First secretary of the Embassy in Mexico.

In considering the situation at the present moment I must revert to my letter of March 16, 1928, in which I wrote:

"In stating that I am satisfied that such a letter can be secured from the President, I am assuming that the conditions will not substantially change before the effort is formally made to get President Calles to give such assurance. Mr. Lagarde [49] is in my opinion correct in stating that 'all of the conditions at this moment are favorable, and that delay may spell loss of an opportunity which may not soon come again'. It must not be forgotten that actual military operations are now going on in the field and that they are believed by the Government to be incited, financed and led by the Church. Something may happen any day which would make it impossible for one party or the other to act".

You will note that the foregoing is a quotation from my letter of March 16th. March 16th is now more than four months away. The letter that President Calles signed and delivered to Father Burke is dated April 4th. April 4th is now more than three months away. The visit of Archbishop Ruiz here was on May 17th. Before he went to Rome he left a letter signed in escrow for delivery to President Calles when the proper authority was received. It was almost two months ago that that letter was delivered in escrow. Meanwhile, however, something has happened. President-elect Obregon has been assassinated. At the present time it would be very difficult, if not impossible, for President Calles to go ahead with the adjustment as arranged between Father Burke and himself, even if the Church were now ready to go ahead. A member of the Catholic Church in Mexico with whom I talked yesterday—a person who has been earnestly desirous of an adjustment—told me that in his opinion no Government could make any adjustment of the controversy at the present time without falling from power; that he thought the killing of Obregon put off any adjustment for at least a year. He deplored this fact greatly and stated that he thought those Catholics were very unwise who had thought that it were better to postpone an adjustment until General Obregon came in. He stated that he had always felt that President Calles would be able to make an adjustment more favorable to the Church than any successor of his would in the near future be able to make. He further stated that the authorities in Rome had constantly been deceived as to the strength of the feeling against the Church in Mexico.

I do not concur in the foregoing statement so far as it means that an adjustment must be postponed for a year. I do concur, however, that it is absolutely futile to discuss the question at the moment.

Of course the assassination of General Obregon throws a very

[49] M. Ernest Lagarde, secretary of French Legation in Mexico, transferred to French Foreign Office.

heavy burden upon President Calles. I am satisfied that he does not, himself, want to continue in the presidency longer. If he goes out, who is to take his place? It is too early to say what the outcome will be. I have seen him but once since the assassination, and then only for a few moments. I regret the form of some statements that have been issued here and in Rome. It is, of course, not easy for either side to see the point of view of the other, or even to believe in the sincerity of the other. The remarkable thing to me about Father Burke's two visits was that he had succeeded in presenting a point of view of the Church which President Calles had not theretofore known, and he had also succeeded in getting a point of view of the Government which I am sure he could have made clear to the high authorities of the Church if he had had an opportunity to do so. But all this discussion is inopportune for the moment. Some of the work that Father Burke has done may have to be done over again. How soon we can begin to do it over again, we do not know.

One of the tragic things about the present situation is that Father Burke came down to Mexico to prove to President Calles that it was desirable that President Calles deal directly with Rome because Rome would be wiser and more conciliatory than the Mexican hierarchy. I think he did succeed in convincing President Calles of that fact. Unfortunately, however, we were not able to find out whether Rome really desired to make the kind of an adjustment with the Calles administration which Calles was willing and able to make. Before Father Burke proceeds further along the line of the existing adjustment, I think it is only fair that he should know what the position of Rome actually is upon this question. President Calles is likely to be much more interested during the next few weeks in the vital problem presented to Mexico by the death of Obregon. Important as an adjustment of the religious controversy is to the future of Mexico, it is a minor problem here during the next few weeks. The problem of the succession is the vital problem.

I hope this letter will not seem too pessimistic. Political changes come quickly in Mexico. It is possible that the time may come sooner than we expect when the religious question can be taken up again. If that time should come it is imperative that those who seek an adjustment on behalf of the Church should know just what the ultimate authorities of the Church are ready to do. I feel that I have already pressed President Calles to a point which is perhaps beyond that to which his own judgment would lead him. I cannot afford to press him any further unless there is some reason for thinking that we are working to a practical end that the authorities of the Church really desire.

Sincerely yours,

DWIGHT W. MORROW

812.404/939 : Telegram

The Ambassador in Mexico (Morrow) to the Secretary of State

[Paraphrase]

MEXICO, *November 23, 1928—5 p. m.*

[Received 10:10 p. m.]

307. . . . Yesterday afternoon I had a long conference with President Calles at which we discussed the clerical issue.

I told President Calles that Archbishop Ruiz had now returned to Washington and had had a conference with Father Burke, that Father Burke was hopeful of bringing about a return of the clergy along the lines already discussed in the interchange of letters provided that some assurance could be given by President Calles and President-elect Portes Gil that discussions might later take place with regard to changes in the Constitution and laws. I asked President Calles whether he thought it would not be advisable for Father Burke, accompanied by such person or persons he desired, to come again to Mexico to discuss the matter fully with him before he went out of office.

President Calles replied that he thought it was inadvisable to take the matter up in the few days he would remain in office because it would hardly be possible for him to give at this time any further assurances than he had already given in the letters he had exchanged with Father Burke. The President stated, moreover, that in the present state of the public mind, particularly of many members of the Chamber of Deputies, it would be very difficult for Portes Gil to do anything to carry out any arrangement at the outset of his term.

I then asked President Calles whether he did not think it would be wise for Father Burke to come to Mexico in a month or two with such persons whom he might select to discuss the matter with Portes Gil or himself, or both, along the lines suggested above. President Calles answered that he thought there might be an advantage in Father Burke coming at such a time, but that would be a matter which Portes Gil would have to take the responsibility of deciding.

. . . During the discussion of the clerical issue President Calles spoke with calmness and with regret about the recent occurrences in connection with the trial of Toral.[50] The President also spoke in the highest terms of Father Burke and the efforts which he had made and was making.

I expect to be in Washington by December 9, at which time I can discuss the matter fully with all the interested parties.

MORROW

[50] José León Toral, implicated in the assassination of General Obregon.

REPRESENTATIONS TO THE MEXICAN GOVERNMENT REGARDING PROTECTION OF AMERICAN INTERESTS AT MANZANILLO FROM ATTACKS BY REVOLUTIONISTS

812.00 Colima/5 : Telegram

The Vice Consul at Manzanillo (Mall) to the Secretary of State

MANZANILLO, *May 25, 1928—10 p. m.*
[Received May 27—7 : 33 a. m.]

Three hundred and fifty revolutionists attacked Manzanillo yesterday morning, 7 o'clock. They actually entered and took possession of Manzanillo at 4 o'clock, afternoon. Three hundred and fifty Federal troops under command of Charis, Chief of Military Operations, accompanied by Governor of the State, arrived here a little after 4 and a heated battle took place, 12 hours' actual fighting. Revolutionists were repelled. Casualties not yet known. Consulate and staff and all Americans safe. Report by mail. Embassy informed.

MALL

812.00 Colima/8 : Telegram

The Vice Consul at Manzanillo (Mall) to the Secretary of State

MANZANILLO, *June 11, 1928—noon.*
[Received June 12—11 : 30 a. m.]

The following telegram has been sent the Embassy:

"June 11, 11 a. m. There are strong and persistent rumors that the revolutionists will again attack Manzanillo. Conversations had with reliable and well informed business men confirm the report. The revolutionists, according to my informants, will burn and destroy Manzanillo, having mentioned especially the plant of the Standard Oil Company. It is generally believed that the garrison established here is not sufficient to give absolute guaranty and protection. Please see Wilkinson of the Standard Oil Company at Edificio Cidosa. Would suggest that this be brought to the attention of Foreign Office. Please wire action taken. Department has been informed."

MALL

812.00 Colima/9 : Telegram

The Acting Secretary of State to the Chargé in Mexico (Schoenfeld)

WASHINGTON, *June 12, 1928—4 p. m.*

147. Reference telegram June 11, noon, from Consulate at Manzanillo, regarding revolutionary disturbances. Department assumes you will make suitable representations.

OLDS

812.00 Colima/18

The Chargé in Mexico (Schoenfeld) to the Secretary of State

No. 704 MEXICO, *June 21, 1928.*
[Received June 28.]

SIR: I have the honor to refer to the Department's telegram No. 147 of June 12, 1928, 4 p. m., relating to reported revolutionary disturbances at Manzanillo and requesting in substance that suitable representations be made to the end that American interests in that City be adequately protected.

Following the receipt of a copy of a telegram from the American Consul at Manzanillo dated June 11, 1928, 11 a. m.,[51] the Embassy addressed an urgent communication to the Foreign Office dated June 11, 1928, embodying the observations of the Consul as well as the observations of a representative of the California Standard Oil Company of Mexico, which Company owns a plant at Manzanillo representing $1,500,000.00 U. S. Currency. A copy of this communication is enclosed,[52] from which it will also be noted that the Foreign Office was also requested to take such steps as might be possible to protect the interests of the California Standard Oil Company at Manzanillo, as well as other American interests in that City. In reply to this communication, the Embassy is now in receipt of a letter from Mr. Sierra,[53] dated June 18, stating in substance that the Federal military authorities concerned had been advised telegraphically of the information contained in the Embassy's communication, to the end that adequate protection might be afforded the American interests in question.

I have [etc.] H. F. ARTHUR SCHOENFELD

DESIGNATION OF THE THIRD MEMBER OF THE GENERAL AND SPECIAL CLAIMS COMMISSIONS BY THE PRESIDENT OF THE ADMINISTRATIVE COUNCIL OF THE HAGUE TRIBUNAL

411.12P/402

Memorandum by the Under Secretary of State of a Conversation With the Mexican Ambassador (Téllez), April 10, 1928

The Mexican Ambassador came in at his own suggestion and stated that he had come on an unpleasant errand. He said his Government had just advised him that it had been unable to approve any one of the three names suggested by us to fill the vacancies of President of the Claims Commissions. He went on to say that

[51] See telegram June 11, 1928, noon, from the vice consul at Manzanillo to the Secretary of State, p. 336.
[52] Not printed.
[53] Chief of the Diplomatic Department, Mexican Ministry for Foreign Affairs.

his Government had great difficulty in getting any satisfactory information about these men. He gave me the impression that the results were simply negative. They could not find that the individuals in question were known as international lawyers, or as having any special qualifications for the work. He mentioned the fact that inquiry of the International Law Institute at The Hague elicited the response that these parties were unknown. I expressed considerable surprise at this result, and we discussed the possibility of going further with the investigation. I asked him whether it would do any good if we ascertained the sources of the information which had been passed on to us by our Ministers in Vienna and Budapest. The Ambassador said he did not know whether that would make any difference or not, but that he would be glad to transmit to his Government any further suggestions we had to make. He intimated that perhaps it would be best to leave the selection to the appropriate official at The Hague and I said that while this seemed to be a leap in the dark, it would look as if that might be the only course left open to us. He said he did not think his Government had any further suggestions to make. I finally told the Ambassador that we would reconsider the situation and communicate with him further.

R[OBERT] E. O[LDS]

411.12P/407a : Telegram

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

[Paraphrase]

WASHINGTON, *April 23, 1928—9 p. m.*

13. Department's telegram No. 3, dated January 18, 6 p. m.[55] Inasmuch as the United States and Mexico have failed to agree upon the person to be appointed Presiding Commissioner of the General and Special Claims Commissions, United States and Mexico, it is necessary to resort to the alternative procedure as provided in the two claims conventions. The Department instructs you, therefore, to confer immediately with the Mexican representative in the Netherlands, and, in concert with him and in the name of the Government of the United States, to request the President of the Permanent Administrative Council of the Hague Tribunal described in article 49 of the convention for the pacific settlement of international disputes, concluded at The Hague, October 18, 1907,[56] to designate the third member of the General and Special Claims Commissions, which were constituted pursuant to the two claims conventions be-

[55] Not printed.
[56] *Foreign Relations*, 1907, pt. 2, pp. 1181, 1191.

tween the United States and Mexico signed September 8, 1923, and September 10, 1923.[57]

The United States and Mexico have agreed that the same person shall serve as the third member of each of the two Commissions. You should make this fact clear to the President of the Permanent Administrative Council.

You may find the following information of assistance in discussing the matter: Hearings before the two Commissions will be held in Washington and Mexico and will probably occupy the greater part of each year of the Commission's duration. Transportation expenses to and from his home will be allowed the Commissioner, and in addition he will receive a suitable annual honorarium, which in the case of each of the former incumbents was $15,000. In view of the combination of the two positions the United States would be willing to increase that figure materially. There is no reason to believe that Mexico would object to such an increase. In addition, the Commissioner will be entitled to a per diem allowance of $15 in lieu of subsistence during his absence from his home on business of the Commission. The United States would be pleased to have the new Commissioner assume office this spring since it is desirable that the work of the Commission be resumed as promptly as possible.

Please telegraph the Department regarding any action taken by you pursuant to this instruction, and, as soon as the President of the Permanent Administrative Council shall have designated a person, telegraph his name, together with a biographical sketch suitable for release to the press. The announcement of the person designated should be made by the two interested Governments, rather than at The Hague.

It is the understanding of the Department that the Government of Mexico has cabled, or will cable, appropriate instructions in the premises to your Mexican colleague.

KELLOGG

411.12P/408 : Telegram

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

[Paraphrase]

THE HAGUE, *April 26, 1928—11 a. m.*

[Received April 26—7:52 a. m.]

17. Department's 13, April 23, 9 p. m. Foreign Minister[58] has accepted.

TOBIN

---

[57] *Ibid.*, 1923, vol. II, pp. 555 and 560.

[58] The Netherlands Minister for Foreign Affairs acts as President of the Permanent Administrative Council. See art. XLIX of the convention of October 18, 1907, *ibid.*, 1907, pt. 2, p. 1191.

411.12P/417 : Telegram

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

THE HAGUE, *June 16, 1928—11 a. m.*

[Received June 16—9:55 a. m.]

31. Department's [*Legation's*] 27, June 11, 4 p. m.[59] Minister of Foreign Affairs notified me today he has designated as President General, Special Claims Commission, S. K. Sindballe, Danish subject, professor, University of Copenhagen, vice president of Danish Association for International Maritime Law, vice president of International Law Association, president of the Administrative Council of the Handels Bank and commissioner for Spitzbergen since 1925.

He was formally [*formerly?*] Minister of Justice, Danish representative at Conferences on Maritime Law at Brussels 1922 and 19[26].

TOBIN

411.12P/417 : Telegram

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

WASHINGTON, *June 16, 1928—2 p. m.*

27. Your 31, June 16, 11 a. m. On behalf of this Government please express to Minister of Foreign Affairs appropriate appreciation of action taken.

KELLOGG

---

[59] Not printed.

MOROCCO

RESERVATION OF RIGHTS BY THE UNITED STATES IN THE APPLICATION OF TAXES TO AMERICAN CITIZENS AND PROTÉGÉS IN THE FRENCH ZONE IN MOROCCO

881.512/55

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

No. 255 TANGIER, *January 18, 1928.*
[Received February 9.]

SIR: I have the honor to transmit to the Department herewith, copy, in the French text and in English translation, of a Telegram dated January 10th, 1928, which I have received from the Resident-General of France at Rabat, informing me that, on account of the disasters occasioned by recent floods in the province of the Gharb, the consumption tax on sugar has been increased by 10 Francs per metric quintal, to be effective on the following day. I also attach hereto a copy of my reply to Mr. Steeg's Telegram.

Notwithstanding the laudable purpose to which it is intended apparently to apply the increased taxation, the precipitancy of this fiscal measure is equally open to the objections signalized in my No. 250 of December 26th, 1927,[1] in connection with the over night increases on alcohol.

The Department will note therefore that in my reply to Mr. Steeg, I have made specific allusion to the illegal nature of the levy of the increased consumption tax upon American citizens and protégés, effected prior to the notification of the Department's assent thereto, and I have formulated appropriate reservations in this connection.

The Department will also observe that I have drawn the attention of the Resident-General to the fact that his Telegram contained no formal solicitation for the American Government's acquiescence in the measure, but that I was transmitting such request on the assumption that the omission was involuntary.

The object of this reference was to dispel a conception which has appeared recently, to emphasize itself in the minds of the Residency-General and of the French functionaries of the Protectorate, that

[1] Not printed.

the provisions of the treaties with Morocco, under which the United States is empowered to sanction or to veto the application of new fiscal measures to American citizens and protégés, has become but a shadowy right, which can be sufficiently conciliated by the mere notification, to the American Representative, of the enforcement of such decrees.

The average annual tonnage of sugar imported into the French Zone is approximately 250,000 metric tons. The additional ten Francs per metric quintal therefore will constitute a revenue of about 25,000,000 Francs.

There has yet appeared no indication of the importance of the sums which will be required for the relief of the victims of the floods, and the repair of general damage, nor is there any suggestion as to a limit of time during which this additional tax will be levied for the special purpose.

However, providing the additional taxation is to be applied universally and indiscriminately to all nationals, I perceive no reason for withholding its application to American citizens and protégés.

I respectfully request the Department's instructions as to the Note which it desires I should address to the Resident-General of France on this subject.

I have [etc.] MAXWELL BLAKE

[Enclosure 1—Telegram—Translation]

The French Resident General in Morocco (Steeg) to the American Diplomatic Agent and Consul General at Tangier (Blake)

RABAT, *January 10, 1928.*

I have the honor to inform you that on account of the disasters occasioned by the recent floods in the Gharb, it has been necessary to increase the consumption tax on sugar by ten Francs per quintal from the eleventh of January.

Sentiments of my high consideration.

[File copy not signed]

[Enclosure 2]

The American Diplomatic Agent and Consul General at Tangier (Blake) to the French Resident General in Morocco (Steeg)

TANGIER, *January 18, 1928.*

MR. RESIDENT GENERAL: I have the honor to acknowledge the receipt of Your Excellency's Telegram, dated January 10th, 1928, informing me that, owing to the disasters occasioned by the recent floods in the Gharb, the consumption tax on sugar has been increased by 10 Francs per metric quintal, as from the date of January 11th, 1928.

Although the above Telegram contains no specific mention to such effect, I naturally presume that this communication is made to me

for the purpose of soliciting, on behalf of the Residency-General, my Government's consent to the application of this increased rate of taxation to American citizens and protégés in the French Zone.

I have accordingly laid the matter before my Government for its consideration, and shall not fail to notify Your Excellency of its decision, immediately upon receipt of my instructions, in the premises.

Your Excellency is aware that, until the Shereefian Government has been notified of the assent of the United States Government to the fiscal measure in question, the levy of the additional amount of taxation on American citizens and protégés, will be illegal, and I am therefore compelled to formulate full reservations in respect of claims which may, in this connection, be made by American *ressortissants* in the Zone of the French Protectorate.

Please accept [etc.] MAXWELL BLAKE

881.512/55

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)

No. 461 WASHINGTON, *February 20, 1928.*

SIR: The Department acknowledges the receipt of your despatch No. 255 of January 18, 1928, with respect to the increase of the sugar consumption tax in the flood zone owing to flood disasters in the Province of the Gharb.

The Department notes with some apprehension the repeated oversight, through carelessness or otherwise, on the part of the French Residency-General in not asking for the consent of this Government to the levying of taxes upon American nationals and *ressortissants* in the French zone of Morocco before giving notice to you that the tax will be effective on the next succeeding day.

You may state to the French Residency-General that the American treaty rights in Morocco exempt American nationals and *ressortissants* from taxation, except such as has been agreed upon in the applicable treaties or to which this Government has been asked to consent and to which it has assented, and that no new tax may be collected by the Moroccan authorities from American nationals or *ressortissants* until the consent of this Government has been formally notified to the French Residency-General. You may further state that this Government would not be the less willing to consent to the application of reasonable taxes in the event that the consent of this Government was asked a reasonable time before the promulgation of the dahirs providing for new taxes.

In the present instance, this Government has no objection to the proper authorities in the French zone collecting the increased sugar

consumption tax from American nationals and *ressortissants*, provided that the tax is applied universally and without discrimination to all persons in the French zone of Morocco, from the date on which the assent of this Government is notified to the French Residency-General, it being understood that the jurisdiction of the American Consular Court over American nationals and *ressortissants* who may be involved in infractions of this new tax law shall remain unimpaired.

I am [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.

NEGOTIATIONS CONCERNING CLAIMS AND PROPOSED RECOGNITION BY THE UNITED STATES OF THE SPANISH ZONE IN MOROCCO[2]

452.11/198

The Secretary of State to the Spanish Ambassador (Padilla)

WASHINGTON, *January 4, 1928.*

EXCELLENCY: I have the honor to refer to my note to you of November 7, 1927,[3] with further reference to the official recognition on the part of this Government of the Spanish Protectorate in that part of Morocco commonly known as the Spanish Zone, and I take pleasure in enclosing for your information a list of the American nationals or *ressortissants* who have suffered losses in the Spanish Zone of Morocco attributable to the action or failure to act on the part of the Spanish authorities.

It should be noted that the detailed information of the claims, together with all the evidence with respect thereto, is in the files of the American Diplomatic Agency at Tangier and it is therefore impossible for me to give more than a list of names and where possible, the amount of the claim and a bare outline of the circumstances out of which the claim arose.

While the list of claims hereto annexed includes all of those which have been found in the records of the Diplomatic Agency at Tangiers, it is possible that some claims, of lesser importance perhaps, may have been overlooked owing to the various changes in the incumbency and personnel of that office during recent years and these may be brought to light at a later date. It is, therefore, suggested that the delegates of the two Governments should be authorized to consider and pass upon any small legitimate claims omitted from the present list as a result of oversight or such other claims as may have arisen in the interval. If it were deemed necessary by either of these delegates any particular claim so introduced in addition to those appear-

[2] Continued from *Foreign Relations*, 1927, vol. III, pp. 272–274.
[3] *Ibid.*, p. 273.

ing in the present résumé could be previously submitted to their respective Governments for consideration.

I may add that I am confident that in view of the relatively small amount involved and the relatively few claims to be considered, an adjustment satisfactory to both of our Governments may be readily arranged.

Accept [etc.] FRANK B. KELLOGG

[Enclosure]

LIST OF CLAIMS

Name	*Amount*	*Nature of claim*
David S. Bergel;	40,000 pesetas (Sp.);	Detention for several months of motor vehicles by military and judicial authorities at Ain Djedite.
Joseph Simeon Cohen;[3a]	Actual taxes paid;	Taxes on alcohol and beverages imported into Larache; taxes not consented to by American Government.
Rahamim Mouyal;	Actual taxes paid;	Taxes on alcohol and alcoholic beverages, gate tax and consumption taxes; taxes not consented to by American government.
Drees El-Kittany;	Undetermined	Taking of 2,000 acres of land by Spanish Government.
Thamy Slawee;	Undetermined	Destruction of orchard.
Thamy Slawee;	Undetermined	Violation of domicile and taking of fire arms, which, in his case, were not returned as they were returned in cases involving French protégés.
Thamy Slawee;	Undetermined	Theft of fifteen head of cattle from farm "M'risa".
El-Hasson Ben Hamed Raisuly;	Apparently undetermined.	For ill-treatment; kidnapping and imprisonment suffered at the hands of his relative, the Brigand Raisuly, who was at that time Administrative and Military Collaborator of the Spanish Residency-General.
El-Hasson Ben Hamed Raisuly;	Undetermined	Ravaging of certain farms and property. Several other claims of lesser importance.
Hamed Oknin;	Undetermined	Damage to property effected by the Spanish.

[3a] This is evidently the firm of Simeon & Joseph Cohen of Larache.

Name	*Amount*	*Nature of claim*
Hamed Oknin;	2,630 pesetas hassani;	Assault of his caravan and robbery of goods near military camp of R'gaia, witnessed by Spanish soldiers from their camp without action on their part.
Singer Sewing Machine Company	6,422.59 pesetas (Sp)	Loss of sewing machines through looting, leased to various persons.

Other small claims either overlooked or arising later as referred to in the accompanying note.

452.11/201

The Spanish Ambassador (Padilla) to the Secretary of State

[Translation]

No. 75–11 WASHINGTON, *February 11, 1928.*

MR. SECRETARY: Referring to Your Excellency's kind note dated November 7 last[4] relative to the recognition on the part of the Government of the United States of North America of the Spanish protectorate zone in Morocco and remembering the statements made therein it behooves me to say to Your Excellency that the Government of His Majesty has sent to its Consul General at Tangier the proper instructions for him to come to an agreement with the Diplomatic Agent and Consul General of the United States there in order to arrive at an early and full settlement of the claims of North American subjects, originating in the Protectorate zone which are still awaiting decision. This favorable inclination of the Government of His Majesty wholly meets the wishes expressed by that of the United States of which Your Excellency is so worthy a part and therefore it is to be hoped that the action entrusted to the representatives of both high parties in Tangiers will bring about the desired solution.

I avail myself [etc.] ALEJANDRO PADILLA

452.11/198

The Secretary of State to the Spanish Ambassador (Padilla)

WASHINGTON, *February 25, 1928.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of February 11 in which you inform me that His Majesty's Government has sent instructions to the Spanish Consul General at Tangier authorizing him to collaborate with the American Diplomatic Agent and Consul General at Tangier in examining and reporting on the outstanding claims of American citizens and proteges in cases arising in connection with the so-called Spanish zone of Morocco.

[4] *Foreign Relations*, 1927, vol. III, p. 273.

I have accordingly telegraphed instructions to the American Diplomatic Agent and Consul General at Tangier [5] giving him full powers to proceed in conjunction with the Spanish Consul General at Tangier to examine the claims in question and to prepare a joint report of findings and recommendations for submission to the two Governments.

When this joint report has been received and considered by this Government I shall be glad to discuss with you further the question raised in your Embassy's note of July 26, 1927,[6] regarding official recognition on the part of this Government of the Spanish protectorate in that part of Morocco commonly known as the Spanish zone.

Accept [etc.] FRANK B. KELLOGG

452.11/198 : Telegram

The Secretary of State to the Diplomatic Agent and Consul General at Tangier (Blake)

WASHINGTON, *February 25, 1928—4 p. m.*

3. Department's 9, November 7, 2 p. m.[7]

(1) The Spanish Ambassador has notified the Department that the Spanish Consul General at Tangier has been instructed to act with you in passing on American claims in the Spanish Zone. If, as would appear, your Spanish colleague has been given full powers in the matter, you should inform him that you are invested with similar full powers and you should proceed to collaborate with him in examining the claims and in preparing a joint report of findings and recommendations for submission to the two Governments. The terms of reference will include the specific claims reported by you in your despatch 256, November 27 [*22*], 1921, your telegram of August 18, 1926, your despatch 238, November 15, 1927, and also minor claims of the sort described in paragraphs 8 and 12 of your despatch 238, November 15, 1927.[8]

(2) As you point out the claims referred to in paragraphs 10 and 11 of your despatch 238, November 15, 1927, fall in a separate category involving as they do a question of principle and are not subject to compromise. After verification of facts and specific amounts, with the collaboration of your Spanish colleague should such a course seem desirable, you should bring them formally to his attention and should point out that claims of this class will continue to accrue and will continue to be presented to his Government until the specific assent of this Government to the application to American citizens and proteges of the taxes in question shall have been asked

---

[5] *Infra.*

[6] *Foreign Relations*, 1927, vol. III, p. 272.

[7] *Ibid.*, p. 274.

[8] Despatches No. 238 and No. 256 not printed. For telegram of August 18, 1926, see *ibid.*, 1926, vol. II, p. 729. A list of the claims in question is printed on p. 345.

for and formally notified to his Government through the diplomatic channel on condition that the taxes are applied equally to citizens and proteges of all nations. In giving such assent this Government will, of course, reserve its consular jurisdiction over American citizens and *ressortissants* who may be charged with infractions of the tax laws.

(3) You should instruct Casablanca to have El Khazen[9] proceed with the desired investigation. His travel expenses and a per diem of seven dollars in lieu of subsistence are authorized subject to the limitations of the travel regulations. Include in accounts Tangier, chargeable to contingent appropriation.

(4) [Paraphrase.] In view of telegram No. 29 of February 21 from Madrid to the Department,[10] it would seem desirable from the American point of view and from the Spanish point of view as well that a satisfactory settlement of these claims should be expedited. [End paraphrase.]

KELLOGG

452.11/202 : Telegram

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

TANGIER, *June 16, 1928—10 a. m.*

[Received June 16—6:36 a. m.]

5. Department's 8, June 14, 6 p. m.[11] The initial examination of claims has been concluded by delegated interpreters who have reached agreement *ad referendum* on all points. Barring unforeseen difficulties ratification by my Spanish colleague and myself ought to be signed within two weeks.

An extremely important project for the execution of public works in the Spanish zone is pending, as reported in Madrid Embassy's weekly report number 909 of May 21st last.[11] Although recognition of the Spanish zone in no circumstances should take place before the actual settlement of claims, no effort should be lost to expedite this conclusion since the establishment of normal relations will greatly facilitate possibilities for American participation in projected public work contracts in the Spanish zone. Ambassador Hammond has expressed to me the opinion that if he is in possession of all facts and findings in connection with our claims, he may be able to expedite final settlement by direct contact with Primo de Rivera without whose decision delay may be indefinite. I suggest it would be advantageous for the Department to instruct me to proceed to Madrid as soon as a joint report of the claims has been signed by my Spanish

[9] Michael A. El Khazen, interpreter at the American consulate at Casablanca

[10] *Post*, p. 367.

[11] Not printed.

colleague and myself for the purpose of supplying the Ambassador with all necessary information and elucidation of the claims in order that he may be adequately supported in his representations to the Spanish Prime Minister. This would not entail an absence from Tangier on my part of more than week or ten days.

BLAKE

452.11/202 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, *June 22, 1928—11 a. m.*

45. Blake cabled from Tangier June 16 to say that the Joint Report on American claims in the Spanish Sphere of Influence in Morocco would presumably be signed within two weeks. The Department understands that there has already been correspondence between you and Blake on this subject and it has instructed him to forward to you copies of all pertinent papers and a copy of the Joint Report as soon as it has been signed. He has also been instructed to arrange with you a suitable time after July 1 for him to proceed to Madrid to consult with you in connection with the discussions which the Department desires you to initiate with the Spanish Government for the purpose of ascertaining whether it is prepared to settle the claims in question on the basis of the Joint Report. You should, of course, inform the Department by telegraph of the outcome of your conversations on the subject with the Spanish Government with appropriate comments and recommendations.

KELLOGG

452.11/208

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

No. 311 TANGIER, *July 12, 1928.*

[Received July 30.]

SIR: Referring to the Instructions set forth in the Department's Telegram No. 3 of February 25th, 1928, 4 p. m., I have the honor to transmit herewith the findings and recommendations of myself and of my Spanish Colleague here, looking to the adjustment of all outstanding American claims in the Spanish Zone, as a necessary preliminary to the recognition thereof by the Government of the United States.

In pursuance of the above Instructions, negotiations for the examination of the claims were initiated by me on February 27th, 1928, the following communication having been addressed to my Spanish Colleague on that date:—

"I have the honor to inform you that my Government has informed me that the Spanish Ambassador in Washington has notified the

Secretary of State that you have been instructed to act with me in passing on American claims which have arisen in the Spanish Zone since the date of its military occupation. My Government has given me full powers in the matter and I have been authorized to proceed to collaborate with you in examining the claims and in preparing a joint report of findings and recommendations for submission to the two Governments, as a preliminary to the formal recognition by the American Government of the Spanish Zone in Morocco.

I would greatly appreciate your informing me, at your early convenience, whether you have received instructions in the same sense from your Government and whether you have been invested with powers similar to my own; and, if such be the case I shall be pleased to arrange with you an early meeting for the purpose of discussing plans and details in connection with our projected investigations."

On the 7th and 9th days of March my Spanish Colleague replied to the above, by Notes which read in translation, as follows:—

"March 7th, 1928.

I have the honor to acknowledge the receipt of your kind Note of February 27th last, informing me that you have full powers from your Government to examine with me all American claims which have arisen in the Spanish Zone since the military occupation thereof, and to prepare also with me, a joint report for submission to our Governments, as a preliminary step towards the recognition of the Spanish Zone by the American Government.

I have inquired of His Majesty's Government if the powers which I received from it to treat with you on this matter are as ample as those conferred upon yourself and as soon as I receive a reply I shall hasten to communicate it to you, and I shall then have much pleasure in holding myself at your disposal to arrange the interview at which we shall commence our consideration of the plans and details connected with the mission which has been confided to us."

"March 9th, 1928.

Further to my Note of the day before yesterday, I have pleasure in informing you that, replying to my inquiry, the Government of His Majesty, tells me that my powers to consider with you the American claims which have arisen in the Spanish Zone, are as ample as those which have been conferred upon yourself. I am therefore at any time from now on at your disposal to begin the examination of the claims in question."

On April 3rd, following an informal meeting with him I addressed a further communication to my Spanish Colleague as below:—

"I have the honor to confirm, hereby, the arrangements which we have arrived at to-day in our conversation with regard to the procedure to be followed in the examination and settlement of American claims in the Spanish Zone, and I have designated Mr. Michael A. El-Khazen, Interpreter of the American Consulate at Casablanca, as my subordinate coadjutor for the preliminary examination of the claims and the Arabic documents in connection therewith.

I would greatly appreciate a confirmation on your part of this understanding of our verbal agreement, and an official notification of the designation of the person selected by you to cooperate with Mr. El-Khazen.

Mr. El-Khazen arrived in Tangier yesterday for the purpose of carrying out this work and is now at the disposition of the Spanish subordinate delegate.

It is naturally understood that any agreement reached between our respective subordinate delegates will be subject to our confirmation while any disagreement between them will be referred to us for adjustment."

On April 4th, Señor Pla confirmed our verbal agreement by a communication reading in translation as follows:—

"I have the pleasure to acknowledge the receipt of your kind Note of yesterday confirming the agreement which we reached on that date, for the examination and settlement of American claims in the Spanish Zone of Morocco, and by which you inform me that you have designated Mr. Michael A. El-Khazen, Interpreter of the American Consulate at Casablanca, to examine on your behalf the said claims and the Arabic documents connected therewith.

On my part, I have also the pleasure to confirm by this Note the aforementioned agreement and to inform you that I have designated Don Manuel Cortés, First Interpreter of this Consulate-General to examine the said claims on my behalf.

It is of course understood that all agreements arrived at by our respective representatives, shall be submitted for our confirmation, and all claims upon which they have been unable to agree shall be submitted to our special examination."

On receipt of the foregoing Note, Mr. Michael A. El-Khazen, Interpreter at the Casablanca Consulate, after a preliminary discussion with me, commenced the technical examination of the claims with his Spanish Colleague.

The *pourparlers* between the two subordinate Interpreters were arduous and somewhat prolonged, not only on account of the difficulty of the cases examined but, owing to the constant interruption brought about by the other official activities of Señor Cortés, and also by the necessity for the Interpreters to visit various localities at the Spanish Zone for the purpose of estimating damages involved. A condensed statement of the evidence on which the claims were based and the minutes of their various meetings are attached hereto, (Enclosure No. 2),[12] the conclusions of each day's session and the minutes thereof having been signed by the examiners. I pause at this juncture to record my satisfaction at the able manner in which the intricate claims were unravelled and analysed by Mr. El-Khazen whose penetration and experience combined so highly qualify him for negotiations relating to native affairs. I also had tangible evidence of the single minded integrity and fairness of temper displayed by my Spanish Colleague

[12] Not printed.

in the course of the negotiations, which at no time were ever characterized by any spirit of cavil.

I venture to assume that the nature of the Enclosures will dispense with any necessity to enter here into further analysis of the various claims passed upon. I would however draw the Department's attention to one claim, namely, that of Driss El-Kittany, marked No. 1 in the Dossier. [13]

This case under normal conditions should have caused no difficulty whatever, calling perhaps but for a small indemnity, had the Spanish Government elected to restitute the property of which it had illegally deprived this American protégé in the year 1913. It appears however probable that the Spanish Government, for considerations of internal policy and other reasons of its own, may desire to retain this property for colonial exploitation. With a view to this eventuality the value of the property concerned has been carefully assessed after great difficulties and prolonged investigations. The amount of this claim, if the Spanish Government does not return the property, has been fixed at Spanish Pesetas: 320,000 for the value of the land, plus Spanish Pesetas: 80,000 in respect of an indemnity for 16 years during which the rightful owner was deprived of its use. In résumé therefore it may be stated that the claims themselves amount in reality but to about Spanish Pesetas: 200,000, a sum which was well within the figure of my own personal estimation of the reasonable assessment at which legitimate claims for damages would be fixed.

The Department will note that the joint Report, (Enclosure No. 1), signed by myself and by my Spanish Colleague, embodies a reservation providing for a suspension of payment of three claims in respect of robberies and theft, amounting in the aggregate to Spanish Pesetas: 23,211.60, pending reference of the matter to the two Governments, after recognition by the American Government of the Spanish Zone has taken place, provided all other claims, as ratified by the two Representatives, are settled without question. I will not discuss at this time the responsibility in principle of the Maghzen in regard to claims of private individuals for robbery and theft committed in Morocco, although I am prepared, at the proper time, to submit evidence on this point if required.

In view of the importance, from the American point of view of the early recognition of the Spanish Zone, and considering the extremely favorable settlements otherwise arrived at, I was reluctant to delay, if not to jeopardize, a speedy settlement of the claims by insisting too meticulously, upon the point of the reservation involved, which is, as a matter of fact open to some debate.

From practical points of view also it was not logical further to hold up the settlement of long pending claims, involving considerable

[13] Not printed.

sums of money over the relatively minor difference of a few thousand Pesetas. Furthermore, I had pressed my own arguments with sufficient success to warrant on my part some slight relaxation, in the demands, from the broad stand point of friendly compromise, tending in the direction of expeditious settlement, without prejudice to principles.

. . . . . .

In pursuance of the Instructions contained in the Department's Telegram No. 9 of June 22nd, 1928, 11 a. m.,[14] I have mailed to Ambassador Hammond copies of all pertinent papers, connected with the recognition of the Spanish Zone of Morocco, and I will now furnish him with a copy of this Despatch and accompanying Enclosures.

I have requested Ambassador Hammond to advise me when it will be opportune for me to proceed to Madrid on a visit not exceeding 10 days for the purposes of consultation with him in connection with his discussions with the Spanish Government on the joint report made by my Spanish Colleague and myself, in the event that he should deem my presence useful, and I will depart for Madrid upon receiving his advice.

Before concluding, I wish to state that, in my opinion, it would be advisable, from all points of view, for American recognition of the Spanish Zone, to be effected without any delay following the settlement of the claims. Aside from the favorable impression created by prompt action, in this regard, early recognition would tend to remove the conditions in which further claims might arise, and would normalize our standing in that Zone vis-à-vis the Authorities in regard to the development of American trade and enterprise and participation in contracts for Public Works. It is also my opinion that the immediate appointment of a Consular Officer to reside at Tetuan, is an urgent necessity and should be provided for as soon after recognition, as the exigencies of the Department will permit.

I have [etc.] MAXWELL BLAKE

[Enclosure—Translation]

Joint Report on Settlement of American Claims in the Spanish Zone of Morocco, Signed by the American Diplomatic Agent and Consul General at Tangier (Blake) and by the Spanish Minister Plenipotentiary and Consul General at Tangier (Pla), July 12, 1928

The undersigned, Antonio Pla y da Folgueira, Minister Plenipotentiary of H. C. M., Consul-General of Spain in Tangier and Maxwell Blake, Diplomatic Agent and Consul-General of the United States of America in Tangier, appointed with full powers by their

[14] Not printed.

respective Governments to draw up a joint report upon the legitimacy of the claims of the citizens and protégés of the United States of America, in respect of the damages which they allege were caused to them in the Spanish Zone because of the insurrection, this report to serve for the liquidation of the aforesaid claims by the Governments as a preliminary to the recognition by the United States of America of the aforesaid Zone, charged D. Manuel Cortés, Interpreter of the Consulate-General of Spain and Mr. Michael A. El-Khazen, Interpreter of the Diplomatic Agency of the United States, to examine the said claims, and gave them the necessary instructions to this effect.

Señor Cortés and Mr. El-Khazen held several meetings, the Minutes of which are attached hereto, examined the documents presented by the claimants in support of their rights, and made journeys to Tetuan and to Alcazar, reaching the conclusions recorded in their Minutes, and agreed upon a total sum of 637,295.15 Pesetas as the aggregate amount of the aforementioned claims.

Messrs. Pla and Blake finding that Messrs. Cortés and El-Khazen, had faithfully interpreted their instructions, being inspired by the friendly relations existing between the two countries and in a spirit of equity, which, perhaps rather than strict justice, should preside over negotiations of this character, ratified (made theirs) the conclusions reached by Messrs. Cortés and El-Khazen, and agreed to submit them to their Governments for which purpose they have signed these presents, in quadruplicate, in Tangier on the twelfth day of July One Thousand Nine Hundred and Twenty-Eight.

ANTONIO PLA MAXWELL BLAKE

Señor Pla, however, must make full reservations in respect of the following claims:—

		Pesetas:
Thamy Slawee	Robbery of cattle	11,222.00
	Robbery of a mare	555.55
	Robbery of a horse	277.75
	Robbery of a mule	555.55
Mohamed Oknin	Robbery of animals and goods near R'Gaia	4,188.25
Singer Company	For 14 sewing machines destroyed or stolen at the time of the rebellion of the Eastern Zone	6,412.50

All these as a matter of principle, Señor Pla's understanding being that no Government can be made responsible for damages caused by rebels, and the last, furthermore, on account of the fact that the Singer Company has been able to present no document in support of the existence of the machines, but without the implication of the slightest doubt as to the honorability or veracity of the Company.

ANTONIO PLA

The undersigned, Maxwell Blake, Diplomatic Agent and Consul-General of the United States of America, has given the fullest attention to the considerations opposed by his Spanish Colleague, to items of the above claims in respect of thefts and robberies committed by marauders and other malefactors, on the ground that such grievances do not properly fall within the purview of adjustments, such as the present, between Government and Government.

The American Diplomatic Agent, however, points out that these claims are not made against the Government of His Catholic Majesty, but in effect against the Moorish Government, and that the Powers have invariably and successfully insisted that the scope of the Maghzen's responsibility covered not only such matters as these but even the recovery of credits due to foreign merchants which the latter were unable to collect from native debtors as a result of the disturbed condition of the country.

The settlement of such claims was admitted by the Casablanca Claims Commission of 1908 and by the Arbitral Commission at Tangier which dealt with the foreign claims reimbursed out of the French-Moroccan Loan of 1910.

Consequently, it is evident that the American Representative is unable to discard the right of the American Government in principle to demand satisfaction of the claims in question. On the other hand, he would be extremely reluctant to find that these relatively minor claims should cause a delay in the execution of the complete agreement which has been so happily and successfully reached in the frank and cordial negotiations with his Spanish Colleague, on all other claims.

With a view therefore to the speedy recognition of the Spanish Zone by the American Government, upon the settlement of the awards hereby ratified, the American Diplomatic Agent and Consul-General suggests, if his Spanish Colleague is unable to accept his point of view, that the claims for robbery and theft above referred to, namely:—

		Pesetas:
Thamy Slawee	Robbery of Cattle.	11, 222. 00
	Robbery of a Mare	555. 55
	Robbery of a Horse	277. 75
	Robbery of a Mule	555. 55
Mohamed Oknin	Robbery of Animals and goods near R'Gaia	4, 188. 25
Singer Company	For 14 Sewing Machines destroyed or stolen at the time of the rebellion of the Eastern Zone	6, 412. 50

be submitted for consideration and decision by the two Governments after the American recognition of the Spanish Zone has taken place.

All claims examined by the Interpreters, Don Manuel Cortés and

Mr. Michael A. El-Khazen, represent on their final assessment an aggregate pecuniary value of Spanish Pesetas: 637,295.15 (assuming that the Spanish Administration elects to retain possession of the Kittany property).

If the proposition, above mentioned, is adopted, the sum of Spanish Pesetas: 23,211.60, would be deducted from the total sum, in respect of the claims above enumerated which are subjected to Don Antonio Pla's reservation, leaving a balance of Spanish Pesetas: 614,083.55, to be deposited with the American Diplomatic Agency at Tangier, by the Hispano-Moroccan Government, in respect of the settlement of all other claims which have been unreservedly ratified by both the Spanish and by the American Representatives at Tangier.

MAXWELL BLAKE

[Subenclosure]

SUMMARY OF CLAIMS

		Spanish pesetas:
Dris Quettani.		
1.	For the 16 years during which he was deprived of the usufruct of the farm	80,000.00
	Value of Farm	320,000.00
Tahami Selaui.		
2.	Damages caused in the farm "El-Minzah," 41,550 Pesetas Hassani, or	23,083.35
	For robbery of cattle. Sum demanded: 30,175 Pesetas Hassani. Sum granted: 20,000 Pesetas Hassani, or	11,222.00
	For robbery of a mare. Sum demanded: 1,500 Pesetas Hassani. Sum granted: 1,000 Pesetas Hassani, or	555.55
	For robbery of a horse. Sum demanded: 500 Pesetas Hassani. Sum granted: 500 Pesetas Hassani, or	277.75
	For robbery of a mule. Sum demanded: 1,000 Pesetas Hassani. Sum granted: 1,000 Pesetas Hassani, or	555.55
	For destruction caused to the garden situated at Tarik El-Rad, Alcazar. Sum demanded: 22,500 Pesetas Hassani. Sum granted: 5,000 Pesetas Hassani, or	2,777.75
	For the closing of a Fondack in Alcazar, at 400 Pesetas Hassani, during 9 months. Sum granted: 3,600 Pesetas Hassani, or	2,000.00
Hassan Raisuli.		
3.	For abduction of this Protégé by his cousin the bandit Raisuli. Sum approved by the American Government: $10,000. Sum granted including effects and money stolen: $6,500, which at the rate of 6.01, is equivalent to	39,065.00

	Spanish pesetas:
Hassan Raisuli—Continued.	
For impossibility, during eight years, to be able to enjoy the usufruct of his properties in the Spanish Zone, owing to fear of being recaptured. Sum demanded: 515,165 Pesetas Hassani. Sum granted: 60,000 Pesetas Hassani, or	33, 333. 35
For destruction in some of his properties as a result of the military occupation. Sum demanded: 308,820 Pesetas Hassani. Sum granted: 12,500 Pesetas Hassani, or	6, 944. 45
Singer Company.	
4. For 14 sewing machines destroyed or stolen as a result of the revolt in the Eastern Zone	6, 412. 50
Simeon & Joseph Cohen of Larache.	
5. Restitution of dues paid on a consignment of Gin .	4, 140. 00
Rahamim Muyal.	
6. For damages caused to a garden by the Larache-Alcazar Railroad	10, 000. 00
Restitution of the Gate Taxes	4, 738. 00
Do. " taxes on sugar, tea and coffee . . .	17, 035. 50
Do. " " " candles and beer	5, 992. 75
Jacob Bentolila.	
7. Restitution of the Consumption Tax on articles containing sugar and on alcohol	6, 384. 30
David Bergel.	
8. For detention of Automobiles. Sum demanded: 110,000 Pesetas. Sum granted, in principle . . .	50, 255. 75
Oknin.	
9. For destruction of his properties at Tetuan. Sum demanded: 50,000 Pesetas Hassani. Sum granted: 15,000 Pesetas Hassani, or	8, 333. 35
For robbery committed near (opposite) Regaia. Sum demanded: 13,150 Pesetas Hassani. Sum granted: 7,500 Pesetas Hassani, or	4, 188. 25
TOTAL PESETAS	637, 295. 15.

452.11/210

The Ambassador in Spain (Hammond) to the Secretary of State

No. 985 SAN SEBASTIAN, *August 3, 1928.*

[Received August 20.]

SIR: I have the honor to refer to the Department's telegraphic instruction No. 45, June 22nd/11 a. m., in regard to the joint report on American claims in the Spanish sphere of influence in Morocco.

At the time this telegram was received, the report in question had not been signed by the American and Spanish representatives in

Tangier and I only received Mr. Blake's despatch dated July 13 [*12*], with which was transmitted the findings of the two representatives, on July 16.

The Embassy had been moved to San Sebastian in the early days of July and General Primo de Rivera, when it was necessary to discuss this matter, was, at the time of the receipt of Mr. Blake's despatch, taking part in the opening ceremonies of the new trans-Pyrenean tunnel at Canfranc. I accordingly arranged to see General Primo de Rivera at Santander, where he expected to go about July 22, as the King was in residence there.

Mr. Blake came to Santander and discussed the matter with me before I took it up with General Primo de Rivera, and on July 25 I saw General Primo de Rivera and took the matter up with him.

I told the President that it seemed advisable to settle these relatively small claims which were of long standing and that, in accordance with the instructions which I had received from my Government, recognition of the Spanish Protectorate in Morocco probably would follow promptly a settlement of the claims. General Primo de Rivera knew nothing about the matter and promptly telephoned to the Secretary General of the Foreign Office in Madrid who, from the telephonic conversation which I overheard, seemed to be in complete ignorance of the joint report. This, of course, was not surprising, in view of the fact that Moroccan affairs are handled by a special department presided over by General Jordana.

The President asked the Secretary General to investigate the matter immediately and report to him. When two days later I again saw General Primo de Rivera, he told me that the report in question, which had been signed by the American and Spanish representatives, was now being considered by the Moroccan Department, but that no decision in the matter had been reached. He said that he was leaving Santander shortly and would see me in San Sebastian about the middle of August, when he hoped to have full information and that he would then be able to acquaint me with the point of view of the Spanish Government.

I am forwarding a copy of this despatch to Mr. Blake and shall report to the Department by telegraph if I am able to obtain any more definite information.

I have [etc.]

OGDEN H. HAMMOND

452.11/208 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, *August 9, 1928—1 p. m.*

52. Department's 45, June 22, 11 a. m. 1. Department has received Blake's despatch 311 July 12, which it understands he has discussed

with you in detail. The Department is now awaiting an offer from the Spanish Government to settle the Moroccan claims on the basis of the joint report and you may so intimate to the Spanish Government in such manner as may seem advisable to you.

2. The Department would greatly prefer to have the claims regarding which the Spanish Consul General at Tangier entered reservations included in the settlement and has instructed Blake to furnish you with a comprehensive memorandum citing the reasons and precedents supporting these claims for your possible use in conversations with the Spanish Government.

3. Upon receipt of a Spanish offer you should inform the Department by cable with your comments and recommendations.

KELLOGG

452.11/212

The Diplomatic Agent and Consul General at Tangier (Blake) to the Secretary of State

No. 321 TANGIER, *August 15, 1928.*

[Received September 5.]

SIR: I have the honor to transmit to the Department, annexed hereto, copy of a Memorandum which, in pursuance of the Department's cable Instruction No. 11 of August 9th, 1928, 1 p. m.,[15] I have prepared and despatched, under date of August 15th, 1928, to Ambassador Hammond, dealing fully with the question of the reservations as to certain claims, appended by my Spanish Colleague, to the report drawn up jointly by him and myself on the subject of the general liquidation of outstanding American claims, as a preliminary to the recognition of the Spanish Zone of Morocco by the American Government.

The Memorandum is divided into three sections. The first concerns the possibility of a spontaneous waiver by the Spanish Government of the reservations in question, or the admission of the claims practically without discussion, upon grounds of conciliatory expediency. The second, views the contingency of a controversy of a formal nature on the subject and sets forth a detailed exposition of the arguments and circumstances supporting the admissibility of the claims in question. The third and concluding section—on the supposition that there might be failure to agree—refers to the desirability of an early adjustment of the position between Spain and the United States in Morocco, and reiterates my former suggestion that American recognition of the Spanish Zone of Morocco be made immediately after payment of the undisputed larger claims, and

[15] Instruction not printed.

that the small claims under reservation be left over for further discussion. However, this suggestion is modified by the proposal to relieve both the American and Spanish Governments from further preoccupation with these minor claims, by referring the ultimate disposition thereof unreservedly to the American Diplomatic Agency in Tangier and to the Spanish Residency-General in Tetuan.

In conclusion, it will be of interest for me to signalize to the Department that Great Britain is the only Power which has, so far, obtained any adequate satisfaction in regard to indemnity for claims against the Maghzen in the Spanish Zone. The successful liquidation of British claims has been due solely to the relentless persistence with which the British Government has pursued the matter with the Spanish Government over a period of 12 years up to the date of the arbitration referred to in Section II of the enclosed Memorandum. It will be obvious to the Department, that if a more or less immediate liquidation by the Spanish Government of American claims should fail to result from the present negotiations, the unrelaxing pressure of the Department upon, and its constantly recurring reminders to, the Spanish Government will similarly be essential for the purpose of obtaining the desired adjustment of the position, in so far as concerns their relations in Morocco, between the Governments of Washington and Madrid.

I have [etc.] MAXWELL BLAKE

[Enclosure]

MEMORANDUM PREPARED FOR AMBASSADOR HAMMOND BY MAXWELL BLAKE, DIPLOMATIC AGENT AND CONSUL-GENERAL AT TANGIER, MOROCCO, IN PURSUANCE OF DEPARTMENT'S CABLE INSTRUCTIONS, NO. 11 OF AUGUST 9TH, 1928, 1 P. M.

Subject: Inclusion in settlement of American claims in Spanish Zone of Morocco, of those claims subjected to reservations of the Spanish Representative at Tangier, in report drawn up jointly by him with the American Diplomatic Agent at Tangier.

I. At the time when Don Antonio Pla y da Folgueira, the Spanish Representative in Tangier, formulated the reservations in regard to certain specified claims referred to in the Department's telegraphic instructions above cited, he . . . assured Mr. Blake, his American Colleague, that, notwithstanding the formal reservations which he felt constrained in principle to append to their joint report, he would personally recommend his Government to include these items in the general settlement of American claims in the Spanish Zone of Morocco. . . .

It is therefore not impossible that Ambassador Hammond may discover a visible inclination on the point [*part?*] of the Spanish Government to overlook the exceptions taken by its Representative in

Tangier, to various claims, and to make a full settlement on the aggregate findings of the joint report of the Commissioners in Tangier.

In the absence of the spontaneous manifestation by the Spanish Premier of such a disposition, Mr. Hammond may still find, however, that the Spanish Government may be induced to adopt the same action, in accordance with the broad and generous minded spirit which habitually characterizes its attitude in friendly diplomatic discussions. When considering, in the premises, the relatively very minor importance of the pecuniary amounts involved in the reserved claims, as compared with the admitted aggregate, the Spanish Government may be led to perceive the advantage of a waiver of the reservations, which, in producing a complete liquidation of American grievances against the Maghzen, will hasten the creation of a situation permitting the full and cordial cooperation between the American Diplomatic Agent in Tangier and the Hispano-Moroccan Administration at Tetuan.

In the eventuality however that the Spanish Government should not acquiesce in the above suggestions, and is inclined to enter upon a technical examination of the principle of the responsibilities involved, then the following line of argument is suggested:—

II. The claims which are the subject of this Memorandum, enumerated at the conclusion of the joint report drawn up by Don Antonio Pla y da Folgueira and Mr. Maxwell Blake, respectively representing Spain and the United States of America in Tangier, are the following:—

		Pesetas:
Thamy Slawee	Robbery of Cattle	11,222.00
	" " a Mare	555.55
	" " a Horse	277.75
	" " a Mule	555.55
Mohammed Oknin	Robbery of Animals and goods near R'Gaia, (a Spanish Military Camp)	4,188.25
Singer Company	For 14 Sewing Machines destroyed or stolen at the time of the rebellion of the Western [*sic*] Zone	6,412.50

In the first place, it should be recalled that the claimants (with the exception of the Singer Sewing Machine Company) have established, to the satisfaction of the Commission of Examiners in Tangier, that the above losses were actually incurred by them, and that the amounts involved are those which, after careful scrutiny, have been ratified by the Commissioners.

The reservations of Don Antonio Pla y da Folgueira are made in respect of the general principle of the non-responsibility of Governments for damages caused by rebels.

The objection to the application of this principle in regard to the claims in question may be stated as follows:—

It has been the invariable practice of all the Powers represented in Morocco to demand and successfully to obtain full redress from the Moorish Government, for all losses or prejudice suffered by their citizens, subjects and protégés, as the result of depredations committed during disturbances in various parts of the Shereefian Empire.

Not only are there innumerable examples of the demands in respect of such claims put forward individually by the various Ministers to the Court of Morocco, but the admission of such claims against the Maghzen was insisted upon by the collective pressure of all the Powers in respect of the Casablanca Claims Commission of 1908, and in regard to the general liquidation of claims against the Moorish Government, out of the Franco-Moroccan Loan of 1910, up to the date of that loan. In connection with the last mentioned settlement, it is interesting to recall that, in the preliminary correspondence (recorded in the Archives of the "Decanat" of the Diplomatic Corps at Tangier) which took place between the Sultan's Commissioner and the Representatives of the Powers, the attempt of the former to place a time limit upon the presentation of claims for theft was rejected by the Powers, but it must be noted that the admissibility of claims for theft was not even questioned by the Moorish Government. Many awards were made both by the Casablanca Claims Commission of 1908 and by the Arbitrators in the settlement of 1910, in respect of thefts and robberies committed to the prejudice of foreign claimants, subjects, citizens or protégés, alleged to have been perpetrated by rebels, or by vulgar individual thieves or marauders, or even by the ordinarily peaceful native inhabitants in districts disturbed by dissidence or tribal revolt.

These principles must apply equally to the American claims in the Spanish Zone of Morocco, since in fact the conditions are fundamentally unmodified. The American Government's claims are formulated against the Moorish Government; their presentation to the Spanish Government is merely incidental to the position which has subsequently been developed between the Spanish and the Shereefian Governments in Morocco.

The Spanish troops of occupation, and the Spanish Commissioners and functionaries were but the auxiliaries of the Moorish Government in the re-establishment of law and order in certain regions, and the depredations committed there against the property of American *ressortissants* during that process are, according to the established principles above cited, clearly covered by the responsibility of the Maghzen.

Prior to the intervention of Spain in Morocco, the attitude of His

Catholic Majesty's Government towards the Shereefian Government was, in common with the position taken by all the treaty Powers in Morocco, regulated by the comprehensive doctrine as to the responsibility of the Maghzen, which has been above outlined.

It is, not unnaturally, the desire of the Spanish Government, in view of the responsibilities which it subsequently assumed in Morocco, to narrow down in favor of the present Hispano-Shereefian Government, the ample scope of liabilities attributable to the old Maghzen, and to assimilate the international relations of the Spanish Zone of Morocco, in this respect, with those existing between normally conducted Governments.

It is evident, however, that the Spanish intervention, before recognition of the Spanish Zone of Influence in Morocco by the American Government, cannot be deemed to prejudice, to impair in the slightest degree, or even to modify the aspects of the rights of the United States vis-à-vis the Shereefian Government, as derived from the treaties and conventions between the two countries, and the principles confirmed by practice and precedent during the century and a half of their relations.

Furthermore, in the years 1917–1918, a "Comision de Reclamaciones" was instituted by the High Commissioner at Tetuan, to adjudicate upon claims against the Maghzen (Moorish Government) in the Spanish Zone of Morocco, and the awards made by this Commission were in various instances such as constituted an admission of liability for claims of the nature which are herein under consideration.

It is probable that Don Antonio Pla y da Folgueira deemed that his reservations in regard to these claims might be supported by supposed precedents arising from the recent settlement of British claims in the Spanish Zone.

Discussions and negotiations between the Spanish and British Governments in regard to British claims in the Spanish Zone of Morocco, had proceeded unsuccessfully, from 1912–1913, the date of the Spanish occupation, up to the year 1923. In that year the two Governments, as the result of a written agreement, submitted the adjudication of British claims to Mr. Max Huber, a judge on the Court of International Justice, and a member of the Permanent Court of Arbitration, at The Hague; it is possible, therefore, that reference may be made to this arbitration by the Spanish Government, in its discussions with Ambassador Hammond, since several British claims for theft were non-suited by the Arbitrator.

It may be pointed out, however, that the reservations formulated by the Spanish Representative in Tangier, tending to exclude Governmental responsibility for damages caused by rebels, was not entirely upheld by the above named Arbitrator in his reports connected with British claims.

Mr. Huber while discounting the value of previous Commissions as precedents in determining the scope of the responsibilities involved, nevertheless pointed out that the existence of the régime of the capitulations in Morocco, and the inefficiency of the Moorish Administration in the regions involved, at the material period, together with the general local aspects of past conditions in the relations between the Powers and the Moorish Empire, were sufficient—not perhaps to legalize from a point of view of general principles of technical international jurisprudence—but undoubtedly to justify an equitable right to indemnification for claims of such nature as the American claims above enumerated which are impugned by the Spanish Government. The Arbitrator cites extracts of Notes addressed by the Spanish to the French Government in 1881, in connection with Arab attacks on Spanish settlers in Algeria, in general substantiation of his advocacy of the responsibility, in equity, of the Hispano-Shereefian Government, in the premises, on the grounds of the possible allegation of the "inaction of Authorities in situations in which, by virtue of the mission confided to them, they are called upon to protect the rights of foreigners and where, in the premises, they are in a position to do so." (Page 56 of the "Réclamations Britanniques dans la Zone du Maroc, Accord Anglo-Espagnol du 29 Mai 1923, Rapports, La Haye, May 1925.")

Furthermore, in treating of the question of thefts and delinquencies which fall under the domain of common law, the Arbitrator lays down the principle (page 57, *Idem*) that: "The vigilance which, from a point of view of international law, the State is bound to guarantee, may be characterized, in applying by analogy a term of Roman Law, as a 'diligentia quam in suis.' This rule, agreeable to the primordial principle of the independence of States in their internal affairs, gives in fact to other States for their *ressortissants*, the measure of security which they may reasonably expect. As soon as the vigilance exercized falls manifestly below this level in respect of the *ressortissants* of a particular State, the latter is justified in considering itself to be prejudiced in interests which must enjoy the protection of international law."

This general principle, as the Arbitrator, in the course of his report points out, must necessarily be reconciled to the special situation, in Morocco, arising from the limitations imposed by the capitulations upon the Maghzen's internal independence. The degree of security, during the period in which the claims in question originated, was notoriously below the standard which could reasonably be expected even from the old Moorish Government.

Among the thefts referred to in the claims, which are the subject of this Memorandum, those of which Thamy Slawee and Mohammed Oknin were the victims, occurred in places well within the area of

the established occupation of the Spanish troops and of the effective control of the Hispano-Moroccan Authorities of Administration.

The Arbitrator also definitely rules that the obligations of the Protecting Power, as such, vis-à-vis third States, are identified with those of the protected Government. It therefore follows that the Spanish Government is not entitled, in view of its intervention in Morocco, to refuse satisfaction for any claims for which the United States Government could legitimately demand indemnification on the basis of the principles which governed such matters in the latter's relations with the Moorish Government, prior to the establishment of the Spanish tutelage.

Certain British claims for theft and robbery were rejected by the Arbitrator, on various grounds, such as failure of substantiation, or because committed outside the limits of the Spanish Zone, or in territory in the hands of rebels beyond the area of effective military occupation.

None of these grounds (saving the failure of the Singer Sewing Machine Company to submit documentary proofs of their loss) are applicable to the American claims in question, as has been indicated in earlier paragraphs of this Memorandum.

The Arbitrator dismisses some British claims because of the lack of formal application by the local agents of the British Government for judicial assistance on the part of the Spanish Authorities.

No such application was possible in respect of the American claims, and this circumstance cannot be held as a valid objection against the American Government's demands in the premises, for the following reasons:—

Unlike the case of the British Government, with whom the Spanish Authorities from the outset had concerted some *modus vivendi*, no notification or approach whatever was made by the Spanish to the American Government in regard to the régime to be instituted by Spain in North Morocco. There was consequently no basis upon which communication, official or "officieux" was available between the Spanish Authorities in the Spanish Zone and the Representatives in Morocco of the United States of America. Nevertheless, the American claims and complaints, as they arose, were constantly brought by the American Diplomatic Agent to the attention of his Spanish Colleague in Tangier, and the latter was requested to signalize them to the Spanish High Commissioner in Morocco with a view to redress or adjustment. Communication with his Spanish Colleague in Tangier was the only possible channel open to the American Representative in Morocco, and this means of access was constantly though unavailingly utilized by him, until finally he was advised by the Spanish Diplomatic Agent in Tangier that the latter was

under instructions to desist from any intervention concerning affairs of the Spanish Zone.

Such are the arguments and circumstances which, it would seem, should determine the Spanish Government to accede to the settlement of these claims, if such accession is not forthcoming as the result of representations made on the grounds outlined in the first section of the present Memorandum.

III. If no agreement is possible in regard to the settlement of these claims as a result of either of the alternative actions set forth in Sections I and II above, then, as indicated in previous reports from this Diplomatic Agency to the Department, and in the observations of Mr. Maxwell Blake upon the reservations made by his Spanish Colleague, it would appear very regrettable that the materialization of the very large and successful measure of agreement attained in regard to the other larger claims, the consequent normalization of local American and Spanish relations in Morocco, and the looked for participation of American interests in the economic development of the Spanish Zone, should be jeopardized on account of the suspension of these claims of relatively very minor material importance.

In this view the American Diplomatic Agent in Tangier, ventures to reiterate his suggestion that, if no other alternative is possible, the mutual settlement of the other American claims and the recognition of the Spanish Zone by the United States Government should be effected forthwith, the disputed claims being left over for subsequent consideration. It is however now suggested that, in order to relieve both the Spanish and American Governments of all preoccupation with these small claims, the eventual reexamination and the ultimate disposition thereof be left to the final decision of the American Diplomatic Agency at Tangier and of the Spanish Residency-General at Tetuan, following the payment of the undisputed claims and the political recognition of the Spanish Zone of Morocco by the Government of the United States.

452.11/213

The Secretary of State to the Ambassador in Spain (Hammond)

No. 487 WASHINGTON, *November 22, 1928.*

SIR: Reference is made to the Department's telegrams 45, June 22, 11 a. m. and 52, August 9, 1 p. m., in the latter of which it was suggested that you intimate to the Spanish Government that this Government is awaiting an offer from the Spanish Government to settle the American claims arising in connection with the Spanish occupation of the socalled Spanish Zone of Morocco on the basis of the Joint Report signed on July 12, 1928, by the American Diplomatic Agent and Consul General at Tangier and the Spanish Consul General at Tangier.

The Department wishes to be informed whether any developments have taken place beyond those described in your despatch No. 985, dated August 3, 1928, and whether there is any prospect of early action in the premises on the part of the Spanish Government. You may accordingly make informal inquiries of the appropriate Spanish officials on the subject and you may also in your discretion advise them informally that this Government will, in your opinion, be disinclined to proceed further in its consideration of the question of official recognition on the part of this Government of the Spanish Protectorate in that part of Morocco, commonly known as the Spanish Zone, until such time as satisfactory settlement has been made of the American claims in question. In this connection, and for your guidance in such conversations as you may have with the appropriate Spanish officials, there are enclosed copies of notes addressed to the Spanish Ambassador here, dated November 7, 1927[16] and February 25, 1928 respectively, with reference to the request of the Spanish Government for recognition of the Spanish Protectorate. You will observe from these that on more than one occasion, and specifically in the communication, dated November 7, 1927, the Department informed the Spanish Ambassador that prompt and sympathetic consideration would be given to the question of official recognition as soon as a satisfactory settlement of the outstanding claims of American citizens and protégés in cases arising in connection with the Spanish zone had been agreed upon.

It is possible that the Spanish Government may endeavor to include the Moroccan claims in the general list of claims outstanding between the two Governments. This Government would not be disposed to agree to such a course as the Moroccan claims are against Spain in her special capacity as occupant of the socalled Spanish zone and as the negotiations throughout have been based on the tacit understanding that in return for the satisfactory settlement of the American claims in the Spanish zone this Government would extend official recognition to the Spanish Protectorate.

I am [etc.] [File copy not signed]

ATTITUDE OF THE UNITED STATES TOWARD PROPOSED CHANGES IN THE STATUS OF TANGIER[17]

881.00/1377 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

MADRID, *February 21, 1928—6 p. m.*

[Received 8:30 p. m.]

29. French Ambassador informs me that Franco-Spanish Tangier negotiations have been settled on the following basis: Spanish chief

[16] *Foreign Relations*, 1927, vol. III, p. 273.

[17] Continued from *ibid.*, 1926, vol. II, pp. 716–743.

of police with control of a five kilometers zone around Tangier to prevent smuggling of contraband or anti-Spanish propaganda in Morocco, the Mendoub being instructed to cooperate. From other sources I am informed that France and England have agreed with Spain to the calling of a conference in the near future at Malaga to which Italy is to be asked for the purpose of determining the extent of the Italian participation in the Tangier administration.

Have repeated to London, Paris, Tangier and Rome.

BLAIR

881.00/1377 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, *February 29, 1928—3 p. m.*

21. Your 29, February 21, 6 p. m. The treaty position of the United States in Morocco and in Tangier, and its consequent interest in any international discussions or decisions which might have a bearing on its treaty rights and interests in Morocco are well known to the Powers interested in Morocco, and especially so to Spain in view of the correspondence between the two Governments in August and September 1926 [18] regarding the invitation then issued by Spain for a Moroccan conference. Accordingly should such a conference be held at Malaga or elsewhere this Government could not remain indifferent to its proceedings and would be compelled to make formal reservation of its attitude on all matters brought before the conference touching American rights and interests in Morocco and Tangier.

You should therefore unless you perceive substantial objection to such a course, enquire informally at the Foreign Office as to the basis for the reports regarding a Moroccan conference, and you may discuss the matter informally with Foreign Office officials in the light of the foregoing. Should inquiry be made whether the United States would accept an invitation to participate in such a conference, you may say that the attitude of this Government continues to be that indicated in the 1926 correspondence between the two Governments.

Please advise by cable of the action taken by you and the attitude of the Spanish Government.

Repeat this telegram and subsequent exchanges with the Department on this question to London, Paris, Tangier and Rome.

KELLOGG

---

[18] See *Foreign Relations*, 1926, vol. II, pp. 730–742.

881.00/1380 : Telegram

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

PARIS, *March 2, 1928—6 p. m.*
[Received March 2—5:17 p. m.]

56. Madrid's telegram of February 21, 6 p. m. to the Department. Foreign Office informally advises me that agreement concluding Franco-Spanish Tangier negotiations will probably be signed by Briand and Spanish Ambassador before former leaves for Geneva which means tomorrow. Main points of agreement appear to be:

1. Reforms of a judicial nature.
2. Spanish Commander of Police, and,
3. Spanish Inspector of Police responsible to international authorities.

Repeated to London, Rome, Madrid, Tangier.

HERRICK

881.00/1382 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, *March 5, 1928—11 a. m.*
[Received 4 p. m.]

33. Department's 21, February 29, 7 [*3*] p. m. Chief of Diplomatic Bureau states that Spain has been successful in obtaining minimum Spanish demands regarding administration and policing of Tangier zone and implied that Mussolini has signified willingness to adhere to 1923 convention [19] providing suitable compensation in other quarters is given. He said that any definite information regarding Tangier and Morocco must come from Primo as Foreign Office had no jurisdiction but he said that he would ask Primo informally regarding the truth of rumors concerning conference and whether such a conference might try to modify the Algeciras Act.[20] He said that he had heard rumors of a conference in which Italy would participate but could give me nothing definite pending instructions from Primo. Failing more satisfactory information, does not Department desire me to discuss this matter with Primo as I see no objection to such a course?

Counsellor of the French Embassy informs me that a definite understanding has been reached between Briand and Spanish Ambassador in Paris along lines of Embassy's 29, February 21, 6 p. m.,

---

[19] French text and English translation printed in Great Britain, Cmd. 2096 Morocco No. 1 (1924) : *Convention Regarding the Organisation of the Statute of the Tangier Zone, Signed at Paris, December 18, 1923.*

[20] For text of the General Act of the International Conference of Algeciras, signed April 7, 1906, see *Foreign Relations*, 1906, pt. 2, p. 1495.

but that no definite convention has been signed as yet. He however expects formal signature shortly. He said that the French-Spanish agreement would then go to England and Italy for approval, adding that French Government had changed its point of view regarding exclusion of Italy. He said that he believes that reports of an international conference were entirely premature and that in any case Malaga had not been officially considered. Referring to the position of the United States he stated that French Government hoped that the new French-Spanish accord might serve as a basis of agreement for all interested powers.

HAMMOND

881.00/1384

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

No. 8400 PARIS, *March 6, 1928.*

[Received March 15.]

SIR: With reference to my telegram No. 56 of March 2 reporting that the conversations which had been going on for a year between France and Spain concerning Tangier would culminate with the signature of an agreement on the following day, I have the honor to inform the Department that an agreement was in fact signed on March 3, comprising the points mentioned in my said telegram.

There is transmitted herewith an extract from the *Journal des Debats* of March 5 giving the text of a communiqué issued by the French Foreign Office, as well as the summary of a communiqué given out by the Spanish Government.[21] It will be noted from the Quai d'Orsay statement that pursuant to the procedure decided upon in November 1926 between the French, Spanish, British and Italian Governments, the two latter will be notified of the present agreement and invited to participate in a further conference concerning Tangier, which it is now contemplated will be held in Paris in the near future.

I presume that the text of this accord will not be given out until after agreement with London and Rome, but I will of course transmit copies as soon as they are available.

General satisfaction is expressed at the signature of this accord and it is anticipated that the adhesion of the British Government will not occasion any great difficulty. Less smooth sailing is to be expected in the case of Italy, but in the meantime the prevailing feeling appears to be one of optimism, including the hope that the present signature will facilitate Spain's reentry into the League of Nations.

---

[21] Not printed.

The Embassy at Madrid has forwarded me its telegram No. 29 of February 21 to the Department, as well as the Department's answering telegraphic instruction (number and date not specifically given, though I imagine it was Department's No. 21 of February 29). If the four-power conversations are in fact to be held in Paris, I should appreciate it if the Department would instruct me as to what action it wishes me to take or what attitude to adopt.

I have [etc.] MYRON T. HERRICK

881.00/1382 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, *March 7, 1928—5 p. m.*

24. Your 33, March 5, 11 a. m. Department perceives no objection to your discussing Moroccan matters with Primo on the basis of its 21, February 29, 3 p. m.

KELLOGG

881.00/1385 : Telegram

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

PARIS [*undated*].

[Received March 14, 1928—3:10 p. m.]

67. Foreign Office informs me that four-power Tangier conversations will begin at Quai d'Orsay on March 20th. See my despatch No. 8400 of March 6.

HERRICK

881.00/1385 : Telegram

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

WASHINGTON, *March 15, 1928—6 p. m.*

76. Your undated telegram 67. Please refer to Department's 290, October 20, 1923, 1 p. m. to London [22] and Department's 21, February 29, 3 p. m. to Madrid.

Please deliver the following memorandum in person at the Foreign Office as soon as possible:

"The Government of the United States has been interested to learn that representatives of the French, Spanish, British and Italian Governments will shortly meet in Paris to discuss Moroccan affairs with a view to reaching an agreement as to the future administration of Tangier.

"It will be recalled that prior to a similar Conference held in the autumn of 1923 by the French, Spanish and British Governments,

[22] *Foreign Relations*, 1923, vol. II, p. 580.

this Government took occasion to remind the conferring Powers of its position as a party to the Act of Algeciras and that it stated that while it had no political interest in Morocco it had a fundamental interest in the maintenance of the Open Door and in the protection of the life, liberty and property of its citizens in Morocco. It further indicated that it presumed that nothing would be done by the conferring Powers to interfere with the principle of the Open Door or with the rights and interests of the United States.

"The views of the United States regarding Tangier which were further set forth in its correspondence with the French, Spanish and British Governments regarding the possibility of its adherence to the Statute of Tangier, remain unaltered. The Government of the United States would accordingly advise the Powers now about to confer that it makes full reservation of its position on any decisions taken by the Conference which may in any way affect or touch upon its rights and interests in Morocco and in Tangier."

Please cable double priority when you have presented this memorandum as the Department intends to give its text to the Press.

Repeat your 67 and this telegram to London, Madrid and Rome for similar action by them and to Tangier for its information and mail copies of the Department's 290 October 14, 1923 to Rome and Tangier for their files.

OLDS

881.11/1392 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

MADRID, *March 21, 1928—3 p. m.*

[Received 3:25 p. m.]

44. Embassy's telegram 43 March 20, 4 p. m.[23] Presented note today to Primo in accordance with the Department's telegraphic instruction No. 76, March 15th, 1928, 6 p. m., from Paris and translated text to him. He stated that the Spanish Government had no desire to interfere with the maintenance of the open door in Tangier or with the protection which American citizens and interests enjoyed under the Algeciras Act. He said that contemplated reforms of the 1923 statute were the interests of better administration of Tangier and that he believed means would be found to improve administration [without change?] in the fundamental position. I did not raise the question of general conference of powers in view of the fact that Primo said that he hoped four power conference now proceeding would find a formula acceptable to all interests involved.

Repeated to Paris, Tangier, London and Rome.

BLAIR

---

[23] Not printed.

881.00/1408 : Telegram

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

PARIS, *May 25, 1928—8 p. m.*
[Received 8:35 p. m.]

134. My 95, April 14, 1 p. m.[24] Associated Press corroborates reported Tangier agreement reached yesterday. In addition Foreign Office informs me that when eventually signed it will be communicated to all signatories to Act of Algeciras.

HERRICK

881.00/1420

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

No. 8836 PARIS, *August 2, 1928.*
[Received August 13.]

SIR: With reference to my despatch No. 8807 of July 19, 1928[24] concerning the recently signed Tangier Agreement, I have the honor to forward herewith in copy and translation a note from the Foreign Office dated July 31, 1928, transmitting two copies of the final protocol of the Tangier Conference. I am enclosing the one of these copies which is certified,[24] retaining the other for the files of the Embassy.

I have [etc.] MYRON T. HERRICK

[Enclosure—Translation]

The French Ministry for Foreign Affairs to the American Embassy

PARIS, *July 31, 1928.*

In concluding, on July 25 ultimo, various agreements relative to the Statute of Tangier, the British, Spanish, French and Italian Governments agreed that these instruments should be communicated by the Government of the Republic to the Government of the United States of America, a signatory of the Act of Algeciras.

The Ministry for Foreign Affairs has the honor to transmit herewith to the Embassy of the United States of America two copies of these documents, of which the certified copy is for the Federal Government.

The new agreements which revise, on certain points, the Convention of December 18, 1923 relative to the organization of the Statute of the zone of Tangier are, similarly to the said Convention, based

[24] Not printed.

upon the respect of existing treaties and upon the maintenance of economic equality between nations.

The Ministry for Foreign Affairs feels that it should emphasize this point to the Embassy, with reference to the memorandum which the latter was good enough to transmit to the Ministry, on March 16 last,[26] to recall the position of principle taken by its Government in the question of Tangier.

881.00/1434

The Secretary of State to Mr. Walter Littlefield of the "New York Times"

WASHINGTON, *December 21, 1928.*

MY DEAR MR. LITTLEFIELD: I have your letter of November 30,[27] inquiring as to the attitude of the United States toward the recent agreement between Great Britain, France, Spain, and Italy, regarding Tangier.

The attitude of the United States remains that set forth in its correspondence with Great Britain, France, and Spain in 1924,[28] and in the memorandum communicated to Great Britain, France, Spain, and Italy last March, copy of which is enclosed.[26] I may add that since then no circumstance has developed which would cause this Government in any way to alter its position as regards Tangier.

Very sincerely yours,

FRANK B. KELLOGG

---

[26] See telegram No. 76, Mar. 15, to the Ambassador in France, p. 371.
[27] Not printed.
[28] See *Foreign Relations*, 1924, vol. II, pp. 456–472.

NETHERLANDS

UNDERSTANDING BETWEEN THE UNITED STATES AND THE NETHERLANDS CONCERNING RECIPROCAL ACCESS TO PETROLEUM RESOURCES[1]

856d.6363/494

The Netherlands Minister (Van Royen) to the Secretary of State

No. 3225 WASHINGTON, *November 14, 1927.*

SIR: After having taken cognizance of a press release, issued by the Federal Trade Commission, according to which the American petroleum interests, in consequence of restrictive laws of the Dutch East Indies, should have been practically excluded from working in those countries, and in view of the reluctance of the United States authorities to consider the Netherlands, with regard to oil and mining policy, as a "reciprocating" country my predecessor had the honor to point out to the then Secretary of State in a letter dated May 17, 1923, No. 1580,[2] that neither the existing laws nor the facts could prove the desire of the Dutch Government to exclude the American interests from petroleum winning in the Netherlands East Indies. In fact he showed, that there does not exist in our colonies any monopoly of Dutch groups, but on the contrary, that several foreign interests have a great number of concessions for mining, oil and agricultural purposes.

He pointed out further that all "inhabitants" of the Dutch East Indies or corporations, having on their board a majority of inhabitants of the Dutch East Indies, are admitted to enter into contract with the Government for mining petroleum, and that it is for an American in the Dutch East Indies only a question of certain simple formalities to become "inhabitant" of our Colonies. As a result of this, several mining and agricultural enterprises operating with American capital are working in the Netherlands East Indies. As an example I may add, that the "Nationale Koloniale Petroleum Maatschappij", a subsidiary of the Standard Oil Company of New York [*New Jersey*] has acquired a great many prospecting licenses

[1] For previous correspondence concerning negotiations for American participation in exploiting the oil fields of the Netherlands East Indies, see *Foreign Relations*, 1921, vol. II, pp. 528 ff.

[2] Not printed.

416955—43——31

from the Government and is operating a considerable number of concessions.

In order to prove more clearly still the "open door" policy, which has always been followed by the Netherlands East Indies Government, I am now instructed by my Government to inform Your Excellency, that by Royal Message of April 27th of this year, a bill has been introduced in Parliament at The Hague, in order to obtain the necessary authorization for contracting with the "Nederlandsche Koloniale Petroleum Maatschappij", (the above mentioned subsidiary of the Standard Oil Company of New York [*New Jersey*] for the purpose of issuing her four tracts of petroleum lands for exploration and exploitation. This bill has been well received and reported by the Second Chamber of our Parliament and will probably pass in this session.

Further I am instructed to inform Your Excellency that the Netherlands Government has the intention, after this project will become Law, to continue taking the same line in future with regard to the issuing of oil lands.

In view of these facts, the Royal Netherlands Government expresses the wish, that now the Government of the United States may declare the Netherlands a reciprocating country regarding the American "Land Leasing Act of 1920".[3]

Although the Netherlands Government is quite willing to continue the aforesaid line of conduct with respect to issuing oil lands, it could only take the responsibility of doing so, if the Government of the United States were willing to make the above mentioned declaration of reciprocity.

Considering the open door policy followed by the Netherlands East Indies Government and the equal rights that exist in our colonies regarding foreigners and foreign capital interested in all sorts of enterprises for purposes of oil production as well as agriculture, I venture to express the hope, that the United States authorities will see their way to make the above mentioned declaration. I should feel greatly obliged if Your Excellency would lend his kind intermediary in order that the necessary propositions be made to the United States Government to that end.

Please accept [etc.] J. H. VAN ROYEN

856d. 6363/498

The Secretary of State to the Netherlands Minister (Van Royen)

WASHINGTON, *December 28, 1927.*

SIR: I have the honor to refer to your note, dated November 14, 1927, and to the Department's reply, dated November 28th, regarding

[3] 41 Stat. 437.

oil concessions in the Netherlands East Indies and reciprocity between the United States and the Netherlands under the provisions of the Act of February 25, 1920.[4]

The Department is now in receipt of a letter from the Department of the Interior, dated December 14th, the pertinent portions of which are quoted for your information as follows:

"It is the disposition of the Department of the Interior to accord to the citizens of any country whatsoever, when organized as a corporation under the laws of the United States, or any State or Territory thereof, precisely the same treatment as regards the mineral leasing law of February 25, 1920 (41 Stat., 437), as though they were citizens of the United States similarly organized, but that in order that such citizens of a foreign country may be eligible to receive such action from this Department it is requisite that like privileges shall be accorded by their Government to citizens of the United States. The privilege accorded to duly qualified citizens of foreign countries by the mineral leasing law is not restricted to any one group or company but is as broad as the citizenship of the country concerned.

"If it be made to appear that laws, customs, and regulations of the Government of the Netherlands do not deny to citizens of this country the privileges offered by our laws to citizens of that country, the Department of the Interior will take full cognizance of such laws, customs and regulations in considering applications falling within the purview of the proviso of Section 1 of the Act of February 25, 1920."

Accept [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.

856d. 6363/502

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

No. 1385 THE HAGUE, *January 7, 1928.*
[Received January 21.]

SIR: Referring to my despatch No. 1365 of December 20, 1927,[5] I have the honor to inform you that in an interview which I had to-day with Mr. Beelaerts van Blokland, Minister for Foreign Affairs, he spoke of the recent passage through the Second Chamber of the Bill which makes important and valuable concessions to an American oil company operating in the Dutch East Indies (the Koloniale).

"I hope," he said, "that this may be accepted by your country as evidence of our desire to establish complete reciprocity between the two nations. We are earnest in our intention of doing so. We hope that we shall meet on your side with a similar spirit and that the disadvantages encountered by Dutch capital invested in oil and shipping enterprises in your country may now be removed."

I have [etc.] RICHARD M. TOBIN

[4] Department's reply of November 28, 1927, not printed.
[5] Not printed.

811.6363/193a : Telegram

The Secretary of State to the Chargé in the Netherlands (Norweb)

[Paraphrase]

WASHINGTON, *February 3, 1928—7 p. m.*

6. It has been stated by representatives of the Standard Oil Company that reports are being circulated in the Netherlands concerning possible legislation in the United States applicable to Naval Oil Reserves in such a manner as possibly to prejudice favorable action next week in the Dutch Parliament on the Koloniale concessions. The facts, which are given for your information and discreet use if necessary, are as follows:

It is contemplated by the Navy Department to recommend legislation which would apply to Naval Oil Reserves with reciprocal provisions similar to those contained in the General Leasing Act of February, 1920. These reserves constitute less than two per cent of the total proven oil lands of the United States totaling only about 50,000 acres. It is the present intention of the Navy to make no further leases covering naval oil lands to anyone. Legislation, it is understood, is sought only to lay down a permanent policy.

That the information outlined above has no present and probably no prospective application to Dutch interests, will be readily appreciated.

Some questions have been raised in the press with regard to arrangements made by the Honolulu Oil Company for the sale of oil that has been produced from lands leased on Naval Reserve No. 2. The Dutch Shell is now purchasing some of this oil under contract. It is alleged that sales of some of this oil have been made to Japan. Of course, existing lawful contracts will not be interfered with by the Government, and no action is contemplated with regard to this matter so far as the Department knows. In case reports on this subject are current, telegraph promptly and specific comment will be made by the Department for your guidance. Report briefly by telegraph.

KELLOGG

811.6363/194 : Telegram

The Chargé in the Netherlands (Norweb) to the Secretary of State

[Paraphrase]

THE HAGUE, *February 4, 1928—5 p. m.*

[Received February 4—4:06 p. m.]

6. Referring to Department's 6, February 3, 7 p. m. A Reuter news agency despatch circulating here this week alleged that diffi-

culties had resulted from the Royal Dutch purchase of naval reserve oil from the Honolulu Oil Company and that sale of such oil to foreign companies may possibly be prevented. The Netherlands Colonial Minister on February 1 consulted F. Horstmann, of the Koloniale Oil Company, regarding the matter. The Minister, while well disposed, said he was considering postponement of the Koloniale bill, because the first chamber of the Netherlands Parliament might ask for an investigation prior to action on the measure in view of recent rumors. Mr. Horstmann insisted on the bill coming up for discussion, but the Minister did not give any definite assurance. However, today's Senate calendar has the bill scheduled to come up February 8 at 11 a. m. After discussing the matter with the chief of the mining bureau, also with several upper House members, Horstmann sees little chance of the first chamber holding up the bill. Since any move right now by this Legation might possibly suggest to the Colonial Minister the desirability, pending further details from his Legation at Washington, of postponing discussion of the bill, I hesitate to recommend any action by the United States.

NORWEB

856d.6363/507 : Telegram

The Chargé in the Netherlands (Norweb) to the Secretary of State

THE HAGUE, *February 8, 1928—4 p. m.*
[Received February 8—12:50 p. m.]

7. My telegram No. 6, February 4, 5 p. m. Am gratified to report Koloniale oil bill approved this afternoon by the first chamber without record vote.

NORWEB

856d.6363/511

The Chargé in the Netherlands (Norweb) to the Secretary of State

No. 1427 THE HAGUE, *February 18, 1928.*
[Received March 1.]

SIR: I have the honor to acknowledge the receipt of the Department's Instruction No. 524, of January 21, 1928,[6] informing the Legation that the Netherland Legation in Washington has formally raised the question of reciprocity with respect to petroleum exploitation and that the Secretary of the Interior has suggested that an application be filed under the provisions of the General Leasing Law of February 25, 1920 in order that the Dutch position under our laws may be now passed upon.

[6] Not printed.

Although this would seem to be the procedure clearly indicated, there is reason to believe, from the Colonial Minister's references to reciprocity when speaking in defense of the Koloniale Bill, that the Dutch Government will not be entirely satisfied with the course of action outlined by the Secretary of the Interior. The Department will recall that during the recent debate (see despatch No. 1419, of February 13, 1928).[7] the Minister for Colonies declared in effect that should the American Government fail to extend complete reciprocity in oil matters, it was always possible for him to withhold his signature to the Bill. The Minister referred of course to the reciprocity provisions of the 1920 leasing act, but what I believe he had also in mind is to clear the record of the charges of lack of reciprocity which were made in the "President's Message to Congress of May 16, 1921, on restrictions against American petroleum prospectors in certain foreign countries."[8] As these charges were made publicly and formally, it would not be unnatural if the Dutch Government should now desire to have them removed from the record by a formal statement from the American Government rather than to leave their vindication to the filing of an application for a permit by the Royal Dutch. I understand that conversations are now taking place between the Foreign Office and the Colonial Department with a view to determining the instructions to be sent to Mr. van Royen in presenting the Dutch viewpoint to the Department.

Without entering upon a discussion of the merits of the Dutch expectations, which seem to lose sight of the fact that at no time has any Dutch concern operating in the United States been denied reciprocal treatment, the Colonial Minister's position unquestionably complicates the final satisfactory settlement of this long outstanding issue. While this development need not be taken too seriously, it is possible that until details of procedure satisfactory to both governments can be worked out, the Koloniale will not be permitted to take possession of the concessions granted them in the new law. However, with the very evident good will existing on both sides, it should not be difficult to come to an understanding satisfactory to both governments.

In connection with this general question of procedure the possibility should not be overlooked that the Royal Dutch, unless very anxious to obtain concessions to operate in our public lands, may delay for an indefinite period the filing of an application in the hope of embarrassing the Koloniale. It may be that the Secretary of the Interior anticipated this possibility when in closing his letter of November 9, 1927, to the Secretary of State,[7] he expressed his

[7] Not printed.

[8] S. Doc. 11. 67th Cong., 1st sess.; for part of report dealing with Netherlands and Netherlands East Indies, see pp. 9–27.

willingness to consider the question of reciprocity without awaiting a formal application by a Dutch company.

I have [etc.] R. HENRY NORWEB

856d.6363/512 : Telegram

The Chargé in the Netherlands (Norweb) to the Secretary of State

THE HAGUE, *February 24, 1928—4 p. m.*

[Received February 24—1:40 p. m.]

8. My telegram No. 7, February 8, 4 p. m. Foreign Office informed me this morning that mail instruction sent yesterday to Van Royen informing him in connection with passage oil bill that before signing Netherlands Government wishes formal statement that our Government now considers Holland reciprocating country under the provisions of general leasing act of 1920.

I understand that such a declaration is desired not only to assure Royal Dutch of favorable consideration in respect of leases in the United States public lands but also to clear the record of the charges of lack of reciprocity on the part of Holland made in the President's message of May 16, 1921. See my mail despatch No. 1427 of February 18, 1928.

NORWEB

856d.6363/512 : Telegram

The Secretary of State to the Chargé in the Netherlands (Norweb)

WASHINGTON, *March 2, 1928—4 p. m.*

8. Your 8, February 24, 4 p. m. Please at once present to the appropriate official the following informal memorandum:

"The American Chargé d'Affaires ad interim promptly reported to the Secretary of State the information informally communicated to him to the effect that the Netherlands Government had instructed its Minister at Washington to initiate certain further formal correspondence with the Secretary of State in relation to the question of reciprocity between the two Governments in matters pertaining to petroleum. The Government of the United States, however, believes that an informal exchange of views rather than continuation at this time of the formal diplomatic correspondence which has now extended over eight years is better calculated to facilitate a prompt understanding satisfactory to both Governments. Accordingly, the Chargé d'Affaires has been instructed to make the following statement of the position of the Government of the United States in the matter.

The laws of the United States with respect to its petroleum resources are general in terms and, as a matter of policy, have been applied with the greatest possible liberality, and the benefits thereof are equally available to the citizens of foreign countries and to

American nationals. Under the general mining laws of the United States it has been held, by formal decisions still in force,[9] that a corporation organized under the laws of the United States or one of its States can acquire title to public mineral lands even though its stock is controlled by citizens of foreign countries. Private lands, to which the foregoing principles also apply, constitute about 90% of the proven oil lands of the United States.

With respect to Indian lands, which comprise approximately 10% of the above-mentioned private oil lands, it may be pointed out that a corporation organized under the laws of the United States but controlled by a Netherlands corporation has acquired and holds leases specifically approved on May 15, 1923, by the appropriate Department of the Government.

The Mineral Leasing Act of February 25, 1920, is applicable to production on public lands of a limited number of specified minerals, including petroleum. This Act contains a provision that citizens of other countries, the laws, customs or regulations of which deny similar or like privileges to citizens or corporations of this country, shall not by stock ownership, stock holding or stock control own any interest in any lease acquired under the provisions of the Act. The Act is thus not discriminatory in its terms, nor has discrimination appeared at any time in the customs or regulations affecting the grant of leases in pursuance of the Act. The existence of reciprocity is expressly made a question of fact, and is determined on the basis of applications made to the competent authorities. Such applications would be granted if the applicant shows in support of his application that the laws, customs or regulations of the foreign country in question do not deny reciprocal privileges to American nationals.

This means that if the laws, customs or regulations of the Netherlands permit the acquiring of mineral leases or concessions affecting mineral lands in the Netherlands or its colonial possessions by corporations formed under the laws of the Netherlands or of its possessions, the stock of which is controlled by American citizens or corporations, then a corporation organized in the United States, the stock of which is controlled by citizens of the Netherlands, could acquire a mineral lease on public lands of the United States under the Act of February 25, 1920.

It is a fact of very great importance that the Government of the United States has permitted foreign interests freely to acquire petroleum holdings on private lands of the United States which, as stated, constitute about 90% of the proven petroleum areas in the United States. In this connection, it is significant that in 1926 one group of Dutch companies obtained from the petroleum fields of the United States 5,793,267 metric tons of oil, amounting to over 37% of its total production in all countries and to about twice its production in the Dutch East Indies. The Government of the United States is certain that the Netherlands Government will admit that Netherlands interests have received most liberal treatment in the United States.

On the other hand, however, applications by or on behalf of American interests for concessions under existing laws for exploitation of petroleum resources in the Dutch East Indies have been urged

[9] Marginal notation by the Economic Adviser, Department of State: "Note. Refers to 28 Land Decisions, 178. A[rthur] N. Y[oung]."

for years without favorable action, and it is only recently that the Netherlands Parliament has approved a measure authorizing the Minister of Colonies to grant an application of such interests.

The Government of the United States has noted with considerable gratification the assurance extended in a note of November 14, 1927, from the Netherlands Minister at Washington to the Secretary of State to the effect that the Netherlands Government has the intention, after the above-mentioned project shall have become law, to continue taking the same line in future with regard to the issuing of oil lands. The Government of the United States understands from this assurance that the Netherlands Government proposes to treat American petroleum interests on a footing equivalent to that accorded to Dutch nationals, somewhat as foreign nationals of reciprocating countries are treated by the Government of the United States.

It is further stated in the note under reference that the Netherlands Government is quite willing to continue such a line of conduct with respect to issuing oil lands, but that it could only take the responsibility of doing so if the Government of the United States were willing to declare the Netherlands a reciprocating country within the meaning of the Mineral Leasing Act of February 25, 1920.

As has been indicated in previous correspondence, especially Mr. Phillips' note of September 25, 1920,[10] the laws of the Netherlands seem not to deny the right of an American citizen to own or hold stock in Netherlands corporations engaged in exploiting or producing oil. But in view of the fact that, so far as the Government of the United States is advised, the Netherlands Government has never directly granted an exploitation concession to any American company, the existing Netherlands law as administered has not accorded to American nationals reciprocal participation in the development of Netherlands petroleum resources.

The Chargé d'Affaires is authorized to state that action by the competent authorities of the Government of the United States holding the Netherlands to be a reciprocating country would in principle be assured in case the Netherlands Government, as an earnest of its policy,

(1) should confirm the understanding of the Government of the United States that the laws of the Netherlands do not deny the right of Americans to own or hold stock in corporations organized thereunder to exploit petroleum resources of the Netherlands or of its possessions;

(2) should definitely grant an important concession or concessions to American interests; and

(3) should confirm the understanding of the Government of the United States that the Netherlands Government will take the same line in the future with regard to the granting of oil lands, and will treat responsible American interests on a footing equivalent to that accorded to Dutch interests."

Telegraph when you present memorandum and report promptly any significant developments.

KELLOGG

[10] Not printed; but see telegram No. 573, Sept. 22, 1920, 7 p. m. to the Minister in the Netherlands, *Foreign Relations*, 1920, vol. III, p. 278.

856d.6363/514 : Telegram

The Chargé in the Netherlands (Norweb) to the Secretary of State

THE HAGUE, *March 5, 1928—5 p. m.*
[Received March 5—1:50 p. m.]

9. Department's telegram 8, March 2, 4 p. m. Delivered memorandum this morning to the Secretary General of the Foreign Office who expressed the opinion that it should not be difficult to meet its provisions. He believed, however, the Colonial Minister in complying therewith would expect it to be understood that definite declaration would be forthcoming on our part that Holland is considered a mere [*sic*] reciprocating country. Is the Department of the Interior disposed to give this assurance? Anticipate no further developments until return of Minister for Foreign Affairs from Geneva next week.

NORWEB

856d.6363/514 : Telegram

The Secretary of State to the Chargé in the Netherlands (Norweb)

WASHINGTON, *March 10, 1928—6 p. m.*

9. Your 9, March 5, 5 p. m. Department does not understand suggestion regarding desire for a definite declaration or assurance from the Interior Department. In the latter part of the memorandum presented to the Netherlands Government it is definitely stated that the recognition of the Netherlands as a reciprocating country would in principle be assured should that Government, as an earnest of its policy, do certain specified things. Should Dutch officials again bring up the subject, you may orally and informally say that in view of the statement contained in the memorandum you are unable to understand what more definite declaration could be made at this time.

KELLOGG

856d.6363/517 : Telegram

The Chargé in the Netherlands (Norweb) to the Secretary of State

THE HAGUE, *March 14, 1928—6 p. m.*
[Received March 14—2:40 p. m.]

11. Department's No. 9, March 10, 6 p. m. Having in mind the Netherlands Minister's note November 14, 1927, raising the question of a declaration on our part that Holland is a reciprocating country, and my telegram No. 8 of February 24, sent after conversations at the Foreign Office, also my despatch 1427, February 18, it is evident that

while desiring to protect their petroleum interests in the United States the Dutch are equally sensitive regarding the charges made against them of nonreciprocity and are determined to ask for a formal acknowledgment of reciprocal treatment for the purpose of clearing their record.

As reported in my telegram No. 9, March 5, 5 p. m., Snouck[11] doubted if the assurances of future action [by] our competent authorities, contained in the Department's memorandum, would be considered sufficiently specific to clear them of the charges of lack of reciprocity and while expressing only his personal opinion he showed that what is desired is the promise of a written declaration, possibly a letter from the Department of the Interior, recognizing the Netherlands as a reciprocating country, to be made upon receipt of a satisfactory reply to our memorandum.

If the Department of the Interior is prepared to make such a promise, may I be authorized, should the necessity arise, so to inform the Foreign Office? By thus anticipating an objection, which it is clear from statements made both here and in Washington will certainly be raised, a further delay in the signature of the bill will be avoided.

NORWEB

856d.6363/523 : Telegram

The Acting Secretary of State to the Chargé in the Netherlands (Norweb)

WASHINGTON, *March 28, 1928—7 p. m.*

10. Your 11, March 14, 6 p. m. Department feels that it is now the Dutch Government's move. If, however, you think it would be helpful in promoting understanding between the two Governments, Department sees no objection to your informally stating that when the Netherlands Government, in reply to your memorandum, gives assurance that the laws, customs and regulations of the Netherlands do not deny similar or like privileges to citizens or corporations of this country, definitely grants an important concession or concessions to American interests, and confirms the understanding that its future policy as to granting of oil lands will be along similar lines, there would be no objection to stating in writing that citizens of the Netherlands are considered as being within the reciprocal clause of the third proviso of Section one of the Act of February 25, 1920.

OLDS

---

[11] Mr. A. M. Snouck Hurgronje, Secretary General, Netherlands Ministry for Foreign Affairs.

856d.6363/525 : Telegram

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

THE HAGUE, *April 10, 1928—4 p. m.*
[Received 4:13 p. m.]

16. Department's telegram No. 10, March 28, 7 p. m. Foreign Office assures me that signature of bill granting concessions may soon be expected.

TOBIN

856d.6363/531 : Telegram

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

THE HAGUE, *May 14, 1928—5 p. m.*
[Received May 14—4:40 p. m.]

20. My telegram number 19, April 20 [*30*], noon.[12] Foreign Office informs me orally that Colonial Minister is prepared to sign bill provided assurances are given that the American Government regards the Shell Union Oil Corporation and the Bataafsche Petroleum Company, despite British interest in those concerns, as Dutch company within the meaning of the reciprocal provisions of the leasing act. The actual division of interests in these companies is as follows: Shell Union: American share 34 percent, Bataafsche Petroleum 66 percent; Bataafsche Petroleum: 40 percent British Shell and 60 percent Royal Dutch, thus giving the British approximately 24 percent interest in Shell Union. Assurances on this point are desired in order to preclude the possibility that a lease to public lands may be refused the Shell Union on the grounds Great Britain is a non-reciprocating country.

There are other reasons for delay of minor and not vital importance which I am reporting at length by mail.

TOBIN

856d.6363/533

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

No. 1517 THE HAGUE, *May 14, 1928.*
[Received May 28.]

SIR: I have the honor to confirm my telegram No. 20, May 14, 5 p. m., in which I reported the latest developments in the Koloniale concession negotiations.

The telegram was based on a conversation between Mr. Norweb

[12] Not printed.

and Mr. Snouck Hurgronje, Secretary General of the Foreign Office, who is the competent official in this matter.

Mr. Snouck first took up the considerations advanced in our memorandum of March 5th and read a communication from the Colonial Department agreeing to our contentions. It was pointed out, however, with reference to our desire for assurances that "the Netherland Government will treat responsible American petroleum interests on a footing equivalent to that accorded to Dutch interests," that while the Colonial Department is determined to pursue the open door policy and to accord equal opportunity in the Netherland East Indies to American petroleum interests, it could not bind itself to grant in every specific instance absolutely "identical" treatment to American and Dutch interests. It could not undertake, for instance, each time a concession was given a Dutch concern, to grant a concession of like size or importance to American interests. Mr. Snouck was of the opinion that this attitude of the Colonial Department should not occasion any difficulty as he felt that it was not the intention of the Department of State in asking for "equivalent" treatment for American interests to insist on concessions hectare for hectare with the Dutch.

In indicating his willingness to sign the Koloniale Bill, the Minister of Colonies further suggested that it might be desirable for the Foreign Office, in view of the fact that Great Britain is a non-reciprocating country and that indirectly British interests have a share in the Dutch companies operating in the United States, to inquire whether or not the American Government regards the Shell Union Oil Corporation and the Bataafsche Petroleum Company as Dutch companies within the meaning of the reciprocal provisions of the leasing act of 1920. The Colonial Minister went on to point out that the Shell Union Oil Corporation, which is the only Dutch company interested in acquiring leases in the United States, is controlled up to 66% by the Bataafsche Petroleum, the balance being in American hands. However, the Bataafsche Petroleum Company is, in turn, 40% British Shell and 60% Royal Dutch. This division of interests makes the British share in the Shell Union approximately 26%. With the reservation as to a satisfactory answer to this inquiry, the Colonial Minister stated that he was prepared to sign.

Assurances on this point are desired apparently in order that this indirect British interest, and the fact that Great Britain is not a reciprocating country, may not at some future date be used as an argument for refusing a lease to the Shell Union. Mr. Norweb informed Mr. Snouck that he was sure these facts were known at Washington and that because of the predominance of Dutch control the companies were regarded as Dutch. It might be possible to give

satisfactory assurances on this point from information in the Legation files but failing that the point would be submitted to Washington.

Mr. Snouck then referred to his conversation with me of a month ago at which time he said he hoped within a few days to be able to reply satisfactorily to the Legation's memorandum of March 5th. In saying this, he explained, he had not anticipated any delay in hearing from the Dutch Legation in Washington, to which a minor question had been referred for opinion. He said that he had only just received this reply, which was dated Washington, April 24th, and which was of a nature totally different from what he had expected. In this report, said Mr. Snouck, the Dutch Minister at Washington referred to conversations he had held with Mr. Kessler, the Royal Dutch representative in the United States, with Mr. Torchiana, the Dutch Consul General in San Francisco and with the American legal advisers of the Dutch oil interests in the United States, from all of whom he had gathered the distinct impression that because of uncertainties and conflicts in American oil legislation they could not recommend any Dutch company to attempt to obtain a lease to operate in public lands. Mr. van Royen suggested therefore that before the Koloniale Bill was signed an effort might be made to discuss these difficulties with the American Government.

According to Mr. Snouck, the substance of Mr. van Royen's report was as follows: Even though the public lands in the United States are of a comparatively small area, their oil resources remain untapped, a fact which, under the circumstances, greatly increases their value as future sources of supply. Of the various Dutch companies operating in the United States, the Shell Union Oil Corporation, a subsidiary of the Bataafsche, is the only Dutch company interested in obtaining leases in United States public lands and the legal advisers of this company for various reasons believe it unwise under existing conditions for the Shell Union to attempt to seek a lease in the United States public lands. The objections arise chiefly from the fact that public opinion in the United States with respect to oil, particularly oil controlled by companies other than American, is very uncertain. There is a danger of politics entering into the question to such a degree as to make it of doubtful advisability for foreign companies to undertake to operate in public lands. Specifically the objections are as follows: Any leases on public lands may be jeopardized (1) by a possible conflict between Federal and State laws. Even if the Federal Government recognized the Shell Union as belonging to a reciprocating country the State governments, who have a voice in the disposal of public lands, might not choose to follow suit. In this connection Mr. van Royen pointed to the laws

of the State of California which deprived Japanese of the right which had been acquired by treaty to hold land, and that the legality of the State action (as against the treaty entered into by the Federal Government) had been upheld by the American courts; (2) by the possibility of a change, by reason of political pressure, in the administration of the Federal Leasing Act which Congress has left to the discretion of the Secretary of the Interior, and (3) the possibility that even though the lease may be granted it could always be contested before the courts by inimical interests.

Mr. Snouck referred to these objections as difficult of solution except by a change in the American laws or by special treaty and for that reason, he said, the Foreign Office is prepared to disregard van Royen's suggestion that these factors be taken into consideration by the Dutch Government before signing the Koloniale Bill. He added, however, that he was bringing them to the attention of the Legation in case the American Government should care to express any views in the premises.

As a result of this conversation it was understood that the Legation, at Mr. Snouck's specific request, would inquire from Washington whether or not the Shell Union and Bataafsche companies, despite British interests therein, are regarded as Dutch companies within the meaning of the reciprocal provisions of the Leasing Act, and that if the Colonial Minister could be satisfied on this point the Foreign Office would then reply to our memorandum of March 5th which reply, he felt, would be in every way satisfactory to us.

Mr. Norweb took occasion to express the disappointment of the Legation and the disappointment which I know will be felt in Washington at this further procrastination upon the part of the Foreign Office, especially after having so recently received assurances that the matter had been accepted in principle and that the delay was simply one of drafting.

Despite these disappointing delays and though it is not possible now to assign any definite period when final action will be taken, I remain hopeful the Bill will be signed. I attribute the dilatory tactics more to a desire to make the best bargain possible than to any disposition to oppose Parliament on this issue, especially after the Bill had received such an impressive majority. It is possible that the Kina incident,[13] threatening as it did some of the most important men in Holland, may have had an unfavorable reaction upon the progress of these negotiations.

As Mr. Snouck will be away for three weeks, it is unlikely that any action can be expected during his absence, but I should appreciate an expression of the Department's views in the premises by

[13] Suit instituted by the United States Department of Justice in New York against Netherlands quinine interests.

telegraph in order that I may again take up the matter with him immediately upon his return.

Mr. Horstmann has been informed of the present status of the negotiations.

I have [etc.] RICHARD M. TOBIN

856d.6363/531 : Telegram

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

[Paraphrase]

WASHINGTON, *May 21, 1928—3 p. m.*

17. (1) Your telegram 20, May 14, 5 p. m., reveals that the Netherlands officials may have overlooked the fact that the United States Government's interest in this situation, instead of being limited to a particular concession being granted, is rather directed toward an appropriate understanding being reached whereby the nationals of each country are granted by the Government of the other reciprocal access in regard to mineral resources.

(2) In the memorandum telegraphed by the Department on March 2 (No. 8, 4 p. m.), the United States Government went more than half way to make such an understanding possible. The Department consequently feels that, in so far as making the inquiry reported by your telegram 20, May 14, 5 p. m., is concerned, the Government of the Netherlands should be ready to indicate appropriately its definite decision to meet the views of the United States Government given in the memorandum mentioned above. The Department wishes a definite indication of the Netherlands Government's view in this matter before a request for any other assurances is considered. The appropriate officials may be orally informed by you accordingly, and you may state that the United States Government, after receiving more definite information concerning the Netherlands Government's position in this matter, will be willing further to consider the inquiry contained in your telegram 20. If you believe it to be helpful, you may state also that you would be ready to transmit to the Department a tentative statement of the Netherlands Government's position regarding the points to be found in the latter part of the Department's March 2 memorandum (telegram 8), in order that this Government may consider it.

(3) An oral expression of your belief may be given by you to the effect that, if the Government of the Netherlands meets the United States Government's views, as set forth in the memorandum already mentioned, the competent American officials will be disposed to examine in the friendliest spirit the means which would facilitate access for American companies controlled by Dutch interests to United States public mineral lands.

KELLOGG

856d.6363/532 : Telegram

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

[Paraphrase]

THE HAGUE, *May 26, 1928—1 p. m.*
[Received May 26—8:35 a. m.]

24. Referring to Department's telegram 17, May 21, 3 p. m. May I suggest authorization formally to assure the Foreign Office here that the Netherlands Government's assent to the three conditions required by the Government of the United States (see the Department's telegram 8, March 2, 4 p. m.) will be followed by the United States recognizing the Netherlands as a reciprocating country; and also American companies owned by the Dutch will be allowed thereafter to enjoy, even if a minor part of their stock may be owned by a non-reciprocating country's nationals, all the advantages appertaining to reciprocity. These assurances will, I believe, greatly aid in securing the action desired from the Netherlands Government.

Mail report to follow.

TOBIN

856d.6363/536

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

No. 1522 THE HAGUE, *May 26, 1928.*
[Received June 9.]

SIR: I have the honor to refer to my telegram No. 24, of May 26, 1928, 1 p. m.

Upon receipt of the Department's telegram No. 17, of May 21, 3 p. m., I obtained an interview with the Minister for Foreign Affairs. I expressed to him some disappointment at the continued delay my government had encountered in establishing reciprocal relations in the matter of American participation in the petroleum development of the Dutch East Indies. I reminded him that negotiations with this end in view had been carried on by my predecessor, Mr. Phillips, and had been the object of my unceasing efforts since my arrival—in all a period of something like eight years; that I had been assured more than a month ago by Mr. Snouck that the considerations contained in the Legation's memorandum of March 5th were acceptable in principle and that such delays as we were now encountering were occasioned merely by formal difficulties in making a satisfactory draft of the reply to our memorandum; that I was now surprised and disappointed to learn that more serious difficulties had been advanced.

Mr. Beelaerts said to me: "When we sign this important concession and turn it over to you we will have taken an irrevocable step. Before

we do so we would like to feel certain of your action. Why should you wish to hold all the trumps in your hand? We desire formal assurances that when we have formally accepted your conditions and signed the concession we may be certain to be removed from your list of non-reciprocating nations and that the only Dutch company desirous of entering upon public lands may be free to do so." He spoke also of the objections, already reported in my despatch No. 1517, of May 14, 1927 [*1928*], which had been urged against the Bill by the Dutch Minister in Washington.

I reminded him that it had never been the purpose of the United States Government to advance the interests of any particular company, but only the interests of American nationals at large; that the design of my government was to establish facilities for the nationals of each country to obtain access to the mineral resources of the other upon equal and reciprocal terms; that there was no desire upon the part of the American Government to obtain all the advantages; that, as a matter of fact, Dutch oil companies were now operating and had been operating for years past in America under most favorable conditions. I conveyed to him the assurance that if a satisfactory answer were obtained to the three inquiries of my government—contained in the Legation's note of March 5th—my government would then be in a position to discuss in a most friendly spirit the position of any Dutch owned American company.

The Minister made a very strong plea, difficult to resist, that the matter be left in the hands of Mr. Snouck, now absent on his vacation. While I protested at what seemed an unnecessary delay, I had no course but to submit.

The Minister reiterated the assurance of Mr. Snouck—that the matter was settled in principle and that the Bill would surely be signed—but it was impossible to extract from him any assurances as to the time when such signature might be expected.

As a result of my conversation with the Minister for Foreign Affairs, I am convinced that the Dutch Government is acting in good faith in requiring convincing assurances that their action in acceding to the requirements of the United States Government will be followed by the recognition of the Netherlands as a reciprocating country.

I believe from the expressions of Mr. Snouck, which have been previously reported, and those of Mr. Beelaerts, that the position of the Dutch Government may be summarized as follows: It is prepared to meet the conditions set forth in the Department's No. 8 of May [*March*] 2, 1928, provided such action on its part will be promptly followed by acknowledgment on our part of the Netherlands as a reciprocating country and also by an assurance in some form on the part of the United States Government which will satisfy the Foreign

Office that the Shell Union will be regarded as a Dutch company if and when that company applies for leases in our public lands. The Dutch Government also desires it to be understood that, in meeting the views of the American Government as set forth in the third condition advanced in the above-mentioned memorandum, Holland, like other countries with a parliamentary system, cannot bind succeeding governments, but that it would prefer to say, as Mr. van Royen has already stated (see note from Dutch Legation November 14, 1927), that it is its "present intention" to pursue in the future a liberal policy with regard to American participation in the petroleum development of the Dutch East Indies. Also with reference to the third condition contained in our memorandum, the Dutch Government desires to point out that while determined to accord equal opportunity in the Netherland East Indies to American petroleum interests it cannot bind itself to grant in every instance absolutely identical treatment to American and Dutch interests. To this summary of the Dutch position should also be added the objections referred to by both Mr. Snouck and Mr. Beelaerts relative to the uncertainties and conflicts in American oil legislation and the influence of politics on the operations of foreign controlled oil companies in the United States. To these latter objections I do not believe the Foreign Office will attach much weight.

These facts, which have at various times in the past three months been communicated orally to the Legation, have in turn been reported to the Department. They reveal, I believe, no differences of opinion which cannot be reconciled. The tendency of the past few months has been to give greater emphasis to the less important points of difference and thus minor disagreements have been made more prominent than the fact that agreement has been reached on the basic issue.

In order to solve the present problem, I venture to suggest for the Department's consideration that the Legation be authorized to put into writing (1) the substance of the Department's telegram No. 10, March 28, 7 p. m.—the contents of which have already been conveyed orally to the Foreign Office—and (2) an assurance on the part of the United States Government, that the advantages to be enjoyed by Dutch owned American companies, when Holland shall have been declared a reciprocating country, will not be denied to such companies, even though their stock is to a minor extent in the hands of nationals of a non-reciprocating country. If these assurances could be presented formally to Mr. Snouck upon his return, to be effective when the Dutch have fulfilled the assigned conditions, I believe matters would be brought to a point where I can obtain the definite and satisfactory answer to our requirements.

It may seem the Legation, in its desire to obtain prompt action and to meet every contingency, is urging a too conciliatory course.

The concessions suggested do not, however, cost us anything in bargaining power. The assurances contemplated are merely promises of action contingent upon the Dutch Government having first accepted our conditions. It would appear to the Legation that compliance with the second assurance desired by the Foreign Office, i. e., recognition in some form of the Dutch character of the Shell Union, is an essential part of and flows directly from the promise we have made orally that Holland will be held a reciprocating country. To grant one request and not the other might give rise, in the Dutch mind, to doubts regarding our good faith, for Dutch nationals cannot actually enjoy advantages of the promised reciprocity if we withhold the desired recognition from the only Dutch company in the United States which, according to the Foreign Office, is interested in obtaining American concessions.

I should greatly appreciate receiving by telegraph an expression of the Department's views.[14]

I have [etc.] RICHARD M. TOBIN

856d.6363/532 : Telegram

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

[Paraphrase]

WASHINGTON, *May 29, 1928—3 p. m.*

20. Referring to your 24, May 26, 1 p. m.

(1) In the effort to conclude satisfactorily the questions concerning reciprocity on oil lands, pending now for about eight years, the United States Government already has gone to considerable lengths and so far has had no satisfactory response to the Department's memorandum (telegram No. 8, March 2, 4 p. m.) as presented or to its statement (telegram No. 10, March 28, 7 p. m.) to the effect that no objection would be made to a suitable written statement if the Government of the Netherlands took appropriate action regarding the matter. While wishing to continue every reasonable effort to adjust the same, the Department considers that, in view of the available information, any formal advances would not be appropriate. As to your mentioning "assent" by the Government of the Netherlands, acceptance of the Department's proposal, it may be emphasized, involves both action and assent.

(2) In view of the above, the best procedure would seem to be for you to talk over the matter informally, along the lines of the Department's 17, May 21, 3 p. m., and of this telegram, with the appro-

[14] Marginal notation dated June 14, 1928, by the Economic Adviser, Department of State: "All points have been substantially covered in telegrams. A[rthur] N. Y[oung]."

priate official and to make it clear the United States Government now is waiting for the Netherlands Government's expression of views in this regard. If you deem it helpful, you may express the opinion also that public opinion in the United States may, should a real reciprocity not be established within the near future, demand measures which would condition access to both public and private lands upon reciprocity. You may make an oral statement further that there appears to be at present in the United States an increasing sentiment to this effect; that the Department has on a number of occasions used its influence in opposition to proposals which would harm the interests of nonreciprocating countries' nationals; but that the Department will find it increasingly difficult to act similarly hereafter if American nationals cannot be shown to be enjoying abroad a substantial reciprocity. Again you may in this connection emphasize the fact that about 90 percent of this country's proven oil areas are private lands of the United States concerning which the Government does not impose any restriction on activities of corporations which are controlled or owned by foreign nationals.

KELLOGG

856d.6363/534 : Telegram

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

[Paraphrase]

WASHINGTON, *June 7, 1928—4 p. m.*

24. Referring to your 25, June 4, 3 p. m.[15]

(1) The Department is gratified by your statement in your despatch No. 1517, May 14, page 2, that the Netherlands Colonial Department is in agreement with American contentions (set forth in your March 5 memorandum) and understands that the remaining questions now relate only (*a*) to interpreting "a footing equivalent to that accorded to Dutch interests" and (*b*) as to whether American corporations controlled by Dutch could, on the Netherlands being declared a reciprocating country, acquire leases on United States public lands. The questions brought to attention by the Netherlands Minister here are understood not to be considered by the Netherlands Foreign Office to interfere with an understanding being reached.

(2) Regarding the above point (*a*), the United States Government, you may state, does not consider "equivalent" to mean "identical" and would not insist on "concessions hectare for hectare with the Dutch." This Government's present interest lies rather in estab-

[15] Not printed.

lishing a broad basis of reciprocity which both Governments would, it is assumed, apply in good faith.

(3) Regarding point (*b*), you may orally make the statement which was authorized in the Department's 17, May 21, paragraph 3, and clearly point out the necessity, of course, in each specific case of having Dutch control satisfactorily shown to the competent officials through the submission of a statement covering stock ownership and organization of the affected American companies.

(4) The Department has received informal advices that Colonel Donovan's Paris visit concerning the quinine matter has had satisfactory results.[16]

KELLOGG

811.6363/205

The Secretary of State to the Secretary of the Navy (Wilbur)

WASHINGTON, *June 29, 1928.*

MY DEAR MR. SECRETARY: I beg to refer to informal discussions which you and officers of your Department have had with officials of this Department in regard to matters pertaining to the naval oil reserves, and to the suggestion that a statement be furnished concerning certain questions involved that are of interest to the Department of State.

The Department of State, in connection with rendering assistance and support to American companies seeking or operating petroleum concessions abroad, is constantly seeking the recognition and practical application by foreign governments of the policy of the open door and equality of commercial opportunity. It is obvious that such a policy can be followed only as long as the United States accords to nationals of foreign countries treatment similar to that sought by this Government for its nationals abroad.

This Department frequently has had occasion to point out that the laws of the United States are very liberal as to access to private oil lands on the part of foreign interests, and that the laws of the United States appertaining to public oil lands do not discriminate against companies owned wholly or in part by foreign nationals as long as the foreign countries of which they are citizens grant reciprocal rights to American interests. I quote below, for your confidential information, a portion of a memorandum on this subject recently communicated by this Government to the Netherlands Government:

[Here follow the second, third, and fourth paragraphs of the informal memorandum transmitted in telegram No. 8, March 2, 4 p. m., to the Chargé in the Netherlands, printed on page 381.]

---

[16] Col. William J. Donovan, Assistant to the Attorney General, visited Paris and conferred with representatives of the quinine interests regarding alleged violations of American laws by their agents in the United States.

The Department of State has sought for American nationals abroad not only equality of treatment with all other foreign nationals, but also treatment equivalent to that accorded to the nationals of the country in question. Representations have been made as to action or legislation by foreign governments by which American interests were discriminated against merely by reason of the fact that such interests were foreign. The basis for such representations is the liberal treatment accorded by the United States to foreign nationals. This Department would obviously be handicapped in maintaining this position were any branch of this Government to take action discriminating against foreign interests as such.

In view of the extent of our probable future dependence upon foreign reserves of petroleum, the importance of keeping the Government of the United States in a position consistently to support and assist American interests will, I am sure, be appreciated. Accordingly, I consider it important that no action be taken in the United States discriminating against foreign interests as such in the oil industry.

The Navy Department, I understand, has been considering the advisability of a general policy of stipulating that nationals of non-reciprocating countries shall not have any interest, either directly or under contracts to be made hereafter, in leases pertaining to naval petroleum reserves. Such a policy would be analogous to the final proviso of Section 1 of the General Leasing Act of February 25, 1920 (41 Stat. 437). I understand that consideration has also been given to the adoption by administrative action of a policy of reciprocity with respect to existing leases in which foreign nationals are interested.

While there may be no objection to the principle involved in this proposal, I feel that its application at this time or under existing circumstances would not be advisable. In the first place, it could hardly be of any great practical importance. It is understood that naval petroleum reserves are less than 1½% of our total petroleum reserves, and that the larger part of the naval reserves has already been leased under long term contracts. Hence the opportunity for foreign-controlled companies to participate in the further development of these reserves is a very limited one. There are, moreover, considerable risks in the proposal. It would be misunderstood abroad and give basis for misrepresentations of our attitude. The present situation is specially delicate in view of our pending negotiations with the Netherlands Government. Also the proposal might tend to increase agitation in this country against the operation of foreign petroleum interests in the United States, and thus tend to make more difficult the support by this Department of American petroleum interests abroad. Besides, attention would be focused on the existence of

naval oil reserves, which might thus suggest to foreign governments the desirability of constituting a part or all of their own oil deposits as naval or military reserves to be exploited by the respective governments or their own nationals exclusively. In this connection, it may be observed that Brazil has lately been considering a proposal which would declare all petroleum deposits as well as deposits of many of the most important minerals to be reserved for national security and defense and excluding foreign interests from opportunity to participate in their development.

I wish to take this opportunity to express my appreciation of the informal cooperation which you and officers of your Department have already accorded in this matter, and to thank you for your willingness to take into account the considerations of special importance to this Department.

I am [etc.] FRANK B. KELLOGG

856d.6363/545

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

No. 1553 THE HAGUE, *July 10, 1928.*

[Received July 23.]

SIR: Referring to my telegram No. 34, of July 7, 1928, 3 p. m.,[17] I have the honor to transmit herewith copies and translations of three communications exchanged to-day between the Legation and the Foreign Office with respect to the establishment of reciprocal treatment in petroleum matters between the United States and the Netherlands. Memorandum No. 21432 (Enclosure No. 1) contains the assurances requested in the Legation's Memorandum of March 5, 1928. The Legation's acknowledgment is attached thereto (Enclosure No. 2). The second Memorandum, No. 21433 (Enclosure No. 3), to which no acknowledgment was made, records certain views of the Dutch Government with regard to possible legal and other difficulties which might arise in connection with the exploitation of concessions in the United States public lands.

For the sake of the record and as a matter of convenience I am likewise enclosing, in addition to copies of the final memoranda, copies of the first two drafts (Enclosures Nos. 4 and 5) [17] which were tentatively submitted to the Legation for consideration. A comparative study of these various documents will show that throughout the negotiations the Legation has been actuated by a desire first to obtain definite and satisfactory assurances as to Dutch future policy with respect to petroleum requested in the Legation's Memorandum of the 5th of March. The second object in mind was to persuade the Foreign Office to omit

[17] Not printed.

any reference in the discussions or correspondence to the ambiguous, extraneous and what the Legation considers as theoretical arguments which the Dutch Foreign Office advances to illustrate an alleged discrepancy in the security offered by the legal systems of the two countries. While, for reasons mentioned below, it has not been possible to bring about the elimination of all references to this subject, it has been possible to have these considerations included in a separate minute and in a form so modified as to make them comparatively innocuous. It is evident from the elliptical phraseology employed that the Foreign Office is itself none too sure of the arguments advanced. Admittedly, they have been introduced into the discussion because of a promise to do so made to the Royal Dutch, which sees in them a basis for an argument in the future should any difficulty arise on this score in connection with the operations of any of its subsidiaries in our public lands.

I have [etc.] RICHARD M. TOBIN

[Enclosure 1—Translation [18]]

The Netherlands Ministry for Foreign Affairs to the American Legation

No. 21432 MEMORANDUM

The Ministry of Foreign Affairs has noted with great interest the viewpoint of the Government of the United States concerning the exploitation of petroleum fields in the United States and in the Netherlands Indies as set forth in the American Legation's memorandum of March 5, 1928.

In response to the desire expressed by the American Legation to receive assurances on three points regarding the Netherlands policy with respect to the exploitation of petroleum fields in the Netherlands Indies, the Ministry of Foreign Affairs has the honor to inform the American Legation as follows:

1. The Netherlands Indies mining law (*Indische mi jnvet*) makes no objection to the granting of rights for the exploitation of petroleum fields by United States citizens or by companies with American capital, provided that such citizens or such companies comply with the stipulations of article 4 of that law.

2. The law of February 9, 1928 (S. 23), authorizes the Minister of Colonies to sign contracts with a company in which American capital is heavily interested, which will make it possible for that company to exploit important petroleum terrains in the Netherlands Indies. The Minister of Colonies is prepared to sign these contracts. It is under-

[18] File translation revised.

stood that, as soon as the signature of these contracts shall have been notified to the Legation of the United States, the latter will transmit to the Ministry a communication to the effect that the Government of the United States recognizes the Netherlands as a reciprocating country in the sense of the mineral leasing act of February 25, 1920.

3. Her Majesty's Government has no intention of abandoning the open-door policy in so far as the granting of rights for the exploitation of oil fields in the Netherlands Indies is concerned; and consequently the opportunity will remain open for American interests to participate in the exploitation of the petroleum wealth of the Netherlands Indies. It is, however, understood that this policy does not imply that in each specific instance of the granting of petroleum rights to other than American interests, the question of the granting of identical rights to American interests can be raised.

In the conversations between the American Legation and the Royal Ministry of Foreign Affairs, which were held upon the proposal of the American Government, the Ministry thought it advisable to request the American Legation to inform its Government that a Netherlands company, controlling an important American petroleum concern in which American capital likewise is interested, has as a shareholder for a minor part of its capital a company belonging to a nonreciprocating country. The Royal Ministry inquired how the Government of the United States would view a request on the part of such a company tending to obtain a concession covered by the mineral leasing act. In reply the American Legation informed the Ministry that in each specific case it would of course be necessary that the fact of Netherlands control be shown to the satisfaction of the competent officials by the production of evidence regarding the organization and stock ownership in the American company in question, and that these authorities would be disposed to consider in the most friendly spirit means to facilitate access to the public mineral lands of the United States on the part of American companies controlled by Netherlands interests.

THE HAGUE, *July 10, 1928.*

[Enclosure 2]

The American Legation to the Netherlands Ministry for Foreign Affairs

MEMORANDUM

The Legation of the United States of America at The Hague acknowledges the receipt of the Foreign Office's Memorandum No. 21432, of July 10, 1928, setting forth the latter's views in reply to a Memorandum submitted by the Legation on March 5, 1928, in regard to the question of reciprocity between the two Governments in matters relating to petroleum.

The communication under acknowledgment confirms the Legation's understanding of the informal conversations which have taken place between it and the Foreign Office. The assurances it contains adequately meet the contentions of the American Government as set forth in the Memorandum of March 5th.

THE HAGUE, *July 10, 1928.*

[Enclosure 3—Translation [19]]

The Netherlands Ministry for Foreign Affairs to the American Legation

No. 21433 MEMORANDUM

In the course of the conversations between the American Legation and the Royal Ministry of Foreign Affairs, mentioned in to-day's Memorandum No. 21432, the Royal Ministry pointed out that after the granting of the concession in question the company concerned will be able to exploit its fields under complete legal security, whereas the situation of [*sic*] American companies with Netherlands capital which desire to obtain and exploit fields in the public lands run grave risks by the absence of legal security.

In the first place, it should be noted that a company exploiting a petroleum concession conferred by the Federal Government in public lands must conform to the general laws enacted by the State in which the concession is situated. No guarantee exists that this State will not by its legislation render exploitation practically impossible.

Moreover, every American citizen may contest before the courts the legality of a granted concession. The American judicial authorities therefore could annul in practice rights granted by the Federal Government.

Finally, the present Government of the United States can bind only itself with regard to the application of the mineral leasing act. A succeeding administration might have a different opinion regarding the interpretation and application of this law, as a result of which American companies with Netherlands capital might not be able to obtain any further concessions in public lands.

From the information in its possession concerning American legislation, the Ministry of Foreign Affairs understands that in theory the position of companies with Netherlands capital could, in the face of the lack of legal security, be remedied either by the conclusion of a formal treaty or by a modification of the legislation. It is, however, of the opinion that in the present circumstances these solutions are imprac-

[19] File translation revised.

ticable and that all other remedies are defective. The Royal Ministry consequently contents itself with merely noting the points raised above.

THE HAGUE, *July 10, 1928.*

856d.6363/544 : Telegram

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

THE HAGUE, *July 17, 1928—4 p. m.*
[Received July 17—12:55 p. m.]

35. My 34, July 7, 3 p. m.[21] Minister for the Colonies has today signed and delivered Koloniale [Petroleum Company] contracts.

TOBIN

856d.6363/547

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

No. 1561 THE HAGUE, *July 21, 1928.*
[Received August 8.]

SIR: Confirming my telegram No. 35, of July 17, 4 p. m., I have the honor to transmit herewith a copy and translation of a Note from the Foreign Office [21] informing me of the signature, on July 17th of four contracts granting petroleum concessions in the Dutch East Indies to the Koloniale Petroleum Company. I enclose as well a copy of my acknowledgment of this communication, in which I formally convey to the Netherland Government recognition by the United States as a reciprocating nation within the meaning of the provisions of the Mineral Leasing Act of February 25, 1920.

I am informed that my note probably will be communicated by the Colonial Minister to the States General in fulfilment of his promise to keep the legislative body informed of the final outcome of this question.

The contracts just signed by the Colonial Minister constitute executive action which would appear to bring to a practical and satisfactory conclusion the discussions which we began eight years ago to obtain from the Dutch Government recognition of the fundamental principle of reciprocal treatment with respect to the development of natural resources and to secure for American interests a substantial participation in the petroleum industry of the Netherland East Indies similar to that enjoyed by Netherland citizens in the United States.

I have [etc.] RICHARD M. TOBIN

---

[21] Not printed.

[Enclosure]

The American Minister (Tobin) to the Netherlands Minister for Foreign Affairs (Beelaerts)

No. 642 THE HAGUE, *July 21, 1928.*

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's Note of July 19, 1928 (Economic Section, No. 22689),[22] informing me that four contracts granting petroleum concessions in the Dutch East Indies to American interests were signed on July 17th. The conditions for which my Government hoped having now been established, I am authorized to convey to Your Excellency the assurance that the Government of the United States of America recognizes the Government of Her Majesty the Queen of the Netherlands as a reciprocating State within the meaning of the provisions of the Mineral Leasing Act of February 25, 1920.

May I be permitted to express my personal satisfaction at the successful culmination of the efforts of Your Excellency's Government and that of the United States to arrive at an agreement whereby the Government of each country grants to nationals of the other reciprocal access with respect to mineral resources.

I avail myself [etc.] RICHARD M. TOBIN

856d.6363/551

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

No. 1574 THE HAGUE, *August 4, 1928.*
[Received August 20.]

SIR: With reference to my despatch No. 1561 of July 21, 1928, I have the honor to transmit herewith a copy and translation of a Note from the Netherland Minister for Foreign Affairs in which Jonkheer Beelaerts expresses his satisfaction at the arrangement whereby the Netherlands is recognized as a reciprocating State in the sense of the Mineral Leasing Act of February 25, 1920.

I have [etc.] RICHARD M. TOBIN

[Enclosure—Translation]

The Netherlands Minister for Foreign Affairs (Beelaerts) to the American Minister (Tobin)

No. 24210 THE HAGUE, *August 2, 1928.*

MR. MINISTER: I have the honor to acknowledge the receipt of Your Excellency's Note No. 642, of July 21st last,[23] in which you were good

---

[22] Not printed.
[23] *Supra.*

enough to inform me that your Government recognizes the Netherlands as a reciprocating State in the sense of the Mineral Leasing Act of February 25, 1920.

I desire to thank Your Excellency for the kind expressions which you have added to this communication and, on my side, to express my satisfaction at the arrangement reached by our two Governments, thanks to the benevolent co-operation of Your Excellency and the Legation.

Please accept [etc.] BEELAERTS VAN BLOKLAND

856d.6363/535

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

No. 592 WASHINGTON, *October 1, 1928.*

SIR: Reference is made to your despatch No. 1553 of July 10, 1928, with which you transmitted copies and translations of certain communications exchanged between the Legation and the Foreign Office with regard to the question of reciprocity in petroleum matters between the United States and the Netherland Government. As was indicated in the Department's telegraphic instruction No. 28, of June 29, 4 p. m.,[24] it had been hoped that the Netherland Government would not make of record the statements contained in memorandum No. 21433 to the effect that American companies with Dutch capital desiring to obtain and operate leases on the public lands of the United States run grave risks by the absence of legal security. However, since the Netherland Government has included these incorrect statements in its memorandum of July 10 the Department finds it necessary to instruct you to make reply thereto. The Department accordingly encloses a memorandum on this subject for communication to the Netherland Government.

In handing the memorandum to the Foreign Office you should point out orally that although this Government has found it necessary to make reply to the memorandum of July 10 it is not done in a spirit of controversy but merely for the purpose of record. You may also indicate that should the Netherland Government be willing to withdraw the memorandum in question, you are authorized to withhold the enclosed memorandum. The Department would, of course, prefer the latter course.

I am [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.

---

[24] Not printed.

[Enclosure]

Memorandum To Be Submitted to the Netherlands Ministry for Foreign Affairs

In memorandum No. 21433 of July 10, 1928, the Royal Ministry of Foreign Affairs made statements to the effect that American companies with Dutch capital desiring to obtain and operate leases on the public lands of the United States run grave risks because of the absence of legal security. Since, notwithstanding the explanations on the subject given by representatives of the Government of the United States in the course of the conversations which have taken place both between the Royal Ministry and the American Legation and between the Department of State and the Netherland Legation at Washington, these statements, which are incorrect, have been made of record, the Government of the United States is constrained to make the following comment.

(1) The statement that a company operating an oil concession granted by the Federal Government on public lands of the United States must conform to the general laws enacted by the State where the concession is situated is ambiguous. If it is meant that petroleum concessions on public lands of the United States conferred by the Federal Government are regulated by the laws of the State where a given concession is located, the statement is absolutely incorrect. It is likewise incorrect to state that a State may, through its legislation, make it practically impossible to work a concession on Federal public lands. The jurisdiction over and control of Federal public lands is exclusively vested in the Federal Government, and the States have no control whatsoever over concessions on such lands.

(2) An American citizen may not contest the legality and validity of a concession that has been granted on the Federal public lands unless such person has a prior valid claim in respect of such land. Such claims as have arisen have in almost all cases been decided by the appropriate Executive Department of this Government without recourse to the courts. Furthermore, any such claims that may exist would be heard by the appropriate Executive Department before a concession or lease is granted.

(3) It is not clear what the Royal Ministry means by its statement that the present Government of the United States can not, with regard to the enforcement of the Mineral Leasing Act, bind any other but itself and that a succeeding administration might be of a different opinion concerning the interpretation and enforcement of that law, the consequence of which might be that American companies with Dutch capital would no longer be granted concessions on the public lands. The Mineral Leasing Act of February 25, 1920, is a permanent Fed-

eral statute and can only be changed by the Congress of the United States. A lease of the Federal public mineral lands of the United States is granted for a period of 20 years, with a right of renewal in the lessee, and such lease can not be invalidated except for non-compliance with its terms and then only by means of appropriate legal proceedings in the proper courts of the United States. The Government of the United States has always stood for the policy of the open door and equality of opportunity. Although it is, of course, possible that the Congress of the United States, at some future time, may alter existing legislation, just as the legislature of the Netherlands or some other country may modify the laws of the respective countries, the American Legation perceives no reason to anticipate that that position on the part of the Government of the United States is likely to be changed thereby.

856d.6363/560

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

No. 1663 THE HAGUE, *October 15, 1928.*
[Received October 27.]

SIR: With reference to the question of reciprocity in petroleum matters between the United States and the Netherlands, I have the honor to report that pursuant to the Department's Instruction No. 593 [*592*], of October 1, 1928, I presented the memorandum referred to therein to Mr. Snouck Hurgronje, the Secretary General of the Foreign Office. I told him the objections made by his Government in its memorandum of July 10, 1928, were felt to be entirely baseless, and my Government hoped they might be removed from the record. I stated that it was considered regrettable that the happy result of the negotiations to establish unreserved reciprocity of opportunity between the nationals of the two countries should be marred by the presence of statements which were felt to be without justification. I added that if the assurances given by my Government were found to be adequate, it was hoped the Government of the Netherlands would consent to withdraw its memorandum of July 10, 1928, in which event the Government of the United States would refrain from making the rejoinder which would otherwise be considered necessary.

Mr. Snouck replied that the misgivings of his Government were directed not so much to the principle of the laws referred to as to the possibilities of their interpretation. He added, however, that the Netherland Government would seek the best legal advice upon the subject in Holland and in America, and he expressed the hope that the results might enable the Netherland Government to comply with the suggestions I presented to him.

Mr. Snouck concluded with the statement that he would acquaint me with his Government's views on the subject at the earliest possible moment.

I have [etc.] RICHARD M. TOBIN

TREATY BETWEEN THE UNITED STATES AND THE NETHERLANDS FOR THE ADVANCEMENT OF PEACE, SIGNED DECEMBER 18, 1913, AND PROTOCOL INTERPRETATIVE OF ARTICLE I THEREOF, SIGNED FEBRUARY 13, 1928

711.5612/56a

The Secretary of State to President Coolidge

WASHINGTON, *February 13, 1928.*

THE PRESIDENT: It will be recalled that in 1913–1914 this Government concluded treaties with several countries looking to the advancement of the cause of general peace. Such a treaty was concluded with the Government of the Netherlands. With minor changes the text for the most part was uniform in all the treaties. The treaty with the Netherlands (Dutch and English texts) was signed on December 18, 1913, and the Senate consented to its ratification on August 13, 1914. Article I defines the character of disputes which are the subject of the treaty. After the conclusion of the treaty, in 1917, the Netherlands Government invited the Department's attention to a variance between the Dutch and the English texts of Article I.

The English text reads:

"The High Contracting Parties agree that all disputes between them, of every nature whatsoever, to the settlement of which previous arbitration treaties or agreements do not apply in their terms or are not applied in fact, shall, when diplomatic methods of adjustment have failed, be referred for investigation and report to a permanent International Commission, to be constituted in the manner prescribed in the next succeeding article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted."

It will be seen that this article covers "all disputes between them of every nature whatsoever" without specifying the time of origin of such disputes. The Dutch text specifies "all disputes of every nature whatsoever that may arise between them", thus implying that only those disputes arising after the coming into force of the treaty are contemplated. The Netherlands Government observed that a literal interpretation of the Dutch text would preclude disputes having their origin in fact arising prior to the time when the treaty goes into effect, and suggested the signing, at the time of the exchange of ratification of the treaty, of a Protocol interpretative of Article I, the

effect of which would be to make the treaty applicable to all disputes whether arising after the coming into force of the treaty or having their origin in facts arising prior thereto. Due to the exigencies of the late war, however, the matter lay dormant and was not renewed until 1923, at which time my predecessor was of the opinion that the proposed Protocol would have the effect of modifying the terms of the treaty to which the Senate had given its approval and would therefore require its submission to that body. At that time neither this Government nor the Netherlands Legation at this capital was aware of the existence of any controversy between the United States and the Netherlands and the Department advised the Legation that there would appear to be no occasion for submitting the proposed Protocol to the Senate.

The Department is now in receipt of a note from the Netherlands Minister [25] in which he states that his Government confirms his prior statement that there is no existing controversy between the two Governments. The Department understands that the insistence of the Netherlands Government to have the Protocol concluded is due solely to their desire to clarify the variance between the Dutch and the English texts, without which, they are not prepared to proceed to the exchange of ratifications of the original treaty, since the Netherlands States Assembly has approved the treaty on the understanding that this Government would accept the interpretative Protocol.

I have the honor therefore to request that, should your judgment approve thereof, you transmit the enclosed Protocol dated February 13, 1928, to the Senate with a view to receiving the advice and consent of that body to ratification.[26] When such ratification has been received steps will be taken immediately to effect the exchange of ratifications of the original treaty accompanied by this Protocol.

Respectfully,

FRANK B. KELLOGG

Treaty Series No. 760

Treaty Between the United States of America and the Netherlands, Signed at Washington, December 18, 1913 [27]

The President of the United States of America and Her Majesty the Queen of the Netherlands, being desirous to strengthen the bonds

---

[25] Note No. 223, Jan. 28, 1928; not printed.

[26] For text of protocol, see p. 410. It was submitted by President Coolidge to the Senate Feb. 16, 1928 with letter from the Secretary of State; *Congressional Record*, Feb. 24, 1928, vol. 69, p. 3531.

[27] In English and Dutch; Dutch text not printed. Ratification advised by the Senate, Aug. 13, 1914; ratified by the President, Mar. 14, 1917; ratified by the Netherlands, July 8, 1924; ratifications exchanged at Washington, Mar. 10, 1928; proclaimed by the President, Mar. 12, 1928.

of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their plenipotentiaries:

The President of the United States, the Honorable William Jennings Bryan, Secretary of State; and

Her Majesty the Queen of the Netherlands, Chevalier W. L. F. C. van Rappard, Envoy Extraordinary and Minister Plenipotentiary of the Netherlands to the United States;

Who, after having communicated to each other their respective full powers, found to be in proper form, having agreed upon and concluded the following articles:

Article I

The High Contracting Parties agree that all disputes between them, of every nature whatsoever, to the settlement of which previous arbitration treaties or agreements do not apply in their terms or are not applied in fact, shall, when diplomatic methods of adjustment have failed, be referred for investigation and report to a permanent International Commission, to be constituted in the manner prescribed in the next succeeding article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

Article II

The International Commission shall be composed of five members, to be appointed as follows: One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country. The expenses of the Commission shall be paid by the two Governments in equal proportion.

The International Commission shall be appointed within six months after the exchange of the ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

Article III

In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the International Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement. The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof; and by Her Majesty the Queen of the Netherlands; and the ratifications shall be exchanged as soon as possible. It shall take effect immediately after the exchange of ratifications, and shall continue in force for a period of five years; and it shall thereafter remain in force until twelve months after one of the High Contracting Parties have given notice to the other of an intention to terminate it.

In witness whereof the respective plenipotentiaries have signed the present treaty and have affixed thereunto their seals.

Done in Washington on the eighteenth day of December, in the year of our Lord nineteen hundred and thirteen.

WILLIAM JENNINGS BRYAN [SEAL]
W. L. F. C. v. RAPPARD [SEAL]

Treaty Series No. 760

Protocol Interpretative of Article I, Signed at Washington, February 13, 1928 [28]

The Government of the United States and the Government of the Netherlands, desiring to remove any doubt or uncertainty that may exist or that may hereafter arise as to the interpretation to be placed on Article I of the Treaty signed between the two Governments on December 18, 1913, with respect to disputes that may exist between them at the time of the taking effect of the said treaty, have authorized the undersigned to declare that the said Article I is meant and in-

[28] In English and Dutch; Dutch text not printed. Ratification advised by the Senate, Feb. 24, 1928; ratified by the President, Feb. 27, 1928; proclaimed by the President, Mar. 12, 1928.

tended to apply, subject to the terms of that Article, to all disputes between the two Governments existing at the time of the taking effect of the Treaty as well as to those arising thereafter.

In Witness Whereof the undersigned have hereto signed their names and have affixed their respective seals at the City of Washington, this thirteenth day of February in the year one thousand nine hundred and twenty-eight.

FRANK B. KELLOGG [SEAL]
J. H. VAN ROYEN [SEAL]

711.5612/66a

The Acting Secretary of State to the Netherlands Chargé (Van Hoorn)

WASHINGTON, *September 8, 1928.*

SIR: The time specified in the Treaty for the Advancement of Peace between the United States and the Netherlands, signed at Washington December 18, 1913, the ratifications of which were exchanged at Washington on March 10, 1928, having expired without the fifth Member in the Commission provided for in Article II of that Treaty being named, I beg to suggest for the consideration of your Government that the date within which the organization of the Commission may be completed be extended from September 10, 1928 to March 10, 1929.

Your formal notification in writing, of the same date as this, that your Government receives this suggestion favorably, will be regarded on the part of this Government as sufficient to give effect to the extension, and I shall be glad to receive your assurance that it will be so regarded by your Government also.

Accept [etc.] J. REUBEN CLARK, Jr.

711.5612/67

The Netherlands Chargé (Van Hoorn) to the Secretary of State

No. 2906 WASHINGTON, *8 September, 1928.*

SIR: I have the honor to acknowledge the receipt of your note of today's date suggesting the extension from September 10, 1928 to March 10, 1929 of the time within which the organization of the International Commission provided for in the Treaty of December 18, 1913, between the Netherlands and the United States Looking to the Advancement of the General Cause of Peace may be completed.

I have the honor to inform you that the Netherland Government fully concurs with the suggestion made by the Government of the United States that this exchange of notes will be regarded by it as sufficient to give effect to the extension.

Please accept [etc.] L. G. VAN HOORN

PROPOSED TREATY OF ARBITRATION BETWEEN THE UNITED STATES AND THE NETHERLANDS

711.5612A/3 : Telegram

The Acting Secretary of State to the Minister in the Netherlands (Tobin)

WASHINGTON, *March 29, 1928—5 p. m.*

11. The Department handed the Chargé d'Affaires of the Netherlands Legation, today, a draft of a proposed treaty of arbitration between the United States and the Netherlands.[29] The provisions of the draft operate to extend the policy of arbitration enunciated in the Convention signed at Washington, May 2, 1908,[30] which expires on March 25, 1929. The language of the draft is identical in effect with that of the Arbitration Treaty recently signed with France [31] and with the draft arbitration treaties already submitted to other governments in the general program for the extension of these principles. The text of the proposed treaty will be forwarded in the next pouch.

OLDS

711.5612A/6

The Netherlands Minister (Van Royen) to the Secretary of State

No. 1949 AIDE-MÉMOIRE

The Netherland Legation has transmitted to the Government at The Hague the communication of the Secretary of State of March 29, 1928, concerning a new arbitration treaty, and the draft that was enclosed.[32]

The Netherland Minister for Foreign Affairs has learned with great satisfaction the wish of the United States Government to give extension to the existing policy of arbitration. Jonkheer Beelaerts van Blokland however is desirous of submitting the following remarks to the attention of the Secretary of State.

It might be preferable to omit in Article I the words "which have not been adjusted as a result of reference to the Permanent International Commission, constituted pursuant to the treaty signed at Washington December 18, 1913." The reason for this suggestion is as follows.

The so-called "Bryan-Treaty", existing between the United States and the Netherlands in Article I is based on the principle, that be-

---

[29] Draft not printed.
[30] *Foreign Relations*, 1909, p. 442.
[31] Vol. II, p. 816.
[32] Not printed.

fore the "Bryan-Commission" will be brought the differences that are not submitted to Arbitration. The Netherland Government agrees with this idea. Arbitration and inquiry by the "Bryan-Commission" are thought in that treaty as procedures existing one beside the other and prescribed each for separate categories of cases. In the arbitration treaty now in force the cases that are submitted to arbitration, are described somewhat differently from those comprised in the proposed treaty and the exceptions especially are formulated differently. But in general in both treaties juridical differences are submitted to arbitration. The juridical differences that are excepted, the non-juridical differences and the differences that are not judged by arbitration in fact are submitted to the "Bryan-Commission."

This idea is logical and it seems desirable to maintain it.

By inserting in Article I of the new treaty the above mentioned sentence, the supposition is created, that differences, that this treaty has in view (juridical differences in other words) have to be submitted at any rate first to the "Bryan-Commission." This would be for the Netherlands a considerable change in their policy. It is true, that there are several Powers who, in their treaties, stipulate that the conciliation procedure shall be followed before any other settlement of differences, but the Royal Government has not deemed this advisable. In all its treaties the Netherlands Authorities have applied the system, that, at the request of one of the parties, juridical differences are judged at once by arbitration or jurisdiction in the Permanent Court of International Justice and that only by mutual agreement they can first be submitted to a conciliation commission.

If the above mentioned passage of Article I should be maintained, the stipulations of this Article and of Article I of the "Bryan-Treaty" would not properly harmonize. Article I of the new arbitration treaty supposes a procedure in the "Bryan-Commission" which, according to Article I of "the Bryan-Treaty", could not take place.

Jonkheer Beelaerts van Blokland, in making these remarks, starts from the idea, which is probably held likewise by the American Government, that, where Article I of the "Bryan-Treaty" speaks of "previous arbitration treaties or engagements", it is understood, that these arbitration treaties are previous to the difference and not that they are previous to the "Bryan-Treaty".

Differences arising after the conclusion of the new arbitration treaty and falling within the scope thereof, consequently are excluded likewise from the application of the procedure of the "Bryan-Commission".

Apart from the new arbitration treaty, it is important that there exist no doubt on this point. The interpretation given by Jonkheer Beelaerts van Blokland to Article I of the "Bryan-Treaty" is required also in connection with the existing arbitration treaty, inasmuch as

this is prolonged every five years, by which prolonging in fact each time a new arbitration treaty is concluded. The reason that prompted the stipulation of Article I of the "Bryan-Treaty" entails the natural fact, that not only the arbitration treaties which had been concluded on the moment of the signing or ratification of the "Bryan-Treaty", but also those concluded afterwards, prevail over the procedure in a "Bryan-Commission". This has also been the obvious intention when the Arbitration Treaty of 1908 was signed.

It is to be considered a progress that—as suggested—more precise exceptions—albeit still wide—take the place of the vague exceptions of differences concerning the honor, independence and vital interests. Especially the exception concerning the differences "involving the interests of third parties" must be considered as still wide. This exception—which figures likewise in the now existing treaty between the United States and the Netherlands—in the opinion of the Minister of Foreign Affairs at The Hague does not seem necessary nor very desirable. Since modification of the existing treaty has been taken up now, it seems advisable to consider whether that exception could not be omitted. It is vague and elastic and therefore undesirable: The number of cases in which a difference can concern, in a remote connection, likewise the interests of others, is legion. The convention of 1907 for the peaceful settlement of international differences [33] (ratified by the United States) therefore started from another principle. Article 84 of that convention stipulates:

"La sentence arbitrale n'est obligatoire que pour les Parties en litige. Lorsque 'il s'agit de l'interprétation d'une convention à laquelle ont participé d'autres Puissances que les Parties en litige, celles-ci avertissent en temps utile toutes les Puissances signataires, chacune de ces Puissances a le droit d'intervenir au procès. Si une ou plusieurs d'entre Elles ont profité de cette faculté, l'interprétation contenue dans la sentence, est également obligatoire à leur égard".

Similar stipulations are to be found in the Statute of the Permanent Court of International Justice.

This same line of thought, which Jonkheer Beelaerts van Blokland considers the logical one, has been followed in the Netherlands-German arbitration treaty,[34] which stipulates in paragraph 3 for the final protocol: "The fact that in a difference third States are concerned, does not prevent the application of the treaty". "The contracting parties, when the case presents itself, shall seek to persuade third States to join the arbitration or conciliation procedure". In this case the respective Governments have the right to arrange by mutual agree-

[33] Signed at The Hague, October 18, 1907, *Foreign Relations*, 1907, pt. 2, p. 1181.
[34] Treaty of May 20, 1926, League of Nations Treaty Series, vol. LXVI, p. 103.

ment for the special composition of the Court of Arbitration or of the Permanent Commission of Conciliation. In case no agreement with third States, concerning their joining the proceedings, can be reached within a reasonable time, the procedure shall follow its course between the signatories of the arbitration treaty as provided thereby, and with consequence only for them.

Likewise it is stipulated in the Netherlands-French treaty, concluded recently:

"Le présent Traité reste applicable entre les Hautes Parties contractantes, encore que d'autres Puissances aient également un intérêt dans le différend".[35]

In many treaties, concluded by other Powers, a similar stipulation has been made.

Should the American Government object to an explicit stipulation as is made in these treaties, Jonkheer Beelaerts van Blokland would propose simply to do away with exception No. 2 and not to mention this point at all.

As to the question whether it is preferable to let the new treaty supersede the arbitration convention of May 2, 1908, as proposed in the draft of His Excellency Mr. Kellogg, or to make March 25, 1929 the effective date of the new treaty, Jonkheer Beelaerts van Blokland is of the opinion, that much depends on the time at which the new treaty will be completed. The sanction by the Senate in the United States and the approval by the legislature in the Netherlands require considerable time.

The Netherlands Minister for Foreign Affairs, in connection with *alinea* 2 of Article 3, wishes to make the following suggestion. The clause by which termination of the treaty by one year's written notice is made possible, has the advantage of great simplicity but presents one difficulty. This system would give to one of the parties, at the moment that a difference may arise, the opportunity of denouncing the treaty and of preventing the difference from being submitted to arbitration. This objection, which between the United States and The Netherlands, is of course hardly more than imaginary, could be met if the system was followed, adopted in the Hollando-German and Hollando-French arbitration treaties, according to which the treaty will be valid at once for 10 years and is supposed to be prolonged for 5 years if notice is not given within six months before the expiration of the term of 10 years. Notice can further be given six months before the expiration of each term of 5 years, failing which the treaty will be prolonged each time for 5 years.

---

[35] Article 21 of treaty of March 10, 1928, *ibid.*, vol. CII, pp. 109, 119.

The Minister of Foreign Affairs at The Hague wishes it to be well understood that these remarks, made for the purpose of coming to a better and earlier agreement, should not convey the impression, that the proposal, made by the Secretary of State, has not been received at The Hague with great satisfaction.

WASHINGTON, *June 27, 1928.*

711.5612A/8

The Netherlands Legation to the Department of State

No. 3145

The Arbitration Treaty concluded between The Netherlands and the United States on May 2, 1908 and extended since by the operation of renewal agreements is going to finish its effect on March 25, 1929.[36]

It seems that the time is too short, considering the rather long delay necessary to obtain the sanction of the Senate in the United States and the approval of the Legislature required by the Constitution in The Netherlands, to have the new proposed Arbitration Treaty, mentioned in the note of the Royal Legation of June 27, 1928, No. 1949, in force before March 25, 1929.

As it will not be advisable that there should be a period of time during which no arbitration treaty at all would exist between the two powers, the Netherland Legation proposes to the State Department to enter into a renewal agreement of the existing treaty of May 2, 1908.

In case the Government of the United States should agree with this proposal, a draft of a convention in the Netherland and English languages is joined herewith,[37] extending for another period of five years the operation of the existing Arbitration Treaty.

The Netherland Government should appreciate highly if this Convention could be signed as soon as possible, as approval of the same by the Legislature in The Netherlands takes some time and as the First Chamber of the State General (Senate) on the occasion of the last renewal in 1925 has made the remark that the proposal of law for the agreement of the convention was introduced too late to allow sufficient time for consideration and discussion.

The Netherland Government is at the same time still willing to continue diligently the negotiations of the new Arbitration Treaty proposed by the Government of the United States and to cooperate in the conclusion of this treaty as soon as possible. A stipulation could be adopted that the new treaty would come in force immediately after the

---

[36] Last previous extension of convention February 13, 1924; *Foreign Relations*, 1924, vol. II, pp. 473–476.

[37] Not printed.

exchange of ratifications and that it would automatically replace the extended treaty of May 2, 1908.[38]

WASHINGTON, October [4], *1928*.

---

[38] An agreement further extending the duration of the convention of May 2, 1908, was signed Feb. 27, 1929 (Department of State Treaty Series No. 786).

NICARAGUA

ASSISTANCE BY THE UNITED STATES IN THE SUPERVISION OF ELECTIONS IN NICARAGUA[1]

817.00/5235 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, *January 10, 1928—10 a. m.*

[Received 12:55 p. m.]

16. The electoral law was passed by the Senate and sent to the Chamber this morning.

At my request the President and other Conservative leaders have been talking to leading members of the Chamber and I hope that it will be possible to obtain its passage there.

[Paraphrase.] At every step of the proceedings, however, I anticipate passive obstruction, if not open opposition, and several days may pass before final action can be obtained. [End paraphrase.]

MUNRO

817.00/5240a : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, *January 10, 1928—8 p. m.*

10. Have had two long conferences this morning with the Nicaraguan Minister, at second of which Colonel Stimson and Minister Eberhardt were present. It was made plain to the Nicaraguan Minister that we are highly dissatisfied with the present state of affairs regarding the electoral law and saw no reason why this law should not be voted at once. We had noticed that objections to the constitutionality of the law were being put forward in the Nicaraguan Congress and we were distinctly under the impression that General Chamorro and his followers were responsible for this and other attempts which seem to be being made to defeat the effective execution of the Stimson agreement. While we were not disposed to question the willingness of the Government to cooperate in every way, we were deeply concerned over the apparent lack of cooperation on the part of Chamorro and the Conservative Party. We expected the fullest

---

[1] Continued from *Foreign Relations*, 1927, vol. III, pp. 350–389.

cooperation not only from the Government but from both parties in Nicaragua, and wanted to know whether we were going to get it. The Minister replied that the question of constitutionality had been raised in the Congress and was a serious one. He went on to say that in his own judgment the law in its present form was unconstitutional and therefore would not be passed. He called attention in this connection to Articles 84 and 87 of the Constitution,[2] and argued from them that the Congress had the exclusive power to canvass the votes and determine the result, and that this power could not be delegated to an electoral commission. Colonel Stimson then reviewed at length the discussions leading up to the final agreement for a supervised election, and analyzed the agreement itself. The point now raised, he recalled, was clearly and emphatically raised, discussed and decided in the negotiations at the time. The Foreign Minister Cuadra Pasos, himself a distinguished lawyer, speaking for the Government in the presence of both Stimson and Eberhardt, had asserted that this question had been settled by previous administrative practice in other elections, and that there was no doubt of the constitutionality of the proposed arrangement. Stimson was unwilling to enter into any such agreement and report it to the President of the United States unless this matter was first determined. It was determined, and you will remember that the proposal for a supervised election, signed and submitted to the President of the United States by the President of Nicaragua, contained the following provision:

"(A) Under the electoral law there shall be created a National Electoral Commission which shall have full and general power to supervise the election and to prescribe regulations having the force of law for the registration of voters, the casting of their ballots, and all other matters pertaining to the election that are not covered by the electoral law. Among other powers, the National Electoral Commission shall have the exclusive right to canvass the number of votes cast at the election and to determine all questions and contests as to the regularity and legality of such votes, and their determination as to the number and legality of the votes cast shall be final and shall be reported directly to Congress for its certification and declaration of the result of the election."

This proposal was accepted by the President of the United States, so that both Governments have before them a solemn engagement on the subject. The law now before the Nicaraguan Congress, particularly Section 5 thereof, embodies precisely the agreement which was made. It is altogether too late in the day for anybody in Nicaragua now to contend that any such technical objection can be further heard and considered. The good faith of everybody involved, including the two Governments and both political parties in Nicaragua,

[2] *Foreign Relations*, 1912, pp. 997, 1002, 1004.

is plainly pledged to carry out the supervised election under the terms of the agreement.

The Nicaraguan Minister disclaimed having any instructions on this subject, but it was evident that he had information leading him to believe that the law would not be passed. Perhaps he reflected the ideas of Chamorro. At any rate he adhered to the position that the law in its present form was unconstitutional and should be modified.

Using as much of what has been above stated in this message as in your discretion may be advisable, you should at once confer with President Diaz and with the utmost emphasis state the position of this Government, which is substantially as follows:

1. That the objection to the pending legislation is in our judgment absolutely untenable as a proposition of constitutional law.

2. That a refusal to enact the legislation can only be regarded by us as a flagrant breach of faith pledged in a solemn agreement entered into by the Government of Nicaragua with the President of the United States.

3. That the powers conferred by the proposed law upon the Electoral Boards, constituted as therein provided, are considered to be absolutely essential to the execution of the agreement and to the holding of the fair election which this Government has pledged itself to supervise and fully intends to carry out.

4. That further delay will not only create a most painful impression here but would compel this Government to consider seriously what other measures it can and should take in order to meet the obligations which it has definitely assumed with respect to all parties concerned.

KELLOGG

817.00/5251 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, *January 13, 1928— 9 a. m.*

[Received 12:10 p. m.]

23. Antonio Medrano, one of the substitute judges of the Supreme Court, has been selected as the Liberal Vice Presidential candidate on the ticket with Moncada.[3] His friends have asked me to ascertain whether the Department sees any reason to question the constitutionality of his election. Apparently article 126[4] is the only one which could possibly bear on the question.

MUNRO

---

[3] Head of the Liberal Party.

[4] *Foreign Relations*, 1912, pp. 997, 1008.

817.00/5252 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

[Paraphrase]

WASHINGTON, *January 13, 1928—5 p. m.*

14. Your telegram No. 26, January 13, 3 p. m.[5] The Department would regard the abandonment or postponement of the enactment of the electoral law in favor of any plan for the convening of a constituent assembly as a deliberate sabotage of the Stimson agreement for a supervised election. The Department cannot for a moment give its assent to any such procedure. We could only regard it as a flagrant breach of faith. You cannot emphasize this too strongly. The original plan must be carried out.

KELLOGG

817.00/5268 : Telegram

The Acting Secretary of State to the Ambassador in Cuba (Judah)

[Paraphrase]

WASHINGTON, *January 14, 1928—7 p. m.*

26. For Francis White.[6] The Department has just received the following telegram from the Chargé in Nicaragua:

"Certain personal adherents of Cuadra Pasos are among the Conservative Deputies opposing the electoral law. Cuadra Pasos could control them if he desired to do so. It is my suggestion that Cuadra Pasos be approached immediately in Habana and requested to cable these Deputies to change their attitude. It is my understanding that Cuadra Pasos has cabled already and advised that consideration of the law be delayed. While the intention of Cuadra Pasos in suggesting this was no doubt good, he should understand the importance of avoiding any further delay and also the extreme seriousness of the present situation in Nicaragua."

The Senate has passed the electoral law, but the House is opposing it vigorously. The Chargé in Nicaragua feels that the law may not be passed without amendments unacceptable to the Department although he thinks that President Diaz is using his best efforts to have the law passed as submitted. The intention of the Deputies appears to be to try to force the consent of the Government of the United States to the holding of a constituent assembly.

OLDS

---

[5] Not printed.

[6] Assistant Secretary of State, then attending the Sixth International Conference of American States. The Conference was held at Habana from January 16 to February 20, 1928; see vol. I, pp. 527 ff.

817.00/5274 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, *January 15, 1928—10 a. m.*

[Received 9:08 p. m.]

29. The committee report approved by the Chamber of Deputies on Friday stated the constitutional objections to the electoral law as follows:

1. That it would be a derogation of sovereignty and consequently a violation of the spirit of the Constitution to give a foreigner control of the electoral machinery. Articles 2 and 19 of the Constitution are cited in this connection.
2. That article 3 of the project involves a delegation of legislative power, when the Constitution does not permit the delegation of legislative power even to the Executive except in certain specified subjects which do not include the conduct of elections.
3. That the law would in effect deprive Congress of its constitutional right to canvass the vote and determine the result of the election.

The committee therefore proposed a substitute for project under which a representative of the United States would take part in the work of each of the electoral boards, national, departmental and local, with power to make recommendations and if necessary to propose changes in the existing laws which would be submitted to Congress for approval. No action taken by any board in the absence or without the approval of the American member would be valid. The existing electoral law would be suspended and Congress would enact a new law to govern the election of 1928.

[Paraphrase.] Yesterday I discussed the situation with Chamorro at length. He held that this project would give the United States all necessary control over the election. I replied that it was utterly unacceptable, and that a failure to pass the project of General McCoy [7] would be simply a repudiation of the Tipitapa agreement [8] by the Conservative Party. Chamorro asserted that his attitude was largely the result of his belief that the Department of State had decided to have General Moncada elected President. Chamorro then recapitulated the alleged instances of favoritism to the Liberals about which the Conservatives have complained in the past. Chamorro stated that his party had made up its mind that it would be defeated; that probably it

[7] Secs. 1–7 of the "McCoy project" were transmitted in telegram No. 196, Nov. 17, 1927, 6 p. m., to the Chargé in Nicaragua, *Foreign Relations*, 1927, vol. III, p. 379; sec. 8 was transmitted in telegram No. 209, Nov. 29, 1927, 8 p. m., to the Chargé, *ibid.*, p. 382; see also telegram No. 16, Jan. 23, 1928, 1 p. m., to the Chairman of the American Delegation to the Sixth International Conference of American States, for White, *post*, p. 447.

[8] i. e., the agreement between Colonel Stimson and General Moncada, confirmed by Colonel Stimson's note to General Moncada, dated at Tipitapa, May 11, 1927, *Foreign Relations*, 1927, vol. III, p. 345.

would not take part in the election; that it might turn the Presidency over to a Liberal selected by the Congress prior to the election. I think this is a bluff, and that Chamorro's real purpose is to try to secure some concession for the Conservative Party as the price of its cooperation. Chamorro expressed the desire to continue our conversations on Monday, and I expect to talk again with him and the President at that time. I am still hopeful of a favorable outcome.

I think in any event that the opposition of the Chamber of Deputies can be worn down eventually if the situation is handled properly. A delay of 2 or 3 weeks, although most unfortunate, will not be an irreparable disaster. I believe that I can continue to depend on the cooperation of the Senate and that the bloc in the Chamber of Deputies can be broken if the President will try to do so in good faith. I have not endeavored to work with individual Deputies, since they are now completely under the control of Chamorro, and also I feared that any effort to undermine his influence before I have exhausted every possible means of convincing him would only serve to render him more unmanageable. It is very important that the majority in Congress be persuaded to cooperate with the President because not only the electoral law, but the completion of the reorganization of the courts,[9] the *guardia* agreement,[10] and any financial arrangements which it may be desirable to make,[11] are at stake. [End paraphrase.]

MUNRO

817.00/5251 : Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, *January 16, 1928—7 p. m.*

18. Your 23, January 13, 9 a. m. Department is unwilling to pass upon question of Medrano's eligibility under Nicaraguan constitution for election as vice president. It cannot be placed in the position of approving even inferentially the candidacy of any particular individual. Its interest consists in seeing that a fair and free expression of the popular will is assured and beyond that it is not prepared to go. Its statement as to Chamorro's ineligibility [12] was addressed to a special situation and by no means indicates that it will pass upon the qualifications of candidates in general.

OLDS

---

[9] See *Foreign Relations*, 1927, vol. III, pp. 389 ff.
[10] See *ibid.*, pp. 433 ff.
[11] See pp. 523 ff.
[12] See memorandum by the Assistant Secretary of State of a conversation with General Emiliano Chamorro, October 22, 1927, *Foreign Relations*, 1927, vol. III, p. 367.

817.00/5276 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, *January 16, 1928—2 p. m.*

[Received 7:11 p. m.]

30. The attitude of the Chamber of Deputies toward the electoral law seems to be due in part to the circulation of reports said to come from Washington to the effect that the United States Government . . . is no longer really interested in a free election. . . .

[Paraphrase.] Today when I mentioned these reports to President Diaz he did not admit or deny that such reports had been received. . . . President Diaz suggests that it would help if a strong note or written memorandum setting forth the views of the Department as expressed in the last portion of Department's telegram No. 10, January 10, could be given to the Nicaraguan Minister in Washington with the request that he transmit it to his Government. I urgently recommend that the Department do this, and that either the text or a summary of the communication be cabled to me at the same time. I should like to show it to the Deputies if necessary. [End paraphrase.]

MUNRO

817.00/5276 : Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, *January 17, 1928—11 a. m.*

17. [Paraphrase.] Your telegram No. 30, January 16, 2 p. m.

. . . . . .

In response to your recommendation, we authorize you, at your discretion, to present the following note to President Diaz: [End paraphrase.]

"Various rumors have come to the attention of the Department of State to the effect that its present attitude is being misrepresented to, and possibly misunderstood by the Government of Nicaragua. In order that there may be no doubt on this subject the Department has instructed me to state:

1st. That the policy and attitude of the United States in relation to Nicaraguan affairs has undergone no change or modification whatever.

2nd. That the agreement entered into by Colonel Stimson as the personal representative of the President of the United States, and evidenced by the exchange of communications between the Presidents of the two countries, is regarded as a subsisting obligation in all its integrity, that the United States fully intends to carry out its pledges and obligations thereunder, and expects the Government of Nicaragua similarly to carry out its pledges and obligations thereunder.

3rd. That the objection to the pending legislation is, in the judgment of the Department, absolutely untenable as a proposition of constitutional law.

4th. That a refusal to enact the legislation can only be considered by the Department as a breach of faith pledged in a solemn agreement entered into by the Government of Nicaragua with the President of the United States.

5th. That the powers conferred by the proposed law upon the electoral board constituted as therein provided, are deemed to be absolutely essential to the execution of the agreement and to the holding of the fair election, which this Government has pledged itself to supervise and fully intends to carry out.

6th. That further delay would not only create a most painful impression here, but would compel this Government to consider seriously what other measures it can and should take in order to meet the obligations which it has definitely assumed with respect to all parties concerned."

OLDS

817.00/5281 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, *January 17, 1928—7 p. m.*
[Received January 18—1 : 14 a. m.]

32. The Chamber of Deputies today finally approved the substitute electoral law. I am informed that this will constitute a final rejection of General McCoy's project unless the action is reconsidered at tomorrow morning's session. [Paraphrase.] I talked to the President most emphatically and insisted that he immediately bring every possible influence to bear on the Deputies to prevent the threatened breakdown of the Stimson agreement. He promised to see the Conservative Deputies before the session tomorrow. The Constitution of Nicaragua prohibits the consideration of the same measure twice by the same legislature. If the President's efforts are unsuccessful, the only legal method to obtain satisfactory electoral legislation will apparently be to have the McCoy project introduced in somewhat amended form. [End paraphrase.]

MUNRO

817.00/5299

The Assistant Secretary of State (White), Then in Habana, to the Secretary of State

[HABANA,] *January 17, 1928.*
[Received January 23.]

SIR: I have the honor to enclose herewith a memorandum of my conversation with Dr. Cuadra Pasos on January 15 and a copy of the Secretary's conversation with him on January 17 [*16*].

I have [etc.] FRANCIS WHITE

[Enclosure 1]

Memorandum by the Assistant Secretary of State (White)

[HABANA,] *January 15, 1928.*

In company with Mr. Meyer [13] I called on Dr. Cuadra Pasos, Minister for Foreign Affairs of Nicaragua and head of the Nicaraguan Delegation to the Sixth Pan American Conference, on Sunday morning, January sixteenth [*15th*], 10 a. m.

Dr. Cuadra Pasos first inquired whether I thought the question of Nicaragua would be brought up at the Conference. I told him that I did not know whether it would or not but I had no special reason to believe that it would although, of course, there are always persons who wish to enter into such matters. Dr. Cuadra Pasos stated that he has been interviewed by a great many newspaper men since he has been here and that he has told them that this is a matter purely for the United States and Nicaragua and he did not think that it could be brought up properly by anybody else and that the Nicaraguan Delegation most certainly would not bring it up. He stated that in case the matter is brought up by others he is prepared to get up and defend the position of the United States Government and explain the whole situation. I told Dr. Cuadra Pasos that I thought that this would be most helpful and that while we did not feel that this was a matter for the Conference to handle we felt that should it be brought up an explanation of the true situation would be helpful.

Dr. Cuadra Pasos then entered into a discussion of the *Guardia* Agreement and of the Electoral Law. He stated briefly that there was some feeling regarding the *Guardia* Agreement about the use of the "matériel" in case of foreign difficulties but he saw no real difficulty in this matter as the arms and munitions would in any event be in the custody of the *Guardia*. I did not press him on this matter as he immediately entered into a discussion of the Electoral Law and I told him that we were extremely disappointed that there should have been a delay in putting it through. I told him that I thought we could best understand the situation if I should briefly relate the full circumstances regarding it. The end of last April and the beginning of May, Nicaragua was upset by a bitter internal civil war. The Liberals had advanced to Tipitapa, a very short distance from the capital, and in view of the apparent disorganization of the Conservative forces it seemed not improbable that the Liberals might succeed in overthrowing the Diaz Government. President Diaz had appealed to the United States for assistance and after sending marines to the country President Coolidge sent down as his personal repre-

[13] Cord Meyer, secretary to the American Delegation to the Sixth International Conference of American States.

sentative Colonel Stimson who, after discussing the matter with General Diaz and receiving his assurance that the Nicaraguan Government would request the United States to conduct the next Presidential elections in order that the Liberals and everybody in Nicaragua might have assurance that the coming Presidential elections would be free and fair and that the Nicaragua people could freely and fairly express their desires at the polls, had met General Moncada at Tipitapa where he persuaded him to lay down his arms. General Moncada had asked Colonel Stimson for a statement in writing that the United States was prepared to disarm by force any who did not disarm as this was necessary for him to have in persuading his generals to lay down their arms, but one of the prime considerations moving the Liberals to cease hostilities was the assurance that the United States would conduct free and fair elections. This private understanding between President Diaz and Colonel Stimson had then been confirmed in writing after Colonel Stimson's Tipitapa agreement with Moncada, by a letter and memorandum sent by President Diaz to President Coolidge.[14] The situation therefore is that the Conservatives are committed to the United States to having Americans supervise their elections and giving them the necessary authority to do so and the United States is committed to the Liberals to carry out such an election.

I expressed the confidence that the Conservatives would not go back on their agreement but pointed out that even should they do so that would not relieve the United States from the obligation that it had entered into with the Liberals, and as we were committed to them we fully intended to go through with it.

I then said to Dr. Cuadra Pasos that when General Chamorro was recently in Washington I had discussed these questions with him and had pointed out the situation as I was now doing to Dr. Cuadra Pasos. General Chamorro had then said that he was afraid of the psychological effect that the granting of too great powers to the American supervisors would have on the Nicaraguan people. I had stated that there are a certain number who will always vote for Liberals and a certain number of others who will always vote for the Conservatives but that there is a large floating vote which is easily moved by considerations which we would not give importance to in the United States. Should too great powers be given to the American supervisors it might look as though the United States were favoring the Liberals and the floating vote would immediately flock to the Liberal side and give them a great advantage.

I stated that the Conservatives had been willing to agree to this supervision when they were in difficult straits last May, namely

[14] *Foreign Relations*, 1927, vol. III, p. 350.

that as a result of their commitments to us and our commitments to the Liberals the latter have laid down their arms and Nicaragua is persuaded with the exception of Sandino and his followers in a small part of the province of Nueva Segovia,[15] so that there is now no possibility of any movement being started to overthrow the Diaz Government, that the Conservatives should now [*not?*] hesitate in promptly and loyally carrying out the agreement which they had made when it was more or less a question of life and death with them. As to the psychological effect I stated that I thought that the policy that Chamorro is now apparently carrying out of hostility and opposition to the Electoral Law is the one most calculated to help the Liberals as it would seem to put the Conservative Government in opposition to the United States and make the floating vote feel that they should vote for the Liberals and I thought that the sound policy for the Conservatives to follow out is immediately and without question to pass the law taking the position that they do not fear in any way a free and fair election and to show their good faith and to show the Liberals that they are perfectly willing to give them proper opportunities through a fair election they have asked the United States to come in there and voluntarily have given them these powers so that there can be no question later if the Conservatives assert that they were not fairly treated.

Dr. Cuadra Pasos stated that he was in perfect agreement with me but that unfortunately Chamorro and others are not and that he and President Diaz and others are working hard to convince the leading members of the Conservative party in the sense I had indicated. He stated that he thought they would succeed but there might be a delay. I told him that I hoped they would be successful and that I thought the quicker it was done the more beneficial it would be to the Conservatives themselves.

I told him I thought it was very late now to bring up the question of the unconstitutionality of the law. This question had not been even suggested at the time of the Tipitapa Agreement and at the time the Conservatives made the understanding to the United States that they would give us the necessary authority to carry out a free and fair election. Dr. Cuadra Pasos stated that that was so; that speaking from a purely juridical point of view he thought that a mistake had been made in not immediately calling a constituent assembly last May. He stated that Latin American constitutions are not as pliable as ours and that whenever there is trouble such as exists now in Nicaragua in any of the Latin America countries, the first thing they do is to call a constituent assembly to solve the diffi-

[15] For correspondence concerning suppression of bandit activities, see pp. 559 ff.

culty as there are a number of things which must be done which cannot be provided for naturally in a Constitution, and he thought that that was what should be done or in default thereof that it might be well as he had suggested to Dr. Munro to make a convention to cover the same matter as is provided in the Electoral Law. I told him that I did not think a convention was what was called for. To begin with it is an internal matter and not an international one and we wished it to remain an internal solution of Nicaragua. Furthermore, a convention would have to be ratified and if the Nicaraguan Congress is willing to ratify a convention I saw no reason why they should not vote the same provisions in the form of a law. As regards a constituent assembly I stated that as Dr. Cuadra Pasos had pointed out the present situation is an extraordinary and special one and in any new Constitution or any modification of the present Constitution which a constituent assembly would make there would necessarily have to be transitory provisions to apply until the elections take place and the new Government is installed. The proposed Electoral Law is called a transitory one and therefore the same thing is accomplished by it and I thought that it would be just as constitutional as having a constituent assembly pass transitory provisions as the Congress which would vote the transitory Electoral Law is substantially the same as was elected in the last general elections of 1924.

Dr. Cuadra Pasos stated that this was a point of view which had considerable merit and that he would cable it immediately to President Diaz and would also discuss it with Dr. Joaquin Gomez who is President of the Electoral Board in Nicaragua and a non-partisan and for that reason had been appointed to the Delegation. . . .

As regards the feeling that the United States would turn over the elections to the Liberals I told Dr. Cuadra Pasos that he could be absolutely sure that there is no truth in any such report and that he was authorized to say so categorically in Nicaragua should he so desire. The United States is not supporting any party nor any candidate [and] it is immaterial to it who is a candidate for either party and which one of the two is finally elected. Its policy is to carry out free and fair elections on this occasion and in no event to interfere in the internal political activities of a foreign country. I stated that what we want is to build up in Central America a feeling of responsibility among the people for the conduct of their own Government and I pointed to the example of Cuba. We had intervened in Cuba from 1898 to 1902 and from 1906 to 1908 or 9. On each occasion we had set up good Governments and turned it over to Cuba. When elections came both parties sent representatives to Washington to plead their cause and in 1920 when the Liberal party in Cuba wished to do this we had discouraged them and told

them that the center of Cuban activities should be in Cuba and not in Washington. At the end of 1920 there was a tremendous financial crash in Cuba, all the banks going bankrupt and closing their doors and politically, economically and financially we had every reason to intervene in Cuba affairs should we so desire. We were urged to do so by many Cubans and many Americans and almost all Cubans expected it. Instead of doing so the United States had preferred to try to build up the feeling of responsibility among the Cubans, merely giving advice and counsel. General Crowder was sent down as a special representative of the President the same as Colonel Stimson had been sent to Nicaragua and through his advice the situation had been changed and the crisis passed and the Cubans had come to feel the responsibility of the growth and development of their own political institutions and I had now thought that there was hardly even a remote chance of intervention again in Cuba. This is what we want to develop in Central America.

General Cuadra Pasos stated that he was in complete agreement with me but the situation was different in that Cuba after being a Spanish colony immediately had American assistance whereas in Central America they have been floundering around by themselves for a hundred years. I told him that this was quite true but that if they were willing to take our advice such as passing the Electoral Law they will in a short time I thought be able to obtain the same standard that Cuba has arrived at.

Dr. Cuadra Pasos also stated that he thought the policy of the United States, admirable as it is in principle, absolute impartiality between the Liberals and Conservatives is a mistake as regards the higher interests of the United States. He thought that considerations of high policy should make the United States favor the Conservatives. He gave as his reason that the Liberals are compromised through years of being in the opposition and of obtaining support in money and arms from Mexico and Guatemala so that should they come into office they should have to be most anti-American in their attitude and fulfill certain obligations which they are under to those who have contributed to their support. The basis on which they have obtained funds while they have been in opposition has been against Americanism. Should the Liberals come into office the United States would have this difficulty to contend with and as the United States is such a great country and could not with dignity contribute to the support of an opposition party the Conservatives would have to seek aid from Mexico and Guatemala also and become anti-American so that the result would be that in a very few years everybody in Nicaragua would be hostile to us and we would have a most difficult situation to contend with.

I did not ask Dr. Cuadra Pasos why Mexico and Nicaragua [*Guatemala?*] would contribute to the Conservatives who were out of office for they could have everything they wanted from the Liberals who were in office but limited myself to saying that the United States could only act in the manner I had outlined above, namely on absolute impartiality as among sacrificing citizens or individuals striving through advice to help those countries to realize their responsibilities and to lead them on to a basis of greater stability. Dr. Cuadra Pasos also remarked that the only countries where there are free elections are in the United States and England.

I again urged Dr. Cuadra Pasos to use his influence to have the Electoral Law voted as soon as possible and he stated that he would immediately cable to Managua regarding it and that he would advise me of any advices he might receive from there.

[Enclosure 2]

Memorandum by the Assistant Secretary of State (White)

[HABANA,] *January 17, 1928.*

Dr. Cuadra Pasos, the Minister of Foreign Affairs of Nicaragua, called on the Secretary of State at his apartment in the Sevilla Hotel, Habana, Cuba, at 5:30 p. m. on Monday, January 17 [*16*] at the latter's request. He was accompanied by Dr. Joaquin Gomez, the President of the Electoral Board of Nicaragua. Mr. White was also present.

After the usual exchange of courtesies the Secretary stated that he understood that certain people in Nicaragua have the feeling that the United States is going to put the Liberal party in office at the next elections and the Secretary wished to say categorically that there is no truth in this whatsoever. The United States will maintain a scrupulous impartiality and will favor no party whatsoever. Dr. Cuadra Pasos stated that he knew that this was the case and that the Nicaraguan Government understood it and has the utmost confidence in the disinterestedness of the American Government. It is only certain elements in the population who do not understand the situation who feel this way. The Secretary stated that if there is anything that he can do to overcome this feeling he should be very glad to do it and if the Minister of Foreign Affairs thought that a statement by him would have any effect he would be glad to make one. Dr. Cuadra Pasos replied that he thought that such a statement would be most opportune and would have an excellent effect. The Secretary said that as soon as he returns to Washington he will send such a statement to the Legation at Managua to be given out there.

Dr. Cuadra Pasos said that it was for the effect on the people in general; that the Government fully understood the situation but that he thought it would be most opportune and that this impression had perhaps been caused because certain of the marines in Nicaragua had made statements and propaganda in favor of the Liberals. The Secretary stated that if such action had been taken it was absolutely unauthorized and that the marines would not be partisans in the elections in any way whatsoever. They would be absolutely neutral as between candidates and parties and would merely carry on a free and fair election to the best of their ability. In order that there might be no misunderstanding of this point, however, the Secretary will issue orders upon his return to Washington for the marines to maintain the utmost impartiality and disinterestedness.

The Secretary then stated that as Dr. Cuadra Pasos knew the President of the United States had at the written request of President Diaz agreed to supervise and conduct the next Presidential elections in Nicaragua; the Secretary said that Dr. Cuadra Pasos should remember the situation at the time that this request was made and he inquired of Dr. Cuadra Pasos what the situation would have been had the United States not said to the Liberals that they must lay down their arms or the United States would forcibly disarm them. Dr. Cuadra Pasos said that in that event the war would still be going on in Nicaragua, the country would be torn to pieces and the present interview would not be taking place. The Secretary stated that President Diaz must know that the United States Government has supported him and that in making the agreement at Tipitapa the cardinal point insisted upon by Colonel Stimson was the continuance in office of President Diaz until the end of his present term. President Diaz had not been chosen or put in office by the United States. He was chosen by the Nicaraguan Congress in which the Conservatives had a majority. He was elected constitutionally as Dr. Sacasa was out of the country, and that Government had insisted upon his retention in office until the end of his term. The Liberals had wanted to make some other solution and had suggested picking out some neutral man to put in provisionally until the end of the present Presidential term. The United States had insisted that President Diaz finish out his term for which he had been constitutionally chosen. It was therefore the understanding of the United States Government that he would remain in office until January 1, 1929.

The Secretary stated that on the warship coming over from Key West the previous day President Coolidge had read an item in the paper to the effect that President Diaz would resign from office perhaps as a protest against the United States and that President Coolidge had naturally been very much surprised thereby. It never

occurred to President Coolidge when he agreed at the request of President Diaz to supervise the elections that President Diaz would not fulfill his term. The Secretary inquired whether Dr. Cuadra Pasos had any information on this point.

Dr. Cuadra Pasos replied that he did not but that he thought that the report was not true or he would certainly have been informed. The Secretary stated that this same report had come out approximately a month ago and he had at that time cabled to Mr. Munro, American Chargé d'Affaires at Managua,[16] setting forth the views he had just expressed now stating that he considered it essential that President Diaz remain in office until the end of his term.

Dr. Cuadra Pasos stated that when the report was given out at the time the Secretary mentioned it was also said that he would go to the United States on a visit. Both of these reports were mere rumors and were without any foundation in fact. Dr. Cuadra Pasos added President Diaz' policy is close cooperation with the United States and that he desired the Conservative party to follow closely the same policy and that he felt sure President Diaz would not resign unless the Conservative party should change this policy of close cooperation with the United States. In that event he might resign but then it would be not as a protest against the Conservative party. The Secretary replied that, as he had said before, it was not the United States that had chosen President Diaz but the Nicaraguan Congress in which the Conservatives had the majority. He was therefore chosen by the Conservatives and he made the agreement in Nicaragua with Colonel Stimson as the spokesman of the Conservative party and that this Government felt that the Conservatives were just as much committed to carry out the agreement as was President Diaz personally and that the United States Government expected them to fulfill their promises. Dr. Cuadra Pasos stated that he felt sure that the Conservative party would live up to their agreement.

The Secretary stated that he sincerely hoped that this would be the case and that they must realize that President Coolidge had relied on the good faith of the Conservative party when he agreed at President Diaz' request to supervise the election and that it was on account of this belief that they would carry through the agreement that the United States had promised the Liberal party to carry out free and fair elections. The United States is committed to doing so and intends to carry it through.

The Secretary stated that he was also surprised that there should now be difficulty with regard to the passage of the Electoral Law. The passage of this law giving General McCoy the necessary au-

[16] Telegram No. 216, Dec. 6, 1927, 7 p. m., *Foreign Relations*, 1927, vol. III, p. 385.

thority to conduct the elections is an integral part of the Tipitapa agreements. The Secretary understood that certain persons in Nicaragua, among them he believed, General Chamorro, now raised the question that this law is unconstitutional. Just before the Secretary left Washington to come down here the Nicaraguan Minister, Mr. Cesar, had raised this point and the Secretary had asked Colonel Stimson to come down especially from New York to discuss the matter. Colonel Stimson stated that not only was no question of unconstitutionality raised at the time the agreement was made but that Colonel Stimson had taken the matter up in person with President Diaz and Dr. Cuadra Pasos to be sure that it was constitutional and that both had given the opinion that there was nothing unconstitutional in the proposal. Dr. Cuadra Pasos stated that this was so. Colonel Stimson had discussed it with the President and with him and he had stated that the law was constitutional but the law that was drafted at that time was somewhat different from the present McCoy Electoral Law. He stated that there is only one point in the present law about which he has any doubts of the constitutionality and that is the question of giving the Electoral Board authority to legislate. Before leaving Nicaragua he had stated that he was not quite sure of this point but since his conversation with Mr. White the previous day he had telegraphed to President Diaz to say that this is a special situation which must be met in a special way and that by considering the Electoral Law as a transitory provision to bring Nicaragua through the present difficulty and start her off on the right foot again he had stated that he thought it was perfectly proper and should be passed and he would cable again to the same effect. The Secretary expressed his gratification and stated that there was no question in his mind that it is now too late to bring up any such questions and that it is absolutely essential that the law be passed. Dr. Cuadra Pasos stated that he thought it would be. The Secretary then stated that the previous evening a telegram had arrived from the Department[17] stating that information had been received from Nicaragua that certain personal friends of Dr. Cuadra Pasos in the lower house of Congress were opposed to Electoral Law and inquired if he knew anything about it. Dr. Cuadra Pasos stated that at the railroad station as he was leaving Nicaragua he had told Dr. Munro that he had talked to his friends in the Senate and felt sure that the law would pass and without difficulty and it has since been passed by the Senate but he had told Munro that he was not sure with regard to the lower house but had told him that in case there should be any difficulty there he should discuss the matter with Dr. Cuadra Pasos' private secretary who remained in Managua and that

[17] See telegram No. 26, Jan. 14, 7 p. m., to the Ambassador in Cuba, p. 421.

the latter would communicate with him and he would use his influence to overcome the opposition. He inquired whether the Secretary could give him the names of the opposition deputies. The Secretary replied that he did not have the names but would try to get them for him. Dr. Cuadra Pasos then stated that he would immediately cable his secretary to discuss the matter with all his friends in the Congress in his name urging the passage of the law and that, should he receive the names of those who were opposed, he would immediately cable them personally also. The Secretary thanked him.

The Secretary stated that it had been said that he had received General Moncada when the latter was in Washington and that it had been reported that this had been interpreted as favoring the Liberals. The Secretary stated that the fact was that he had refused to receive General Moncada until the latter was presented to him by the Nicaraguan Minister in Washington. The Secretary had taken the same position with regard to General Chamorro and he had declined to receive any Nicaraguan who came to Washington for political purposes unless he should be brought into him by the Nicaraguan Minister. Dr. Cuadra Pasos stated that he personally understood the matter perfectly and so did the Government. It was a question of the populace in Nicaragua and for that reason he thought that the statement the Secretary had expressed his readiness to give out would be very helpful. The Secretary replied that upon his return to Washington he would send such a statement to Nicaragua.

Dr. Cuadra Pasos stated that he was perfectly convinced that it is absolutely necessary for the Nicaraguan Government to cooperate fully and loyally with the American Government and that he is sure they will do so and that the law will be passed and that he will do whatever he can to that end and will cable urgently to President Diaz and others regarding the matter. He also stated that he felt sure that President Diaz would not resign.

. . . . . .

Upon leaving, Dr. Cuadra Pasos and Dr. Joaquin Gomez stated that the United States Delegation to the Conference could count upon the full and loyal support and cooperation of the Nicaraguan Delegation.

Mr. White saw Dr. Cuadra Pasos at President Machado's banquet on the night of January 17 and Dr. Cuadra Pasos told him that he had already sent out an urgent cable to President Diaz to delay any action until he should receive his further detailed cable.

WHITE

817.00/5283 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, *January 18, 1928—3 p. m.*
[Received 10:20 p. m.]

33. I am informed that the Chamber of Deputies confirmed yesterday's action and sent their substitute electoral project to the Senate this morning. The President saw nearly all of the Conservative Deputies before the session but was apparently unable to control the Chamorro group. I am told that they promised him to suspend action on sending the new project to the Senate but when three of the leaders called on me a little later on the way to the session they asserted that such delay was impossible under the regulations. They were unyielding in their opposition to General McCoy's project although I pointed out to them most emphatically the seriousness of the position in which they were placing their party. When they spoke of their constitutional objections to the Department's project I told them that all of the provisions of the project were essential and would be insisted upon but that if they reconsidered their action of yesterday I would on my part consider the advisability of suggesting to the Department that the main feature of the electoral procedure be specified in somewhat more detail in the law in order to meet their contention that such matters as the general method of registration and voting could not constitutionally be dealt with by mere regulations. I pointed out that this was the only constitutional objection which could be raised in good faith to the Department's project and said that while I considered this objection unfounded I did not wish questions of form to stand in the way if they were willing to approve the substance of what the Nicaraguan Government had pledged itself to accede to. I made it clear that there must be no diminution of the absolute powers which General McCoy must exercise. Manzanares, one of the leaders of Chamorro bloc, said that he and his friends had made up their minds to permit the United States to take control of the situation by force if it wished to do so and that they only hoped that we would let all of the Conservatives cast their votes when the time came. It was clear throughout that he did not intend to listen to any argument and that he did not wish his companions to continue the conversation. Six Conservative Senators called on me this morning to ask my opinion of the substitute project. I told them that it was absolutely unacceptable and obtained their promise that it would not be approved. When they asked about the reports in circulation to the effect that the action of the Chamber had been taken with the tacit consent of the Legation or the Department, I read to them the note which I presented to the Minister for Foreign Affairs in accordance with the Depart-

ment's January 17th. They explained that they were being subjected to much pressure from within their own party to adopt the same attitude as the Chamber of Deputies.

[Paraphrase.] Afterwards the President sent the Acting Foreign Minister to tell me of his efforts to persuade the Deputies and to state that the President might be able to influence his own friends in the Chamber and thus secure the passage of the McCoy project with the support of the Liberal votes, but that this would mean a definite break with Chamorro. This would simply result in the disintegration of the Conservative Party, unless this Legation should openly support President Diaz and close its eyes. My reply was that we, of course, would support the President in every way proper and aid him to maintain order, but that we could not permit ourselves to close our eyes to anything that was inconsistent with the conduct of a free election; that I thought it was the President's duty to break with Chamorro if that was the only means by which he could keep his promises and that such a break would, in my opinion, do no more harm to the Conservative Party than the course now pursued by Chamorro. [End paraphrase.]

Yesterday's action of the Chamber came as a surprise as I had been given to understand that final action could not properly be taken until later. The usual formalities were dispensed with, obviously in order to prevent us from continuing the efforts which I had started to make to convince those Deputies who were not unconditional adherents of Chamorro.

MUNRO

817.00/5283 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

[Paraphrase]

WASHINGTON, *January 19, 1928—11 a. m.*

21. Your telegram No. 33, January 18, 3 p. m. The situation has apparently developed so as to make it necessary for the Department of State to consider what measures it can and should take in the light of the definite refusal to enact the new electoral law. The Department desires immediate information on the following points:

(1) So far as the legislative situation is concerned, what further procedure, if any, is contemplated or possible? Do you think there is any hope that the law will be eventually passed in the form desired by the Department? In American procedure the natural course is to send such a bill to conference between the Senate and House. Is such a course of action visualized in Managua?

(2) Please telegraph at once the full text of the amendments adopted by the Chamber of Deputies.

(3) Is there any doubt regarding the attitude of President Diaz from now on? It is extremely important that President Diaz stand firm, without resigning or in any way weakening on the Tipitapa agreement either in spirit or letter.

Eberhardt and McCoy have been instructed to proceed to Managua without delay. Minister Eberhardt is at Puerto Cabezas today and is being instructed to expedite his arrival in Nicaragua. McCoy is now at Panama, and arrangements will be made to send him to Corinto by the speediest boat the Navy can furnish.

KELLOGG

817.00/5290a : Telegram

The Secretary of State to the Chargé in Panama (Martin)

[Paraphrase]

WASHINGTON, *January 19, 1928—11 a. m.*

11. For General McCoy. The situation in Managua is rapidly becoming more critical, especially because of the refusal of the Chamber of Deputies to approve the new electoral law and rumors that President Diaz may resign. I consider it most important that you proceed to Managua at once. The Navy Department should transport you from Panama by fastest boat available. Do not wait for Minister Eberhardt.

KELLOGG

817.00/5288 : Telegram

The Chairman of the American Delegation to the Sixth International Conference of American States (Hughes) [18] *to the Secretary of State*

[Paraphrase]

HABANA, *January 19, 1928—1 p. m.*

[Received 7:24 p. m.]

7. From White. Last night Dr. Cuadra Pasos informed me that, in view of the rejection of the electoral law, he has urged President Diaz and Conservative members of Congress to consult fully with the Legation in order to reach an agreement with regard to possible modification of the law to make it acceptable. I again urged upon Dr. Cuadra Pasos the necessity for the Conservative Party to fulfill its agreement and pass the law.

Maximo Zepeda [19] told me this morning that he had urged his friends in Nicaragua to pass the law, and that he would again do

---

[18] Charles Evans Hughes.

[19] One of the Nicaraguan delegates to the Sixth International Conference of American States.

so. He believes that an agreement can be reached by a very minor change in the phraseology, which will leave the law as effective as originally drafted. For example, he said that there would be no difficulty in passing the law if the provisions giving General McCoy authority to put into force measures that would have the force of law could be changed to read: "to have full force," or "to have full vigor," or "to have the force of regulatory decrees." I have not been informed of the exact date Congress rejected the law; but it is possible that Congress did so before the Secretary's representation to Dr. Cuadra Pasos on January 16 could have been made known to the members of Congress, and that some such change of that kind may offer a way out which will be satisfactory to all, since I did not know the complete situation or what action, if any, had already been taken by the Department. I have made no definite statement to Maximo Zepeda regarding this proposal. Copy sent to the Legation in Nicaragua.

HUGHES

817.00/5290 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

[Paraphrase]

MANAGUA, *January 19, 1928—3 p. m.*

[Received 8:42 p. m.]

35. I have been told that the Chamber of Deputies has not yet sent the substitute electoral bill to the Senate and that before doing so desperate efforts are being made to persuade the Senate not to reject it. It is now being seen, perhaps, that failure to pass any electoral law will leave the electoral machinery largely in the hands of the Liberals. Also, I think that the Chamber of Deputies is becoming apprehensive over assuming the sole responsibility for defying the United States.

After talking to President Diaz this morning regarding the Department's No. 17, January 17, 11 a. m., which plainly disturbed him, I went on to state that the United States, of course, would not permit matters to remain as the Chamber of Deputies had left them; that I would be obliged to make recommendations for dealing with the situation; but that I desired to go somewhat slowly because I was still much interested in having a genuinely fair election in Nicaragua and did not desire to do any avoidable injury to either party, and because I was still certain that he really desired to fulfill his obligations to the United States. I made the suggestion, therefore, that he make a special effort with his friends in the Chamber of Deputies, not by addressing the Deputies as a whole, but by bringing influence to bear on them individually, until he could take away at least six or more

votes from the majority against the electoral law. I told the President that I would give him a few days to do this before I recommended any further action by the Department.

I informed the President of my conversation yesterday with the Deputies. I told him that while I had absolutely no instructions except to insist on the adoption of the project of the Department as it stood, I should be willing personally to recommend such changes in form as did not in any manner lessen General McCoy's powers, if and when I should feel convinced that the Chamber of Deputies had really changed its attitude and would accept the project without further changes. Will the Department kindly inform me whether it would under such circumstances agree to the addition of a few articles setting forth the principal features of the electoral procedure so as to meet the objection that the project does not cover many phases which are properly matters for legislation rather than for regulation? Of course, I intend to consult General McCoy before accepting any changes.

MUNRO

817.00/5294 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, *January 20, 1928—9 a. m.*

[Received 4:18 p. m.[20]]

36. [Paraphrase.] [1.] The Chamber of Deputies has rejected the Department's original project. The Senate cannot now insist on it, but must accept, reject, or amend the project of the Chamber. The Senate could substitute the project of the Department in somewhat amended form and could, if it desired, request a conference, but I can see no object in doing so until we are sure that there is a favorable majority in the Chamber of Deputies. I also fear that continued discussion, or a conference between the Senate and the Chamber, might lead to the adoption of an unsatisfactory law which would deprive us of the leverage we now possess from the fact that the failure of Congress to act places the electoral machinery largely in the hands of the Liberals. I am not certain that the Senate can be depended upon if the matter is left open, because strong pressure is being brought to bear on individual Senators. I have therefore advised that the substitute project be flatly rejected, so as to place the responsibility squarely on the Chamber of Deputies. I still hope to obtain a majority in the Chamber of Deputies for the Department's project. I am exerting every effort to this end. When there is the assurance of such a majority, the project of the Department can be introduced as a new bill

[20] Telegram in three sections.

with changes in form to avoid the prohibition against one legislature's considering the same measure twice. In order to secure a majority, it will be necessary first to counteract the impression obtained from Minister Cesar that the Department of State is not seriously interested in the project. . . . It will also be necessary to work on other party leaders and individual Deputies, and if possible, change the attitude of Chamorro or persuade President Diaz to break with him. It was impossible to proceed effectively along these lines until the Chamber's action brought the forces working against us into the open. I believe that our efforts in this regard are just starting. [End paraphrase.]

[2.] The text of the substitute project approved by the Chamber of Deputies is as follows:

"Article 1. For the purpose of carrying out the arrangement between the President of [Nicaragua] and the President of the United States, according to which the latter will lend his friendly assistance in the election of the Supreme Authorities in 1928, the law of March 20, 1923, and its amendments are suspended, and the supervision of said elections by citizens of the United States is authorized in the manner and form hereinafter set forth.

Article 2 (*a*) The National Board of Elections will be assisted by a citizen of the United States appointed by the Government of Nicaragua and nominated by the United States.

(*b*) Each one of the departmental electoral boards will be assisted by a citizen of the United States appointed by the Government of Nicaragua and nominated by the American assistant on the National Board of Elections.

(*c*) Each one of the local electoral boards will be assisted by a citizen of the United States appointed by the Government of Nicaragua and nominated by the respective American assistants on the departmental electoral boards.

Article 3. In order that the elections may be fair, free, and impartially conducted, the American assistant will make to the National Electoral Board all pertinent suggestions in accord with the existing laws on the subject; and if there should have to be changes in these laws or new laws should have to be promulgated he will propose them to the Government of Nicaragua in order that the Government may submit them to the consideration of the National Congress.

Article 4. Neither the national nor the departmental electoral boards will take action without the presence of the citizens of the United States above referred to and any resolution which may be adopted or action which may be taken without their presence shall have no validity nor effect.

Article 5. Each of the directorates of the Conservative and Liberal Parties shall name a substitute member of the National Electoral Board in addition to the regular member, who shall take the place of the regular member in case of his absence, incapacity, or for any other reason (this obscurity appears in the Spanish text), and for the time during which these causes may last.

Article 6. In order to be valid, the acts of the national and departmental electoral boards must necessarily be taken with the approval of the respective American assistants and their written acts and resolutions must be signed also by the assistants to show their legality.

Article 7. The National Electoral Board, assisted by the citizens of the United States mentioned in article 1, clause (*a*), will give proper instructions to the American assistants on the departmental and local electoral boards about the provisions of the electoral law and its amendments which they must apply in order that their procedure may be just, equitable and in accordance with our laws.

Article 8. As the electoral law and its amendments are suspended, the Congress will enact the necessary law for the election of the Supreme Authorities in 1928.

Article 9. After the Congress has announced the results of the election for President and Vice President the intervention of the various American assistants in electoral matters will cease completely."

A few of the objections to this project are:

(1) That by doing away with the existing electoral organization it leaves the dominant party free to create a new organization under its own control;

(2) That there is nothing to prevent the electoral boards from preventing voting in Liberal districts, as for example by [*sic*], to function on election day; and

(3) That by requiring further legislation the project opens up endless possibilities of obstruction and manipulation.

3. [Paraphrase.] President Diaz cannot be relied on. His efforts to control the Deputies have been halfhearted. If I press him too hard, he threatens to resign. I feel that he will not repudiate the Tipitapa agreement and that he wants to keep faith with the United States, but that he is apparently not willing to break with Chamorro. I also think that he has been influenced by Cesar's reports and is not yet completely convinced that the electoral law must be passed.

4. I believe that we should make every possible effort to secure favorable action by the Congress of Nicaragua, because there are serious objections to any other course. I am of the opinion that if we show a resolute attitude and exert pressure in proper but effective ways, it may be difficult for Chamorro to hold the majority in line against our policy. . . . [End paraphrase.]

MUNRO

817.00/5293 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, *January 20, 1928—noon.*

[Received 3:45 p. m.]

37. The substitute electoral law was sent to the Senate this morning; it will be considered Tuesday.

MUNRO

817.00/5294 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

[Paraphrase]

WASHINGTON, *January 20, 1928—6 p. m.*

23. The Department is informed that General McCoy left Panama on the *Nitro* and will probably reach Managua on Sunday. After a careful review of the situation with Mr. Dodds [21] we have the following suggestions to make:

(1) Regarding the specific objection that legislative powers, as such, are being delegated to an administrative board, while we do not consider that objection tenable, it may well be that certain amendments calculated to meet it, dealing with relatively unimportant details governing election procedure but not diminishing in any way effective supervision of the election, can be considered. For instance, according to the present draft, the Electoral Board will fix the registration and election dates. We should have no serious objection to having these dates fixed by the Congress of Nicaragua in the electoral law, provided it was done with the substantial agreement of both parties and not as the result of one party using its power to obtain an advantage over the other. Possibly General McCoy will be able to suggest further amendments along this line which will satisfy those who are making contentions on this point. We should consider it unfortunate if amendments of this sort should be proposed and made an occasion for acrimonious and prolonged discussion in Congress. Such amendments ought to be agreed to before submission and their immediate passage assured.

(2) A message was received today from Assistant Secretary Francis White.[22] A copy of this message was sent to you. In this message he spoke of conversations with Cuadra Pasos and Zepeda. The idea was advanced by the latter that an agreement might be reached by a very slight change in phraseology, as, for example, in the stipulations granting General McCoy the authority to put in force measures having the force of law (article 3). Instead of employing the words "having the force of law," Zepeda suggested that such language as "to have full force" or "to have full vigor" or "to have the force of regulatory decrees" might be used. We should feel that such a change would be unobjectionable.

---

[21] Dr. Harold W. Dodds, a member of the American Electoral Mission. Dr. Dodds had been engaged in 1921 by the Nicaraguan Government to assist in the revision of the electoral laws of Nicaragua. See *Foreign Relations*, 1923, vol. II, pp. 605 ff.; also *ibid.*, 1924, vol. II, pp. 487 ff. Dr. Dodds accompanied General McCoy on his trip to Nicaragua in 1927.

[22] See telegram No. 7, Jan. 19, 1 p. m., from Habana, p. 438.

(3) As to the time for making any of these suggestions, you are, of course, the best judge. Naturally, if the law can be passed in its present form, we should prefer that result. We are rather apprehensive lest any sign of weakening by our proposing amendments be misconstrued and jeopardize the entire electoral law. We are relying on you to use your best judgment. Please consult General McCoy and keep us fully informed.

(4) Since preparing the above message we have received your telegram No. 36, January 20, 9 a. m., and are impressed by the desirability of standing firm, as you suggest, on our original position, at least so long as there is any hope of getting the law passed substantially in the form presented by us. What we have said above, therefore, is for your guidance only in case you reach the point where it seems necessary to agree to some such amendments as indicated in order to obtain results.

KELLOGG

817.00/5294 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

WASHINGTON, *January 21, 1928—1 p. m.*

24. With the substitute project before us, as given in Section 2 of your 36, we are now able to see more clearly the aims and purposes of the opposition. They are making their fight against the law nominally on constitutional grounds which, even in ordinary circumstances, would not be regarded as tenable. In reality they are endeavoring to scrap the Tipitapa Agreement by attacking it in its most vital feature. The substitute project is plainly intended to eliminate genuine American supervision, and throw the whole business back into the old way of doing things, with partisan control of the election machinery for all practical purposes, and partisan judgment of the result. It is easy to see that the Conservative majority in the Chamber of Deputies intends if it can to make a mockery of this election by reserving the right to deal with it in the same way that the recent departmental election in Esteli was handled. The very essence of the arrangement which Colonel Stimson made, and which was embodied in a solemn agreement by the Presidents of the two countries, was that this time at least the old system should be set aside. It was stipulated that the United States should have full control to see that every qualified voter in Nicaragua should have an opportunity to cast his ballot free from all intimidation, and to have his ballot honestly counted. A fair election means a free vote and an honest count, and it also means a declaration and recognition of the result in accordance with such count. That is what it meant to the men who laid down their arms at Tipitapa

and that is what it means to us now. Anything short of this would be an unthinkable and intolerable breach of faith. Everybody concerned agreed to have such an honest election and to abide by the result. Under these conditions no party in Nicaragua which undertakes to convert the election into anything different from what it was clearly intended to be and succeeds in setting up a Government as the result of such tactics, can expect that government to be afterwards recognized by the United States. The Congress of Nicaragua may have the power under the Constitution to do what it did in the Esteli case. We are not disposed to argue about the powers of Congress, but we are bound to say that the exercise of such power, if it exists, so as to impair effective supervision in accordance with the Agreement, or to change the count and set aside the result after its fairness had been determined and certified by the American supervising authority, would inevitably create a situation where it would be impossible for the United States to recognize the Government established by these methods. The United States obviously could not, after having undertaken to supervise a fair election and having done so, stultify itself by extending recognition to a Government established in disregard of the result to which it had certified.

Unless you see some good reason for not doing so, the Department thinks you should read the foregoing to President Diaz, and it seems to us even more important for you to read it to Chamorro. It would be well for you to be accompanied by General McCoy, especially in your interview with Chamorro. In both of these interviews you should also make plain that the foregoing statement must not be taken as in any way modifying our main position that the duties and obligations imposed by the Tipitapa Agreement must be fulfilled, and that the United States fully intends to carry them out so far as it is concerned. The above statement by pointing out the inevitable consequences of a different course explains precisely why we must and shall go ahead with what we have set out to do. There can be no weakening on that proposition.

KELLOGG

817.00/5300a : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

[Paraphrase]

WASHINGTON, *January 21, 1928—5 p. m.*

25. The Department would like to know, in view of rumors and innuendos which may be circulated in Nicaragua that the United States intends to favor any particular candidate or party in this election, whether any new public statement declaring emphatically

the absolute neutrality and impartiality of the United States would be advisable. In this connection, your attention is invited to the note from the Secretary of State to the Nicaraguan Minister of November 17, 1927.[23] You have a copy of this note. The whole subject is covered in this note. Possibly the publication of this note in Nicaragua by President Diaz would be sufficient for the present purpose and would not give the matter the appearance of being on the defensive at this time. Please submit suggestions if you feel that a new declaration is necessary.

KELLOGG

817.00/5296 : Telegram

The Chairman of the American Delegation to the Sixth International Conference of American States (Hughes) to the Secretary of State

[Paraphrase]

HABANA, *January 21, 1928—9 p. m.*

[Received 11:15 p. m.]

13. From White. Last night Cuadra Pasos and Zepeda expressed themselves as being optimistic that the electoral law would be passed. They maintained that the project was imperfectly translated, and that by making a revised translation which would be more exact and more directly interpret the English version, opposition would be removed. They intend to suggest that a new translation be made, but for psychological reasons the Government advises that it be called a revised project. They stated emphatically that they were urging all their friends to vote for the law drafted.

Cuadra Pasos said that he believed a statement that the United States was not attempting to place the Liberals in office, such as was suggested to the Secretary of State on January 16,[24] would be most helpful in preparing the way for the passage of the law.

HUGHES

817.00/5296 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

[Paraphrase]

WASHINGTON, *January 22, 1928—1 p. m.*

26. The following telegram has been received from Habana:

[Here follows the text of telegram No. 13, January 21, 1928, 9 p. m., from the Chairman of the American Delegation to the Sixth International Conference of American States to the Secretary of State, printed *supra*.]

---

[23] *Foreign Relations*, 1927, vol. III, p. 376.

[24] See memorandum by Assistant Secretary of State White, dated January 17, 1928, p. 431.

The Department would be pleased to receive your comment on these suggestions.

KELLOGG

817.00/5298 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, *January 22, 1928—5 p. m.*
[Received 9 : 09 p. m.]

43. General McCoy arrived today.

MUNRO

817.00/5294 : Telegram

The Secretary of State to the Chairman of the American Delegation to the Sixth International Conference of American States (Hughes)

WASHINGTON, *January 23, 1928—11 a. m.*

13. For White. For your information we telegraphed Munro as follows on Saturday. Unless you see objection you may repeat this statement to Cuadra Pasos.

[Here follows the text of telegram No. 24, January 21, 1928, 1 p. m., to the Chargé in Nicaragua, printed on page 444.]

KELLOGG

817.00/5294 : Telegram

The Secretary of State to the Chairman of the American Delegation to the Sixth International Conference of American States (Hughes)

WASHINGTON, *January 23, 1928—noon.*

15. For Mr. Francis White. The following is the text of the substitute project approved by the Chamber of Deputies as telegraphed by Munro:

[Here follows the text quoted in paragraph 2 of telegram No. 36, January 20, 9 a. m., from the Chargé in Nicaragua, printed on page 440.]

KELLOGG

817.00/5321a : Telegram

The Secretary of State to the Chairman of the American Delegation to the Sixth International Conference of American States (Hughes)

WASHINGTON, *January 23, 1928—1 p. m.*

16. For White. The following is the English text of the electoral law as submitted to the Nicaraguan Congress:

"1. In order to consummate the arrangement made between the Government of Nicaragua, at its request, and the President of the

United States whereby the latter will extend friendly assistance to the end that the election of the year 1928 for the Supreme Authorities may be free, fair and impartial, the election law proclaimed on March 20, 1923, together with any laws or executive decrees which may have subsequently been passed or promulgated to amend or amplify said law is hereby suspended during the period of said election.

This Act shall be known and may be cited as the Transitory Provisions Governing the Election of 1928. It shall take effect upon passage and shall continue in full force and effect until the said election of 1928 has been held and the results thereof proclaimed by Congress, and the electoral law of March 20, 1923, shall have no force or effect until said results have been so proclaimed.

2. For the purpose of said election of 1928, a National Board of Election is hereby constituted, to consist of three persons appointed by the President of Nicaragua as follows: A Chairman to be appointed upon the nomination of the President of the United States and two political members, to be appointed in like manner upon the nomination of the Executive Committee of the Conservative and Liberal Parties respectively. The Chairman of the Board shall be a citizen of the United States. Two political *suplentes*, one of whom shall be a member of the Conservative Party and one a member of the Liberal Party, shall be chosen in the same manner as the political members *propietarios*. If any political member be unable or fails to perform the duties of his office temporarily on account of absence or other incapacity, his place shall be filled by the corresponding *suplente* during the period of absence or incapacity of such member *propietario*. The members of the National Board of Elections and the *suplentes* shall take possession of their offices from the President of the Republic of Nicaragua. The President of Nicaragua shall remove from office any political member of the National Board of Elections or *suplente* upon recommendation of the Chairman of the Board but no such removal shall be made without such recommendation. Any vacancy arising shall be filled in the manner of the original appointment.

3. The National Board of Elections as constituted herein shall have full and general power and authority to supervise said election and to prescribe regulations having the force of law for the registration of voters and for the casting and counting of their ballots and for any other matters properly appertaining to the election.

4. A Majority of the National Board of Elections, one of whom shall be the Chairman, shall constitute a quorum for the transaction of business; provided that the presence of the Chairman alone shall be deemed to constitute a quorum at an emergency meeting. An emergency meeting is one the holding of which is considered by the Chairman to be indispensable to the accomplishment of a fair and free election and which has been so designated by him in formal announcement, under one clear day's notice, to the political members and *suplentes*. No action or resolution of the Board shall be valid unless concurred in by the American Chairman, and in case of a tie vote the Chairman shall have power to cast a second and deciding vote. The Chairman shall also have power to declare any action or resolution, which in his judgment is indispensable to the accomplishment of a fair and free election, an emergency measure, and such measure shall come into full force and effect as an action or resolution of the National Board of

Elections 24 hours after its presentation to said Board in formal meeting assembled and its designation thereat by the Chairman as an emergency measure.

5. The National Board of Elections shall canvass the votes cast at the elections conducted under this Act, shall determine all questions and contests which may arise as to the validity and count of any such votes, and shall issue certificates of election to those lawfully elected to their respective offices. Such certificates shall be returnable to Congress to whom the National Board of Elections shall, in conformity with Article 83, clause 2 and Article 84, clause 2 of the Constitution, transmit the report of the election in detail for certification and proclamation of the results of the election.

6. With respect to the said election of 1928, the National Board of Elections, through its Chairman, is vested with the authority to command the services of the National Constabulary and to issue orders thereto for the purpose of preventing intimidation and fraud and of preserving law and order during the various acts of registration and voting.

7. The Members of the National Board of Elections constituted under Section 2 of this Act shall hold office until the results of the elections are proclaimed as provided in Section 4 hereof. Upon the taking possession of office by the members of the said National Board of Elections, the term of office of each and all persons serving as members of election boards and *directorios electorales* under the law of March 20, 1923, shall cease. Upon the proclamation of the results of the election as provided in Section 5, the electoral law of March 20, 1923, shall be restored in full force and effect.

8. Upon the restoration of the electoral law of March 20, 1923, in full force and effect, as provided in the preceding section, the National Board of Elections and the several departmental boards of elections and *directorios electorales* prescribed in said law shall forthwith be reconstituted in the manner provided by said law for the appointment of members of said boards and *directorios electorales* respectively, and the basis for the selection of chairmen of the several departmental boards of election as prescribed in Section 22 of said law shall be the presidential election of 1928.

The respective terms of office of the members of all boards of election and *directorios electorales* appointed in accordance with this section shall expire at the time they would have expired had such boards and *directorios electorales* been appointed to serve under the electoral law of March 20, 1923 in the election for the Supreme Authorities in the year 1928."

KELLOGG

817.00/5302 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

[Paraphrase]

MANAGUA, *January 23, 1928—11 a. m.*

[Received 7:05 p. m.]

44. Department's No. 25, January 21, 5 p. m., and No. 26, January 22, 1 p. m. I am of the opinion that a further statement with regard to

the impartiality of the United States would not be advisable. Such a statement would have no effect on the Conservatives unless so worded as to injure the Liberals. I fear it might give the impression that the United States was protesting too much. The real grievance of the Conservatives arises from our efforts to deprive the Government of a part of what it regards as its natural advantages in connection with the election. This opinion is concurred in by General McCoy.

With regard to the suggestion of Cuadra Pasos that the difficulty could be overcome by revising the translation of the electoral law, the Department will have perceived from my telegrams and from the substitute project that the opposition in the Chamber of Deputies has been directed against the whole idea of supervision. While I can perceive no objection to a new translation or to other changes in form, there can be no action which would be acceptable to us until the entire attitude of the Chamber of Deputies has altered.

I have conferred with the followers of Cuadra Pasos in the Chamber of Deputies. They pretended that they would have voted for our proposition if their votes would have assured its passage. It is clear, however, that they dared not oppose the Chamorro group very actively even after they received instructions from Cuadra Pasos to abandon the openly hostile attitude hitherto assumed.

. . . . . .

MUNRO

817.00/5305 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State [25]

[Paraphrase]

MANAGUA, *January 24, 1928—9 a. m.*

[Received 2:45 p. m.]

46. Yesterday I saw Chamorro at his request. I again made clear to him the unalterable intention of the Department that the election should be conducted according to the agreement between the Governments. He asserted that he had not changed his position. Nevertheless, he gave me the impression that he was seeking a dignified way out; also, that he has no real intention of permitting the Conservative Party to abstain from the election. After consulting with General McCoy, I considered it better not to read the Department's telegram No. 24, January 21, 1 p. m., to Chamorro at this time, but I told him something of its contents. I read the first part of the telegram to President Diaz.

MUNRO

---

[25] Repeated by the Department to the chairman of the American Delegation to the Sixth International Conference of American States, for White, as telegram No. 20.

817.00/5302 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

[Paraphrase]

WASHINGTON, *January 24, 1928—1 p. m.*

28. Referring to your No. 44, January 23, 11 a. m. The Department concurs in your present conclusion regarding the matter referred to in the first paragraph of your telegram. The Department feels, however, that it should be kept in mind as of possible assistance as the situation develops.

The Department cannot urge too strongly that you continue to exert every effort to bring about an adjustment on the basis of an electoral law, redrafted, if need be, so as to save the face of the opposition without impairing effective American supervisory control of the election. The door should not be closed to negotiations along these lines. It may well be that certain matters of relatively little importance so far as our attitude is concerned, such as were indicated in our telegram No. 23, January 20, 6 p. m., can be safely embodied in the law. According to advice from Dr. Dodds, ordinary electoral regulations of a comparatively innocuous kind originally designed to be left to the electoral commission might easily be embodied in the law itself. As things now stand, we suppose that time will work in our favor, and that informal negotiations should be encouraged and continued to the limit of possibility.

KELLOGG

817.00/5313 : Telegram

The Chairman of the American Delegation to the Sixth International Conference of American States (Hughes) to the Secretary of State

[Paraphrase]

HABANA, *January 25, 1928—11 a. m.*

[Received 7:14 p. m.[26]]

26. From White. Yesterday I had a long conference with Cuadra Pasos and Zepeda. I read to them your telegram No. 24, January 21, 1 p. m., to the Chargé in Nicaragua. I then urged that measures be taken immediately to have the law passed in the form originally proposed. I stated that Zepeda's translation of the law appeared to be correct and careful, but that if they believed that it would be more acceptable than the translation made in Managua, I thought that the Department of State would have no objection. Both then urged that Joaquin Gomez' proposed modified law be accepted.

---

[26] Telegram in four sections.

This proposition follows fairly closely the original except in these important points:

(1) It proposes that the American member of the National Electoral Board shall be appointed to assist the other members, rather than a regular member and presiding officer, as provided by the McCoy law.
(2) It omits the important last sentence of article 4 which gives the chairman power to promulgate any act or resolution as an emergency measure.
(3) It omits the phrase in the penultimate sentence of article 2 which reads "but no such removal shall be made without recommendation."
(4) Article 3, instead of giving the National Board of Elections the power to prescribe regulations having the force of law, provides that the board shall request the Executive to promulgate such regulations as Executive orders.

I informed them that these changes were absolutely unacceptable; that the President of Nicaragua had asked us in writing to supervise the elections; that the President of Nicaragua had promised to give us the necessary authority to do so; and that this must be scrupulously lived up to. I informed them that I had simply consented to receive a counter proposal with the understanding that it would contain everything contained in the McCoy draft; and that it would in no way diminish the complete powers necessary for him to have in conducting the election. They had told me that if they could set forth the same thing in slightly different phraseology to save the *amour-propre* of the Conservative Deputies who had voted for the substitute law in place of the McCoy law, it would then be possible to pass the law in the form desired by us. I told them very clearly that nothing else would be acceptable to the United States than the full powers required. I indicated that there was nothing in the McCoy law that was not outlined in the letter and memorandum of President Diaz to the President of the United States, May 15, 1927.[27] Señor Zepeda said that he had never seen the correspondence between the two Presidents and was therefore not in a position to express an opinion. I then read to him the letter and memorandum of President Diaz of May 15, 1927 and the reply of President Coolidge of June 10.[28] Señor Zepeda immediately replied that this changed the entire aspect of the matter so far as he was concerned. He said that there was nothing in the McCoy law that was not in the letter and memorandum of President Diaz, and that every point in the McCoy law objected to by the Congress as unconstitutional was contained in the correspondence of President Diaz to President

[27] *Foreign Relations*, 1927, vol. III, p. 350.
[28] *Ibid.*, p. 353.

Coolidge. I indicated that when this letter was sent and the agreement made Colonel Stimson received the opinion from Cuadra Pasos himself that there was nothing unconstitutional in it. This was admitted by Cuadra Pasos, who made no further remarks. Señor Zepeda said that so far as he was concerned there was now no doubt that the Conservative Party was definitely committed to the McCoy law. He said that he would very definitely take such a position with his friends and followers in Nicaragua. He said further that he would cable direct to Chamorro and give him his views and opinion on the subject and tell Chamorro that if he would not respect the obligation assumed by the Conservative Party he would have nothing further to do with him.

Cuadra Pasos then volunteered to do the same. His attitude, however, was far less convincing than that of Zepeda. Both of these gentlemen now clearly understand that we will accept nothing less than parallel with what was agreed upon. Both gentlemen stated, however, that it was necessary to make some slight changes in phraseology which can be agreed upon in Habana and cabled to Managua, saying that this is the law which must be passed without further discussion. They said they would redraft the proposal of Joaquin Gomez and place it in my hands today so I can see if it is acceptable. If I think it is acceptable, I will have it cabled to the Department in order that it may be discussed with Dr. Dodds, and to the Chargé in Nicaragua in order that it may be discussed with General McCoy. If the decision is that we can accept the modified proposal, Cuadra Pasos and Zepeda will cable it to President Diaz, and will say that the law must be passed in that form without further change, saying to President Diaz, of course, that when it is submitted to Congress he must submit with it his exchange of correspondence with President Coolidge demonstrating definitely the commitment of the Conservative Party and its obligation to fulfill its promise.

Copy sent to the Chargé in Nicaragua.

HUGHES

817.00/5317 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, *January 25, 1928—6 p. m.*

[Received 6 p. m.]

47. General McCoy called on the President this morning with me and explained to him at length the position of the U. S. Government regarding the electoral law. He explained the deep interest of the President and the Secretary of State in holding a satisfactory elec-

tion here and pointed out the impossibility of disregarding the solemn obligations which we had assumed toward all parties, as set forth in President Diaz's own letter and memorandum to President Coolidge. He said that the transitory provisions were couched in almost the exact words of President Diaz's memorandum and asked the President if he was still of the same opinion regarding the form which the supervision must take. President Diaz replied that he was; that he still desired to carry out his obligations to the U. S. and was endeavoring to do so. He said however that a possible solution was being discussed at Habana and indicated that he and also Chamorro were awaiting the outcome of the discussions there before deciding on any further action.

General McCoy emphasized the strict impartiality of the U. S. as between the two parties here.

The discussion which followed strengthens the impression which I obtained from Chamorro Monday that we eventually can find a way out by letting the Deputies see the regulations which McCoy is drafting and thus allaying their fears that these regulations may favor the Liberals. If a solution is to be reached, however, the matter must be handled with the greatest care and it is very important that proposals come from Nicaraguans rather than from us. I have already made it clear that the question with us is one of principle and not one of form and that we will not refuse to discuss any solution which involves no compromise of the obligations which we have assumed towards all parties.

MUNRO

817.00/5330 : Telegram

The Chairman of the American Delegation to the Sixth International Conference of American States (Hughes) to the Secretary of State

HABANA, *January 27, 1928—6 p. m.*
[Received January 28—10:30 a. m.[29]]

39. [Paraphrase.] From Francis White. Yesterday evening Cuadra Pasos sent me the proposed law. Last night I translated it, and this afternoon I discussed it with him. He is in agreement with the modifications I suggested, and it is now substantially the same as the McCoy law.[30] There is a new article 5. Old article 5 becomes article 6; article 6 becomes article 7; article 7 becomes article 8; and article 8 becomes article 9. I regret that the new article 5 is [not?] in accordance with section I, paragraphs (C) and (D) of the memorandum of Pres-

---

[29] Telegram in three sections.

[30] For text of the McCoy law, see telegram No. 16, Jan. 23, 1 p. m., to the chairman of the American Delegation to the Sixth International Conference of American States, for White, p. 447.

ident Diaz enclosed in the letter of May 15 to President Coolidge.[31] In article 3 the words "force of law" are changed to "obligatory force." Cuadra Pasos told me that his change was made because only the Congress can enact laws, and the regulations of McCoy having "obligatory force" is the same as giving them "force of law." I told Cuadra Pasos that since the words "force of law" were used in the memorandum of President Diaz I would make reservation with regard to this change, as the Department of State or General McCoy might desire to have it changed to conform to the original draft law.

In article 9 there is omitted reference to the reconstitution of the National Board of Elections upon the restoration of the electoral law of March 20, 1923. Cuadra Pasos said that this was brought under the electoral law of 1923. The president of the National Board of Elections is chosen by the Supreme Court. He said that this could be verified readily in Nicaragua by General McCoy.

I told Cuadra Pasos that I would cable the text both to the Department of State and to the American Legation in Nicaragua and inform him later whether or not it is acceptable.

It is my personal feeling that the new text is satisfactory, and that it offers a way out for the Conservative Deputies who oppose the law as originally presented. Cuadra Pasos will cable the Spanish text to President Diaz, and in order that there be no error I shall cable the Spanish text to Munro, the American Chargé in Nicaragua, when I know that this draft is acceptable.

Cuadra Pasos said he thought that Chamorro was endeavoring to find a graceful way out, and hoped he would now support the measure. A short time ago President Diaz cabled Cuadra Pasos and Zepeda requesting them to cable Chamorro regarding the situation and to try to get some commitment from him. He stated that they cabled Chamorro, giving him an account of their conference with me, stating that, while it might be possible to secure one or two slight modifications in form, the Government of the United States absolutely insisted that the substance of the agreements made with Colonel Stimson be carried out, and they pointed out to him that the law as drafted is in compliance with the letter and memorandum of President Diaz of May 15, 1927. Chamorro replied by cable stating that the difficulty was that the United States was not strictly living up to the Stimson agreement, which provided that the Conservative Party or rather the Government of Nicaragua would appoint the local officials throughout the country. I replied that the Stimson agreement provided that *jefes políticos* would be Liberals, and that it was my understanding that the President would appoint them on the nomination of the Supreme Council of the Liberal Party. Cuadra Pasos said that the latter

[31] *Foreign Relations*, 1927, vol. III, p. 350.

provision regarding nomination of the Liberal Party was not included in the agreement, but that he had no objection to it. I asked Cuadra Pasos if he could cite any instances where the United States had not strictly fulfilled the Stimson agreement. He replied that he could not. Cuadra Pasos added that he and Zepeda cabled Chamorro in reply, asking whether, if they could have the United States issue a statement to the effect that it would strictly live up to the Stimson agreement, he would support the electoral law. This cable was sent last night and they have not yet received a reply. Cuadra Pasos requests that the above be regarded as confidential. [End paraphrase.]

The text of the electoral law is as follows:

Article 1. In order to consummate the agreement made between the Government of Nicaragua at its request and the President of the United States, whereby the latter will extend friendly assistance to the end that the election of the year 1928 for the Supreme Authorities may be free, fair and impartial, the electoral law proclaimed on March 20, 1923, together with any laws or Executive decrees which have subsequently been passed or promulgated to amend or amplify said law are hereby suspended during the period of said election. This act shall be known and may be cited as the Transitory Provisions Governing the Election of 1928. It shall enter into effect upon passage and shall continue in vigor until the said election of 1928 has been held and the results thereof proclaimed by Congress. The provisions of the electoral law of March 20, 1923, will not reenter into effect until after such proclamation.

Article 2. For the purpose of said election of 1928 a National Board of Elections is constituted as follows:

> Two political members appointed by the President of Nicaragua upon nomination by executive committees of the Conservative and Liberal Parties, respectively.
>
> Two political *suplentes*, one a member of the Conservative Party and the other a member of the Liberal Party, will be chosen in the same manner as the political members *propietarios*.

If any political member be unable or fails to perform the duties of his office temporarily on account of absence or any other incapacity, his place shall be filled by the corresponding *suplente* during the period of absence or incapacity of such member *propietario*.

The political members will be presided over by a citizen of the United States of America, with whose presence the formation of the National Board of Elections will be completed and who will be nominated by the President of the United States of America and appointed by the President of Nicaragua.

The political members *propietarios* and *suplentes* and their chairman shall take possession of their offices from the President of Nicaragua, who will remove from office any political member if for any reason the chairman of the board so recommends, but no removal shall be made except upon his recommendation.

Any vacancy arising shall be filled in the manner of the original appointment.

Article 3. The National Board of Elections as constituted herein shall have full and general power and authority to supervise the said election and to prescribe regulations with obligatory force for the registration of voters, the deposit and counting of the ballots and regarding any other matters whatsoever which properly pertain to the election.

Article 4. A majority composed of a member and the chairman will constitute a quorum for the transaction of business. In every meeting the chairman of the National Board of Elections must be present and his sole presence at an emergency meeting shall constitute a legal quorum. An emergency meeting is one the holding of which is considered by the chairman as indispensable for the carrying out of a fair and free election and which has been so designated by him in formal announcement given one full day in advance to the political members and *suplentes*. No action or resolution of the board shall be valid unless concurred in by the American chairman. In any case of tie the chairman will have a double vote.

The chairman shall have the power to declare any action or resolution, which in his judgment is indispensable to the accomplishment of a fair and free election, an emergency measure, and such measure shall come into full force and effect as an action or resolution of the National Board of Elections 24 hours after its presentation to said board in formal meeting assembled and its designation thereat by the chairman as an emergency measure.

Article 5. The National Board has full authority to organize the departmental boards and the *directorios electorales*, both composed of an equal number of political members of both parties and which will include and be presided over by a citizen of the United States designated by the National Board with the authority which the said National Board may grant him.

Article 6. The National Board of Elections shall canvass the votes cast at the elections conducted under this act, shall determine all questions and contests which may arise as to the validity and counting of said votes and will issue the respective certificates of election to those who may be legally elected for their respective offices. Such certificates must be presented to the Congress, to which the National Board of Elections will send a detailed report of the election in accordance with article 83, clause 2, and article 84, clause 2, of the Constitution in order that the Congress may comply with those provisions.

Article 7. The National Board of Elections, through its chairman, is vested with the authority to command the services of the National Constabulary and to give it the necessary orders in order to avoid intimidation and fraud and of preserving law and order during the registration, voting and counting of the votes for the Supreme Authorities in the elections of 1928.

Article 8. The National Board of Elections will exercise its duties until Congress has complied with the provisions of article 83, clause 2, and article 84, clause 2 of the Constitution. Upon the new board

taking office the term of office of each and every one of the members of the national electoral boards and the *directorios electorales* by virtue of the law of March 20, 1923, shall cease. Upon the proclamation of the results of the elections for the Supreme Authorities of 1928 the electoral law above mentioned of March 20, 1923, shall be restored in full force and effect.

Article 9. Upon the restoration of the electoral law of March 20, 1923, in full force and effect, as provided in the previous article, the various departmental boards of elections and *directorios electorales* prescribed in said law shall forthwith be reconstituted in a manner provided in the said law for the respective appointments and the basis for the selection of the chairmen of the various departmental boards and *directorios* provided for in article 22 of the said law, shall be the results of the Presidential election of 1928. The term of office of the members of the National Board and of all the electoral boards and *directorios* appointed in accordance with this article shall expire at the time that they would have expired if such electoral boards and *directorios* had been appointed in conformity with the electoral law of March 20, 1923 to render their services for the election of the Supreme Authorities of 1928.

HUGHES

817.00/5300 : Telegram

The Secretary of State to the Chairman of the American Delegation to the Sixth International Conference of American States (Hughes)

WASHINGTON, *January 28, 1928—3 p. m.*

32. For Mr. Francis White. Text of new draft of proposed electoral law thoroughly satisfactory to Department and to Dodds.

It appears that the words "or *suplente*" after "political members" and before "if for any reason" in penultimate sentence of Article 2 may have been omitted through oversight. Department does not consider this point important.

Above repeated to Managua.

KELLOGG

817.00/5337a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *January 28, 1928—6 p. m.*

35. In view of fact that transitory provisions suspend electoral law of 1923 and that presidential election will not be held until November Dodds suggests that General McCoy may want to consider method of handling municipal elections which customarily occur in that month.

KELLOGG

817.00/5335 : Telegram

The Chairman of the American Delegation to the Sixth International Conference of American States (Hughes) to the Secretary of State

HABANA, *January 28, 1928—6 p. m.*
[Received 7:51 p. m.]

45. From White. Your 32, January 28, 3 p. m. Cuadra Pasos agrees to insertion of words "or *suplente*" in penultimate sentence of article 2. Nicaragua informed.

HUGHES

817.00/5345 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *February 1, 1928—4 p. m.*
[Received February 2—1:17 a. m.]

61. President Diaz professes to have received no definite word from Havana regarding Cuadra Pasos' compromise proposal. I have not communicated it to him because it seems inadvisable to make any move here which would indicate a willingness on our part to compromise unless there is some indication of a change in the attitude of Chamorro and the Deputies. Their attitude seems more uncompromising now than it was a few days ago.

President Diaz and Chamorro had summoned about 50 prominent members of the Conservative Party from all sections of the country to meet here next Sunday to discuss the party's attitude toward the electoral law. This was admittedly an effort on the part of the President to avoid assuming responsibility for the failure of the law in Congress. While there was a possibility that such a meeting might have improved the situation, I thought it more probable that Chamorro might dominate it and thus succeed in arraying the entire Conservative Party against the execution of the Stimson agreement. I therefore suggested to him today that it would be inadvisable to permit the meeting to be held unless he was certain that the result would be satisfactory and he promised to recall the invitation and instead to confer with the Conservative leaders in small groups and to send them to the Legation.

Repeated to Havana.

EBERHARDT

817.00/5344 : Telegram

The Chairman of the American Delegation to the Sixth International Conference of American States (Hughes) to the Secretary of State

[Paraphrase]

HABANA, *February 1, 1928—8 p. m.*
[Received February 1—7:45 p. m.]

60. From White. I have been assured by Cuadra Pasos that he and Zepeda are cabling influential members of the Conservative Party to support the electoral law when the subject is discussed by the Council of Notables of the Conservative Party when it meets Sunday.

HUGHES

817.00/5360 : Telegram

The Chairman of the American Delegation to the Sixth International Conference of American States (Hughes) to the Secretary of State

[Paraphrase]

HABANA [*undated*].
[Received February 2, 1928—9:31 p. m.]

66. Today the following cable was sent to the American Legation in Nicaragua:

"February 2, 1928—5 p. m. From Francis White. Your telegram No. 61, February 1, 4 p. m., to the Department of State. Last Friday Cuadra Pasos informed me that he had that day sent the new text of the electoral law to President Diaz. Cuadra Pasos informed me today that he had sent the modifications only; that upon receipt of a request from President Diaz for the full text, he cabled it by deferred message on Tuesday, and that President Diaz should have it before him today. Cuadra Pasos reiterates that he and Zepeda are doing everything possible to support the law and have it voted, and that if you will cable the names of any individuals whom he should personally cable, he will be pleased to do so. He said that he was optimistic regarding voting of the law.

Cuadra Pasos has called César to Habana to read to him cables in private code from President Diaz in order that César might fully understand the position which President Diaz and Cuadra Pasos are taking with regard to the law. César will arrive in Habana this afternoon. He will probably return to Washington on Saturday.

Cuadra Pasos says emphatically that he is doing all he possibly can to advance the electoral law, and that if you can point out anything further that he can do, he will gladly do it. Cuadra Pasos tried to secure passage immediately to Nicaragua in order that he might personally exert his influence there in favor of the law, but found that there is no sailing before the 15th of this month. Will

you please inform me of anything you think Cuadra Pasos can do or advise me of the names of persons whom he should cable directly. Upon the receipt of such information, I shall immediately take the matter up with Cuadra Pasos."

HUGHES

817.00/5361 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *February 2, 1928—6 p. m.*

[Received 9 : 51 p. m.]

64. From General McCoy. Have had conversation with President Diaz, General Moncada and General Chamorro, preceded and followed by conferences with Minister Eberhardt, Munro and others.

President Diaz freely acknowledged his Government's obligations to accomplish Tipitapa agreement and stated readiness to fulfill them to best of his ability. Moncada expressed reliance on the United States to effectuate the agreement which constituted the consideration for disarming. Chamorro frankly stated his intention to defeat the program and asserted his freedom from promises made by others. Have sought to counteract any remaining belief that United States would compromise or does not seriously intend to carry out Tipitapa program. Have rewritten Dodds' law and am proceeding with plans approved by the Department for putting it in effect.

Course pursued by Chamber of Deputies not necessarily the policy to which Conservative groups would commit themselves. Hope need not be excluded that Chamorro now wielding strong adverse influence may eventually cooperate to some extent.

Recommended unremitting pressure here and from Washington on President Diaz and Nicaraguan Government for fulfillment of all essential features of agreement focused in first instance on transitory provisions. Also reassertion of the United States determination to supervise election with all requisite authority.

Emphasis at present on possible withdrawal marines after elections would tend to strengthen Conservative opposition to adequately supervised elections.

Will report military and political situation in border area within a few days.

EBERHARDT

817.00/5377 : Telegram

The Chairman of the American Delegation to the Sixth International Conference of American States (Hughes) to the Secretary of State

[Paraphrase]

HABANA, *February 6, 1928—1 p. m.*
[Received 7:55 p. m.]

82. Following telegram sent to Managua today:

From Francis White. Señor César was in Habana for two days. Although I saw him, I felt it would be more effective to have Cuadra Pasos insist on a change in his attitude than for me to do so. During César's stay I kept in close touch with Cuadra Pasos. Cuadra Pasos advised me that César now fully understood the situation and that he has committed himself to the support of the law. He did this in a cable from Habana to President Diaz and he authorized Diaz to show the telegram to anybody in Managua he wished to. . . .

Yesterday evening Cuadra Pasos expressed the view that he cannot convince Dodds' [*sic*] followers in Nicaragua by cable, and he believed it would be necessary to wait until his return to Managua on February 25; then he can speak to them personally. I said that I was convinced that he and President Diaz have sufficient followers in Congress to pass the law with the support of the Liberals in spite of any opposition by Chamorro. I urged that this be done at once and without awaiting his return. He asserted that he would do everything possible. I shall, when I hear from you further, urge him to cable very strongly to his followers to cooperate with the Legation in accordance with your suggestion.

. . . . . .

Chamorro is the crux of the whole situation. I believe it would be well for the Legation and General McCoy to try to convince him that it is absolutely necessary for him to support the Conservative Party in carrying out its formal written engagements that can be done only in Nicaragua.

HUGHES

817.00/5378 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *February 7, 1928—11 a. m.*
[Received 8:47 p. m.]

70. [Paraphrase.] Opposition in the Conservative Party to the passage of a satisfactory electoral law is seemingly becoming more determined and more general. The leaders of the previously strong pro-American Granada group are now supporting Chamorro in his attitude, and it is not probable that we can depend much longer on the cooperation of the Senate. . . . I am also convinced that advice is still being received from Washington to oppose the electoral law. [End paraphrase.]

The Conservatives are now making less of the constitutional question than formerly. They are arguing that it will be impossible to hold a fair election this year because of the disturbed conditions in the northern and western departments and because of the general discouragement in the Conservative Party arising from the belief that the United States Government has decided to put Moncada in the Presidency. They are in reality attempting to prevent the holding of any adequately supervised election this year or at least to obtain from us concessions sufficiently substantial to improve the party's prospects. We believe that Chamorro is probably being advised from Washington that the Department is so desirous of conducting the election in accord with the Nicaraguan Constitution and laws that the Congress can defeat the whole program of supervision simply by refusing legal authorization.

We still hope that Chamorro and other Conservative leaders will begin to cooperate when they become convinced that the Department is inflexible in its purpose to hold the election regardless of opposition and not to accept any compromise which would benefit the Conservative Party at the excuse [*expense?*] of the Liberals. General McCoy has already made very clear his intention to proceed with the election and is making other preparations.

We both feel that it would be helpful at this time to give out a strong statement of our position and I should therefore like to give out the following within the next two or three days if the Department has no objection.

"Under the agreement entered into last May by the United States Government with the Government of Nicaragua and with both political parties in this country the President of the United States assumed a definite obligation to supervise the Presidential election of 1928. The manner in which this obligation must be carried out is clearly set forth in the letter and memorandum addressed by President Diaz to President Coolidge on May 15, 1927, the substance of which is embodied in the transitory provisions which have been submitted to the Nicaraguan Congress. The Government of Nicaragua has on several occasions since last May and down to the present time expressly recognized its obligation to bring about the enactment of legislation of this character. Neither the Government of the United States nor the Government of Nicaragua nor either political party in this country can without dishonoring its pledged word refuse to put into effect the arrangements agreed upon.

The constitutionality of these arrangements was carefully considered last May when advice on the matter was received from the Nicaraguan Government and from distinguished Nicaraguan and American constitutional lawyers. It has been reconsidered in the light of the objections which have been raised in the Chamber of Deputies. The Government of the United States is convinced that these objections are entirely without foundation. This also appears

to be the opinion of the Government of Nicaragua and of the distinguished citizens who compose the Nicaraguan Senate.

The Government of the United States has therefore no alternative but to supervise the 1928 election in the manner contemplated in the Tipitapa agreement and it is fully prepared to take such steps as may be necessary to carry out the obligations which it has assumed. It hopes in doing so to receive the cooperation and support of the other parties to the agreement.

It is unnecessary to add that the supervision will be carried out with the most complete impartiality. The United States has no preference as between the two political parties in Nicaragua or as between the candidates within either party. It desires only that each party should freely nominate the candidate of its choice and that the administration which comes into office on January 1st, 1929, should derive its authority from the votes of a majority of the Nicaraguan people."

EBERHARDT

817.00/5379 : Telegram

The Chairman of the American Delegation to the Sixth International Conference of American States (Hughes) to the Secretary of State

[Paraphrase]

HABANA, *February 8, 1928—10 a. m.*

[Received 6:12 p. m.[32]]

90. The following has been sent to the American Legation in Nicaragua:

"From Francis White. Yesterday Cuadra Pasos showed me a telegram which he had just received from President Diaz. It stated that he was doing his best for the electoral law but that the difficulty was that Congress and the public in general feel that the United States is supporting not the Liberal Party but General Moncada personally.

I replied that I was not at all impressed by such a message. I stated that these were exactly the same tactics which were used in the past. Chamorro used the same argument in 1923 when the Government of the United States suggested that the Government of Nicaragua might want to consider the desirability of asking Dr. Dodds and experts designated by him to go to Nicaragua to help the authorities of Nicaragua to put the new electoral law into effect. After the death of President Diego Chamorro, however, Emiliano Chamorro did not hesitate immediately to say, when Martinez supported Solorzano rather than him as the candidate for President, that there could not be free and fair elections without American supervision. I told Cuadra Pasos that the attitude which was taken in any given case depended upon whether the person was in office or out of office, and that it was an old story to say that it will look like the Government of the United States is supporting somebody else.

---

[32] Telegram in two sections.

I told Cuadra Pasos that such a contention could not be advanced in the present case because President Coolidge in a letter personally signed by him to President Diaz stated that the Government of the United States would run a free and fair election, and that when César, acting presumably under instructions from Chamorro, brought up the same question in November, 1927, Secretary Kellogg in a letter to him dated November 17, 1927, very definitely set forth our position.[33] I informed Cuadra Pasos that I could consider such a message only as an attempt to becloud the issue and that he could not expect me to give it any consideration.

I told Cuadra Pasos that it had been made abundantly clear to him by Secretary Kellogg when he was in Habana, by myself, and also to the Nicaraguan Legation in the United States and to the authorities in Nicaragua, that the Government of the United States was going to live up to its agreement and carry out a free and fair election. We desire to do this with the concurrence and support of the Nicaraguan Government and the Conservatives, but whether we gain their support or not, we intend to do it, and it was my hope that this would be made abundantly clear to Chamorro and any others who were obstructing the passage of the electoral law. Cuadra Pasos said that he understood perfectly our Government's position; that he is in hearty support of it, and that he had cabled it many times to Nicaragua; for that reason he had hesitated to show me the telegram from President Diaz. . . .

I told Cuadra Pasos . . . that the interests of the Conservative Party certainly lay in fulfilling their obligation and agreement, and in doing so in a manner which would show them to be in accord with, and not in opposition to, the Government of the United States. I added that it was my belief that Chamorro's own selfish interests lay in this same policy, for if Chamorro is looking for power, he cannot get it now; and that his only chance seems to be in supporting the Conservatives to the utmost to carry out their agreement and to endeavor to have the Conservatives win the election legitimately, in order that he might become the candidate of the Conservative Party 4 years from now. I told Cuadra Pasos that I thought Chamorro might well consider whether his chances for election in 4 years would be greater if the Liberal Party won the election of 1928. I stated that I believed the best interest for all lay in carrying out the agreement in perfect accord with the Government of the United States, and that by placing themselves in opposition, the contingency which Chamorro had told me in Washington—that he was fearful that the floating vote would go to the Liberal Party—would in such case be enhanced. Cuadra Pasos said that he shared my views completely and that he would again cable to Nicaragua. The cable of President Diaz stated that he was working for the electoral law. Cuadra Pasos said that he was optimistic that they would succeed. The difficulty over Chamorro is great, but the Conservative Party will overcome it because Zepeda has more influence with Chamorro than does Cuadra Pasos. I again urged Cuadra Pasos to use his influence in favor of the law. Cuadra Pasos agreed to do so, but stated that he had received no word

[33] *Foreign Relations*, 1927, vol. III, p. 376.

from Chamorro for some time, which he attributed to the fact that Zepeda has come out strongly in favor of the electoral law and is, of course, in opposition to Chamorro, and Chamorro no longer communicates with him.

Cuadra Pasos also said that he was again instructing César in Washington to cable his support of the electoral law."

I believe it would be well to ask César to call and then impress upon him the necessity for taking the action instructed by Cuadra Pasos.

HUGHES

817.00/5378 : Telegram

The Acting Secretary of State to the Minister in Nicaragua
(Eberhardt)

[Paraphrase]

WASHINGTON, *February 8, 1928—6 p. m.*

38. Your telegram No. 70, February 7, 11 a. m. It is the feeling of the Department that any such statement as the one proposed requires careful consideration. The Department, therefore, makes the following observations in that connection.

(1) The passage of the new electoral law is the immediate problem before us. We feel that while you are impressed by the strength and persistency of the opposition, you still entertain the hope of its passage. In this situation care must be taken to do nothing which might in any way diminish the chances of success in obtaining a proper law. We should like to feel satisfied that you, General McCoy, and Mr. Munro are wholly convinced that a statement of the kind set forth in your message would improve the prospects for the passage of the law, instead of perhaps having the contrary effect. It will be decidedly helpful to have your joint views on this subject by telegraph.

(2) You should consider the contingency that a statement of this nature, which cannot be framed without carrying an implied threat, might play into Chamorro's hands and help him to defeat the law. Chamorro may well be seeking an excuse for stating that if the United States intends to force its type of supervision, law or no law, the Congress of Nicaragua would be recording its own impotence by enacting this legislation. In other words, Chamorro might make the most of the point that we are now dictating to the Congress instead of resting upon the promises made at Tipitapa and incorporated in the agreement between President Coolidge and President Diaz. It appears that what you propose, if done now, would be merely anticipating a step which we may have to take in case the electoral law is finally defeated, and that the issuance of such a

statement now would carry risks which need not be faced at the present moment.

(3) Pending the receipt of your opinion on the above suggested questions and the decision thereon, it is clear that you should continue the effort to have the law put through along the lines already laid down.

OLDS

817.00/5398 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *February 15, 1928—5 p. m.*
[Received 8:45 p. m.]

80. In the hope that Cuadra Pasos might exert a helpful influence in Congress after his return, I suggested a few days ago that it would be well for Congress to take a short vacation. Its regular session would otherwise have come to an end within a few days, under the Constitution. The Chamorro Deputies at first opposed the proposal but later agreed to it, and Congress today adjourned until March 5th.

Just before adjournment the Chamber of Deputies approved a bill suspending the registration which should legally occur in March and stating as the reason for such action, the disturbed state of the country. This was fortunately blocked in the Senate.

There is no apparent change in the attitude of the Conservative Deputies. Chamorro is still dominating the situation in Congress completely and is exercising a very great authority in the Government itself. We are hopeful however that it may be possible to bring about a change before Congress reconvenes.

EBERHARDT

817.00/5408 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *February 18, 1928—3 p. m.*
[Received 7:38 p. m.]

83. There has recently been a marked revival of the unrest and rumors of impending disorder which have recurred from time to time since last May. While due in part to the excitement caused by Sandino's appearance near Matagalpa the unrest is unquestionably being fomented by Chamorro. The Conservatives are now opposing the electoral law mainly on the ground that the disturbed condition of the country makes it impossible to make preparations for an election and it is very probable that Chamorro will attempt to bring about outbreaks in several parts of the country between

now and March 5th in order to impress the Legation and the Department with the inadvisability of insisting that an election be held.

In view of this situation we have decided to have the *guardia* take over the policing of Managua at the earliest possible date, which will be about March 15th. The Government has shown an inclination to object to this step but we shall insist upon it. The present police force is completely dominated by Chamorro.

EBERHARDT

817.00/5413 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA [, *undated*].
[Received February 20, 1928—7:10 p. m.]

85. Moncada and Medrano were officially nominated for President and Vice President yesterday by the convention of the Liberal Party at Leon. The Sacasa-Arguello faction in Leon was represented and is said to have approved the nominations. The official proclamation of the candidates will occur today.

The convention also adopted a resolution condemning the activities of Sandino.

EBERHARDT

817.00/5419 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *February 21, 1928—11 a. m.*
[Received 4:37 p. m.]

86. For White. Legation's February 17, 5 p. m., and your February 18, 11 p. m. [*a. m.*].[34] The Conservative press is giving great prominence to the plan for selecting a single Presidential candidate. Press despatches have been received stating that President Coolidge, Mr. Hughes and Colonel Stimson had expressed warm approval of the idea and that Mr. Hughes had promised efficient cooperation by the United States.

Moncada and his supporters will presumably oppose the plan because they feel certain of success in the elections without accepting a compromise. The Conservatives' apparent approval of the idea arises probably partly from a readiness to accept anything which will prevent the carrying out of the Tipitapa agreement and thus prevent a purely Liberal government from coming into power but more from the belief that they can thus place Moncada in the posi-

[34] Neither printed.

tion of blocking a proposal which would make possible the conciliation of the parties and the withdrawal of the American intervention.

EBERHARDT

817.00/5422 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *February 23, 1928—1 p. m.*

42. The Nicaraguan Minister this morning brought to our attention an article published in the Washington *Star*, Monday, February 20, over the signature of David Lawrence. It is a highly colored article evidently calculated to convey the impression that the American Government favors the election of Moncada. At the same time the Minister presented an excerpt of a letter which he said he had received from a moderate Conservative in his country, stating in effect that the Conservatives were discouraged by the attitude of the American officials in Nicaragua, because they felt that such officials were showing partiality. I propose in these circumstances to issue in Washington today the following statement, and desire you to see that it is immediately published in Nicaragua.

"In view of numerous tendentious rumors and newspaper articles evidently of a propagandist nature which have come to my attention I desire once more to state with the utmost emphasis that the United States is maintaining and will continue to maintain an attitude of absolute impartiality in all matters relating to the forthcoming Nicaraguan election. The United States will favor neither any candidate nor any party in that election. All of its representatives in Nicaragua have been definitely instructed in that sense from the beginning, and this Government knows of no violation whatever of those instructions. Naturally we cannot accept any responsibility for rumors and newspaper articles of the character referred to. Frank B. Kellogg, Secretary of State."

KELLOGG

817.00/5419 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *February 23, 1928—2 p. m.*

43. Your 86 February 21, 11 a. m. Suggestions or movements looking to the selection of a coalition ticket or a single presidential candidate are matters in which the United States is in no way concerned either under the Tipitapa Agreement or otherwise. Any such arrangement would have to be made, if at all, by the political parties involved. The United States has no suggestion to make on that subject. You may deny categorically that the individuals mentioned

in the first paragraph of your message have at any time expressed the views attributed to them. Please make our position clear to all concerned.

KELLOGG

817.00/5423 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *February 25, 1928—8 a. m.*
[Received 11:15 a. m.]

92. My 70, February 7, 11 a. m., and Department's 38, February 8, 6 p. m. We have withheld further recommendations until we should have an opportunity to appraise the effect of Congress' decision to take a recess. All of us still feel that a statement along the lines suggested would have a good effect, first, because it would help to convince the Conservatives in Congress that the United States Government definitely intends to carry out the Tipitapa agreement and cannot be forced into any compromise.

We suggest however that the statement outlined in my No. 70 be changed as follows to eliminate the dangers pointed out by the Department:

1. Omit last sentence of first paragraph beginning "neither the Government of the United States" and ending "the arrangements agreed upon."

2. Change the third paragraph of the statement to read as follows: "The Government of the United States therefore has no alternative but to supervise the 1928 election in the manner contemplated in the Tipitapa agreement and it could not without dishonoring its pledged word entertain any proposals for a change in the essential features of the plan which it has promised to carry out. It confidently hopes to receive the cooperation and support of all other parties to the agreement in the execution of its provisions."

We feel that it would be advisable to give out this statement in the very near future in order to allow time for it to take effect and for any possible irritation to wear off before Congress reconvenes. We should like, therefore, to be authorized to make it at such time as seems most opportune. It should be realized that Congress will be in session but a few days when it reconvenes and that it is of the utmost importance that the Conservative leaders should be convinced, before Congress meets, of the necessity of approving the electoral law.

While the President and his advisers now profess to be rather hopeful that the law will be approved as the result of Cuadra Pasos' influence after his return, there is no apparent change in the attitude of Chamorro or the leaders in Congress.

EBERHARDT

817.00/5423 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *February 27, 1928—6 p. m.*

47. Your telegram No. 92, February 25, 8 a. m. The Department has carefully considered the matter and feels that the situation can be viewed from two different angles: (1) That Chamorro still hopes that he can obtain some modification of the Tipitapa plan of supervision and that a statement in writing dispelling this hope would be beneficial; (2) that Chamorro is merely waiting for the Government of the United States to commit itself definitely in writing to carry out supervision under the Tipitapa plan in any event so that he may then state that since the Government of the United States is going ahead no matter what action the Congress of Nicaragua may take the latter should either take no action at all and refrain from cooperating, or it should definitely pass other legislation so that in the event of a Conservative Party defeat at the polls they could enter the claim of illegality of the elections.

You are in Nicaragua and in personal contact with Chamorro and are in a better position than the Department to judge which of these two positions Chamorro is probably taking. In view of the emphatic statements which you, Mr. Munro, and General McCoy have made in Nicaragua that the Government of the United States will carry out its agreement to supervise the elections as agreed at Tipitapa, and the similar categoric statements made to Cuadra Pasos and Zepeda in Habana, and to César in Washington, it appears to the Department that its position must be thoroughly understood and that Chamorro, therefore, is most probably pursuing the second course stated above, and it is for this reason that the Department has been most reluctant to authorize the statement. The Department's views are as stated above. You may, nevertheless, in your discretion issue the statement as modified in your telegram No. 92, if you are convinced that Chamorro is pursuing the first course set forth above.

KELLOGG

817.00/5440 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *March 2, 1928—4 p. m.*

[Received 9:30 p. m.]

105. General McCoy and I discussed with the President this morning the redraft of the transitory provisions prepared in Havana by Doctor Cuadra Pasos.

The President has accepted this redraft as an administrative measure and will submit it as such to the Nicaraguan Congress which reconvenes on the 5th instant. The President was informed that it would be acceptable if promptly enacted by the Nicaraguan Congress during the remaining days of its present regular sessions. The President was also informed that although the Government of the United States insists upon the full execution of the obligations assumed by itself and by the Government and both parties in Nicaragua, it is not disposed to insist upon questions of form so long as the substance of these agreements is executed in good faith. These oral statements were confirmed in a letter which was handed to the President with a copy of the new draft. The President stated that he believed and hoped that the redraft would be passed and seemed to feel that it would be more acceptable to the Chamber of Deputies than the original draft. He said that he had been discussing the situation with the Granada leaders who now seem inclined to approve the passage of the electoral law and who can exert a great influence on the Deputies.

Despite the President's assurances, we are by no means certain that the new draft will be approved. If the Deputies still maintain their constitutional objections we are prepared to discuss as a last resort a new draft of the law including provisions outlining the principal features of the electoral procedure. General McCoy informed the President that he had been here more than a month exercising great patience any [*and*] showing full faith; that in spite of the President's own political difficulties he was confident that the President would exercise his power as President and leader of his party and by his best efforts would obtain the passage of the requisite law. General McCoy said that he had gone ahead with his original plans and was ready to organize the National Board and present to it procedure and regulations based as far as possible on the laws of Nicaragua to carry out a fair and free election.

I might add that in spite of General McCoy's anomalous position the President and his Government have provided him with suitable residence for himself and his assistants, an office and other facilities for carrying on his work.

In view of the continued delay of Cuadra Pasos in Panama the Admiral has invited him at our request to proceed at once on a warship which will probably reach here Monday. He personally controls four votes and in case of a definite break with Chamorro he and the President could obtain the passage of the act.

It might be helpful if the Department would send us a strong cable early next week stating that the United States Government expects the prompt passage of the compromise proposal prepared by

the Nicaraguan Minister for Foreign Affairs at Havana, as this proposal was accepted by the United States on the assurance that it was acceptable to the Nicaraguan Government and would meet the objections which had been raised in Congress. We could show such a cablegram to the President and other Conservative leaders without making a public statement at this time unless new developments seemed to call for it.

EBERHARDT

817.00/5440 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *March 3, 1928—noon.*

55. Your 105 March 2, 4 p. m. just received. I feel that I should again emphasize the extreme gravity of the present situation. The United States cannot do otherwise than insist that the remaining unexecuted portions of the Tipitapa Agreement be carried out in absolute good faith. We are not particularly concerned with matters of form, but we cannot bargain away any part of the substance of the agreement. The undertaking to supervise the election is clear and unqualified and it must be executed. We have accepted the revised draft of the electoral law prepared at Havana solely upon the assurance that it was entirely satisfactory to the Nicaraguan Government and would meet the technical objections to the original draft which had been raised in the Congress. I do not see that we can go any further without impairing substantially the obligation which the United States has assumed and is bound honorably to discharge. Further delay in the passage of the law will compel us to consider immediately the steps which it may be necessary for us to take in order to live up to that obligation; and the responsibility for the situation thus created must be fully accepted by all those who may be in any way involved in the failure to enact the electoral law.

You may in your discretion make the foregoing statement in any quarter that you deem desirable. If, as intimated in your message, the Nicaraguan Government actually controls or can command enough votes in the Congress to pass the law and fails to use its influence and power to do so, manifestly the Government could not in that event avoid full responsibility for violation of the agreement with the President of the United States. I think you should also make this plain to the President and Minister of Foreign Affairs.

FRANK B. KELLOGG

817.00/5445 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *March 5, 1928—10 a. m.*
[Received 1:45 p. m.]

108. I understand that Zepeda and Gomez are lunching with President Coolidge today and it would be very helpful if Zepeda, after the luncheon, would cable Chamorro, urgently recommending that the electoral law be passed at once. At present the situation in Congress looks somewhat more hopeful than hitherto but it is desirable that every possible influence be brought to bear on the Deputies.

EBERHARDT

817.00/5445 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *March 5, 1928—8 p. m.*

61. Your 108, March 5, 10 a. m. Zepeda states he will immediately telegraph Chamorro recommending that electoral law be passed at once.

KELLOGG

817.00/5455 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *March 9, 1928—3 p. m.*
[Received 8:09 p. m.]

115. The President stated very definitely to General McCoy and to me this morning that he felt sure that the electoral law would be approved by the Chamber of Deputies. He talked yesterday with eight Conservative Deputies and believes that he has obtained their support. He said that the regular session would terminate Wednesday but that there would be a special session thereafter to pass on the budget and the *guardia* agreement.[35]

I insisted that we must have a definite decision one way or the other before the close of the regular session and he authorized me to inform the Department that the law would pass Monday or Tuesday.

Chamorro's attitude is still uncertain. Until today he had been stating that he and his followers would continue to oppose the law, but this morning he sent word to General McCoy that he would consent to its passage if provisions were inserted assuring the

---

[35] See *Foreign Relations*, 1927, vol. III, p. 434.

Conservatives fair treatment in the appointment of secretaries of the local electoral boards and providing that any district where order was not restored 6 months before the election would be excluded from the election. Such provisions cannot, of course, be incorporated in the law. Chamorro has already been given ample assurances on the first point. In reply to the second, both Chamorro and the President have been informed that the United States Government was prepared to maintain order throughout the northern provinces.

EBERHARDT

817.00/5463 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *March 13, 1928—11 a. m.*
[Received 6:41 p. m.]

116. Cuadra Pasos informed us yesterday that he had persuaded five Conservative Deputies to vote for the election law and two more to absent themselves when the vote was taken, thus assuring a favorable majority. He said, however, that Chamorro was more bitter than ever in his opposition to the law in its present form, because its passage now might be regarded as a personal victory for Cuadra Pasos and that Chamorro simply to save his own prestige was insisting on the amendments outlined in the last paragraph of my telegram number 115 and more especially on a further amendment to provide that the President of Nicaragua and not the Electoral Board should issue the regulations. Cuadra Pasos said that it might be well to make some concession to Chamorro if possible, in order to prevent the break-up of the Conservative Party, as Chamorro was threatening to issue a manifesto withdrawing from politics.

Since we considered it very desirable that nothing should occur which would prevent either party from participating with its full strength in the election we discussed Chamorro's proposals very fully with one of his principal followers among the Deputies and finally stated that we would accept an amendment to the law providing that the regulations prescribed by the National Board and any subsequent amendments thereto shall be published by the President of Nicaragua upon the recommendation of the chairman of the board except in the case of emergency measures. We also expressed our readiness to accept an amendment providing that each electoral board should have two secretaries, one from each party. We have not yet been informed of the Chamorristas' reaction to these proposals. We communicated them to Moncada to prevent any possible mis-

understanding and he expressed himself as entirely satisfied with them.

Nothing was accomplished at last night's session of the Chamber because there was no quorum.

In our discussions of this matter yesterday we made it very clear to all concerned that a decision one way or the other must be reached today. General McCoy emphasized especially the patience which he had displayed in an effort to meet so far as possible the view of all parties.

EBERHARDT

817.00/5464 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *March 13, 1928—10 p. m.*
[Received March 14 (?)—11:15 a. m.]

117. Chamber of Deputies rejected the electoral law this evening by a vote reported to be 24 to 18. Apparently Cuadra Pasos and the President, despite their positive assurances repeated as late as this noon, failed to change the votes of more than one or two Conservative Deputies. We shall see the President early in the morning and shall thereafter telegraph further regarding our contemplated plan of action.

EBERHARDT

817.00/5466 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *March 14, 1928—2 p. m.*
[Received 10:15 p. m.]

119. My March 13, 10 p. m., . . .

We have had long conferences last night and today with Cuadra Pasos and the President and also with Moncada and Aguado. We are convinced that nothing can be obtained from Congress at this session and that it is desirable that Congress adjourn tomorrow morning, when its regular session will presumably end.

We informed the President this morning that we still expected the Nicaraguan Government to bring about the passage of the necessary electoral legislation although we realized that it might take some time to change the present attitude of the Congressmen. We pointed out, however, that it was necessary in the meantime to organize the National Board of Elections and to make preparations for the election and we discussed with him the idea of his issuing a decree containing the substance of the transitory provisions under

which General McCoy could at once be placed in control of the electoral machinery. Such a decree would rest upon the provisions of article III, clauses 2 and 33 of the Constitution, and it could be ratified subsequently at a special session of Congress when the Government was able to command a majority. We pointed out that the ratification of such a decree which would be an accomplished fact would probably be easier to bring about than the passage of a law.

The President assured us positively that he still intended to comply with all his obligations under the Tipitapa agreement and that he would cooperate with us in whatever steps we considered necessary. He said that he would issue such a decree as we desired immediately after the final adjournment of Congress although he desired that nothing whatever be said about his intention until after Congress was out of the way.

In preparing the decree we propose to insist on the original transitory provisions, disregarding all compromise proposals such as the Havana redraft and the changes we offered to accept here. We shall confer today with Cuadra Pasos regarding the form of the decree.

The legality of such a decree as a basis for holding an election may be questioned, but it is the best possible measure in the present situation, separately suggested to us by Cuadra Pasos in the presence of the President, Moncada and Aguado. The existing electoral law is not being complied with in its most important provisions, as the president of the National Board is abroad and the registrations are not being held. We see no other practicable course except perhaps to have General McCoy himself issue a decree by virtue of his authority as representative of the President of the United States, a step which would be fraught with danger and would be far more likely to cause friction with and deprive us of the cooperation of the Nicaraguan Government.

Cuadra Pasos is urging upon the President a complete change of Cabinet designed to eliminate Chamorro's influence from the Government as he believes that the President could dominate Congress if he were willing to break definitely with Chamorro. When our opinion was asked on this point we replied that what we wanted was the eventual passage of the electoral law and that the choice of means must be left to the President. The latter is obviously reluctant to break definitely with the Chamorro wing of the party.

. . . . . .

EBERHARDT

817.00/5466 : Telegram

The Acting Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *March 15, 1928—noon.*

69. For Minister Eberhardt and General McCoy. Your telegram No. 119, March 14, 2 p. m.

(1) In the present circumstances the Department approves the plan of proceeding by Executive decree, such decree to be so drawn as to provide for effective and thorough American supervision. Every compromise proposal heretofore suggested which would in any way tend to cut down or impair such supervision should now be disregarded. You should, however, consider the Habana amendments so far as they can be incorporated for the purpose of removing technical objections without touching the substance of effective American supervision.

(2) Although it would obviously be desirable to secure eventual ratification by the Congress of Nicaragua, the decree should not be conditioned upon such ratification. As we now see the situation, the Executive branch of the Government of Nicaragua must accept full responsibility for carrying out the agreement for a supervised election. Decrees issued to this end must not be subject to future modification or rejection by the Congress of Nicaragua. Furthermore, we desire to guard against any possibility of future interference with the activities of General McCoy even by Executive action setting aside or modifying the decree. In this connection it may be considered advisable for the President of the United States to make the same decree, *mutatis mutandis*, in the form of an order to General McCoy as the personal representative of the President of the United States.

(3) We doubt the wisdom of making any reference on the face of the decree to the constitutional provisions supporting it as a proper use of the Executive power. If this becomes necessary, however, we suggest that not only clauses 2 and 33 of article 111 be invoked, but also clauses 23 and 31. Clause 23 appears to be appropriate because the holding of this election in pursuance of the agreement is merely part of a general transaction directly involving the peace and security of Nicaragua. Clause 31 clearly supports the provisions of the proposed decree regarding the employment of the *Guardia Nacional* to maintain order and tranquillity during the election.

(4) We assume that you will submit the text of the decree for consideration here prior to promulgation. What is the date of the final adjournment of Congress?

OLDS

817.00/5471 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

[Paraphrase]

MANAGUA, *March 16, 1928—7 p. m.*
[Received 10:19 p. m.]

130. Department's telegram 69, March 15, noon. In working out the form of the decree to be issued, the Foreign Minister has urged that it would be easier to make the decree conform to Nicaraguan conceptions of constitutional procedure if General McCoy, like the president of the existing National Board of Elections, were elected by the Supreme Court of Nicaragua. There appears to be strong objection to having the Executive deprive a coordinate branch of the Government of a faculty conferred upon it by existing law. Since General Moncada and a majority of the judges of the Supreme Court have expressed their approval of this procedure, we contemplate proceeding on this basis. Cuadra Pasos is requesting Gomez to resign as president of the existing National Board of Elections, and General McCoy will be elected at approximately the same time the decree is issued. In the near future we shall submit a draft of the decree to the Department.

Participation by the Supreme Court in the arrangement has the very great advantage that that body will thus be committed to the approval of the legality of the course now being followed.

EBERHARDT

817.00/5471 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Extract—Paraphrase]

WASHINGTON, *March 17, 1928—6 p. m.*

71. . . .

The Department perceives no objection to following the course of action set forth in your telegram No. 130, March 16, 7 p. m. Our understanding would be that General McCoy would be elected by the Supreme Court on the nomination of the President of the United States. See the memorandum attached to the letter of May 15, 1927, from President Diaz to President Coolidge.

KELLOGG

817.00/5482 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *March 19, 1928—5 p. m.*
[Received 7:11 p. m.]

136. With reference to the last sentence of paragraph 2 of the Department's telegram number 69 of March 15, 7 p. m. [*noon*]. It is our opinion that it would not be necessary or advisable so far as we can see at present for the President of the United States to issue the suggested order to General McCoy. The latter now has full and general authority to supervise the election and detailed specific instructions might in his opinion hinder his freedom of action.

EBERHARDT

817.00/5474 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *March 19, 1928—6 p. m.*

74. Your telegram No. 131, March 17, 5 p. m.,[36] and No. 133, March 18, 11 a. m.[37] The text of the proposed decree contained in your telegram No. 133 has been examined by the Department, which perceives no objection. Whom do you and General McCoy suggest be designated by the President of the United States, under article 3 of proposed decree when issued, as *suplente* for General McCoy as chairman of the National Board? The Department has communicated with Dr. Dodds, who will arrange to proceed to Nicaragua sometime in June as agreed with General McCoy.

KELLOGG

817.00/5484 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

[Paraphrase]

MANAGUA, *March 20, 1928—11 a. m.*
[Received 3:46 p. m.]

137. Department's telegram No. 74, March 19, 6 p. m. General McCoy and I recommend that Colonel Francis Le J. Parker be designated at once as alternate to General McCoy on the National Board of Elections.

EBERHARDT

---

[36] Not printed.

[37] Not printed; it transmitted the text of the proposed decree prepared by Cuadra Pasos and revised by General McCoy, which was substantially the same as the translation of the final text transmitted by the Minister in Nicaragua in his telegram No. 148, Mar. 24, p. 482.

817.00/5485 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *March 20, 1928—noon.*
[Received 3:43 p. m.]

138. General McCoy took oath of office as Chairman of the National Board of Elections this morning before the Supreme Court.

[Paraphrase.] General McCoy and I hope to have the decree issued on March 21. [End paraphrase.]

EBERHARDT

817.00/5475 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *March 21, 1928—5 p. m.*

76. For General McCoy. With reference to article 8 of the decree transmitted in Legation's telegram No. 133, March 18, 11 a. m.,[38] it is our understanding that the purpose and effect of this provision is a delegation by President Diaz to you as a Nicaraguan official, of authority over the *Guardia Nacional* to the extent that may be necessary for carrying out the election. We understand, however, that the Navy Department in Washington is somewhat apprehensive lest the provision be construed by the *Guardia Nacional* and the marines as an attempt to establish a separate and distinct command for the *Guardia Nacional*, thereby upsetting the practical arrangement now in force. Under the present arrangement the Navy Department understands that in all matters where combined operations may be involved, the *Guardia Nacional* is under the control and command of the proper officers of the 2nd Brigade, U. S. Marines. Attention is invited in this connection to the instructions issued to the Commander of the Special Service Squadron of December 9, 1927,[39] particularly to paragraph (*h*) thereof. The Navy Department points out that it would be extremely unfortunate for us to encourage in any quarter the idea that so far as the restoration and maintenance of peace and order are concerned there is any divided responsibility or invasion of the principle of a unified command. It seems to us that this objection, while perhaps theoretically tenable, need not be regarded as at all serious as a matter of practical operation. We assume that you do not intend to take charge of the *Guardia Nacional* and operate it as a separate military unit, and that in actual prac-

---

[38] Not printed.
[39] Not found in Department files.

tice you would deal with and through the appropriate officers of the Marine Brigade, and make your desires and needs known to them as occasion requires, thus thereby leaving undisturbed the present system of a single control and operation of the two forces where combined operations become necessary. We should be pleased to have your views and suggestions by telegraph before communicating further with the Navy Department on this subject. In the meantime, this complication, which we feel is quite susceptible of practical adjustment, should not, in our judgment, be allowed to hold up the issuance of the decree as now formulated.

KELLOGG

817.00/5498 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *March 22, 1928—5 p. m.*
[Received 7:23 p. m.]

145. From McCoy. Your 76, March 21, 5 p. m. Instructions of Navy Department referred to therein were shown me by Marine commander last Sunday. It was considered very desirable that authority of American representatives to utilize *guardia* for electoral purposes be incorporated in decree and no difficulty was apprehended in arriving at a satisfactory adjustment of details along general lines outlined in your telegram.

EBERHARDT

817.00/5508 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *March 24, 1928—10 a. m.*
[Received March 25—2:32 a. m.]

148. My 146, March 23, 3 p. m.[40] Text of decree:[41]

"The President of the Republic, in view of the fact that the Supreme Court of Justice, by resolution adopted on the 17th of the present month, designated General Frank Ross McCoy to be President of the National Board of Elections in place of Dr. Joaquin Gomez, who had submitted his resignation; and that there devolves upon the high official named, by virtue of the office for which he has thus been named, and by virtue of his nomination thereto by the President of the United States, the duty of directing the procedure for holding the elections of 1928 for the Supreme Authorities in accordance with the agreement made for the purpose of ending the civil war that was devastating Nicaragua;

---

[40] Not printed.

[41] Promulgated in Managua on March 21; published in *La Gaceta, Diario Oficial*, March 26 (file Nos. 817.00/5552 and /5569).

Whereas, the electoral law of March 20th, 1923, is incapable of effective application under existing conditions due to the fact that the registration of citizens could not be effected at the prescribed time and that it is also impossible immediately to effect such registration;

Whereas, the people of Nicaragua cherish high hopes, predicated upon the free exercise of electoral rights as the starting point for a stable peace and a prosperous future—hopes having their origin in the letter and memorandum addressed by the President of Nicaragua to President Coolidge, wherein was set forth the procedure in accordance with which the Government of the United States might lend its cooperation for the satisfactory conduct of free and fair elections;

Whereas, the Government of Nicaragua contracted a solemn obligation with the people of Nicaragua and with the President of the United States, who, in a friendly capacity acted as mediator between the two parties, and the fulfillment of that obligation must not be evaded, due both to high considerations of right and public welfare and to the fact that any such evasion would unquestionably be the occasion for new disturbances of peace and order in the Republic, and

Whereas, in accordance with article 111 of the Constitution the Executive branch is charged, among other duties, with that of preserving the internal peace and security of the Republic and of taking the measures necessary to insure to its inhabitants the sacred right of suffrage, decrees:

ARTICLE 1. The National Board of Elections, as now constituted under the electoral law of March 20th, 1923, with General Frank Ross McCoy as President, and with Dr. Ramon Castillo and Dr. Enoc Aguado as political members, is hereby vested with full and general authority to supervise the elections of 1928 for the Supreme Authorities and to prescribe, with obligatory force, all measures necessary for the registration of voters, for the casting and counting of ballots and regarding all other matters that may pertain to the election.

ARTICLE 2. With a view to giving effect to the agreement entered into between the Government of Nicaragua, at its request, and the President of the United States, in accordance with which the latter is to lend his friendly aid to the end that the elections of 1928 for the Supreme Authorities shall be free, fair and impartial, and subject to the provision that the present chairman and political members of the National Board of Elections shall continue in the exercise of their respective functions, the electoral law March 20th, 1923, and any other laws and Executive decrees that may subsequently have been promulgated and approved, amending or supplementing said law, are hereby suspended. This decree shall enter into effect immediately following its publication and shall continue in force until the said election of 1928 shall have been held and the result thereof shall have been proclaimed by the Congress.

ARTICLE 3. In order that absence of its members may not operate to prevent the due functioning of the National Board of Elections, the composition of said board shall include three *suplentes*, who may be appointed by the President of the Republic in the following man-

ner: The *suplente* of the chairman of the National Board of Elections shall be that citizen of the United States of America who may be nominated by the President of the United States for that office, and the two *suplentes* for the political members shall be appointed, one upon the nomination of the Supreme Directorate of each of the two political parties, Conservative and Liberal, respectively. The *suplentes* of the political members and the *suplente* of the chairman of the board shall be inducted into office by the President of the Supreme Court. The President of the Republic shall remove from office any political member or any *suplente* of the National Board of Elections if the chairman of that board so recommends but no removal may be made except upon such recommendation. Vacancies that may occur among the political members of the same or in the office of *suplente* of the chairman of the board, shall be filled in the manner in which the original appointments of the corresponding *suplentes* were made. If the chairman of the board or any political member be unable to, or fail to, perform the duties of his office, due to any absence or other reason of a temporary character, his place shall be filled by the corresponding *suplente* during the period of such absence or failure to function. Furthermore, should the office of chairman of the board become definitely or permanently vacant, the *suplente* of the chairman shall thereupon take the place of his principal and a new *suplente* shall be appointed.

ARTICLE 4. No meeting of the National Board of Elections can be held without the presence of the chairman of the board. The presence of the chairman, together with either of the political members, shall constitute a quorum for the transaction of the business of the board; but if the chairman deem necessary an emergency meeting the presence of the chairman alone shall constitute a quorum in order to permit the emergency to be met with such measures as may be indispensable to the conduct of a free and fair election. The emergency shall be declared by the chairman of the board through formal notice given 1 day in advance to the political members.

ARTICLE 5. No action or decision of the board shall be valid unless concurred in by the chairman of the board. In case of a tie the chairman of the board shall have a double vote. The chairman of the board is authorized to declare an emergency measure any action or determination which in his opinion may be indispensable for the conduct of a free and fair election; and the measure in question shall become effective as an order of the National Board of Elections 24 hours after it shall have been submitted to the said board in a formal meeting and have been declared an emergency measure by the chairman at that meeting.

ARTICLE 6. The National Board of Elections has full powers to organize departmental boards and cantonal boards (*directorios electorales*) each of which shall include an equal number of political members from the two parties and shall be completed and presided over by a citizen of the United States nominated by the National Board of Elections. The said National Board of Elections shall delegate to the departmental boards and cantonal boards such functions as it may deem expedient.

ARTICLE 7. The National Board of Elections shall count the votes cast in the elections that may be held, shall determine all questions and controversies that should arise relative to the validity and canvass of said votes and shall issue the corresponding certificates of election to those who may legally be elected to their respective offices. Such certificates shall be submitted to the Congress, to which the National Board of Elections shall transmit a detailed report, appropriate to the requirements of articles 83, clause 2, and 84, clause 2, of the Constitution, in order that the Congress may comply with those provisions.

ARTICLE 8. The chairman of the National Board of Elections shall have, from and after the publication of the present decree, and until the proclamation by the Congress of the result of the elections of 1928 for the Supreme Authorities, authority to command the services of the National Constabulary (*Guardia Nacional*) and to give to that force such orders as he may deem necessary and appropriate to insure a free and impartial election.

ARTICLE 9. Upon the proclamation of result of the elections of 1928 for the Supreme Authorities, the electoral law March 20th, 1923, and all other laws and Executive decrees suspended by article 2 of this decree shall be restored to full force and effect.

ARTICLE 10. The present decree shall go into effect upon its publication by proclamation in the departmental capitals and shall also be published in the Official Gazette.

Publish.—Executive Mansion—Managua, March 21, 1928. Adolfo Diaz—The Minister of Gobernacion—Ricardo Lopez, by special authority."

EBERHARDT

817.00/5515 : Telegram

The Acting Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *March 24, 1928—6 p. m.*

82. The following letter dated March 22, 1928, has been addressed by President Coolidge to the Secretary of State:

"I have your letter of March 22d [42] regarding the decree which the Department understands the President of Nicaragua will shortly issue governing the forthcoming elections in Nicaragua, and, in accordance with your recommendation, you may inform President Diaz as soon as this decree has been published that I have formally nominated General McCoy for the position of Chairman of the Commission to supervise the forthcoming elections in Nicaragua, and that I am much gratified at his election by the Supreme Court as President of the National Board of Elections. You may also at the same time say that I designate Colonel Francis Le J. Parker as Alternate to General McCoy as Chairman of the National Board of Elections."

---

[42] Not printed.

Please convey this information to President Diaz in such manner as to make it duly a matter of record.

OLDS

817.00/5532b : Telegram

The Acting Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *March 28, 1928—8 p. m.*

86. César and Gomez have told the Department of the difficulties in the Conservative Party and have stated that unless the Department should take some action towards helping the Conservative Party to settle its internal dissensions they fear that a very difficult situation will be created, possibly resulting in abstention from voting and then protest by Chamorro that the decree is illegal and propaganda by him to that effect and hostile to the United States throughout Central and South America.

They have been told that the Department considers that this is a matter in which it can not take any action: that it is an internal matter which must be decided by the Party itself and that the Department can not intervene in any way.

OLDS

817.00/5535 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *April 2, 1928—10 a. m.*

[Received 4:20 p. m.]

166. Martin Benard, who has hitherto been strongly supported as Presidential candidate by the so-called genuine Conservative group in Granada, informs me that he had decided to accept the Vice Presidential nomination on the ticket with Rappaccioli, whom Chamorro is supporting for the Presidency. He is, however, reserving full liberty of action later should he feel that another course would benefit the party.

If Benard's friends support him in this course, it will reduce the contest in the Conservative Party to one between Chamorro and the Granada Conservatives on the one hand and Cuadra Pasos, backed more or less openly by the Diaz administration, on the other hand. There is, however, much dissatisfaction among Chamorro's friends with his support of Rappaccioli. The latter is in very bad health and is thought to be unlikely to live long.

Chamorro called this morning for the first time since the defeat of the electoral law. He spoke frankly of the situation in the party,

evidently desiring to assure himself that the Legation was not insisting upon any particular candidate. He said that it might prove necessary to carry the contest for the nomination to the floor of the Conservative Convention which will meet May 20th but that he and Cuadra Pasos had agreed to conduct the contest in such a manner as to cause the least possible bitterness and that any candidate nominated by the convention would have the support of a united party. He clearly has no present intention of not participating in the election.

Chamorro told me most definitely in the presence of Munro that he had no objection to the conduct of the elections under the President's decree and that it was more advantageous for the Conservative Party to proceed under the decree than under the former electoral law. This statement is important in view of the possibility that he may protest against the legality of the elections if the Liberals win.

EBERHARDT

817.00/5551 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

[Paraphrase]

MANAGUA, *April 10, 1928—5 p. m.*
[Received April 11—8:53 p. m.]

173. President Diaz showed me a manifesto which he proposes to issue tomorrow. The manifesto states that he personally favors Cuadra Pasos as the Conservative candidate for President because of his pro-Americanism. Under present circumstances the propriety of such action seems doubtful to us. Does the Department desire me to suggest that he withhold the manifesto?

EBERHARDT

817.00/5551 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *April 12, 1928—11 a. m.*

92. Your telegram No. 173, April 11 [*10*], 5 p. m. The Department does not feel that you should make any representations or comment in any way on the action of President Diaz. We prefer not to have anything to do with the candidates, platforms, or issues in this campaign.

KELLOGG

817.00/5619 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *May 5, 1928—3 p. m.*
[Received 8:01 p. m.]

202. The results of the Conservative departmental conventions which have been held during the past week have been inconclusive. In the majority of the departments one faction or the other has walked out and there have been two conventions.

In Chontales, where both Cuadra Pasos and Chamorro attended the convention, a bitter fight developed but [it] was finally agreed to divide the delegation between the two factions. Elsewhere Cuadra Pasos seems to have won in Liberal districts where the Conservative organization is naturally controlled by officeholders, and Rappaccioli in the more strongly Conservative districts, but it is impossible as yet to obtain accurate information. There will clearly be a violent contest over the organization of the national convention when it meets on May 20 unless the two factions can reach an agreement before that time.

EBERHARDT

817.00/5629 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *May 10, 1928—noon.*
[Received 7:04 p. m.]

206. My 202, May 5, 3 p. m. About half of the delegates to the Conservative Convention are still in dispute. Those definitely chosen seem to be fairly evenly divided between the two parties [*factions?*]. The decision in the contested cases will rest, according to the party statutes, with the national Conservative directorate. Chamorro claims to control this body but Cuadra Pasos asserts that each faction is sure of the votes of four members and that the three remaining members are as yet doubtful. He intimated this morning that unless an arrangement was reached before May 20 there would probably be two conventions and General McCoy would be compelled to decide which was the legal Conservative ticket. There have been frequent conferences this week between the Conservative leaders in an effort to reach an agreement but there is as yet no indication that either side will make any important concession.

EBERHARDT

817.00/5652 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *May 15, 1928—5 p. m.*
[Received 8:30 p. m.]

212. The President, who is also president of the Conservative national directorate, announced publicly yesterday that he would not call a meeting of that body to decide which delegates should be admitted to the Conservative National Convention on May 20. The Chamorro faction, which claims to control a majority of the directorate, had urged that a meeting be called to decide contests. The President's action makes it increasingly probable that two conventions will be held, especially as the Cuadra Pasos faction is now seeking to close the door to any compromise on a third candidate by pointing out that according to the party statutes only a person officially registered as a candidate before April 15th can be nominated. Cuadra Pasos and Rappaccioli are understood to be the only candidates so ranking.

The party statutes apparently make the national directorate the court of last appeal in questions relating to the eligibility of delegates to the departmental conventions but the President takes the position that all such questions should have been decided before the departmental conventions met. The President's interpretation apparently leaves no method whatever for deciding the dispute by party agencies or in any way except by reference to the National Board of Elections. It is increasingly evident that the administration faction intends to force a decision by the National Board in the belief that the board would at least decide against Chamorro because of the latter's opposition to our policy and the Department's reported objections to Rappaccioli.

EBERHARDT

817.00/5657 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *May 16, 1928—6 p. m.*
[Received 9:20 p. m.]

214. My 212, May 15, 5 p. m. Despite the President's announcement, 11 of the 19 members of the Conservative directorate met yesterday, summoned by the secretary, and began the work of passing upon the credentials of the delegates to the Conservative Convention. This shows clearly that Chamorro controls the majority of the directorate.

Cuadra Pasos stated definitely this morning that his faction will hold a separate convention unless a compromise is reached before Sunday.[43]

EBERHARDT

817.00/5661 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *May 17, 1928—11 a. m.*

[Received 8:10 p. m.]

216. From Colonel Parker for General McCoy.[44]

"Fight between Conservative factions for party control centers for the moment about issues concerning powers and functions of *Junta Directiva Nacional y Legal*, formerly known as *Directiva Suprema*. Pertinent provisions are contained in party's *Estatuto* dated May 3rd, 1920, and supplementary resolution of *Junta Directiva* dated March 1st, 1924. Should full text of provisions be desired and not available in Washington, same will be cabled on request. Under date of May 14, 1928, President Diaz in his capacity as chairman of the *Junta Directiva* addressed to the secretary of the junta a letter wherein he directed in substance that no further meeting of the junta should be held until it should assemble May 20 to render a routine report to the Conservative Convention and to turn over its functions to a new junta to be elected that day. The President's letter expressly denied the authority of the present junta to determine contests between rival departmental delegations and in general purported to deny the junta any important functions connected with the organization of the coming convention. Later on May 14th the President, in a second letter to the secretary, Sebastian Nunez, called upon the latter for an explanation regarding a meeting of the *Junta Directiva* which the secretary had called for May 15th without instructions from the President. The secretary's reply stated that he had obeyed instructions of a member, Alfonso Estrada, who had acted as chairman at all previous meetings. Reply indicated opprobrious opposition to the President's views regarding the junta's functions and persistence in the purpose to hold the meeting. The President's interpretation of the party's bylaws, if correct, would apparently eliminate any orderly procedure for determining contests between rival departmental delegations claiming seats in the convention. Rival delegations have been named in various departments. While the party's bylaws lack desired clarity and completeness, it is believed that the functions of the *Junta Directiva* properly include the determination of contests within the party and that a convention constituted in accordance with the junta's decision would have a strong presumption of regularity in favor of itself and its nominee. A meeting of the *Junta Directiva* was actually held on May 15th and is reported to have been attended by 11 proprietary members out of

[43] May 20.

[44] General McCoy left Managua for the United States on April 28 (file No. 817.00/5601).

a total of 19. Indications are that Chamorro faction controls junta and is claiming and proceeding to exercise right to pass on credentials of rival departmental delegations to convention. No immediate action by the National Board in above connection is considered necessary. As, however, further developments may present a situation where prompt action may be required, or where failure to act promptly will itself tend to define the Board's future course, the conclusions arrived at relative to the functioning of the *Junta Directiva* are stated for such comment as General McCoy may wish to communicate."

I concur in the above.

EBERHARDT

817.00/5662 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *May 17, 1928—3 p. m.*
[Received 8:14 p. m.]

218. My May 16, 6 p. m. Newspaper reports indicate that the Chamorro members of the Conservative directorate at the meeting referred to in my May 16, 6 p. m., and at a second meeting held yesterday completed the work of passing upon the credentials of the delegates to the National Convention.

They also elected Doctor Ignacio Suarez as alternate to the Conservative political member of the National Board of Elections. The President informed me this morning that he would not recognize the validity of any action taken by the directorate at these meetings because they had been illegally called.

EBERHARDT

817.00/5662 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *May 18, 1928—5 p. m.*

114. For Eberhardt and Parker. Your 216, May 17, 11 a. m. and 218 May 17, 3 p. m. The Department has conferred at length with General McCoy and joins with him in expressing the sincere hope that the necessity for calling upon the National Board to decide, directly or indirectly, factional disputes within either party may be avoided. Certainly all legitimate expedients to that end should be exhausted. It is obviously in the interest of the whole country, as well as of both political parties, that complications of this nature should be adjusted by each party in its own way so that in accordance with previous practice and existing laws there should be but two can-

didates, each representing one of the principal parties. It is such an election that the Tipitapa Agreement clearly contemplated, and not an election involving a free-for-all contest among party factions, with the probability of throwing the result for determination into the Nicaraguan Congress, the membership of which is only partially involved in this supervised election. The task which the United States has assumed is that of doing its best to see that every citizen of Nicaragua entitled to vote has a free and fair chance to do so for the next President of Nicaragua, and any political maneuvers designed to defeat that purpose and throw the choice of the President into the Congress cannot fail to be viewed with the gravest misgivings. You are authorized to use, in your discretion, as much of this telegram as you may deem proper in discussing the situation with the representatives of both principal parties.

KELLOGG

817.00/5667 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *May 20, 1928—5 p. m.*
[Received May 21—12:03 p. m.]

222. In separate and orderly conventions, the two Conservative factions contending for legal control met today. One faction nominated Cuadra Pasos, no Vice Presidential nominee; the other nominated Rappaccioli and Martin Benard.

EBERHARDT

817.00/5667 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *May 22, 1928—7 p. m.*

117. For Minister Eberhardt and Colonel Parker. Your telegrams No. 222, May 20, 5 p. m., and No. 223, May 20, 6 p. m.[45] Pending the receipt of additional and more detailed information, which we assume is being cabled, the following considerations present themselves: (1) If the split in the Conservative Party is not promptly closed through conciliatory measures adopted by the party itself, it is obvious that a serious question of policy may be presented for the Government of the United States to consider in the light of both the letter and spirit

[45] Latter not printed.

of the Tipitapa agreement. See our telegram No. 114, May 18, 5 p. m. If the situation as it has now developed continues, the fundamental question of policy will have to be carefully examined. We are not in a position to say at this moment what the outcome would be from this point of view. (2) Likewise, in these circumstances, a grave problem would be eventually presented to the National Board of Elections. You should carefully avoid any attempt to forecast the action of the National Board of Elections in the contingency that it may finally be called upon to exercise its full powers. General McCoy desires Colonel Parker to reserve all action with regard to article 9 of the regulations pending further instructions. (3) The internal troubles of the Conservative Party should not be unloaded upon the National Board of Elections. The selection of a candidate to represent the entire party is its domestic concern. You should make it plain that the Conservatives are expected to get together and solve their own difficulties in their own way.

This message should be read with our telegram No. 114, May 18, 5 p. m.

The Department would also like to have your views on the following:

(*a*) Bearing in mind that the ballots must be printed by the end of July, do you consider that if given a reasonable time, the two factions of the Conservative Party can straighten out their difficulties?

(*b*) If not, do you consider that a statement along the lines of the Department's telegram No. 114, May 18, and the considerations outlined above would help in bringing about a settlement by showing both factions that they cannot so maneuver as to throw the elections into Congress, or

(*c*) Do you consider that such action would now cause one or the other faction to abstain from voting?

(*d*) If this action is not advisable at the present time, do you think that it would be advisable later?

(*e*) If this action is taken, the Department assumes that you can, of course, explain satisfactorily to the Liberals that it is in order to carry out the Tipitapa agreement guaranteeing free and fair elections for the popular will to be expressed, and that it is certainly not the desire of the Department to take away any advantage which either party might have through a disagreement in the other.

KELLOGG

817.00/5677 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

[Paraphrase]

MANAGUA, *May 24, 1928—4 p. m.*
[Received 8:45 p. m.]

231. After a full discussion between the Legation and Colonel Parker, the following joint message is submitted:

PART 1. The course followed here has been in accordance with the general policies set forth in the Department's telegrams No. 114, May 18, 5 p. m., and No. 117, May 22, 7 p. m. Message in preparation when the Department's telegram No. 117 was received will follow as part 2 of this message. The numbered and lettered paragraphs refer to the Department's telegram No. 117, May 22, 7 p. m.

(2) Conclusion noted; the importance of reserving complete freedom of action by the National Board of Elections has been thoroughly understood, both as regards the general course to be taken and as regards the specific questions of defining parties and regulating nominations, and the undesirability of any injection of the National Board of Elections or the Legation into questions within any party has been fully realized. In the meantime careful consideration has been given to some procedure whereby an appropriate solution by the Conservatives themselves might be brought about. The general situation within the Conservative Party is similar to what it was at the time when General McCoy departed, with such subsequent detailed developments as were reported in the following telegrams from the Legation: 202, May 5, 3 p. m.; 206, May 10, noon; 207, May 11, 5 p. m.;[46] 212, May 15, 5 p. m.; 214, May 16, 6 p. m.; 216, May 17, 11 a. m.; 218, May 17, 3 p. m.; 222, May 20, 5 p. m.; 223, May 20, 6 p. m.; [46] 225, May 22, 2 p. m.; [47] the division which has long been apparent has now been formally registered by the action of the two conventions of May 20.

(*a*) The two factions can unite any time provided that a few leaders, including Chamorro, can be shown that union will promote their several individual purposes and interests better than division. It is impossible to foretell what their ultimate conclusions will be on this point. In part 2 of the present message there is outlined a suggested procedure directed toward convincing them that a continuance in their present course will not conduce to success in the elections, but it is quite possible that one or both factions may purpose obstruction of the electoral plans rather than a bona fide participation in a duly supervised election.

---

[46] Not printed.
[47] *Post*, p. 542.

Paragraphs (*b*), (*c*), (*d*) and (*e*): It is believed that a present or future statement emphasizing the principles of the Tipitapa agreement, the party's duties and obligations, and the Department's wishes and expectations, would have little effect upon the conditions existing in the Conservative Party. It is believed that the only effective way to convince both factions that the election will be so conducted as to insure a majority vote for one of the candidates for President, thus eliminating the possibility that the election will be thrown into Congress, is for the National Board of Elections to make an announcement which would definitely restrict participation in the election to two parties. The present is not regarded as the opportune moment for such an announcement. If participation by a united Conservative Party can be brought about later, such an announcement would then probably be advisable.

This is the end of part 1. Part 2 follows.[48]

EBERHARDT

817.00/5677 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

[Paraphrase]

MANAGUA, *May 25, 1928—9 a. m.*

[Received 9:50 p. m.]

231. PART 2.[49] The convention of each Conservative faction was a cut and dried affair. Each convention purported to register the almost unanimous choice of the total authorized number of delegates from the various departments for its candidate. Of course, such a result was brought about by manipulating each of the departmental delegations, each of which attended its respective convention. Each convention claims that its proceedings alone were regular and valid, and that the proceedings of the other convention were irregular and without effect. One question at issue is the sufficiency of the credentials of the several departmental delegations. One factor bearing on that issue is the legality of a meeting of certain members of the party's old *Junta Directiva.* In this connection see the Legation's telegram 216, May 17, 11 a. m. On May 23 the Rappaccioli faction sent a communication to the National Board of Elections, which purports to be a copy of the minutes of the national convention, and which in substance constitutes a claim for recognition of that faction as the Conservative Party. A similar communication was submitted this morning by the Cuadra Pasos faction which included a specific request for a hearing in case the validity of their claim should be

---

[48] See telegram No. 231, May 25, 9 a. m., *infra.*

[49] For part 1, see telegram No. 231, May 24, 4 p. m., *supra.*

questioned. No action has been taken on these communications except to file them, and no action is predicted or contemplated pending further communication from the Department. The issues which may have to be met and the various possible courses of action have been examined and discussed in connection with such information as was obtainable relative to the probable future attitude of the factional leaders. An effort should immediately be directed toward bringing about conditions which will permit dealing with the Conservative Party as a whole. If this cannot be brought about within a reasonable time, a decision as to a further course of procedure must then be taken. It is thought that the influence that will most promote a union of the factions will be a conclusion on the part of the Conservative leaders and such rank and file of the party as have any say in the matter, that continued division will not promote their respective purposes. If the ultimate purpose of either faction is obstructing the election or abstaining from participation, as is still asserted, any effort toward union will likely prove fruitless, but such an ultimate purpose should not yet be assumed. Various circumstances, including the specific mention of the Conservative Party in the negotiations at Tipitapa and in the Executive decree of March 21, have led to the general assumption that the National Board of Elections must ultimately recognize one faction if the two continue divided. A further assumption appears to prevail that the determination of the issue of recognition by the National Board of Elections must be based on the party's statutes and related rules. Neither assumption is correct; nevertheless, many Conservatives will probably continue to hold them unless some authoritative statement giving the opposite view is issued. In the event that the National Board of Elections should ultimately elect to hear and determine the issue of factional regularity under the party rules, a real question exists as to whether either faction could establish satisfactory fulfillment of the necessary steps connected with credentials, procedure and nominations. A decision of the National Board of Elections rejecting the exclusive claims of both factions would leave the members of those factions but three probable alternatives: (1) Abstaining from the election; (2) participation through such secondary party or parties as might be admitted by petition; and (3) belated union under such procedure as the National Board of Elections might sanction in the exercise of its full powers. No course of procedure has yet presented itself to which objections, such as the risk of nonparticipation, cannot be urged. It is recommended, therefore, that a statement essentially as follows be promptly issued by the Legation rather than by the National Board of Elections, for reasons which are believed to be apparent.

"There appears to prevail an impression that if the present division in the Conservative Party continues, there will devolve upon the National Board of Elections the recognition of one of the two factions. That impression appears to include the assumption that any such action of the National Board of Elections would necessarily be wholly based on the application of the statutes of the party to the procedure surrounding the recent national conventions. The assumption and impression set forth above are entirely unwarranted. The National Board of Elections possesses plenary powers as regards both the determination of questions of party recognition and the selection of the means for arriving at the determinations. These plenary powers would permit the National Board of Elections, in its discretion, to reject the claims to recognition of any and every faction claiming exclusive right to represent a given party. These powers would also permit the National Board of Elections to recognize a union of factions into which a party might have previously become divided. The methods by which such union might be effected would not necessarily be limited for purposes of recognition of the National Board of Elections to the method of procedure contemplated or prescribed by the internal rules of the party in question. It is the earnest hope of the United States Government that no condition may arise which will necessitate the exercise by the National Board of Elections of the broad powers mentioned above. It is obviously to the interest of the entire Nation and of its political parties that complications of this nature be adjusted by each party in its own way."

This announcement is the only action which is recommended at the present time. The announcement plainly suggests contingencies calculated to incline to union any factions which may really wish to participate in the elections. The announcement contains no definite commitment regarding future courses of action. It is believed that the risks involved are less than those incident to any other course of action offering reasonable prospects of success in uniting the factions of the Conservative Party.

EBERHARDT

817.00/5677 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *May 28, 1928—9 p. m.*

123. For Minister Eberhardt and Colonel Parker. Your telegrams No. 231, part 1, dated May 24, 4 p. m., and No. 231, part 2, May 25, 9 a. m. Your statement as to the importance of the National Board of Elections reserving full freedom of action is in accordance with the views of the Department.

For the time being, and probably until General McCoy returns to Nicaragua, the Department prefers that the Legation should not issue the announcement contained in your telegram No. 231, May 25, 9 a. m., with the hope that the factions will get together in their own way with the full realization of the effect upon the election for President and Congress. Although the Department and General McCoy have the fullest confidence in your action in Nicaragua, nevertheless, it is believed wise to give the contending factions time to compose their differences before General McCoy returns to Nicaragua.

General McCoy, as president of the National Board of Elections, feels as you do that the National Board has plenary powers regarding both the determination of the question of party recognition and the selection of means for arriving at the determination. Nevertheless, it is obviously to the interest of both the entire nation and its political parties that complications of this nature be settled by each party in its own way.

KELLOGG

817.00/5782 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *June 27, 1928—5 p. m.*

[Received 8 p. m.]

263. Upon returning to Managua [50] General McCoy made it clear that he would not act privately as an arbiter between the two Conservative factions but that any action taken would be as president of the National Board of Elections and in cooperation [with] the two other members of the board. He has let it be known to the National Board of Elections that he is not bound by any specific instructions from the Department but is free to take whatever steps seem most conducive to the holding of a completely free and satisfactory election.

On June 21st letters were addressed by the secretary of the National Board to representatives of both Conservative factions acknowledging communications already received from them and asking that any further statements, oral or written, be submitted to the National Board on June 25th, 26th and 27th. The written statements have been submitted and oral statements are now being made by representatives of each side before the National Board and in the presence of representatives of the other faction. It has been made clear that the purpose of these proceedings is simply to give each side a full opportunity to state its position and that it is not necessarily to be

[50] General McCoy arrived in Managua on June 17.

assumed that the National Board [will] base its decision on these representations or will attempt to decide between them.

General McCoy has as yet reached no definite decision but is endeavoring to find a safe solution, bearing in mind his conversations with the Department and the dangers involved in permitting the election to be thrown into Congress.

EBERHARDT

817.00/5789 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *June 29, 1928—2 p. m.*
[Received 5:54 p. m.]

265. Last night General McCoy informally exchanged views regarding the situation in the Conservative Party with the other two members of the National Board of Elections. It transpired that he and Castillo, the Conservative member, were in accord in the opinion that neither Conservative faction had made a showing entitling it to be recognized to the exclusion of the other. Aguado, the Liberal member, on his part was not ready to express a definite opinion. Castillo thereupon offered to endeavor to persuade the two factions to present one ticket which could be recognized and both General McCoy and Aguado approved this proposal. No formal action will be taken for the present by the National Board of Elections pending the outcome of Castillo's efforts.

EBERHARDT

817.00/5791 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *July 2, 1928—4 p. m.*
[Received 7:07 p. m.]

268. My telegram number 265, June 29, 2 p. m. There will be a meeting tomorrow afternoon of about 16 prominent members of each Conservative faction to endeavor to reach an agreement. Neither the President nor Chamorro seems hopeful regarding the outcome.

EBERHARDT

817.00/5795 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *July 5, 1928—4 p. m.*
[Received 6:35 p. m.]

270. At Tuesday's conference Cuadra Pasos' representatives proposed that both factions should ask the National Board of Elections

to decide between them and should pledge themselves to abide by the decision. This was refused by the Chamorristas. The conference adjourned without result. Later discussions between subcommittees appointed from each side and a personal conference between Cuadra Pasos and Rappaccioli have been equally fruitless. Both Cuadra Pasos and the President expressed the belief this morning that there was no prospect of any further advance toward an understanding until after the Electoral Board makes some formal decision.

EBERHARDT

817.00/5803 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *July 7, 1928—9 a. m.*
[Received 6:20 p. m.]

272. My 271, July 6, 5 p. m.[51] Text of resolution and statement follows:

"*Resolution:* Be it resolved, by the National Board of Elections:

1. That the National Board of Elections has given careful consideration to the statements of fact and the arguments upon which have been based the conflicting claims for recognition, as representing the Conservative Party, of the two factions of that party which held separate conventions in the city of Managua, on May 20th, 1928, and each of which purported to name the *Junta Directiva Nacional y Legal* of the Conservative Party; one of the said *juntas directivas* being headed by Don Adolfo Diaz with Don Alejandro Cardenas as secretary, and the other of said *juntas* being headed by Don Emiliano Chamorro with Don Ismael Solorzano as secretary.

2. That it is the decision of the National Board of Elections that neither of the two factions in question has duly established its right to be recognized as representing the historical Conservative Party to the exclusion of the other faction; and that neither faction is entitled to name the *Junta Directiva Nacional y Legal* of the Conservative Party or to designate the candidates to represent that party in the 1928 elections for Supreme Authorities.

3. That the National Board of Elections is disposed to give prompt and responsive consideration to any definite and practical plan that may be so presented to it as to evidence an expression of the will of the historical Conservative Party and that may open the way for the participation of that party in the 1928 elections for Supreme Authorities, and that, notwithstanding the statement contained in paragraph 2 to the effect that neither of the two factions is entitled to name the *Junta Directiva Nacional y Legal* of the Conservative Party, the National Board of Elections will consider as "*de facto junta directivas*" for the sole purpose of treating with them regard-

---

[51] Not printed; it informed the Department of the passage of the resolution by the National Board of Elections and the issuance of the statement by General McCoy.

ing means that they may propose for arriving at an adjustment of differences, the two *juntas directivas* which have heretofore been designated by the respective factions."

Statement:

"In announcing the decision of the National Board relative to the difficulties of the two factions of the Conservative Party the president of the board desires to set at rest once and for all any possible misconception on the part of any portion of the people of Nicaragua to the effect that either the United States State Department or the personal representative of the President of the United States in Nicaragua is in any way committed to the candidacy of any particular individual or to the fortunes of any particular party or faction. It has been the earnest effort and hope of the American Government and of the National Board of Elections that the 1928 elections for Supreme Authorities might be held under conditions that would involve the full participation therein as such, of the two great parties whose difficulties the agreements effected by Mr. Stimson sought to compose by peaceable means. The factional division within one of the parties has to date presented serious obstacles to that purpose; but it continues to be the desire and purpose of the chairman of the National Board, approved and shared by the other members of that board, that the 1928 elections for Supreme Authorities shall be so conducted as to give any opportunity for the full and free expression of the will of the Nicaraguan people and that any such choice registered at the election shall in accordance with the Nicaraguan Constitution and the Executive decree of March 21st, 1928, be duly certified to the Nicaraguan Congress in order that it may be given effect."

EBERHARDT

817.00/5824 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *July 12, 1928—3 p. m.*

[Received 6:15 p. m.]

281. After several conferences among the Conservative leaders Cuadra Pasos proposed to Chamorro that the Conservative candidate be selected by majority vote at a joint meeting of the directorates of the two factions, each of which has 20 members. Chamorro refused on the ground that the Cuadra Pasos directorate was united behind the official candidate, while his own was less reliable. Cuadra Pasos states that Chamorro then formally proposed that the two of them join in a manifesto recommending that the party should not participate in the election. When this proposal was declined it was agreed that three delegates of each faction be appointed to carry on further discussions.

The delegates met yesterday afternoon and proposed to their directorates that they be given full powers to decide the dispute either by majority vote or by unanimity. Chamorro has apparently agreed to

this with the qualification that the decision be between the two candidates already nominated by Cuadra Pasos . . .

. . . . . .

EBERHARDT

817.00/5867 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *July 26, 1928—11 a. m.*

[Received 3:02 p. m.]

297. The President has just informed me that Adolfo Benard has been agreed upon by himself and Chamorro as Conservative candidate for the Presidency with Julio Cardenal as Vice Presidential candidate. The formal nomination will presumably be made today by the combined directorates of the two factions.

EBERHARDT

817.00/5886 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *August 2, 1928—11 a. m.*

[Received 10:20 p. m.]

301. On July 11th the National Board of Elections formally recognized the new directorate of the Conservative Party. On the same day it formally adopted the regulations to govern the election.[52] Nominations for all offices to be filled in the election must be made by August 14th.

On July 27th the board considered communications from the Conservative Republican and the Liberal Republican Parties demanding the right to be placed on the ballot without further formalities. The former party claimed this right under an amendment of the Dodds Law passed in 1925 which formally recognized it as a legally constituted party and the Liberal Republicans or Coreistos asserted that they had really obtained 10 percent of the votes in the 1924 election but that the final canvass had been fraudulent. Both claims were denied on the ground that the Dodds Law with all its amendments had been suspended. Neither of these parties has shown any evidence of strength which would entitle it to serious consideration.

[Paraphrase.] The matter of admitting nominations by petition has not been decided yet. It will be taken up in the near future

---

[52] Republica de Nicaragua, *Reglamento Electoral Para las Elecciones de 1928 de Autoridades Supremas, Dictado por el Consejo Nacional de Elecciones, en virtud del Decreto Ejecutivo del 21 Marzo de 1928* (Managua, Tipografia Alemana de Carlos Heuberger). Also printed in English. (File Nos. 817.00/5934 and /6011.)

by the National Board of Elections. According to present indications it will not be necessary to grant the right of petition because there is no serious third party movement. Apparently the autonomist movement produced no results and the party has neither put forward a candidate nor made its existence known to the National Board of Elections in any other way.

Should there be a demand for the right of petition it will come apparently solely from persons working in the interests of one of the two great parties who hope to deprive the other of votes like the Liberal Republicans are said to have done on Chamorro's behalf in 1921. All actions of the National Board of Elections thus far have been taken by unanimous vote. [End paraphrase.]

EBERHARDT

817.00/5904 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *August 10, 1928—10 a. m.*
[Received 2:15 p. m.]

306. Medrano, candidate Vice Presidency, has resigned on account of serious illness.

EBERHARDT

817.00/5911 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *August 12, 1928—8 a. m.*
[Received 11:47 a. m.]

307. Last night the Liberal directorate nominated Enoc Aguado Vice Presidential candidate to succeed Medrano, whose withdrawal of his candidacy was officially admitted by the same directorate.

EBERHARDT

817.00/5935 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *August 23, 1928—3 p. m.*
[Received 10 p. m.]

318. Legation's August 18, 4 p. m.[53] On August 20th the Conservative member of the National Board presented a statement opposing the acceptance by the Board of General Moncada's nomination for the Presidency on the following grounds.

---

[53] Not found in Department files.

1. That Moncada is a Senator whose term does not expire until 1930 who cannot be relieved from that office except:

(1) By accepting appointment under the Executive;
(2) By resignation accepted by a two-thirds vote of the Senate;
(3) By formal declaration of two-thirds of Congress that there is ground for criminal prosecution against him.

As it would be impossible to occupy both positions at the same time it was argued that Moncada could not legally be elected President while still a member of the Senate.

2. That Moncada was ineligible under the provisions of article 2 of the General Treaty of Peace and Amity of 1923 [54] because he was Minister of War in a revolutionary government. The Conservative member cited the action of the United States in the case of Carias in Honduras in 1924 to support his contention.[55]

3. That Moncada had been guilty of fraud against the public treasury. Evidence including a detailed statement signed by Hill as High Commissioner was presented to show that Moncada while occupying a position in the Senate in 1925 had obtained passage of a law ordering payment to him of a sum of money which he had already collected several years previous. It was alleged that the old document presented to support his claim had been mutilated in such a way as to prevent identification in the records of the Treasury Department.

On August 21st the National Board, with the dissenting vote of the Conservative member, decided to accept Moncada's nomination. General McCoy presented a statement in which he rejected the constitutional arguments of the Conservative member by pointing out that the Constitution contained no express prohibition against the election of a Senator to the Presidency and that there could not be set up an implied prohibition because the Constitution specifically stated in every other case the circumstances which would disqualify persons from holding office. General McCoy's position on this point is fully sustained by a precedent established in 1919 when a member of the Chamber of Deputies was elected to the Senate and permitted to take office in that body, thus showing that the theory that a member of Congress cannot be relieved from his position to accept election to another position is entirely untenable.

General McCoy's statement further pointed out that the Central American treaty referred to recognition by other Governments and could not affect constitutionally the eligibility of a Presidential candidate. It contained also the following paragraph:

"The conclusive answer to the objection to General Moncada's candidacy, based on the above-mentioned treaty, is that no recognized

[54] See *Conference on Central American Affairs, Washington, December 4, 1922–February 7, 1923* (Washington, Government Printing Office, 1923), pp. 287, 288.

[55] See *Foreign Relations*, 1924, vol. II, pp. 300–301.

Government was overthrown by the revolution in which he participated. Therefore the treaty does not apply. If General Moncada comes into power he will do so, not in succession to a revolutionary government in which he participated, but in succession through legal election to a constitutionally established Government."

On the third point General McCoy stated that the National Board of Elections could not reject a candidate merely because of an informal accusation made against him.

EBERHARDT

817.00/5998 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *September 24, 1928—5 p. m.*

[Received 8:23 p. m.]

351. Yesterday was the first day of registration. Reports from nearly all districts indicate that there were no disorders and that the electoral machinery functioned smoothly.

EBERHARDT

817.00/6007 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *October 1, 1928—11 a. m.*

[Received 8:50 p. m.]

355. Several weeks ago General Moncada informed the Legation that he would be glad to enter into an agreement with the Conservatives for the supervision by the United States of the election of 1932. He realized that the Department of State could not commit itself now to such supervision but he thought that it would be desirable for both parties here to commit themselves before the outcome of the election was known. Action on his suggestion by the Legation has been delayed pending the return of the Conservative candidate.

We feel that an agreement between the Presidential and Vice Presidential candidates of both parties, obligating the new administration to request effective measures by the United States over the Presidential election of 1932 would do much to promote political stability here during the next 4 years. Little of permanent value will be gained by holding a free election now if the defeated party feels that future elections will be dominated by the administration and that it therefore has no hope of subsequently attaining power except by violence. It would of course have to be understood that the United States Government was not obligated to accept the invitation to exercise its supervision but the hope that we would accept when the time came would

enable us in the meantime to exercise a powerful influence with discontented elements for the maintenance of peace. [Paraphrase.] Such an agreement would also influence the defeated party peacefully to accept the result of the election of 1928, and would lessen a rather strong possibility that there will be a deliberate obstruction of the final canvass in Congress or an armed resistance when the results are known. [End paraphrase.]

We fully realize the very serious objections to supervising another election here but we feel that if we do not do so the same conditions which have caused us so much embarrassment in the past will continue to exist and that there will be absolutely no possibility of bringing about peaceful changes of government in any other way. Now that we control the National Guard we shall more than ever be subject to well-founded criticism if we permit one party to perpetuate itself in power by dishonest elections. The situation in Nicaragua is different from that in any other Central American countries because the strength of the two parties is so nearly equal and party feeling is so bitter.

If the Department approves I will convey Moncada's proposal to President Diaz and Adolfo Benard for their consideration. I should like to say that the Department is sympathetic toward the proposal although it cannot assume any commitment regarding the action which the next administration in the United States will take.

EBERHARDT

817.00/6007 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *October 3, 1928—11 a. m.*

191. Your 355, October 1, 11 a. m. The Department would of course be glad to give a most sympathetic answer—without in any wise committing the new administration—to any request from the Conservative and Liberal Parties for the United States to supervise the election of 1932, and the Department is of course much gratified at the confidence shown in the American conduct of the elections so far by General Moncada in his inquiry to you in this respect.

Should you be the intermediary, however, between General Moncada and President Diaz or the Conservative candidate, the Department is fearful lest this might be misinterpreted as pressure by this Government upon the Nicaraguan Government to join General Moncada in such a request or as indicating a desire on the part of this Government to instigate the Nicaraguan authorities to request continuance of the American occupation for another 4 years. The Department presumes

that General Moncada is on such terms with President Diaz or Señor Benard that he can approach them directly or through Nicaraguan intermediaries and not necessarily through the Legation. The Department therefore desires you, unless you see some reason to the contrary, to reply to General Moncada that, while the Department is most gratified at the confidence which he has shown in the American electoral administration and in the United States Government, and while you feel sure that it would give most sympathetic consideration to any request so made by both Parties, you feel that it would be better to take action only when the matter is presented to you by both Parties for transmission to your Government rather than acting as intermediary between the two Parties.

KELLOGG

817.00/6031 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA [*undated*].
[Received October 11, 1928—9 : 15 p. m.]

American Electoral Mission information report number 1. Returns compiled by Professor Harold W. Dodds, Princeton (member American Electoral Mission), show approximately 145,000 Nicaraguans registered for Presidential election November 4th, or about 35,000 more than in election 1924. Complete figures probably available end current week.

Large increase this year considered due measures taken by marines, Nicaraguan National Guard, protect citizens from intimidation by their political opponents. Guard detachments were stationed key positions in towns and on patrol duty on roads leading to booths throughout registration period September 23rd to October 7th.

No cases intimidation, other disturbances reported at any of 352 precincts in Republic. Restrictions on sale liquor on registration days, as enforced by National Guard, were of greatest importance in averting riots, brawls, which have marred previous registrations. Complete peace [and] order, as result pacification and amnesty measures, prevailed throughout Nicaragua with exception small area in Jinotega Province where 11 peaceable Nicaraguans were murdered by two small bandit groups under circumstances great brutality. Though rumor has attributed these killings to political differences American Electoral Mission has received no direct evidence to confirm this. Jinotega is backward district in which there have been long-standing feuds between different families. Recent raids were at isolated points

at some distance from nearest registration precincts; neither occurred on registration days.

Public sentiment appears bitter against groups responsible for outrages. Though majority victims were Liberals, President Diaz (who is also leader Conservative Party) has issued decree calling on all Nicaraguans regardless party to cooperate with marines, National Guard, in stamping out banditry. He has also authorized organization additional bodies Nicaraguan vigilantes for same purpose. Vigilantes have been operating in adjoining province Nueva Segovia and have been of assistance there in preserving order.

Although further bandit activities expected in Jinotega and vicinity before election day they are believed unlikely affect voting that province or others.

Comparatively few complaints made by either party during registration. Most challenges were on ground applicants for registration under legal age. In such cases birth certificates were required. There were also various attempts at double registration by members both parties which were checked by Nicaraguan watchers at booths.

Conduct 352 marine enlisted men who served as chairmen at precincts has been highly commended by members both political parties. These men underwent 3 months' training at schools established each province before they were assigned to their precincts. Curriculum included intensive course in Spanish and in electoral regulations. Of 352 chairmen thus trained it has been necessary replace only 6. Each chairman was assisted in duties at precinct by 2 Nicaraguans selected by two political parties. Relations between American chairmen and Nicaraguan colleagues have been excellent in practically all cases and Nicaraguans have cooperated cordially, efficiently, with Americans.

In many precincts work of chairmen attended with great hardship. Some had to travel muleback for miles in rough and mountainous country and were also burdened with ballots, ballot boxes, other electoral supplies. In eastern half Nicaragua transportation almost entirely boat during present rainy season. Native canoes, dugouts utilized in that portion country for many personnel. One electoral party which was proceeding up river on raft lost all supplies at one of rapids and men had to swim ashore.

Some precincts entirely cut off by unfordable streams. Their only communication with Managua has been by means of signals to airplanes which dropped them supplies, mail. Contact by planes was maintained with all precincts. Civilian observers from Electoral Mission watched progress registration throughout period.

Health, morale, enlisted men on election duty has been excellent and judging from native and foreign comment and testimony Nicara-

guan press their work seems to have been carried out thus far in thoroughly impartial satisfactory manner.

Owing to high illiteracy rate (reliably estimated at from 70 to 80 percent population) one feature Electoral Mission's work has been to counteract false rumors which had gained credence among certain of more ignorant inhabitants in interior. In one district report that Americans ate children was widespread and an election supervisor had to spend some time in convincing people they had been misinformed. Decision to use harmless solution to mark hands voters on election day insisted upon by both parties as measure to prevent repeating has also given rise among Indian population to rumor that mission intends to poison anybody who votes. Steps have been taken to reassure voters on this point.

Both parties appear confident winning election and thus far have conducted strenuous but orderly campaign.

EBERHARDT

817.00/6033 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *October 12, 1928—4 p. m.*
[Received 7:50 p. m.]

363. Figures which are still incomplete indicate that number of voters registered will slightly exceed 150,000, which is 25 percent more than in 1924. There is an increase over 1924 in every department although the increase is small in Nueva Segovia. In Jinotega in spite of recent disorders the increase was over 20 percent.

Both sides are claiming a probable victory in November, basing their claims on the number of voters they have registered.

The Liberals are making claim to a larger majority than the Conservatives.

EBERHARDT

817.00/6040 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *October 19, 1928—3 p. m.*
[Received 6:54 p. m.]

365. Department's 191, October 3, 11 a. m. Moncada is today sending a personal letter to Benard promising to request American supervision of the next election if the Liberal Party wins now, and calling upon Benard to make a similar promise.

EBERHARDT

817.00/6096

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 832 MANAGUA, *October 30, 1928.*
[Received November 16.]

SIR: With reference to my telegrams, No. 365 of October 19, 3 P. M., and No. 367 of October 22, 2 P. M.,[56] I have the honor to transmit herewith copies and translations of the letters exchanged between the Liberal and Conservative presidential candidates regarding the proposed supervision by the United States of the presidential election of 1932.

Although the letters themselves were given great prominence by the Nicaraguan press, there was practically no editorial comment in any of the principal papers. It seems to be generally felt, however, that the agreement to request American supervision in 1932 materially improves the prospect for the maintenance of peace in the meantime.

It will be noted that Señor Benard's letter suggests that an agreement be reached, not only regarding the supervision of the next election, but also regarding the establishment of a sound financial system and the maintenance of the *Guardia Nacional.* These suggestions appear to have been inspired by Dr. Carlos Cuadra Pasos, who has long advocated the adoption of such an agreement between the two parties. It appears that these final paragraphs of Señor Benard's letter will remain unanswered. General Moncada has let it be known that he is not inclined to enter into further agreements or discussions of any kind with his opponents, as he feels that the Liberal party should assume full responsibility for the conduct of the Government if it should win the election.

I have [etc.] CHARLES C. EBERHARDT

[Enclosure 1—Translation]

General José Maria Moncada to Señor Don Adolfo Benard

MANAGUA, *October 19, 1928.*

MY DEAR SEÑOR BENARD: By the sentiments expressed in my letter addressed to General Emiliano Chamorro on August 12, 1916, which the newspapers of this capital published on the eighteenth of the present month of October, you will have known the ideas which since the revolution of October I have held on electoral liberty and the prerogatives of citizens.

[56] Latter not printed.

The letter referred to ends in this manner:

"I understand that your (General Chamorro's) honor, that of all the chiefs of the October revolution, the honor of the American Government itself, points to that wide and luminous path as a course of action and that the hour for deep thought and prudence has arrived for all Nicaraguans. May Liberals and Conservatives go to the civic contest with their candidate freely chosen, and may that one triumph who receives the votes of the majority, without pressure and without fraud. That will be the true day of liberty, which will deserve to be engraved in marble on the altar of the fatherland."

These ideas guided my mind at Tipitapa and are certainly the characteristic feature of my political life, of my anxieties in war and in peace. As candidate of the Liberal party I maintain them still with unbreakable faith; and by means of this letter I wish to urge you, the candidate of the Conservative party, to adopt them also and that they may serve as a guide for you in the present and solemn moments of the Republic. Let there be no more fratricidal wars and let freedom and order be established forever amongst us.

Now that we are witnessing the justice with which those in charge of the American supervision are proceeding, when with generous and praiseworthy earnestness they are extending us their hand in the development of Republican institutions, by means of a true and honest electoral liberty, we who desire an era of peace and of industry for Nicaragua, could agree to accept this same supervision for one or several periods more of constitutional government.

For my part I can now promise you, when the occasion arrives, that if the Liberal party wins it will pledge itself to correspond to the good will of the American Government for absolutely free elections, promising at this time, if it suits the interests of the Conservative party, that in the subsequent Presidential election I will willingly accept the mediation of the United States in the same form and manner which the Stimson agreements established.

I offer that to you as candidate of the Conservative party to show that I always feel inclined to offer to others the same measure of justice and honesty which in every agreement has been promised to me or to mine.

Very respectfully,

JOSÉ MARIA MONCADA

[Enclosure 2—Translation]

Señor Don Adolfo Benard to General José Maria Moncada

GRANADA, *October 20, 1928.*

MY DEAR GENERAL MONCADA: I reply herewith to your courteous letter of the 19th instant which Mr. Pilar A. Ortega delivered into my hands and which I have pleasure in answering.

It is extremely gratifying to me to inform you that I am entirely in accord with your way of thinking. I understand that a stable and lasting peace, founded on the conciliation of the two historic parties into which the public opinion of Nicaragua is divided, is the most solid and efficacious support on which the prosperity of our country can rest.

That peace which we all as good Nicaraguans should endeavor to obtain, will necessarily come as the logical result of a free and honest election, in which each citizen without restrictions may cast his vote for the candidate whom his sympathies favor.

Adjusting ourselves without deviation to that rule of conduct, we will finish once for all with those lamentable internal struggles which you mention and which have cost us so much blood and so much national wealth in the past.

The American supervision has come to give us the enjoyment of that electoral freedom which without any doubt will bring with it for the welfare of all, Liberals as well as Conservatives, a long and fruitful era of national tranquility.

I believe that we should place our entire confidence without reservations of any kind in the very worthy American representatives who are to make real and effective the liberty of suffrage in the approaching elections of November. We are under the patriotic obligation to maintain that confidence unchanged, because the fruits which we gather by strengthening our friendly relations with the United States Government, have always been and will always be abundant. I have ever thought thus as a good Conservative and as a citizen cherishing the well-being of my country.

For those reasons which I have permitted myself to express to you in the course of the present letter, I appreciate in all its importance and I embrace with enthusiasm the praiseworthy idea which you have deigned to disclose to me of maintaining free suffrage for other constitutional periods under the friendly and well-intentioned mediation of the Government of the United States in the Nicaraguan electorate.

Your proposition is therefore definitely accepted, but having opened the chapter of these considerations between the two parties, so promising for the harmony of Nicaraguan citizens, it seems timely to me not to close it without also assuring other factors equally necessary for the strengthening of the basis of peace and order. I refer primarily to the economic phase which in modern politics is the most essential, and I propose to you that we agree now on extending and perfecting the Financial Plan which is now in force, in a sense to assure the honest administration and proper investment of the public funds, so that by virtue of such a system we may open up a pros-

perous future for the Republic, and above all may improve its credit, so that we may be able to carry out operations on which to establish a basis for the progressive development of our resources, indemnifying our citizens for the damages suffered in the past emergency and carrying out works of material progress for our country.

And as the principal thing is peace, I believe that another element which will effectively aid in maintaining it is the institution of the National Guard in the non-partisan form which it has been given by the agreement with the Department of State of the United States. Therefore, I propose also that we agree on some form that will assure the existence and the improvement of that military organization of the Republic.

Very respectfully yours,

ADOLFO BENARD

817.00/6060 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *November 2, 1928—2 p. m.*

[Received 5:23 p. m.]

374. Two days before the election, conditions throughout Nicaragua appear to be highly satisfactory. General McCoy has recently been in personal conference with each of his departmental chairmen and all of their reports indicate that there is no apparent reason to anticipate any serious difficulties or disorder on election day. There has been a marked relaxation of the tension which existed in some sections during the first part of October. The electoral machinery is functioning smoothly and the departmental boards almost without exception have conducted their work without friction between the representatives of the two parties. The leaders of both parties have expressed themselves as satisfied with the manner in which the electoral supervision has been conducted, up to the present time.

EBERHARDT

817.00/6061 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *November 4, 1928—noon.*

[Received 4 p. m.]

American electoral information report number 3. Complete order, heavy early vote throughout Nicaragua, reported noon today by American electoral supervisors, marine aviation unit, and by Nicaraguan Government officials. Polls opened 7 this morning with

crowds from 100 to 300 waiting precincts Managua [and?] elsewhere. Telegrams to Diaz from all department Governors state voting free, impartial; great enthusiasm shown all parts country.

Although polls close 5 today they be kept open longer if voters still waiting in line at closing hour. Indications are, however, voting be completed most precincts early this afternoon. In Managua up to 10 o'clock this morning average rate more than 1 vote a minute.

Final air reconnaissance made yesterday by 12 planes which flew over every one of 432 voting places Nicaragua. Major L. M. Bourne, Chief Aviation, personally inspected northern area. He reports large crowds voters dressed gala attire moving over trails to precincts. In many towns 200 to 300 voters arrived yesterday afternoon, spent night there in order vote early today. 12 planes repeating flight today and will cover same territory tomorrow to insure that American precinct chairmen reach department capitals without interference. Chairmen will carry ballots from precincts to department capitals for recount. Though no trouble anticipated, men will be accompanied by guards and planes contact with them in isolated districts.

Heavy vote indicated Jinotega, Esteli, Segovia is considered proof banditry been practically ended by marine pacification program which has given peaceable citizens complete confidence in measures taken by marines prevent intimidation of voters.

Chemical stain used to mark finger each voter in order prevent repeating appears to be working with fair success.[57] Several voters have been able wash it off with other chemicals but sufficient amount remains under finger nail to identify man who has already voted. Stain adopted National Election Board after consultation with Chemical Warfare Service, Washington, as best available for purpose. Its use demonstrates [it] can be removed from smooth surface but it is sufficiently effective block repeating in all but few cases. Mission is confident that owing to this, other precautions, no widespread repeating possible.

President Diaz set example all voters this morning by dipping fingers in solution before he cast ballot. General Moncada, Adolfo Benard, Liberal, Conservative candidates, and all high officials Nicaraguan Government did likewise before voting. Their example commented on by many humbler people Managua as new era in elections showing all citizens on par for first time.

In statement to local newspapers McCoy said Mission deeply grateful to Diaz for his fine cooperation in making election free,

---

[57] In telegram No. 383, Nov. 10, 10 a. m., the Minister in Nicaragua informed the Department that the "stain used was mercurochrome 5 percent." (File No. 817.00/6079.)

impartial. "President Diaz has acted not as party leader, [but] as President Nicaraguan people," McCoy said, "and has done everything in his power insure fairness without regard to interests either party."

Fullest local publicity for election returns as received by telegraph has been ordered by Mission. At same time warning been given through press and by letters to leading members both parties that no official announcement result can be made until all votes canvassed by department boards. Owing to travel difficulties many departments, this canvass cannot be completed for several days after election or until all precinct chairmen reach department capitals.

Only case disorder reported thus far is death of a steer which ran amuck in Dario and was shot by marine. Steer's owner held barbecue of remains for members his party.

EBERHARDT

817.00/6069 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *November 5, 1928—9 p. m.*

[Received 11:54 p. m.]

American electoral information report number 10. Conservatives 49,666; Liberals 67,939. Precincts reported: 362 precincts; unreported, 70.

La Prensa, chief Conservative organ, headlines tonight, "The American supervision has honorably observed its promise. The elections Sunday were honest, tranquil, correct, and honorable. The Liberals obtained the victory."

El Comercio, leading Liberal organ, headlines, "The United States is vindicated before the world."

Other comment similarly.

EBERHARDT

817.00/6074 : Telegram

President Coolidge to President Diaz

WASHINGTON, *November 8, 1928—1 p. m.*

I have been greatly pleased to learn that the recent election in Nicaragua took place in an atmosphere of tranquillity and freedom so that the desired result, and accurate reflection of the will of the electorate, was undoubtedly attained. General McCoy informs me that he received splendid cooperation not only from you but from other officials of the Nicaraguan Government and from the representatives

of both parties on the National Board of Elections and other electoral organizations. I wish to take this opportunity to express to you my own sincere appreciation of the firm support which you and the other Nicaraguan authorities have accorded to the Electoral Mission thus making it possible to carry out in spirit as well as in letter the Tipitapa Agreement, whereby the two historic parties in Nicaragua undertook to abjure armed conflict and to seek a peaceful settlement by submitting their differences to the decision of the ballot.

Without your statesmanship and wholehearted assistance a truly free and fair election would have been impossible. I am sure that the vision and patriotism which you have displayed give just cause for pride on the part of the Nicaraguan people and mark the advent of a new and better era in the political life of your country.

CALVIN COOLIDGE

817.00/6082 : Telegram

President Diaz to President Coolidge

[Translation]

MANAGUA, *November 9, 1928.*[58]

I have received with great satisfaction the cabled congratulations which Your Excellency sent me yesterday in connection with the presidential elections which were held on the 4th of this month. True to my promises I did everything which I could to cooperate in an efficient manner with General McCoy and the other members of the electoral mission in order that a friendly, honest and impartial election could be held. I have the honor of informing you that not only General McCoy but also the other members of the commission who composed the Departmental Boards and election supervisors complied with the mission which was confided to them by your Government. Both parties recognized the impartiality and justice with which these officials acted during the election period, as a result of which the people of Nicaragua again thank the American Government for the friendly cooperation and interest which it has always taken in order that peace and national prosperity may obtain in this Republic. Please accept my most sincere thanks for your message of congratulation.

ADOLFO DIAZ

---

[58] Received in the Department of State November 12.

817.00/6085 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *November 12, 1928—9 a. m.*
[Received 1:55 p. m.]

385. [From] General McCoy. I beg to submit the following report upon the election on November 4th. The results stated below are based upon telegraphic returns and are not therefore to be regarded as final. All of the 432 precincts have, however, reported and present indications are that no material corrections will be necessary later. Our information now appears sufficiently complete to warrant the following observations:

No instance of disorder on election day occurred in any part of the Republic. The voting proceeded smoothly and in many urban cantons was practically completed by noon. In no reported case was it necessary to keep the polls open beyond 4 p. m. The stain with which the fingers of voters were marked was accepted in good humor and no efforts to remove it and vote twice have been reported. Its use was undoubtedly helpful in preventing fraud and inspiring popular acceptance of the results. The total reported vote was 132,949 and shows a Liberal Party majority of 19,471 votes for President and Vice President. Eighty-eight percent of the persons registered voted. This high percent was practically uniform in all the departments except Nueva Segovia and Jinotega, where the average fell to 82 percent. The results of the election appear to have been accepted in good part by all concerned. Surprisingly few votes were the subject of objection at the polls. In the canvass of votes for President, Vice President, and Senators, all such objections can be disregarded without affecting the results and no question as to these elections is expected to come before the National Board. Of the 9 Senators apparently elected the Liberals have secured 5 and the Conservatives 4 and as a consequence the two parties will be equally represented in the Senate with 12 seats each. All incoming Senators were elected by decisive majorities in which challenged votes will have no significance so far as can be foreseen. Of the 25 Deputies apparently elected the Liberals have secured 17 and the Conservatives 8; 23 of the number received majorities which appear conclusive. Two Deputies, however, were elected by majorities of but one vote in each case. It was anticipated that difficulties might arise in the final canvass of these two districts. The election in one case, that of a Conservative from Masaya, has already been confirmed unanimously by the departmental board. The other election, that of a Liberal Deputy from Granada, has been confirmed by departmental board, but not unanimously and will now come before

the National Board. Indications are that the next Chamber will contain 23 Conservatives and 20 Liberals and that the united Congress, which will proclaim the election of President and Vice President, will contain a majority of 3 Conservatives in joint session. At present departmental boards are engaged in canvassing the election results as reported by precinct and in considering any complaints or protests that may be presented. On November 12th the National Board will begin its final review of the returns as submitted by the departmental boards. In view of the apparent decisive majorities reported in all cases but those of the two Deputies mentioned above it is not anticipated that final review by the National Board will be prolonged. Upon the completion of the canvass by the National Board, certificates of election will be issued to the successful candidates. Under the Nicaraguan Constitution the election of President and Vice President is proclaimed by the united Houses of Congress after each body has passed on the election of its own members and has organized for business. According to Nicaraguan practice the elections and qualifications of Senators and Deputies are passed upon by the hold-over members of the respective Houses, who meet in preparatory sessions on December 10th to examine the credentials of the newly elected members. While, as stated above, the Conservatives will have probably a majority of 3 votes in joint session, present indications are that the decision of the National Board of Elections will be respected by the Congress. The satisfactory results above outlined were without doubt due to the complete cooperation of all American services and personnel. The protection and police arrangements made and the wise precautions of the naval, marine and *guardia* commanders, will be fully reported on later. Our report on the election of Senators and Deputies will be communicated to the preparatory bodies of the respective Houses on December 10th, and our report on the election of President and Vice President will be presented to the united Congress on or about December 15, the date fixed by the Constitution for its formal installation. The date fixed for the inauguration of the President is January 1st, 1929. Beginning November 18 my assistants will leave Nicaragua as rapidly as their services can be spared. My present plan is to leave Nicaragua with my remaining assistants as soon as the report on the election of President and Vice President has been submitted to the united Congress. I request no announcement be made nor action taken on withdrawal of troops, pending cabled recommendations from here to be forwarded in a few days. Admiral

Sellers is here and in consultation on the subject with the Minister, General Feland and myself.

It is requested that the Bureau of Insular Affairs forward a synopsis of the above, so far as it pertains to the elections held in Nicaragua, to Governor General Stimson, Manila.

EBERHARDT

817.00/6124 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *December 6, 1928—4 p. m.*

[Received 9:22 p. m.]

410. The National Board of Elections completed the final canvass of the vote today. Its decision was unanimous in the case of every department except Bluefields, where the Conservative member of the National Board refused to vote for the approval of the report of the departmental board although the Conservative member of the latter had concurred therein. His objection was based on the exclusion of the votes of a few Nicaraguans admittedly resident in Costa Rica and the admission of those of four Creoles born in Nicaragua but registered in the British consulate.

The last departmental report to be approved was that of Granada where it was necessary to make full investigation of the election in the district of Nandaime. There the Liberal candidate for Deputy had won by one vote on the first count but since the investigation revealed that five Liberal votes had been improperly admitted, the National Board this morning unanimously declared the Conservative candidate elected. This will mean a Conservative majority of five in the Chamber of Deputies.

Moncada and Aguado will be formally notified of their election tomorrow. Certificates of election will be issued to them and to the members of the Congress-elect. The latter are also being notified by telegraph. The preliminary sessions for passing on the credentials of the members of Congress will begin December 10th.

[Paraphrase.] Except possibly in the case of the congressional district of San Juan del Sur, Department of Bluefields, where Chamorro's nephew was the defeated candidate for Deputy, there is no apparent reason for anticipating that the Conservatives will refuse to abide by the outcome of the election. [End paraphrase.]

EBERHARDT

416955—43——40

817.00/6134 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *December 13, 1928—11 a. m.*
[Received 4:45 p. m.]

412. Both the Senate and the Chamber of Deputies have now provisionally accepted the new members elected on November 4. In the Senate Liberal officers were elected, with Paniagua Prado as President, and several of the new Senators have already been sworn in, although the credentials will not finally be passed on until later. In the Chamber of Deputies the credentials of the new members were also approved "as to form," which constitutes an acceptance of the election and will permit the new Deputies to take their seats pending final approval in each case. In the committee appointed to examine the credentials, the majority consisting of two Chamorro Deputies reported that the credentials were incorrect but advised their acceptance in order to "avert greater evils than those from which the political existence of the Republic now suffers." Cruz Hurtado, a Cuadra Pasista, submitted a minority report stating that the elections had been legal.

It would appear from the above that Congress will be organized on the basis of the outcome of the election and that there will be no difficulty about the proclamation of the results of the Presidential elections. There may, nevertheless, be efforts to unseat certain Liberal Deputies when the final examination of credentials takes place.

EBERHARDT

817.00/6139 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *December 15, 1928—noon.*
[Received 4:15 p. m.]

American Electoral Mission information report number 12. Work American Electoral Mission Nicaragua ended today with presentation certified results election to new Congress. General McCoy also presented this morning resignation as president, National Board Elections, to Supreme Court Nicaragua. McCoy, with remaining members Mission, attended Congress to hear message Diaz. Holdover members Congress who [have] been sessioning from 10th to 14th inclusive already have accepted provisional credentials all new members and latter were seated at session this morning. New Congress is to proclaim results election as certified to by McCoy. Its composition is 12 Liberals, 12 Conservatives in Senate; 19 Liberals, 24 Conservatives in House. McCoy, with practically all remaining

members Mission, leaves Managua Monday morning returning States-ward via Panama; according present plans will arrive New York December 30 by United Fruit Steamer *Ulua*. Election figures as presented Congress ward [*sic*] show total registration 148,831, total vote 133,663, or 89.7 percent registration. Vote this year approximately 50,000 more than in 1924.

EBERHARDT

817.00/6146 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *December 19, 1928—5 p. m.*

[Received 8:15 p. m.]

419. The credentials of the greater part of the Deputies elected on November 4th have now been finally approved and the Deputies have been definitely seated. The credentials of four Liberal Deputies-elect, however, have not been finally approved and the committee examining the credentials has indicated that it considered their election invalid for various reasons.

I spoke to the President today of the necessity for taking measures to dissuade the Conservative Deputies from their evident intention of rejecting the certificates issued by the National Board of Elections in these four cases. I have also spoken to Chamorro, who is probably back of the Deputies' action. I consider it probable however that these Deputies will be unseated in spite of my representations.

A strong statement from the Department to be shown privately to those concerned might be helpful. Since Chamorro and other leaders have been especially persistent in inquiring to what extent the Conservatives could expect us to protect them from mistreatment under the new regime the Department might well indicate that a party which acted in bad faith in regard to the elections would be in no position to ask that we use our influence to protect them either from oppression or from arbitrary action in political matters.

EBERHARDT

817.00/6146 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *December 22, 1928—7 p. m.*

226. Your 419, December 19, 5 p. m. In view of Section 2 of Article 83 of the Nicaraguan Constitution [59] giving each house of Congress the right to pass upon the elections and credentials of its

---

[59] *Foreign Relations*, 1912, pp. 997, 1002.

members the Department does not desire to issue a statement such as you suggest. You may state informally however to those concerned that the United States Government having at great trouble and expense to itself aided in the carrying out of a free and fair election at the request of both parties and the elections having taken place in a manner generally accepted as completely acceptable and all controversial questions relating to the election of individual candidates having been settled by the decisions of the National Board of Elections in a thoroughly impartial manner and without respect to party considerations, the Department feels that there is a moral obligation for the Nicaraguan Congress to accept the certificates of the Board and thus to cooperate in making effective the will of the Nicaraguan electorate. For the Congress to do otherwise would tend to nullify in part the results of these free and fair elections and the work of the National Board of Elections.

KELLOGG

817.00/6158 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *December 29, 1928—10 a. m.*
[Received 11:50 a. m.]

427. Last night the Congress in joint session with only one dissenting vote approved the report of the National Board of Elections and declared Moncada and Aguado constitutionally elected President and Vice President.

EBERHARDT

817.001 Moncada/8 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *January 1, 1929—1 p. m.*
[Received 7:20 p. m.]

1. Moncada was inaugurated this morning at an orderly and impressive ceremony on a platform in front of the National Palace. He and President Diaz drove together from the latter's residence to the palace and after the ceremony the entire party attended a *Te Deum* at the Cathedral and then proceeded to the Presidential Palace where there was an informal reception attended by members of both parties. Tonight there will be an inaugural ball. General Beadle, the chief of the *guardia*, was responsible for most of the arrangements for the inauguration and the success of these arrangements reflected much credit on his organization.

EBERHARDT

COOPERATION OF THE UNITED STATES IN REARRANGING THE FINANCES OF NICARAGUA[60]

817.51/1886 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

[Paraphrase]

MANAGUA, *January 13, 1928—11 a. m.*

[Received 2:15 p. m.]

24. A financial plan which differs in material respects from that prepared by the bankers[61] is being prepared by Dr. Cumberland. The Department may desire to transmit this information to the bankers in order to avoid a duplication of effort.

MUNRO

817.51/1886 : Telegram

The Acting Secretary of State to the Chargé in Nicaragua (Munro)

[Paraphrase]

WASHINGTON, *January 14, 1928—6 p. m.*

16. Your telegram No. 24, January 13, 11 a. m.

(1) The Department agrees that a duplication of effort should be avoided. What the Department has primarily desired from Dr. Cumberland is a recommendation as to the financial requirements and borrowing capacity of the Government of Nicaragua based on a careful financial and economic survey. The Department has not contemplated that Dr. Cumberland should prepare a financial plan, inasmuch as the Department is now discussing with the bankers a draft financial plan prepared by them. No definite conclusions have yet been reached, and the financial plan prepared by the bankers, which does not deal directly with financial requirements and borrowing capacity, would naturally be complemented by the recommendations of Dr. Cumberland.

(2) The Department has been informed that President Diaz has had a conference with Dr. Cumberland, that you were present, and that certain possible arrangements between the Department and the Government of Nicaragua were discussed. If this be true, please inform Dr. Cumberland that the Department does not wish him to discuss such matters with officials of Nicaragua or to submit to them any report or recommendations without first definitely ascertaining the views of the Department.

---

[60] Continued from *Foreign Relations*, 1927, vol. III, pp. 406–421.

[61] J. & W. Seligman & Co. and Guaranty Trust Company of New York.

(3) In order that the Department may have before it at the earliest practicable moment the results of his survey of financial and economic needs, the best procedure, it seems, would be for him to complete the gathering of the various statistical and other data necessary for the formulation of his final recommendations, and not to postpone his departure from Nicaragua for the period needed to organize the data and prepare his report in final form. An additional consideration is the fact that the funds which the Department can allocate to the survey are distinctly limited.

OLDS

817.51/1890 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

[Paraphrase]

MANAGUA, *January 21, 1928—4 p. m.*

[Received January 22—9 : 41 p. m.]

40. The following is from Dr. Cumberland in reply to Department's 16, January 14, 6 p. m.:

"(1) In reply to a question from President Diaz regarding the probable cost of new loan for Nicaragua I said that such cost would depend in large measure on the attitude of the United States toward the proposed financing, but what that attitude might be was not discussed with President Diaz or with other officials of Nicaragua, although it is obvious that the attitude of the United States determines the rate of interest and the proper amount of the proposed loan, and until I am advised on this point no sound recommendations can be made.

(2) In his letter of November 29, 1927, the Secretary of State instructed me to make a comprehensive economic and financial study of Nicaragua, and to present recommendations.[62] This study has already convinced me that the financial plan proposed by the bankers is merely a revision of the financial plan which has shown its inadequacy, that such revision does not serve the best interests of Nicaragua, would form no basis for permanent financial expansion and development, and would not be accepted by the Government of Nicaragua. The proposals in the bankers' plan for the settlement of claims are particularly unacceptable and unjust. Therefore, in order to present concrete recommendations to the Department, I am preparing an alternative financial plan in addition to my report. Such a plan can only be intelligently prepared in Nicaragua where the views of the responsible officers of the Government of Nicaragua may be secured on different points as they arise. Otherwise, a program unacceptable to Nicaragua would almost be certain to result, as is the case with the bankers' plan. A well-considered project is necessary, with special emphasis on administrative efficiency, budgetary responsibility, allocation of treasury resources to constructive purposes, payment of any foreign obligations, and provision for future financial requirements in orderly fashion over a considerable number of years.

---

[62] *Foreign Relations*, 1927, vol. III, p. 419.

(3) My estimate of 2 or 3 months as the time necessary for a study of the finances of Nicaragua, as I stated when I received my appointment, still seems to be accurate. A shorter study would be dangerous and a waste of time and money."

Dr. Cumberland and I both had understood, from our conversations with the officials of the Department and from the Department's instructions to Dr. Cumberland, that the Department desired Dr. Cumberland to recommend changes in the existing system which would rid it of its defects and make possible the most effective utilization of the resources of the country. Such changes could only be brought about by a new financial plan—one more comprehensive than the plan proposed by the bankers. I believe that the bankers' plan would be wholly unacceptable to the Government of Nicaragua because it affords little real hope for opening communications with the east coast, and because it makes no real provision for the payment of claims. Dr. Cumberland and I feel that the bankers' plan does not meet the present situation in Nicaragua. I have made no attempt to report in detail on the situation recently because it was my understanding that the Department would take no action until it was in possession of the Cumberland report, which would be much more useful than any report I could make.

MUNRO

817.51/1901

The Minister in Nicaragua (Eberhardt) to the Secretary of State

[Extract]

No. 608 MANAGUA, *February 7, 1928.*

[Received March 7.]

SIR: I have the honor to say that one of the problems which calls for the most serious consideration in the execution of the program which the United States has undertaken to carry out in Nicaragua is that connected with the finances of the Nicaraguan Government. The technical and economic aspects of this problem will of course be dealt with fully by Dr. Cumberland in the report which he is preparing, but there are certain primarily political aspects which in my opinion should receive early consideration and which must very materially affect any consideration which may be given to the question as a whole.

The nature of Nicaragua's financial problem has completely changed during the past few months. A short time ago the first requisite was apparently to obtain new funds to assure the solvency of the Government and to repair the losses suffered during the recent revolution. Interest in the proposed foreign loan centered mainly on the acquisition of money to pay war claims, to make up possible deficiencies in the Government's revenues and to meet the extraordinary expenses inci-

dental to the organization of the new *Guardia Nacional*[63] and the supervision of the elections.[64] The question of establishing sound financial administration and adequate financial control, while of obvious importance, was less urgent. The unexpected increase in the Government's revenues and the remarkable prosperity of the country since the termination of hostilities has completely changed this situation. It is believed that the majority of those who suffered losses during the war are now in a position where the payment of their claims is not urgently necessary to enable them to recover financially. The Government has money on hand and in sight to pay necessary current expenses and to provide for the *Guardia* and the election and there is every prospect that there will be a large sum of money available before the end of the year for other purposes.

. . . . . .

I have [etc.] CHARLES C. EBERHARDT

817.51/1896 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *February 25, 1928—10 a. m.*
[Received 4:09 p. m.]

93. In view of the Department's 16, January 14, 6 p. m., and pending a reply to the Legation's 40, January 21, 4 p. m., to which no reply received thus far, Cumberland has not felt free to discuss frankly here the principal financial problems covered by his report. This has seriously handicapped him in obtaining information. We think that he should discuss his conclusions rather fully with the principal leaders in both parties before completing his report, not only to obtain the local point of view, but also to bring the prominent people in both parties here, so far as possible, into accord with his conclusions. His report will otherwise be practically useless so far as any practical results are concerned. Cumberland expects to leave Managua within about 2 weeks.

EBERHARDT

817.51/1896 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *February 27, 1928—7 p. m.*

48. Your telegram No. 93, February 25, 10 a. m. Department has no objection to Dr. Cumberland's discussing the principal financial

---

[63] See *Foreign Relations*, 1927, vol. III, pp. 433 ff.
[64] See pp. 418 ff.

problems covered by his report with President Diaz and other authorities. It believes, however, that while Dr. Cumberland might discuss his conclusions as hypothetical, he should take care not to make it appear that the conclusions are definite or that they have the approval of the Department of State, because the Department, for various reasons, may be unable to follow his suggestions in all particulars and may find it necessary to modify the measures which he advocates. If after President Diaz and others in Nicaragua had been allowed to expect that certain recommendations would be approved and put into effect it should later be found necessary to modify them in some important particulars, it would be embarrassing to all concerned.

KELLOGG

817.51/2024

Dr. W. W. Cumberland to the Secretary of State

MANAGUA, *March 10, 1928.*
[Received March 29.]

SIR: In conformity with your instructions of November 29, 1927,[65] there is submitted herewith a report on the economic and financial condition of Nicaragua, together with a draft of a financial plan which embodies recommendations for remedying the difficulties in present arrangements which have been detected.[66]

The financial condition of the Nicaraguan government is comparatively satisfactory. Revenues are adequate, the budget is balanced, the currency is stable, and the public debt is small. Only one pressing matter confronts the treasury, namely, payment of revolutionary claims. This can be effected in some three years from current revenues, unless funds for that purpose are obtained in connection with a general plan of refunding and financial reorganization.

Although present conditions are favorable, Nicaragua must be regarded as in a state of unstable economic equilibrium. This is caused by the fact that coffee constitutes an undue proportion of exports, with the result that either diminished volume or reduced price would seriously disturb both public and private finances.

Nicaragua is reasonably well endowed with natural resources, but those resources are difficult of development, due to deficient population, insufficient capital and inefficient leadership. No relief from these difficulties is in sight until security of life and property

---

[65] *Foreign Relations*, 1927, vol. III, p. 419.

[66] See W. W. Cumberland, *Nicaragua: An Economic and Financial Survey Prepared at the Request of Nicaragua, Under the Auspices of the Department of State* (Washington, Government Printing Office, 1928).

is assured and until the currency is protected from the constant threat of being manipulated for convenience of the treasury. Finally, certain revenues are ineffectively collected, and no adequate control is exercised over expenditures.

General financial reorganization is therefore desirable. It should include refunding the present debt, unification of revenue collections and control over expenditures. Debt charges should constitute a first lien against all revenues, and priority in unpledged funds should be assigned to adequate support of the newly created constabulary. Currency stability should be assured by sale of majority interest in the National Bank of Nicaragua to an American financial group of recognized strength and integrity.

Nicaragua is not at present in financial condition to undertake construction of a railroad to the Atlantic coast. If a refunding and improvement loan is floated, adequate funds would be available for the construction of a highway from Managua to the Atlantic coast, and this is recommended.

If, however, the foregoing plan of financial reorganization for Nicaragua is at present impracticable, three things should at least be done immediately:

1. Majority interest in the National Bank should be sold;
2. Sufficient financial support for the constabulary should be assured;
3. Claims should be paid by assignment of specified revenues to that purpose.

If the United States should take an active interest in the finances and general administration of Nicaragua, the utmost care should be exercised in selecting American personnel for those purposes. At best the task will not be easy, and incompetent or unsympathetic American officers could well create more serious problems than those which they would be supposed to solve.

Very truly yours,

W. W. CUMBERLAND

817.51/1902 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *March 14, 1928—9 a. m.*

[Received 12:48 p. m.]

118. Cumberland sailed for New York on March 12. We have read the greater part of the excellent report which he has prepared and are in accord with his recommendations. Before his departure he discussed his principal recommendation briefly and informally

with the President, the Minister of Finance and General Moncada,[68] all of whom expressed themselves as in complete accord therewith.

EBERHARDT

817.51/1905½ : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *March 26, 1928—4 p. m.*
[Received 6:35 p. m.]

151. From General McCoy. During the last month of Doctor Cumberland's work here I was in close touch and sympathy with his methods and results. I have read and discussed the draft of his report and concession [*recommendation?*] and feel strongly that these should be approved and acted upon by the Department. I hope both the Secretary and the President will be interested in talking to Doctor Cumberland on the general situation here as well as with J. T. Williams who is returning with him.

EBERHARDT

817.51/1906½

Brief Description of the Financial Plan for Nicaragua Recommended by Dr. Cumberland

[WASHINGTON,] *March 30, 1928.*

The financial plan provides for an agreement between the Republic of Nicaragua and New York bankers (to be determined later) and contains the following provisions:

1. All revenues and receipts of the Republic are to be collected by a Collector General of National Revenue nominated by the Secretary of State and appointed by the President of Nicaragua. (Art. 2, Sec. 1)

(Note: The financial plan now in force[69] provides for a Collector General of Customs nominated by the bankers, approved by the Department of State, and appointed by the President of Nicaragua. Colonel Clifford Ham has held this position since 1911.)

2. The Collector General of National Revenues will collect all revenues and receipts of the Republic, whether general or special, including internal revenues, and will submit to the Secretary of State an annual report. (Art. 2, Sec. 2)

(Note: The financial plan now in force provides that the Collector General of Customs shall collect only customs revenues and certain

---

[68] Head of the Liberal Party.

[69] For a description of the financial plan of 1920, see Department of State Latin American Series No. 6: *The United States and Nicaragua: A Survey of the Relations From 1909 to 1932* (Washington, Government Printing Office, 1932), p. 37.

special taxes, but can take over the collection of internal revenues under certain specified conditions. The internal revenues are collected at the present time by the Nicaraguan Government.)

The total cost of collection shall not exceed 7% of gross customs receipts, and 10% of internal revenue receipts. (Art. 2, Sec. 2)

(Note: Under the plan now in force the cost of collection is limited to 6%.)

3. The Collector General can be removed by the Secretary of State acting on his own initiative, or by the Secretary of State at the request of the Nicaraguan Government, if the Secretary approves of this request. (Art. 2, Sec. 4)

(Note: Under the plan now in force the Collector General can be removed at the request of the Bankers.)

4. Legislation governing existing revenues and receipts of the Republic shall not be amended in a manner to reduce such revenues and receipts without the consent of the High Commission. (Art. 2, Sec. 5)

(Note: The financial plan now in force provides that such legislation can only be enacted with the consent of the bankers parties to the financial plan.)

5. The Republic is authorized to contract a loan of not to exceed $30,000,000, secured by a first charge on all of its revenues and receipts, this loan to be issued in series, each series to bear such rate of interest and such maturity as may be determined at the time of issue; but after the first series no subsequent series must be issued unless and until average revenues and receipts of the Republic for the preceding period of five fiscal years shall have equaled four times the interest and amortization charges of the entire outstanding debt, plus such charges on the series which it is proposed to issue.
(Art. 3, Sec. 1).

The first series, which will amount to $12,000,000, is to be expended as follows:

For refunding and liquidating outstanding indebtedness	$6,000,000
For payment of revolutionary claims	2,000,000
For highway construction	3,000,000
For election expenses of 1928	150,000
For paving and sanitation of Managua	350,000
For miscellaneous purposes	100,000
For cost of floating the loan	400,000
	$12,000,000

(Art. 3, Sec. 2)

(Note: The banking firms of J. & W. Seligman and Company and the Guaranty Trust Company have an option on the financing.)

6. An Auditor General shall be nominated by the Secretary of State and appointed by the President of Nicaragua. The office of Auditor General (and of Collector General of Revenues) shall continue in force so long as there remain outstanding and unpaid any of the bonds authorized in the present financial plan. (Art. 4, Sec. 1).

(Note: The present financial plan provides for no Auditor General.)

7. The Auditor General is empowered and instructed to examine the accounts and records of each branch of the public administration and to prescribe the keeping of such records and books of accounts, and the rendering of financial reports. Orders of payment against funds of the Republic must bear the signature of the Auditor General. The Auditor General is empowered and instructed to examine and audit the national bank at least twice each fiscal year. The Auditor General shall submit reports to the Minister of Finance of Nicaragua and to the Secretary of State showing all expenditures of the Republic. The tribunal of accounts and the national treasury shall act through the Collector General and the Auditor General. (Art. 4, Sec. 2)

Nicaraguan officials shall have the right to examine the records of the Auditor General; but his accounts shall be considered approved unless specific objection is made thereto within thirty days. (Art. 4, Sec. 3)

The Secretary of State may remove the Auditor General on his own initiative or at the request of the Nicaraguan Government if he considers such request justified. (Art. 4, Sec. 4)

8. A High Commission shall be established consisting of the Minister of Finance, the Collector General of National Revenue, and the Auditor General. (Art. 4, Sec. 5)

(Note: The financial plan now in force provides that the High Commission shall consist of (1) the resident American High Commissioner, nominated by the Secretary of State and appointed by the President of Nicaragua; (2) the Minister of Finance; and (3) a non-resident American member to act as referee in case of dispute between the other two members.)

9. The High Commission shall agree upon detailed estimates of expected revenues and receipts and prepare a consolidated and summarized budget of expenditures for submission by the Minister of Finance to Congress. (Art. 4, Sec. 6–8)

(Note: The present High Commission has no authority over the preparation of the budget but approves of expenditures from a special fund of about $26,000 per month.)

10. In preparing the budget priority shall be given to the costs of the collection of customs and internal revenues; to the interest

and amortization on all outstanding government obligations; and to the maintenance of the national constabulary. (Art. 4, Sec. 9)

11. The legislative body shall have the power to reduce or eliminate items in the budget but shall not increase any item above that recommended by the High Commission. If the legislative body fails to authorize a budget for any fiscal year, the budget already in effect shall continue in force. (Art. 4, Sec. 10)

12. A treasury reserve of at least $1,000,000 or 25% of the average revenues (whichever is greater) shall be established and maintained, and any surplus revenues above this amount can only be expended on the recommendation of the High Commission, and be devoted to productive public benefit. The treasury reserve may be utilized for anticipating service on the public debt, redeeming currency, and certain other specified purposes. (Art. 4, Sec. 13)

13. The Republic agrees to sell 51% of the stock of the National Bank of Nicaragua, the Board of Directors of the bank to consist of nine members, one of whom shall be appointed by the Secretary of State. (Art. 5, Sec. 1)

14. The bank is appointed fiscal agent of the Republic for receiving all revenues and effecting all payments. The bank is authorized to conduct an ordinary banking business, with certain stipulated reserves against deposits. The currency of the country continues to be governed by the existing law, but the High Commission may require the issue of additional quantities of currency, subject to the provisions of the law. The exchange fund (at present about $2,000,000) shall be deposited in banking institutions approved by the High Commission, with certain stipulations as to the manner in which it is to be invested. The bank shall present a detailed statement to the High Commission and to the Secretary of State. (Art. 5, Sec. 1–5)

15. There shall be attached to the *Guardia Nacional* a public works service which shall be administered by an Engineer in Chief who shall be nominated by the Secretary of State and appointed by the President of Nicaragua. (Art. 6, Sec. 1)

(Note: The reason for attaching this office to the *Guardia* is in order that an American Army Engineer may be detailed for this work.)

This office shall be in charge of construction, operation, maintenance and repair of all public works in the Republic, including the telephone and telegraph service. (Art. 6, Sec. 1)

16. The Pacific Railway may borrow the equivalent of $2,250,000 on terms approved of by the High Commission, secured by a first mortgage on all the property and assets of the railroad, the loan to be used for repairs and rehabilitation, and for the purchase of the

wharf at Corinto from the private interests which now own it. (Art. 7, Sec. 1–3)

17. A Claims Commission shall be established consisting of two Nicaraguan members appointed by the President of Nicaragua and one (American member) nominated by the Secretary of State and appointed by the President of Nicaragua. Of the Nicaraguan members, one shall be a member of each of the principal political parties. All claims against the Republic, both on the part of Nicaraguans and foreigners, shall be adjudicated by the Claims Commission and awards shall be rendered by two assenting votes of the Commission, provided that one of the assenting votes shall be that of the member nominated by the Secretary of State. When all claims have been adjudicated the Commission shall be dissolved. (Art. 8, Sec. 1–2)

817.51/1912a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *April 19, 1928—4 p. m.*

97. For Minister Eberhardt and General McCoy. We are carefully studying the Cumberland report and financial plan, copies of which were forwarded in last Tuesday's pouch. The plan contemplates a far-reaching and definitely articulated program of economic development and financial stability, and takes into account all basic factors like the unification of the revenue services, the supervision of expenditures, the revision of the budgetary structure, the National Bank and currency stabilization, the establishment and maintenance of a permanent national constabulary, the railway and other public works, public health, public instruction, and a claims commission, the entire program to be worked out through the medium of a loan which will involve the refunding of the public debt, and will provide for the control of the collection and expenditure of revenues, the national budget and the currency system through a Collector of Revenue (an American), an Auditor General (an American), and a High Commission composed of these two officials and the Minister of Finance.

Dr. Cumberland finds that the present financial condition of the Government of Nicaragua is comparatively satisfactory, and the argument for the proposed financial plan rests, therefore, not on immediate necessity, but on the desirability of undertaking at the proper time to bring about in this way permanent economic and financial stability. Although it may be assumed in the light of the communication of May 15, 1927 from Minister of Finance Guzman to Colonel Stimson [70]

[70] *Foreign Relations*, 1927, vol. III, p. 406.

that the Government of Nicaragua would view a plan of this nature with satisfaction, nevertheless, the details would have to be considered by the Government and by the banks. Moreover, action by the Congress of Nicaragua would be necessary. With every effort and disposition to expedite matters, we are apprehensive that in all the circumstances delay is inevitable. We must take note of the serious political difficulties that would attend the proposal and adoption of such a measure at this time. A powerful weapon would be placed in the hands of those who criticize us in the United States and elsewhere, who would undoubtedly charge that the Government of the United States was taking advantage of a so-called military occupation of Nicaragua to impose upon it a permanent economic and financial domination. In the face of Dr. Cumberland's finding that the existing financial conditions are satisfactory and that a loan was not needed for immediate purposes, the charge that would be made, although fundamentally specious and misleading, would not be easy to meet. As an independent problem, detached from all connection with pending operations, permanent economic and financial reconstruction should in principle be postponed until the country has passed through this electoral transition phase. The considerations that militate against such a policy are: (1) The risks indicated in Legation's despatch No. 608, February 7, 1928; (2) the possible difficulty of obtaining agreement in Nicaragua on any kind of financial plan after the election is over and one of the political parties assumes control. We ought to be prepared to take the risk on the second possibility, but we are frankly in doubt on the first, and feel that additional information in that respect is needed for a final decision. We must definitely insist upon an honest, as well as a free election. Without the control over the revenues and expenditures contemplated in Cumberland's financial plan, reliance must be placed upon President Diaz, and any guarantees and assurances which he can give that the public funds, under any circumstances, will not be directly or indirectly used for corrupt purposes. It is especially important that President Diaz should guarantee the allocation of the surplus revenues to the upbuilding and maintenance of the constabulary. We have found no reason to question the courage and sincerity of President Diaz, and we are hopeful that he could and would resist any pressure that might be put upon him to weaken in any way when it comes to the administration of the public funds and revenues during this critical time. In short, we see so many difficulties and delays in establishing an effective control through a financial plan that we are strongly inclined to contend that every expedient should be exhausted in other directions to guarantee the honesty of the election. There may well be no other way to proceed. We should be pleased to have your considered views on the entire situation, and because of the obvious difficulty in adequately

dealing with the subject by correspondence, we suggest that it would be extremely helpful if General McCoy could conveniently come to Washington for a conference at this time. Whether he can come to Washington in the near future will depend upon whether he can safely leave Nicaragua while plans are being formulated for the election. General McCoy will have to decide that. I believe that it would also be well for you and General McCoy to consult with President Diaz and ascertain his views with respect to the project of making a loan and putting the financial plan into force now . . .

KELLOGG

817.51/1913 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

[Paraphrase]

MANAGUA, *April 25, 1928—9 a. m.*
[Received 1:45 p. m.]

187. Department's telegram No. 97, April 19, 4 p. m., arrived badly garbled. We still regard the dangers set forth in despatch No. 608 of February 7 as extremely serious. We also feel that we should emphasize the grave risk that the stability of the whole financial structure of Nicaragua will be impaired if the National Bank and the railroad are left subject to purely political control. It is very possible that so much injury would be done to those institutions and to the currency system before January 1, 1929 that the set-up for a future loan would have to be used for rehabilitating them rather than for constructive purposes. Furthermore, if the January surplus is dissipated in advance, and it is almost certain that it will be, the lack of funds for the maintenance of the *Guardia Nacional* will place it in a most precarious condition.

With respect to the criticism attending a financial operation at the present time, it is our feeling that there will be much more criticism from Nicaraguan sources if a new financial plan is adopted by the new administration. A loan at the present time would be part of the general plan for the rehabilitation of the country, and would be made, if at all, with the approval of both parties, whereas, if a President should accept a new financial plan later on, he would be accused of having accepted it in advance as the price of his election.

In view of the above it is our feeling that it would be far better, as contemplated, to proceed immediately with the Cumberland financial program. We have, however, appreciated the difficulties attending its realization, not the least of which is the doubt whether the Liberal Party would accept a comprehensive financial reform at this time. We have, therefore, been giving the entire matter most

careful consideration. It is our belief that the above-mentioned dangers could at least be diminished by adopting the following:

(1) To approve the purchase by the bankers of a controlling interest in the National Bank which President Diaz is anxious to sell. We understand from Rosenthal [71] that the Department's opposition has prevented the sale thus far. We are fully aware of the objections to this transaction under present conditions, but we have a feeling that the criticism to which we would be subjected would be less justified than the criticism which would follow a collapse of all the benefits obtained from American financial aid during the past 17 years. Foreign control would ensure respect for the financial plan and prevent a dissipation of the currency reserve, thereby keeping from the Government the chief resources which it might use to buy the election. However, unless such a control is definitely and permanently established, it will be difficult to expect President Diaz to refrain from profiting by the Government's control of the National Bank when such abstinence may simply mean leaving the resources of the bank to be dissipated after January by his political enemies. We regard the sale of the bank as of the greatest importance.

(2) To arrange with President Diaz and the management of the bank that no commitments of any kind be made against the January surplus until $500,000 for the maintenance of the *Guardia Nacional* to July has been accumulated. We have arranged to apply almost the entire July surplus to the expense of the *Guardia Nacional.*

(3) To remind President Diaz that United States control of the internal revenues has been insisted upon by the Liberals, and that Colonel Stimson considered it essential to the holding of a fair election, and to say that the Government of the United States is withholding its opinion on this point as long as the deposits of the revenues in the bank are satisfactory, and as long as there is no evidence that improper use is being made of alcohol from the warehouses of the Government. By arranging for some supervision of the warehouses by the *Guardia Nacional*, the use of alcohol for political purposes could be further checked.

(4) To persuade President Diaz to contract for the completion of the projected repairs on the Pacific railroad. The railroad is in bad condition and the cash surplus of over $500,000 is urgently needed for repairs. Unless the surplus is tied up by contract it will be diverted to other purposes. The management of the railroad is being drawn more and more into politics, even now. President Diaz told me that he would like to turn over the entire management of the railroad to the White Management Corporation.

It is our feeling that the course of procedure above outlined would be only partly effective, and that it would require constant vigilance and interference by this Legation. President Diaz cannot be relied upon to cooperate in a wholehearted manner. The President would be bitterly disappointed by the decision of the Department not to sanction a loan, as the adoption of a comprehensive financial reform

[71] Manager of the National Bank of Nicaragua.

during his administration has been his most cherished ambition. President Diaz would not be very enthusiastic over plans for rendering such a loan unnecessary. We do not feel, therefore, that he could be relied upon to cooperate in carrying out such plans except under unremitting pressure from us. The President would be so strongly influenced by pressure from other members of the Conservative Party, by his own desire for a Conservative victory, and by a national [*natural?*] reluctance to turn over any funds or assets to the new administration, that no guaranties which he gave us could be entirely relied upon. In view of this we do not believe that it would be advisable to discuss the entire situation frankly with the President until the Department has given the matter further consideration.

Before Dr. Cumberland left he discussed his conclusions tentatively with President Diaz and with General Moncada, and he has doubtless informed the Department of the result. Until there is something more concrete to present to them, it seems inadvisable to us to try to obtain a more definite statement from either of them.

Funds for the final payment of the million dollar loan were remitted to New York on April 21. In view of this, both the railroad and the bank from now on will be subject to the exclusive control of the Government.

General McCoy concurs in the foregoing. He can return to the United States to discuss the matter, but on account of recent developments he would prefer to remain in Nicaragua for at least a week more.

EBERHARDT

817.51/1913 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *April 28, 1928—6 p. m.*

105. In reference to your 187, April 25, 9 a. m. The election is our primary immediate concern. This must be free, fair and honest. General McCoy cannot be expected to certify to a result which has been purchased by either party. The considerations which were set forth in your despatch No. 608, February 7, and reemphasized in your telegram No. 187 suggest a practical problem of the first importance. It may be granted that a comprehensive financial plan, coupled with a loan, would be the ideal solution. It would constitute at the same time the first logical and necessary step toward the economic and financial rehabilitation of the country, which we are vitally interested in promoting. Nevertheless, we do not find very much encouragement in your report for the suggestion that the election difficulty as a practical matter can be effectively met by the

financial plan formula. In order to carry the guaranties which seem to be an urgent requirement, the plan would have to be agreed to by all interested parties and put in force without delay. This means an immediate and united action by the Government of Nicaragua, the Congress, the Conservative and Liberal Parties, and the bankers. We are apprehensive that even with the finest spirit of cooperation in all quarters, it might take months to work out this solution. We are quite ready to support a sincere effort on this line. Meanwhile, the dangers and risks which you state are already imminent would not be eliminated, and much of the damage would be done before the essential safeguards provided in the financial plan come into play. The situation might be immediately clarified if the Government of Nicaragua and the Conservative and Liberal Parties, without further discussion and leaving the details to be worked out over a period of a very few weeks, should voluntarily commit themselves in principle to a program along the broad lines of Dr. Cumberland's report, and at the same time take measures to establish, as a provisional measure, to be effective immediately, the American controls over the collection and expenditure of the revenues, the National Bank, and the railroad, as contemplated in the Cumberland plan. In the absence of any such arrangement, we should have to revert to temporary expedients and halfway measures, such as those set forth in the numbered paragraphs of your telegram, and which do not appear to be sufficiently far reaching and reliable. The sale of the National Bank and a contract committing the railroad surplus to expenditure for necessary repairs would still leave the treasury surplus available . . .

In short, the problem is to place all the public funds and revenues under American control for the next few months at least, in order that they cannot constitute any temptation so far as the election is concerned. Since there is no financial plan in force calling for such control, and since there is no immediate prospect of getting things in that shape, the end must be accomplished, if at all, either by a provisional arrangement ancillary to the eventual elaboration of a plan, or by direct action to be taken by the President of Nicaragua himself quite regardless of a financial plan. We do not feel that it is at all impossible to solve this difficulty if the President will in good faith courageously use all the power at his disposal. A few men designated by General McCoy and appointed by the President of Nicaragua to key positions in the Finance Ministry, the railroad, the National Bank and the revenue service might be all that is required. Simple action by the President in this sense will place General McCoy in a position practically to know exactly what

is going on and check abuses. We do not see any more objection to this course than to the Executive decree establishing supervision of the election in its more technical aspects. Subject to your discretion and judgment, we should think that the time had come for a very frank and full discussion of the entire situation along those lines with the President.

KELLOGG

817.51/1917 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

[Paraphrase]

MANAGUA, *May 2, 1928—4 p. m.*

[Received 10:59 p. m.]

201. This morning we discussed the contents of the Department's 97, April 19, 4 p. m., and 105, April 28, 6 p. m., with President Diaz.

We explained to the President that it was our understanding that the Department was prepared to support an effort to work out a loan and a new financial plan along the lines recommended by Dr. Cumberland, but that this would take time, and that meanwhile it would be necessary to adopt some measures to carry out the assurances given through Colonel Stimson to the Liberals in 1927 regarding the control of funds during the period of the election. President Diaz readily consented in principle to the immediate adoption of the principal measures of financial control recommended by Dr. Cumberland, provided that the Liberals also agreed to these measures, and provided that it were clearly understood that the establishment of such control was preliminary to the flotation of a loan later on. The President stated that he would like to see the Cumberland report before he committed himself definitely, and we agreed to go into the matter in greater detail when the Cumberland report was received here. I assume that we will be authorized to show the Cumberland report to the President and to the Liberals when it is received.

In the meantime we will work out and submit to the Department some concrete recommendations along the lines set forth in the Department's 105, April 28, 6 p. m.

It is still our feeling that the solution of this entire problem would be greatly facilitated by the immediate sale of a controlling interest in the National Bank, because the freedom of the bank from political control is of the greatest importance. There is no other way permanently to assure its safety and the safety of the currency system.

Colonel Parker [72] concurs in the above.

EBERHARDT

---

[72] Col. Francis Le J. Parker, alternate to General McCoy as chairman of the National Board of Elections.

817.51/1924 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

[Paraphrase]

MANAGUA, *May 16, 1928—7 p. m.*
[Received 11:54 p. m.]

215. Department's telegram No. 105, April 28, 6 p. m., and my No. 201, May 2, 4 p. m. Following are the points in the Cumberland program which should be considered in a preliminary arrangement such as was suggested in the Department's No. 105, April 28, 6 p. m.:

(1) Sale of the National Bank.
(2) Assurance of adequate financial support for the *Guardia Nacional.*
(3) Protection of the railroad from political exploitation and looting.
(4) Appointment of an auditor, and
(5) Unified collection of the revenues.

(1) The matter of the sale of the National Bank has already been fully discussed. We still consider it extremely desirable. While the President might agree as an alternative to continue the present board of directors and management, this would not be sufficient. This is demonstrated by the transaction set forth in my telegram of April 23, 4 p. m.,[73] and by a more recent loan of $7,000 made to . . . with the understanding that it would be repaid from the 5% contribution exacted from the employees of the Government. It will be impossible to keep the National Bank out of politics so long as it belongs to the Government. Since President Diaz desires very much to sell the control of the National Bank, further action in this direction rests entirely with the Department and with the bankers. Some arrangement regarding the use of the proceeds of the sale, however, would be advisable.

(2) Inasmuch as it would presumably be inadvisable to apply the Cumberland recommendations regarding budget reorganization until a new loan made possible the complete revision of the existing financial plan, sufficient funds for the maintenance of the *Guardia Nacional* can only be obtained during the coming year by allocating the surplus revenues. We still believe, therefore, that President Diaz should be requested to promise not to anticipate the January 1929 surplus in any way until $500,000 for the *Guardia Nacional* has been accumulated, and that promises in writing should be obtained from candidates for President to turn the sum over to the *Guardia Nacional* in January. If the bank were under American control, the assurances thus obtained would be sufficient, and the practical result would be that practically no por-

[73] Not printed.

tion of the ordinary revenues would be available for political purposes except the limited amount which could be diverted from the monthly budgetary allowance and the school funds, and that part of the internal revenues which was not deposited in the bank. It is not likely that there will be any large available balance from the next July surplus, after the amounts already promised for the *Guardia Nacional* have been deducted.

(3) Probably it would also be impracticable to apply the Cumberland recommendations respecting the Pacific railroad until a comprehensive financial program is worked out. Meanwhile, if the Liberals would agree, I have no doubt that President Diaz would be willing to make some arrangement for the nonpolitical control of the railroad. A contract for the continued operation of the railroad and the completion of repairs by the J. G. White Company would apparently be sufficient.

(4) and (5) The appointment of an auditor, whose approval would be necessary before any funds could be withdrawn from the National Bank, and the establishment of a unified control over the collection of the revenues, is extremely desirable. . . . President Diaz has indicated that he would accept such an arrangement, provided it were clearly understood that it was preliminary to the flotation of a loan, and provided the Liberals also approved it. We have no information as to the extent to which it would be proper to hold out the hope that a loan can be secured. We ought to have full information on this point before we take up the matter again with President Diaz in order that there may be no possible subsequent question of misrepresentation or unfulfilled promises, as in 1911, and in 1920.

If the above program could be carried out, it is our belief that there would be no serious difficulty with regard to the misuse of Government funds during the election. We do not feel that anything worth while could be accomplished through the appointment of persons designated by General McCoy in key positions in the National Bank and the Treasury Department, as the Department suggested in telegram 105, April 28, 6 p. m., because the financial system of Nicaragua would not lend itself to effective control by this method.

The agreement of both parties on points (4) and (5) may be very difficult to secure. If the appointment of an auditor and the unification of the collection of revenue prove to be impracticable, the action which was suggested under headings (1), (2) and (3) should still, we believe, be taken, because it would fully protect the largest resources that might otherwise be used for electoral purposes. If the National Bank were under nonpolitical management, serious abuses of the internal revenues could probably be discouraged by appropriate representations when the deposits fell off, and by super-

visory control over the alcohol warehouses; and the misappropriation of current budgetary and school funds could not be carried very far without seriously inconveniencing the Government itself.

I am advised that General Moncada sent word to Rosenthal through Aguado that he would approve the sale of a controlling interest in the National Bank if the Legation requested such approval.

EBERHARDT

817.51/1927 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

[Paraphrase]

MANAGUA, *May 22, 1928—2 p. m.*

[Received 7:20 p. m.]

225. My telegram No. 215, May 16, 7 p. m. I have been informed by Rosenthal that the sale of the stock of the National Bank would probably require the ultimate approval of Congress. He has recommended, therefore, that the purchase price be held in escrow pending the approval of Congress. I concur in this recommendation. I suggest that it be agreed that the purchase price be used to defray the expenses of the *Guardia Nacional* after January 1, 1929. Such an arrangement would prevent the misuse of the money during the election campaign, and would also assure funds for the *Guardia Nacional*, which otherwise will be in a precarious condition, for it now seems probable that the surplus becoming available on January 1, 1929 will be a small one. The anticipation of the January surplus for political purposes can be prevented by asking the National Bank to make no advances against it.

I agree with Rosenthal that it would not be advisable to consult Chamorro respecting this matter while the split in the Conservative Party continues, because Chamorro's action will be guided solely by a desire to embarrass the administration.

EBERHARDT

817.51/1928

Memorandum by the Economic Adviser (Young) of a Conference on the Nicaraguan Financial Situation, May 23, 1928

[WASHINGTON,] *May 23, 1928.*

Present: The Secretary of State, Mr. Olds, Mr. White, Mr. Morgan and Mr. Young; General McCoy; Dr. W. W. Cumberland; Mr. Bailie and Mr. Breck of J. & W. Seligman & Co.; Mr. Loree, Mr. Tillinghast and Mr. Shriver of the Guaranty Company.

The bankers, having examined the report and financial plan prepared by Dr. Cumberland, called by appointment for the purpose

of discussing their possible action in relation to the Nicaraguan financial situation. Dr. Cumberland participated in the conference at the instance of the Department.

Secretary Kellogg stated that he is deeply interested in the working out of a suitable plan for dealing with the financial difficulties of Nicaragua, and that, assuming that the plan to be devised would be fair and just to Nicaragua, he would be prepared to have it taken up at the present time. Mr. Bailie and Mr. Loree stated that the question of terms on which a loan might be made would depend to a considerable extent upon whether the Secretary of State would be willing to authorize the inclusion in the prospectus of the loan of certain statements regarding the interest of the United States in Nicaraguan affairs. Secretary Kellogg stated that the United States is deeply interested in Nicaraguan affairs, both because of the possibility that a Nicaraguan canal will be built and because of the concern which this Government has by reason of the recurrent internal disturbances of the country. As to the form of statement to be made, the Secretary of State would be prepared to authorize a statement that he would aid in the execution of the financial plan by assisting in the selection of competent American experts. He stated that he had no authority to approve the terms of a loan. In the course of the discussion it was suggested that the bankers formulate a tentative statement of what they would like to say in the prospectus. They undertook to do so.

In reply to a question by the Secretary of State, the bankers stated that in principle they are in agreement with the main provisions of Dr. Cumberland's financial plan. They had, however, some suggestions as to changes which it was agreed they would discuss with him. They felt that at the present time it would not be advisable for Nicaragua to refund either the outstanding balance of about $3,297,000 of the loan of 1909 or the customs guaranteed bonds outstanding in the sum of about $2,372,000. They believed also that Nicaragua should not borrow such a large sum that money would be held for any considerable time before being needed. They considered it preferable that additional series of loans be floated for the further needs of Nicaragua, as might be deemed advisable. Dr. Cumberland stated that he is personally in agreement on that point, and that his original suggestion of a larger loan had been made because he felt that the bankers might deem it necessary to refund the existing bonds. He believed, however, that the Nicaraguan Government would wish to feel reasonably assured that subsequently funds would be forthcoming in amounts sufficient to carry out the construction of desired public improvements and for the payment of claims.

The possibility of hypothecating 51% of the stock of the National Bank of Nicaragua and maintaining its control in the hands of the

bankers, rather than selling the institution, as recommended by Dr. Cumberland and recently desired by the Nicaraguan Government, was also discussed. The conclusion was reached that the choice between hypothecation and sale was one properly to be made by the Nicaraguan Government.

Similarly it was concluded that the question whether it would be preferable that roads rather than a railroad be constructed was also a matter for determination by the Nicaraguan Government, in the light of the facts and arguments set forth in Dr. Cumberland's report and also in the light of further examination of the subject by experts. As to the existing railroad, the bankers were of the opinion that no large loan would be necessary, and that its requirements might be met out of current receipts to a large extent. They also were of the opinion that a direct loan to the railroad would not be as satisfactory a procedure as for the Government to borrow directly any sums that might be found necessary for the purposes of the railroad.

There was also discussion of the subject of arbitration of disputes. Dr. Cumberland stated that he had not included in his plan specific provision for adjustment of disputes, because he felt that, with the proper personnel, disputes would lend themselves to adjustment without any formal provisions. The bankers stated that they would prefer a statement to the effect that any disputes arising under the plan would be settled by the arbitration of the Secretary of State or of an arbiter appointed by him. This suggestion was agreeable to Dr. Cumberland and to the representatives of the Department.

It was agreed that the bankers would give further consideration to the financial plan and would discuss details with Dr. Cumberland, after which they would again consult with the Department of State.

A. N. Y[OUNG]

817.51/1944a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *June 14, 1928—5 p. m.*

132. The Department has been much disappointed at the attitude of the bankers as shown by their draft of a proposed Financial Plan of 1928 (copy forwarded to the Legation on June 9).[74] This Plan departs rather radically from the Cumberland plan with especial reference to the amount and allocation of the loan, the duties of the Auditor General, the safeguards of the National Bank, et cetera. While little progress was made in the conference yesterday in reconciling the conflicting views of the bankers and the Department, Department is still hopeful that a satisfactory agreement will be arrived at. It will be

[74] Not printed.

helpful to the Department in its negotiations with the bankers to know how the Cumberland plan was received by President Diaz and any other Nicaraguan political leaders to whom he may have shown it. Please cable Department your personal views based on information already in your possession and such comments as you may have heard, but without making direct inquiries from the Nicaraguan leaders and officials, whether the Cumberland plan is acceptable to them or whether they would desire substantial modifications, and whether you think there is reasonable possibility that the Nicaraguan Congress would enact this plan as a law coupled with an enabling act permitting the Government to ask the bankers for bids.

The bankers' plan provides for a total loan of $3,500,000 of which not more than $2,000,000 would be allotted for claims. They are satisfied to take a second lien on the customs duties and allow the 1909 and 1918 bonds to remain outstanding. The Department of course is in accord with this latter provision. In yesterday's conference, however, the bankers stated they wish to leave claims out of the Financial Plan and make no provision for them from the loan. They wish merely to provide for public works, preferably the Atlantic Railroad. In their plan there are no assurances when or to what extent further series may be issued but presumably not in any substantial amounts until after final payments of the 1909 and 1918 bonds. Department would like also to know your personal views as to whether a plan along the lines of the bankers' proposal above described would be likely to be acceptable to the Nicaraguan Government and the high officials of both parties.

KELLOGG

817.51/1947 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

[Paraphrase]

MANAGUA, *June 16, 1928—3 p. m.*

[Received 9:45 p. m.]

257. Department's telegram No. 132, June 14, 5 p. m. It is very difficult to ascertain what the political leaders of Nicaragua really think of the Cumberland plan . . . President Diaz, moreover, has been unable to give it careful consideration because of illness. . . . He has, however, expressed general approval of its principal features.

. . . . . .

It appears certain that neither Chamorro nor President Diaz will support any loan project that does not definitely assure the eventual construction of the Atlantic railroad. President Diaz has repeatedly expressed the opinion that the railroad would be insisted on by Con-

gress. If it could be demonstrated that this line could be constructed, the approval of the remainder of the Cumberland recommendations could probably be obtained.

It is possible that Congress would pass an enabling act embodying the Cumberland financial plan and authorizing the Government to call for bids on a loan; but if the matter were handled in this way, it would be difficult to dissuade Congress from making undesirable or impractical changes. In addition, there would be considerable loss of time.

With respect to the bankers' plan, it seems difficult to us to justify at the present time a loan which made no provision for the payment of claims. Such payment is an immediate financial necessity, whereas the proposed public works are not urgently needed during the present administration, although the attendant financial reforms are. Unless the claims are provided for now, the Government will continue to have a large floating debt, and the next administration will undoubtedly spend large sums making unduly generous settlements with politically favored claimants to the exclusion of foreigners and other Nicaraguans. Again, a provision for the settlement of claims will mean additional political support for the loan. Rosenthal is in accord with our views on this subject.

If it is possible, will the Department please send me at once three additional copies of the Cumberland report[75] to be shown when advisable to Chamorro and other political leaders whose views on the subject it may later be necessary to ascertain.

EBERHARDT

817.51/1958 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

[Paraphrase]

MANAGUA, *July 3, 1928—4 p. m.*

[Received 9:36 p. m.]

269. The draft financial plan transmitted in instruction No. 383, June 16,[76] seems to be very satisfactory, especially with the incorporation of the amendments indicated in the right hand column. This Legation offers the following suggestions:

(1) The fiscal agents should retain some control over the expenses of the customs collectorship of the Auditor General and of the Engineer in Chief. Otherwise, there will be friction between these officials in apportioning the amount allowed them jointly for expenses, and there will be danger of abuses in fixing salaries of

[75] They were sent on June 22 (file No. 817.51/1947).

[76] Not printed.

subordinate officials. The salaries of subordinate customs officials in Nicaragua are considered too high at the present time.

(2) It is unnecessary to make provision for the expenses of the election from the loan because sufficient funds have already been turned over to General McCoy.

(3) Experience has demonstrated that the amount provided for the *Guardia Nacional* by the agreement of December 22, 1927 is entirely inadequate. It will be necessary to conclude either a supplementary agreement or a new agreement when the status of the *Guardia Nacional* is regularized by Congress. It is preferable that subdivision 3 of article 3 read: "The Collector General shall provide sums sufficient to assign the minimum requirements of the National Guard as established by agreement between the Government of Nicaragua and the Government of the United States."

(4) There will be much opposition to the financial plan if it creates the impression that the construction of the Atlantic railroad is doubtful or that it will be delayed by further surveys and studies. Of course such surveys and studies will be necessary, but a better impression would be produced if section 1 of article 8 made it the first duty of the Public Works Commissioner to prepare estimates and plans for the construction of a railway to the Atlantic Coast. This would not prevent the Public Works Commissioner from recommending a road later on, if it should appear advisable. It is believed that with the rapid increase of automobile traffic, insistence upon a railroad as opposed to a road will become less in the near future. Possibly the new administration will be less insistent upon a railroad than the present administration.

(5) It is very important that there be retained in section 2 of article 7 the new provision requiring the countersignature of checks by the Collector General. Unless the new plan contains very definite and effective provisions it will be extremely difficult to stop the spending for one purpose of sums appropriated for another. This is the principal abuse under the present financial plan.

(6) In view of the unfortunate experiences with the Claims Commission, Corinto wharf, etc., it would be advisable to insert a provision prohibiting any official serving under the plan from undertaking functions outside his regular duties and from receiving any compensation beyond his salary without the express permission of the fiscal agents. We have been able to learn the views of President Diaz and General Chamorro respecting the principal features of the Cumberland plan through discreet inquiries by Rosenthal. They approve almost all of those features which reappear in the bankers' plan, but they insist that the construction of an Atlantic railroad is essential, especially for political reasons. They also feel that a real provision must be made for the payment of claims, but

they think that partial payment in cash and the remainder in well-secured bonds would be satisfactory. If the National Bank is taken over by American bankers, they would like to see a mortgage department established. I think they have hoped for a much larger loan than the present plan provides. If one of only $3,500,000 is obtained, I believe they and the investors in general will be much disappointed.

EBERHARDT

817.51/1958 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *July 7, 1928—3 p. m.*

140. Your telegram No. 269, July 3, 4 p. m., paragraph 5. The bankers have signified their willingness to include in section 2, article 7, a provision requiring the countersignature of checks by the Collector General, provided that this official be nominated by the Secretary of State. In the last draft we went back to the old method of the Collector General being nominated by the bankers, approved by the Secretary of State, and appointed by the President. The bankers state that they would not consider including this provision with the Collector General appointed by them, for the bankers point out that the Collector General would doubtless often have checks presented to him in a rush for countersignature and that he might thus inadvertently sign a check which would be used for purposes other than that appropriated for and that as a result the bankers' appointee would be a direct party to the transaction, which would react unfavorably on them. The bankers feel that, with the supervision of the Auditor General and the publicity which would be given to any improper act on the part of the Finance Minister, there is sufficient protection, and that once such a case had been brought to light and published, the humiliation of its publication would deter any future incumbent from taking the same action. The Department would like to have your views by telegraph.

KELLOGG

817.51/1961 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

[Paraphrase]

MANAGUA, *July 9, 1928—4 p. m.*

[Received 8:55 p. m.]

274. Department's telegram No. 140, July 7, 3 p. m. A provision for the countersignature of checks is regarded by us as abso-

lutely essential to any effective control of expenditures. The principal defect of the present financial plan is its failure to prevent the expenditure for one purpose of sums appropriated for another, and this practice is so generally accepted as a part of the system that there is no hope that publicity or remonstrances by the American officials would stop it. The Finance Minister would probably actually maintain that he had the right to continue the practice if the plan went through in its present form, for it should be remembered that expenditure of Government funds by the Executive without legal sanction is considered perfectly proper and natural in Nicaragua. It would be unfortunate if the success of the new financial organization were to be jeopardized at the start by a controversy over this point, and it would be extremely inadvisable to have this Legation attempt to interfere in cases of individual payments by the Finance Minister. So long as the Government is in a position to use public funds for purposes not authorized by the Congress and the budget commission, it is obvious that there can be no effective system of budget control or sound financial administration.

EBERHARDT

817.51/1958 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *July 17, 1928—11 a. m.*

145. Your telegram No. 269, July 3, 4 p. m. The points you raised were taken up with the bankers. They agreed to the control of the apportionment of expense moneys.

As for the costs of the *Guardia Nacional*, to be met out of the third priority, the bankers stated that:[77]

"We of course are entirely agreeable to a revised figure but we feel that a definite figure must be included in the Plan as finally submitted to Nicaragua. You will readily understand that prospective investors will have a right to know exactly what the Republic is committed to in such an important feature of its program. We ourselves should like to be assured that the figure to be finally chosen for the minimum requirements of the National Guard will not be materially higher than the one contemplated in the agreement of December 22. We are hoping that the inaccuracy of which the Legation speaks lies in the direction of excess rather than underestimation. We have set up our proposed budget for Nicaragua on a very careful computation of its workability in actual practice, and we would feel very much disturbed if a priority were included the amount of which was to be determined after the enactment of our Plan. When the figure is being established, it should be borne in mind that appropriations for the National Guard, over and above

[77] Quotation not paraphrased.

the minimum requirements, are contemplated in the ordinary budget (page 23, lines 26 to 32, proof of July 1). Any material increase in the size of the third priority might affect very seriously the soundness of the budget set-up and thereby the protection for our bonds."

If you are able to suggest a definite figure at the present time, the Department will be glad to have you do so. As you suggested, the bankers are covering the matter of the railroad and mortgage department in the National Bank.

Regarding the matter of countersigning checks, the bankers stated:[78]

"As for the countersigning power, we can only repeat what we said before, that the Fiscal Agents as a part of the present program, including the Plan, are unwilling to place this responsibility on a nominee of theirs. We have given this subject much thought, and would like to consider with you a plan which we hope might be a satisfactory compromise of the various viewpoints. Our tentative suggestion which might be incorporated in the Financial Plan would be that the Auditor General, whenever he discovers funds being spent improperly or illegally, should draw up a formal statement of such irregularities and present it to the High Commission and to the parties who nominate, approve and appoint him. The High Commission would then be empowered, in its discretion, if it found such statement has accurately represented the facts, to introduce such form of control over the Republic's disbursements, including a countersigning authority, as in its judgment would effectively prevent the continuance of abuses. The High Commission would be able to alter or suspend such control in accordance with later circumstances."

Will you please cable your view?

The bankers will provide for the matter mentioned in section 6 of your telegram No. 269, July 3, 4 p. m.

KELLOGG

817.51/1968a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *July 23, 1928—4 p. m.*

150. Bankers have submitted Department another draft of Financial Plan. The main objection to it is that it merely provides for a loan of $3,500,000, principal amount to be used mainly for railroad construction and $500,000 for the payment of small claims. The following may also be included: $65,000 to Salvador, $300,000 for purchase of Corinto Wharf if recommended by the Commissioner of Public Works, $7526.04 for redemption of outstanding balance of the emergency issue of bank notes, $7,500 for expenses of special session of legislative body (this will be taken out if Department

[78] Quotation not paraphrased.

desires), and $50,000 for paving of Managua until Commissioner of Public Works can make an examination. Additional series of bonds may be issued from time to time when revenues of the Government are sufficient on a basis of three and one-half times coverage over 3 year period. Bankers state they can not make a definite obligation to take bonds at a later time with conditions which they can not foresee but will put in following stipulation:

"The Republic intends to create and to market from time to time, and in accordance with the conditions of this Article 2, additional series of bonds of the national loan, with the special purpose of completing the construction of the railway to the Atlantic Coast. The Fiscal Agents agree to use their best endeavors to assist the Republic in the accomplishment of its aims through the issuance of such series."

The bankers state that the borrowing capacity of Nicaragua at present, should the guaranteed customs bonds and the sterling bonds be called for redemption would permit them at six and one-half per cent and 90 to sell $11,696,400 of bonds which after deducting $1,405,026 for miscellaneous purposes would leave $10,291,374 for the railroad. They add that should Nicaragua's credit go up and the guaranteed customers [*customs*] bonds and sterling bonds not be redeemed until it is absolutely necessary to do so this amount will be very much increased. There is, of course, no direct commitment for further series but merely the statement quoted above. As regards claims it is provided that in addition to the $500,000 for small claims the proceeds of the sale of 51 per cent of the stock of the national bank if sold to the Fiscal Agents within 6 months of the date upon which the plan becomes effective, shall be applied to the payment of small claims. It is further provided as a priority in the application of the revenues that the Collector General shall set aside 5 per cent of all the revenues and receipts of the Republic collected and administered by him in a special fund to be known as the Republic of Nicaragua Claims Certificates Fund to be administered by the High Commission and to be used for the purchase and retirement of the Republic of Nicaragua Claims Certificates. These claims certificates will be non-interest bearing, non-assignable, non-maturing certificates of indebtedness of the Republic and will be given to all claimants after their claims have been adjudicated, after the payment of the small claims from the two funds above mentioned.

Please cable as promptly as possible the views of yourself, General McCoy and Munro regarding this matter and whether you think that a plan which provides for claims in this manner and which does not involve a definite commitment on the part of the bankers for more than $3,500,000 would be acceptable to all parties in Nicaragua.

416955—43——42

The following will be inserted in the plan regarding the Mortgage Department:

"It is the intention of the Fiscal Agents to work out a plan for the establishment of a Mortgage Department in the national bank, provided that the establishment of such a Department can be satisfactorily arranged, based on the experience of similar institutions in other countries and on the feasibility of establishing such a Department in Nicaragua and on the enactment of special legislation, if and as needed, for such purpose."

KELLOGG

817.51/1971 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *July 26, 1928—3 p. m.*
[Received 10 p. m.]

298. Department's 150, July 23, 4 p. m. While it is impossible to predict with any confidence what the attitude of the Nicaraguan Congress would be, we think that the plan as outlined would probably be acceptable and we feel that it would be very advisable to present plan and to do so as soon as possible. If it is not submitted within the next month it is very possible that developments during the political campaign will prevent consideration of it on its merits.

The provision regarding claims seems satisfactory, except that we should suggest that it be made possible to assign the certificates, but only to banks as security for loans.

[Paraphrase.] Regarding the purposes for which the proceeds of the first issue are to be used, we are of the opinion that the items for the wharf, redemption of bank notes, expenses of the special session, and paving should be included, but that the payment to Salvador should be taken out, with the idea, however, that the payment might be restored later as a concession to the Government if the latter insisted. [End paraphrase.]

EBERHARDT

817.51/1972a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *July 27, 1928—noon.*

154. The bankers are sending the following telegram to Rosenthal:

"As you know for several months we have been spending a great deal of time, effort and some money at the special request of Department of State to try to work out a Financial Plan for Nicaragua. We have had protracted discussions with Cumberland and officials of Department of State at Washington. Throughout our long discussions the Department of State and the bankers both realized the

unusual character of the problem. In spite of the fact that Department of State and the bankers understand that the representatives of both political parties in Nicaragua are desirous of working out a Financial Plan Department of State and the bankers have agreed in view of the impending elections in Nicaragua and also because the market for securities in the United States is now somewhat inactive that it seems wisest to postpone the whole matter for the present. We hope that it may be revived after the Nicaraguan elections. We of course regret exceedingly that it seems impossible to bring this matter to a successful conclusion at present especially because we believe that the Plan as now drafted would be of great assistance to Nicaraguan finances and to the general welfare of the country. It is our hope and belief that the months of intensive effort in examining this problem will serve as a substantial ground work for completion of the entire program at a reasonably early date. We would like to have you advise the proper people fully as to the above."

[Paraphrase.] The Department feels that a financial plan which does not provide definitely for more than $3,500,000, and which ties up all the resources of Nicaragua is not one which it wishes to sponsor in advance. In other words, should the Government want such a financial plan, the Department would, of course, raise no objection, but the Department would not wish to approve such a financial plan in advance and then have the matter presented to the Government of Nicaragua on the basis that the financial plan met with the approval of the Department. The foregoing is for your strictly confidential information only, and is not to be communicated to anyone. [End paraphrase.]

KELLOGG

817.51/1973 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *August 1, 1928—2 p. m.*
[Received 9:20 p. m.]

300. [Paraphrase.] It is the feeling among us all here that a postponement of the loan negotiations would be most unfortunate. Aside from the fact that the prevention of abuses in the collection of internal revenue and in the distribution of *aguardiente*[79] during the election would be much more difficult if it cannot be effected through an amendment to the financial plan, it is our feeling that a postponement of the negotiations until after the election would very probably mean their complete failure. The opposition party, whichever it might be, would probably vociferously oppose any loan simply to embarrass the administration, and this opposition would cause the defeat of the loan if a Liberal Party candidate were elected

[79] Liquor.

President because at least one House of Congress will almost certainly be Conservative. [End paraphrase.]

The present financial plan is unsound and dangerous now that the obligations secured by the surplus have been overcome, because, after making only an inadequate provision for the current expenses of the Government, it leaves very large sums of money each year to be disposed of without restriction by the Executive. We feel that an indefinite continuance of this arrangement effected originally through the Department's good offices, and the continued presence of the American High Commissioner without power to assure proper financial administration will be highly undesirable.

Furthermore, unless a new financial plan is adopted, the situation of the *Guardia Nacional* will be extremely precarious, as it will depend for the greater part of its funds upon a surplus which can easily be dissipated in advance by loans from the National Bank or merely by failure to collect the internal revenues. In a bad year there may be no surplus. If virtually all other expenses of the Government take priority over the *Guardia* budget, the complete collapse of this organization will merely be a question of time.

When I informed President Diaz of the postponement of the loan negotiations he expressed very keen disappointment. He suggested that even if the Department deemed it advisable to wait until after the election the plan be sent down now in order that the leaders of all parties might consider it and commit themselves to it and that a special session of Congress be called immediately after the election to adopt it. He said that a small initial loan would be satisfactory, provided it made possible the beginning of work on the railroad and provided the door was left open for future issues. Chamorro also has sent word to me that he would support any loan which carried with it the Atlantic railroad. General Moncada told me yesterday that he favors a loan for the Atlantic railroad and considers a small initial loan satisfactory. He suggested that action be postponed until the regular session of Congress in December because he feared that Chamorro might prevent approval in a special session. He said, however, that the plan would have the full support of the Liberals in Congress at any time.

After very full discussion and efforts to foresee conditions which will exist here a few months from now we all feel strongly that action on the new financial plan should be taken before the situation is complicated by developments in the political campaign and in order to simplify the conduct of the election. We can see no difficulty so far as the situation here is concerned in defending a small initial loan with a set-up which will give reasonable prospect of subsequent issues. We feel so strongly about this matter, particularly in view of its effect upon the future of the *Guardia*, that we venture to recommend most urgently that the new financial plan be submitted at once for consideration

here, even though the Department is not fully satisfied with all of its details.

EBERHARDT

817.51/1973 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *August 3, 1928—4 p. m.*

158. Your telegram No. 300, August 1, 2 p. m. The bankers are unwilling to proceed with further negotiations because of the impending election and the inactive market for securities in the United States. The Department, therefore, doubts whether anything can be done at the present time. Certainly nothing could be done unless the Department approved in advance and agreed to recommend to the Government of Nicaragua and to all parties a plan of financing which pledges all the revenues, internal and customs duties, the railroad stock and the National Bank stock for a loan in the first instance of only $3,500,000. Any additional advances would depend entirely upon the willingness of the bankers to make them. This would not assure money to build a railroad or to pay claims. Nevertheless, if the Government of Nicaragua desires to have a copy of the existing project in order that the leaders may study it and familiarize themselves with it, the Department certainly would raise no objection if the bankers desired to make a copy available. The Government of Nicaragua doubtless could arrange this through César, the Nicaraguan Minister in Washington, or Rosenthal. If, after studying this plan, the Government of Nicaragua should decide that the plan was satisfactory and wished to submit it to Congress, and if the bankers were prepared to conclude the plan on this basis, the Department would hesitate to object, but would like to have time to consider it after it learns the views of the Government of Nicaragua.

KELLOGG

817.51/1981 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *August 7, 1928—10 a. m.*

[Received 2:20 p. m.]

303. Department's 158, August 3, 4 p. m. Rosenthal left here yesterday and will reach New York about August 20. He is carrying letters from President Diaz to the bankers expressing the President's interest in the loan and in financial reform. He will visit the Department. The President said yesterday that he felt that it would be a mistake to postpone the new financing even though the bond market now might

not be entirely satisfactory and that he was fully prepared to accept the bankers' plan so far as he understood it. He again said that a small initial loan would be satisfactory provided that the construction of the railroad were assured and he concurred in our view that a good financial plan embracing control of all revenues would in itself offer reasonable assurance that the Republic's credit would make future issues possible as needed. He referred, however, to the difficult and embarrassing position in which he was placed by his ignorance of the plan which the Department and the bankers have been discussing and asked if we could not obtain a copy of the plan for his examination.

Could not the Department send me via Tegucigalpa a copy of the latest draft of the financial plan to be shown to the President with the explanation that it is merely intended as a basis for discussion and has not received the Department's approval? He would then have an opportunity to study it by the time that Rosenthal reaches New York. I do not think that he would wish to ask the bankers for a copy of the plan through César. We all feel that an especial opportunity for a constructive program for Nicaragua will be lost if action is postponed until after the election and General McCoy feels that such action would contribute immeasurably toward the success of a fair and free election, particularly in view of the very evident plan of the Conservatives to use money in the elections.

EBERHARDT

817.51/1981 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *August 14, 1928—7 p. m.*

163. Your 303, August 7, 10 a. m. Department has again communicated with bankers who prefer to reserve decision about giving out Financial Plan until Rosenthal arrives.

KELLOGG

817.51/1981 : Telegram

The Acting Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *August 25, 1928—noon.*

169. Your 303, August 7, 10 a. m., and Department's 163, August 14, 7 p. m. The bankers have now definitely decided that they do not wish to submit a copy of the draft Financial Plan to President Diaz at the present time.

WHITE

817.51/1997 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *September 11, 1928—4 p. m.*

[Received 9:15 p. m.]

339. Legation's 312, August 18, 5 p. m. and Department's 167, August 22, 2 p. m.[79a] President Diaz has informed the Legation in writing that he has ordered the Treasury Department to see that $380,000 from the next surplus is set aside for the exclusive use of the National Guard. He further states that it is his definite intention not to obtain advances against the next surplus for any other purpose.

The Minister of Finance has given the National Bank irrevocable instructions to give this payment to the *guardia* preference over all other payments which may be ordered when the surplus becomes available. The Legation will now seek to obtain Moncada's promise to abide by this arrangement if he should be elected, and will take up the matter along similar lines with Benard[80] after his return unless the Department considers it advisable to discuss it with him in Washington.

EBERHARDT

817.51/1995 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *September 11, 1928—5 p. m.*

177. Your telegram No. 336, September 8, 3 p. m.[81] The Department communicated with the bankers and the latter state that they are in receipt of a request from the President of Nicaragua for a railroad dividend of $100,000, and that the President agreed that the money would not be used for political purposes. The bankers say that there is a very large sum available for dividends and that they see no grounds on which a dividend of $100,000 can be withheld, provided that assurances are given that the money will be properly used. . . .

The Department, however, wishes you to tell the President that it has been informed of his request for a dividend, coupled with his assurance that the money will not be used for political purposes, and that it presumes this to mean that the money will not be used for political purposes either before or after November 4. Please ask President Diaz to confirm this understanding.

KELLOGG

[79a] Neither printed.
[80] Adolfo Benard, Conservative candidate for the Presidency of Nicaragua.
[81] Not printed.

817.51/1999 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

[Paraphrase]

MANAGUA, *September 14, 1928—11 a. m.*

[Received 4:50 p. m.]

343. Department's 177, September 11, 2 [*5?*] p. m., last paragraph. President Diaz has readily given the desired assurances.

We still feel that it would be desirable to have the greater part of the proceeds of the dividend withheld until after the election. President Diaz desired this to protect himself from pressure to make it available for political or other irregular purposes. Otherwise it would be difficult for President Diaz to resist such pressure and it would be entirely impossible for the Legation to ascertain how the money was in fact being used.

EBERHARDT

817.51/1997

The Secretary of State to the Minister in Nicaragua (Eberhardt)

No. 425 WASHINGTON, *September 15, 1928.*

SIR: The Department has received your telegram No. 339, of September 11, 4 p. m. and has been much pleased to note that President Diaz has informed the Legation in writing that he has ordered the Treasury Department to see that $380,000 from the next surplus is set aside for the exclusive use of the National Guard; and that President Diaz has further stated that it is his definite purpose not to obtain advances against the next surplus for any other purpose. Please express to President Diaz on behalf of the Secretary of State the latter's gratification at this manifestation of the intention of President Diaz to give to the National Guard all necessary financial support.

The Department approves of the Legation's intention to obtain General Moncada's promise to abide by this arrangement if he should be elected, and would be glad to have the Legation take the matter up along similar lines with Mr. Benard, after his return to Managua.

Mr. Benard has already had interviews with various officials of the Department and has stated that his visit to Washington is purely for the purpose of visiting his daughter and son-in-law, and that his call at the Department was merely a visit of courtesy; not for the purpose of discussing political questions. The Department desires that its relations with Mr. Benard while he is in Washington remain on this footing and therefore prefers not to discuss with him questions of policy contingent upon his election to the Presidency.

I am [etc.]

For the Secretary of State:

FRANCIS WHITE

817.51/1999 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *September 17, 1928—2 p. m.*

181. Your 343, September 14, 11 a. m. The Department has again communicated with the bankers and is informed that the dividend has already been declared and paid over to the Government. The Department desires you to suggest to President Diaz the desirability of paying over the balance of the dividend not immediately needed for the paving contract to the National Guard fund. This would effectually prevent the use of the money for political purposes, and also protect the President from pressure to make it available for such purposes.

KELLOGG

817.51/2011 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *October 31, 1928—1 p. m.*
[Received 5:25 p. m.]

372. Referring to my cable of September 11, 4 p. m., and despatch 801 of September 20th.[82] I have just received a letter from Benard promising to set aside for the *guardia* $380,000 from the next surplus.

EBERHARDT

ASSISTANCE BY THE UNITED STATES MARINES IN THE SUPPRESSION OF BANDIT ACTIVITIES IN NICARAGUA[83]

817.00/5218a : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

[Paraphrase]

WASHINGTON, *January 3, 1928—6 p. m.*

2. Active steps to round up Sandino's band are being taken by the Marine Corps. For this purpose the Marine Corps is immediately ordering another regiment under General Feland to Nicaragua. When the campaign is undertaken it is possible that Sandino and many of his followers will seek refuge in Honduran territory. Please request the Government of Honduras to take active measures to prevent Sandino's forces from crossing into Honduras or to intern effectively any of his followers who cross the Nicaraguan-Honduran frontier. Should the Government of Honduras be unable to under-

---

[82] Latter not printed.
[83] Continued from *Foreign Relations*, 1927, vol. III, pp. 439–453.

take this it would be very helpful if you could have the Government of Honduras request the Government of the United States to prevent the bandits from entering Honduras, using the territory of Honduras as a base for operations if necessary.

KELLOGG

817.00/5222 : Telegram

The Minister in Honduras (Summerlin) to the Secretary of State

TEGUCIGALPA, *January 5, 1928—5 p. m.*
[Received 9:54 p. m.]

12. Department's No. 2, January 3, 6 p. m. This afternoon President Paz stated to me that within 3 days a sufficiently large Honduranean force will have arrived at the border with a view to preventing any of Sandino's forces from entering Honduras and that specific orders have been given to arrest and intern either at Yuscaran or Choluteca any of them who do cross the border.

He added that should these measures prove ineffective he would make the request contained in the final sentence of the Department's telegram under acknowledgment. Repeated to Nicaragua.

SUMMERLIN

817.00/5243 : Telegram

The Chargé in Nicaragua (Munro) to the Secretary of State

MANAGUA, *January 11, 1928—3 p. m.*
[Received 9:07 p. m.]

19. Department's 236, December 28, 4 p. m.[84] Because of the increased seriousness of the situation and in view of the very great embarrassment which is being caused by the lack of legal authority to hold bandit prisoners, I venture to urge that the Department give further consideration immediately to the question of declaring a state of war in Nueva Segovia. The Nicaraguan Government is now very desirous of taking such action and would do so if I merely said that I saw no objection. The authorities are placed in a most embarrassing position when suspects or prisoners of war bring habeas corpus proceedings and the marines and *guardia* are being hampered in the actual conduct of operations against the bandits. I feel that they should receive every possible assistance in the delicate and dangerous situation which confronts them.

MUNRO

[84] Not printed.

817.00/5243 : Telegram

The Secretary of State to the Chargé in Nicaragua (Munro)

[Paraphrase]

WASHINGTON, *January 13, 1928—11 a. m.*

13. Your telegram No. 19, January 11, 3 p. m., raises serious questions.

(1) From the international point of view, a formal declaration of a state of war by the Nicaraguan Congress would probably have the effect of converting Sandino's status from that of mere bandit to that of leader of an organized rebellion, with possibilities of a recognition of his belligerency by any nation which might deem it desirable to act in that sense.

(2) But even if it be assumed that what is intended is a mere declaration of martial law as set forth in your telegram No. 382, December 22, 4 p. m.,[85] coupled with a suspension of constitutional guarantees under paragraph 21 of article 85 of the Constitution of Nicaragua,[86] we should still regard this measure as entailing grave embarrassments and responsibilities. Under existing circumstances, martial law, if established in the troubled area, would be administered practically by and under the direction of American officers. We do not desire to have Americans engaged in holding courts martial on Nicaraguans, even captured bandits.

In view of all the circumstances we believe emphatically that the present state of affairs, as far as this question is concerned, for the present will have to be maintained in spite of its inconveniences and difficulties. If the situation changes materially, we shall be willing to review the matter.

KELLOGG

817.00/5451

The Chargé in Nicaragua (Munro) to the Secretary of State

No. 601 MANAGUA, *January 27, 1928.*

[Received March 7.]

SIR: With reference to my telegram No. 39 of January 21, 3 P. M.,[85] I have the honor to inform the Department that Admiral Sellers, during his recent visit to Managua, asked my opinion regarding the advisability of making a final effort to persuade Sandino and his followers to lay down their arms before the extensive military operations which are now contemplated should be carried into effect. I considered the idea an excellent one, not so much because there appeared

[85] Not printed.

[86] See *Foreign Relations*, 1912, pp. 997, 1003.

to be any probability that Sandino would accept any proposal for his surrender as because the moral position of the United States Government in the matter would be stronger if it could be shown that every effort for a peaceful settlement had been made before measures were undertaken which seemed likely to result in the extermination of a part at least of Sandino's forces. I understand that General Lejeune and General Feland were of the same opinion.

There is transmitted herewith a copy of the letter which was sent in English, with a Spanish translation, to Sandino. The letter was composed by Admiral Sellers and a Spanish translation was prepared under his direction.

In order to reach Sandino a Nicaraguan named Lobo from Jinotega, who had been imprisoned here for some weeks on suspicion of connection with the Sandino movement was released upon his promise to see that the letter reached its destination. Two additional copies were dropped from airplanes upon outlaw bands near Chipote. No reply has thus far been received.

I may say that several efforts to impress upon Sandino the desirability of surrendering have been made by the marine command during the past few months and they have in each case met with a defiant and usually a very insulting answer. Despite the probability that the present attempt will be received in the same manner, I believe that there will be a decided advantage in having on record a letter to Sandino couched in conciliatory terms showing clearly that the United States Government did not take final action against him until it had exhausted every means of a peaceful settlement.

I have [etc.] DANA G. MUNRO

[Enclosure]

The Commander of the U. S. Special Service Squadron (Sellers) to General Sandino [88]

SIR: As you are aware, the United States government, in accordance with the so-called "Stimson Agreement," signed in May last,[89] has undertaken to protect the lives and property of both American and foreign citizens and to preserve order in Nicaragua pending the regular presidential election to be held in November next.

During the past few months the task assigned to the United States forces stationed in Nicaragua has been much hampered in the Province of Nueva Segovia by the hostile activities of a certain portion of the population under your leadership.

This refusal of yourself and your colleagues to accept, or abide by, the provisions of the Stimson Agreement, taken in conjunction with

[88] File copy is undated. Sandino in his reply, February 3, 1928 (*post*, p. 569), refers to this letter as of January 20th.

[89] i. e., the agreement between Colonel Stimson and General Moncada, confirmed by Colonel Stimson's note to General Moncada, dated at Tipitapa, May 11, 1927, *Foreign Relations*, 1927, vol. III, p. 345.

the unlawful operations of your men, has resulted in causing a considerable amount of blood to be shed unnecessarily and has created a situation in the province that is intolerable.

Fully realising the solemn obligation to preserve order in Nicaragua that the United States assumed in disarming the population, the forces under my command have recently been very largely augmented with men and munitions and it is our intention to utilize fully all of the vast resources that our government has placed at our disposal.

It is needless for me to assure you that our sole object in view is to restore order in Nueva Segovia and bring about such conditions as will enable all peaceful, law-abiding citizens of Nicaragua to live with their families and property in that measure of security that they have a right to expect.

It is equally superfluous for me to point out that the energetic and intensive campaign that our forces are shortly to inaugurate can have but one final result.

The unnecessary sacrifice of human lives is a very serious matter and it has occurred to me that, while heretofore you have refused, in the light of subsequent events you might now be willing to consider the advisability of discontinuing the present armed resistance to the United States forces and that you might be willing to follow the example of your countrymen of both political parties who in May last agreed to settle their differences in a high-minded and patriotic manner without further bloodshed.

Carrying out the policy of my government to restore order as expeditiously as possible, I do not feel justified at this time in halting any of the preparations that are now going forward energetically, unless you see fit to notify me immediately and in writing that you are willing to discuss ways and means for an acceptance by you and your colleagues of the Stimson Agreement.

I shall be glad to receive any communication that you may care to send me, addressed in care of the United States Legation, Managua.

Very truly yours,

D. F. SELLERS
Rear Admiral, U. S. Navy

817.00/5382 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *February 8, 1928—4 p. m.*
[Received 9:11 p. m.]

72. From McCoy.[90] Except as indicated below, conditions throughout Nicaragua are generally peaceful and orderly. This condition is, however, due solely to the presence, under impartial American officers,

[90] Gen. Frank R. McCoy, American member of the National Electoral Commission designated by the President of the United States. See pp. 418 ff.

of the Marine Corps and *guardia* forces which give assurance to those who are peacefully disposed and which hold partisan violence in check. Pending the elimination of certain lawless bands that still infest parts of the disturbed area, clashes are to be expected from time to time between those lawless elements and the troops engaged in protecting life and property. Since bombing on January 14 and occupation of Sandino stronghold at Chipote his forces have disappeared from that locality. On February 4 our aeroplanes under Major Rowell definitely located the presence in San Rafael del Norte in northwest part of the Department of Jinotega of an organized force of about 150 armed men. Marines who entered San Rafael on February 5 transmitted unconfirmed reports from native sources to the effect that Sandino had been with the force at San Rafael. A despatch from Summerlin dated February 5 transmitted information received from the President of Honduras to the effect that Sandino with about 200 men had on February 2 crossed into Honduras from Jalapa heading northward toward wild region about Catacamas. Report indicated this last force as dwindling. Other Honduranean and Salvadorean elements from Sandino's forces have also been reported as crossing the Honduranean frontier at various places. A despatch from (Cruse)[91] dated February 7 states that reliable information is to effect that Sandino was at Dipilto on February 2nd and that increasing evidence tends to confirm his later crossing into Honduras east of Jalapa.

Reliably informed American who left Matagalpa at daylight February 6th states that reports to which the American attaches full credence had reached Matagalpa on the evening of February 6th to the effect that bandit forces under Sandino had that day occupied two German properties about 10 miles east of Jinotega and were advancing on coffee plantation Lafundadora situated about 14 miles north of Matagalpa, owned by Charles Potter, a British subject. On afternoon February 7 Potter telegraphed an American here indicating Potter's property had been occupied and that occupation by a detachment from Sandino's forces with total alleged strength of several hundred men is also reported in a despatch dated February 7th received by Legation today from American consular agent at Matagalpa.

Having in view above conflicting reports, probability is believed to favor conclusion that Sandino with force of several hundred men is now in coffee area near Matagalpa owned largely by Americans and other foreigners. Reinforcements are now moving toward threatened area both from here and from northern area and part of these should reinforce regular Matagalpa garrison this evening.

EBERHARDT

[91] Maj. Fred T. Cruse, military attaché.

817.00/5387 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *February 9, 1928—4 p. m.*
[Received February 10—1:34 a. m.]

74. From McCoy. Colonel Parker, who returned from Ocotal February 6, reports as follows on conditions in Nueva Segovia:

Outside of localities under immediate control of troops incidents of lawless violence are not uncommon and local civil authorities, where such exist, appear unable or unwilling to punish guilty parties who are usually members of roving bands operating intermittently. In many cases political considerations have affected the persons and properties subjected to these aggressions; both Liberals and Conservatives have suffered though not always at the hands of the same bands. The crimes committed frequently involve robbery as one feature but their significance is as [an?] expression of the bitter Government and personal animosities that exist. Many of these enmities are of long standing and have their real origin in class and family struggle for local supremacy and in hatreds engendered during the recent civil war in Nueva Segovia. Both Liberals and Conservatives are inclined to violence or oppressive measures [toward] political adversaries when opportunity offers and law and order exist only where enforced by marines and *Guardia Nacional.* As the military operations now being directed to breaking up the larger and more organized lawless bands succeed in accomplishing that purpose more troops will become available for establishing and supporting civil authority in the municipalities, and conditions throughout Nueva Segovia should become more settled. Of 17 municipalities of Nueva Segovia, civil authorities are now functioning in only 7, which are under Marine Corps protection. Reestablishment of civil authority in the remaining municipalities is planned as rapidly as necessary local protection can be given by troops. From the standpoint of renewal of productive activities in the disturbed area, the most important factors are coffee, cattle, mining and food crops. The two principal mines involved are American properties owned in the [*sic*] California and Pennsylvania. The general area Jicaro, Jalapa, Murra and the coffee region in the vicinity of Populi Paneca are specially important from an economic viewpoint. Rains in the mountainous country east of Ocotal permit planting and maturing of foodstuffs during the dry season extending from December to May, inclusive. Indications are for some shortage of food in the disturbed area during the present year but that it will not extend to serious lack of necessary subsistence. While former political exiles of both parties are now in Nueva Segovia, their circulation is confined closely to localities garrisoned by marines. Few of larger property holders have resumed residence

on their rural property and renewal of agricultural, cattle raising, and mining district activities is correspondingly delayed; confidence in marines and *guardia* on part of responsible elements both parties is general and outspoken. The opinion is freely expressed by members of both parties that the continued presence of these forces until the civil authorities can be first established following a free election is the only hope of avoiding a complete break-down of public order.

EBERHARDT

817.00/5421 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *February 23, 1928—[3 p. m.]*
[Received 7:59 p. m.]

90. The following telegram is being sent to Tegucigalpa:

February 23, 3 p. m. Honduranean General Sequeira, associate of Sandino, reported to be in Honduras on mission for Sandino and is expected to return to Nicaragua soon. Our latest information indicates Sandino was on River Coco February 20, headed for Tibuca Mountains in Nueva Segovia, awaiting Sequeira's return. Please consider advisability of requesting arrest of Sequeira before his final departure and keep us advised of his movements and plans. We have learned that Sandino's forces are short of ammunition. Request redoubled efforts to prevent further supply being sent to him across the border.

EBERHARDT

817.00/5432 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *February 28, 1928—noon.*
[Received 6:30 p. m.]

98. In order to discourage the dissemination of unfounded and harmful stories like that mentioned in the Department's 41, February 20, 5 p. m.,[93] I asked the President to have the authorities at Esteli investigate the reports of murders committed in that department. The *jefe politico* has now replied that he has no information regarding any murders of Conservatives in the department. The report of the murders of two women is entirely false and that regarding Senator Mejia's brother is unconfirmed.

During the past 6 months there have been frequent reports of murders and atrocities by both sides. Nearly all of these have proved to be unfounded when investigated by the marines. From now on increasing numbers of such reports will probably be furnished to the

[93] Not printed.

Department and the American press by the Conservatives in their attempt to show that a free election cannot be held under present conditions. The secretary of the national directorate of the Conservative Party has recently been giving the Legation long list[s] of Conservatives who have been murdered in Liberal districts. There is reason to believe the greater part of the persons included in the lists were killed during the revolution or just after the Stimson agreement and before the restoration of order.

As a matter of fact the Conservatives are now receiving efficient protection through the *guardia* in Leon and Chinandega and they cannot reasonably complain of lack of protection in the other departments, where they control both the police and the courts. They frequently use police and courts for partisan purposes, as for example in Nueva Segovia, where one of the judges who has since been removed at the Legation's request issued orders for the imprisonment of 348 Liberals in order to disfranchise them. Sandino and his followers have terrorized and plundered Conservatives and Liberals alike in certain limited and not very populous areas and his activities in my opinion have not injured one party more than another.

EBERHARDT

817.00/5433 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *February 28, 1928—2 p. m.*
[Received 6:05 p. m.]

99. For advance and confidential information: Air patrol returning to Managua this noon reports an attack last night upon pack train returning from Yalito Condega in which marines suffered some casualties. Details will be furnished as soon as they can be ascertained.

EBERHARDT

817.00/5449 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *March 6, 1928—1 p. m.*
[Received 5:08 p. m.]

113. Frequent reports have reached here about subscriptions which have been taken up for Sandino in New York, Mexico City, Guatemala, Santiago, Chile, Buenos Aires, and other places. General Feland requests that an effort be made to ascertain where these funds are being sent and that every effort be made to intercept any arms and ammunition which may be purchased with the funds.

EBERHARDT

817.00/5449 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

[Paraphrase]

WASHINGTON, *March 7, 1928.*

64. Your telegram No. 113, March 6, 1 p. m. Although reports have been received from various sources that funds are being raised for the purchase of medical supplies for Sandino the Department has not been informed of any attempt to purchase arms or ammunition with such funds. The Department believes that the amounts thus far raised are relatively small. The activities in connection with these alleged funds are being investigated when warranted. The Department will endeavor to prevent the shipment of arms and ammunition destined to the forces of Sandino.

KELLOGG

817.00/5489

The Minister in Guatemala (Geissler) to the Secretary of State

No. 1835 GUATEMALA, *March 8, 1928.*

[Received March 22.]

SIR: With reference to despatch 1805, of February 17, 1928,[94] in which I reported concerning a *Note Verbale* which I had handed to Minister for Foreign Affairs Toledo Herrarte, bringing to his attention the fact that, for the alleged benefit of the "Red Cross of the Sandino Army", money is being solicited in Guatemala for the aid of persons engaged in hostilities against the Government of Nicaragua, I now have the honor to transmit, with translations, copies of a *Note Verbale* of the Foreign Office, dated March 2,[94] and of its enclosures, and a copy of a Memorandum of a personal conversation, which I handed Acting Minister for Foreign Affairs Aguilar on March 5,[94] and in which I pointed out, in effect, that the activities of pro-Sandino collection committees in Guatemala are apparently in conflict with Article 3 [*XIV?*] of the Central American Treaty of Peace and Amity,[95] and I beg leave to report, that Mr. Aguilar has told me, orally, that the Government will see to it that none of the funds referred to leave the country, and that they are returned to the donors.

I have [etc.] ARTHUR H. GEISSLER

---

[94] Not printed.

[95] See *Conference on Central American Affairs*, pp. 287, 293.

817.00/5590

The Secretary of the Navy (Wilbur) to the Secretary of State

P9-2/EF49(280227) WASHINGTON, *March 16, 1928.*

SIR: I have the honor to forward herewith copy of a letter from Commander Special Service Squadron of February 27, 1928, on affairs in Nicaragua.[96] Your attention is particularly invited to the enclosure with this letter which purports to be a reply written by Sandino to the letter of the Squadron Commander mentioned in previous correspondence.[97]

Respectfully,

CURTIS D. WILBUR

[Enclosure—Translation]

General Sandino to the Commander of the U. S. Special Service Squadron (Sellers)

SAN RAFAEL, *February 3, 1928.*

Mr. D. F. SELLERS,
Representative of Imperialism in Nicaragua,
Managua:

I had formulated a reply, in which I answered concretely, point for point, your letter of January 20th, but special circumstances prevent me from delivering it directly.

I refer to the final point of your letter. Don't believe that the present struggle has for an origin or base, the revolution just passed. Today this is a struggle of the Nicaraguan people in general, to expel the foreign invasion of my country. Regarding the Stimson-Moncada treaties, we have reiterated a thousand times our ignorance of them.

The only way to put an end to this struggle is the immediate withdrawal of the invading forces from our territory, at the same time replacing the present President by one who is a Nicaraguan citizen and who is not running as a candidate for the Presidency, and supervising the coming elections by representatives of Latin America instead of by American Marines.

Country and Liberty,
A. C. SANDINO

---

[96] Not printed; its enclosure is printed *infra*.

[97] See undated letter from the Commander of the U. S. Special Service Squadron to General Sandino, p. 562.

817.00/5481 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *March 19, 1928—3 p. m.*
[Received 7 p. m.]

135. Planes returning today report having been fired on north of Murra by a band of outlaws of considerable size. They returned the fire in a manner believed to have caused a number of losses among the outlaws. Details will follow.

EBERHARDT

817.00/5571 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 635 MANAGUA, *March 28, 1928.*
[Received April 18.]

SIR: With reference to the Department's confidential instruction No. 327 of March 5, 1928,[98] in the enclosure to which it is stated that funds are being forwarded monthly . . . to Sandino's representative in New York City, I have the honor to inquire whether it would not be possible to prosecute those persons in New York and elsewhere who are openly encouraging and furnishing material support to the revolutionary activities now being conducted by Sandino in Nicaragua. It is well known in Nicaragua that not only Salomon de la Selva and Doctor Timoteo Baca, but also Toribio Tijerino, Socrates Sandino and others are materially assisting the rebels. It seems extraordinary that such activities, which are directed not only against the Nicaraguan Government but against American forces here, should be permitted to be publicly conducted without apparent efforts on the part of the United States Government to check them.

I have [etc.] CHARLES C. EBERHARDT

817.00/5568

The Ambassador in Mexico (Morrow) to the Secretary of State

No. 501 MEXICO, *April 11, 1928.*
[Received April 17.]

SIR: I have the honor to acknowledge receipt of the Department's strictly confidential instruction No. 232 of April 3, 1928,[98] transmitting for my information copy of a report to the War Department with regard to the alleged forwarding of officers and men from Mexico to assist Sandino in Nicaragua.

[98] Not printed.

As indicated in the Department's instruction under reference, a copy of the report received by the War Department had already reached the Military Attaché of this Embassy. Colonel MacNab informs me that he places no reliance in the report in question; nor has he any information that would confirm the statement made therein that officers and men were sent or are being sent from Mexico to assist Sandino or the statement that Mexico is continuing to send forward fighting men in small detachments for that purpose.

While, as previously reported, the Mexican Government has not concealed its belief that the policy of the United States in Nicaragua is a mistaken one, I am persuaded that its disagreement with us in that respect finds no expression in secret aid to Sandino and others in Nicaragua who are now engaged in hostilities against the United States forces in that country. . . .

The Department is aware, of course, of the existence in Mexico, as elsewhere, including the United States, of a so-called *Comité pro-Sandino*, which collects funds openly in public places and by private solicitation, ostensibly for the purpose of sending medical supplies to Sandino's forces. This organization is understood to be an entirely private one and to have no connection whatever with the Mexican Government . . . The organization seems to enjoy the particular favor of the *Ucsaya*, which is also active in this country but which, likewise, has no connection with the Mexican Government. The newspapers here occasionally report the dispatch of funds collected by the *Comité pro-Sandino* to Sandino and the forwarding of medical supplies, but it is believed that the funds collected are quite inadequate to recruit officers and men, supply and equip them, and forward them to Nicaragua.

I have [etc.] DWIGHT W. MORROW

---

817 00/5573 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *April 20, 1928—11 a. m.*

[Received 4 p. m.]

182. The marines have just informed me of the results of operations conducted 2 weeks ago in eastern Nueva Segovia. As there were indications that the outlaws were preparing a new base in this [region?] several columns were sent into it from different directions and a number of storehouses were found. Besides a moderate quantity of arms and much powder and ammunition, food estimated to be sufficient for the support of 300 men for 6 months was destroyed. This included about 45 tons of corn. Few bandits were encountered as the majority had gone to their homes for Holy Week. The destruc-

tion of stores will obviously make it much more difficult for the bandits to conduct organized operations during the rainy season.

Officers returning from the district where these operations took place state that it is generally believed by the people there that Sandino has left Nicaragua, probably on his way to Mexico. It would be most important to verify his presence in Mexico if possible.

EBERHARDT

817.00/5578a : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *April 21, 1928—2 p. m.*

98. La Luz Mining Company, Delaware Corporation, advises Department that it has just received cable via Bragman's Bluff through Standard Fruit and Steamship Company that Sandino on April 12 raided its mine in the Prinzapolka district, looting all gold bullion, currency, merchandise and animals, and taking all employees of the Company prisoners including the Assistant Superintendent, Mr. George B. Marshall.

Please cable as soon as possible all information available.

KELLOGG

817.00/5579 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *April 23, 1928—5 p. m.*

99. Department's 98, April 21, 2 p. m. La Luz Company reports receipt of further advices from Bluefields stating that four Americans and Harry J. Amphlett, British subject, Superintendent of the mine, have been captured by bandits who raided the mine. They request that all possible steps be taken for their recovery and safety. Please investigate and request Marine Commandant to do everything possible for their safety. Report by cable.

KELLOGG

817.00/5583 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *April 24, 1928—5 p. m.*

[Received 7:35 p. m.]

186. It has thus far been impossible to get definite information by messenger. Seems to be little doubt that a force of two or three hundred bandits raided La Luz Mine about April 12th and the same or another force was at Bonanza Mine April 14th. Those who wished to leave the latter mine had time to do so but nothing definite has been learned about the fate of foreigners at La Luz.

142 men left Corinto for east coast this morning, to be joined by 52 more at Balboa. The commanding officer of the marines on the east coast has instructions to do everything possible to patrol the routes into the mining area and to make plans for sending troops into this area.

EBERHARDT

817.00/5586 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *April 25, 1928—4 p. m.*
[Received 8:35 p. m.]

189. My [*The?*] marine commander, Puerto Cabezas, reports that all information indicates two bands of 150 men each are entrenching and operating mines in neighborhood of Neptune Mine which is in Pis Pis area. Sandino does not seem to be with these groups although several of his chief lieutenants are there. Another band is reported to be coming down Wanks and Wasspuc Rivers but this has not been confirmed. It is extremely difficult to obtain any reliable information.

Manager of La Luz Mine arriving at Puerto Cabezas has confirmed report of capture of Marshall and two other prisoners. Bandits had written orders from Sandino to make raid. They asserted their intention of going on to Puerto Cabezas. Much looting at the mine.

EBERHARDT

817.00/5606 : Telegram

The Consul at Bluefields (Fletcher) to the Secretary of State

BLUEFIELDS, *May 2, 1928—11 a. m.*
[Received 1:40 p. m.]

La Luz and Bonanza Mines again invaded by Sandinistas; La Luz totally destroyed, Bonanza partially. Rumors indicate Marshall still in hands of invaders but unharmed up to the 23rd of April. Apparently all other Americans safe.

FLETCHER

810.43 Anti-Imperialist League/65

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 668

MANAGUA, *May 7, 1928.*
[Received May 25.]

SIR: I have the honor to transmit herewith two pamphlets[1] which appear to be circulating in the United States calling for contributions

[1] Entitled *Enlist With Sandino* and *Defeat the War Against Nicaragua;* not printed.

to finance the Sandino movement in Nicaragua. I should like particularly to call the Department's attention to one of the paragraphs on the last page of the smaller pamphlet, in which the All-America Anti-Imperialist League advocates mutiny among the marines sent to Nicaragua and states that theiir only proper course is to desert to Sandino. I should like to inquire whether it would not be possible to take legal action of some sort against those responsible for propaganda of this nature.

I have [etc.] CHARLES C. EBERHARDT

817.00/5646 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *May 13, 1928—6 p. m.*

[Received 10:45 p. m.]

209. General Feland states that all available information points to the conclusion that the greater part of the Sandinista forces amounting to approximately 275 men are in the region between the Pis Pis mining district, Bocay, Coco River and Wasspuc River. The marines are closing in on them and preventing their escape to the south, east, or northeast. If this conclusion is confirmed the only escape for this force is into Honduras or up the Coco. The latter route would be very difficult and troops from Segovia are disposed so as to intercept them.

It seems certain that the main object of the Pis Pis raid was to procure ammunition and that this object was not attained. All of the outlaws are still very short of ammunition and very few recruits were obtained by them in the mining region.

General Feland also believes that his troops are properly disposed to prevent the entrance of the outlaws into any other populated part of the country should the above conclusions as to their whereabouts prove incorrect.

EBERHARDT

817.00/5747

The Consul at Bluefields (Fletcher) to the Minister in Nicaragua (Eberhardt)[2]

BLUEFIELDS, *May 26, 1928.*

SIR: I have the honor to transmit a copy of a letter received by the Manager of the La Luz y Los Angeles Mines and its English translation.

In this consulate's letter to the Legation dated May 17, 1928, paragraph 4, rumors indicated that Sandino had not sanctioned the wan-

[2] Copy received in the Department June 5, 1928.

ton destruction of American property, but the attached letter dated April 29th, 1928, if authentic,[3] indicates the present policy of Sandino to be one of unrestrained destruction.

Rumor reached this port on the 22nd of May that Marshall had been murdered. I have been unable to secure any authentic information regarding this report, but the American military authorities stationed in this city doubt the truth of the rumor.

With reference to the rumor that 50 raiders were operating near Rama on the Escondido river you are advised that the patrol sent out to investigate the report have returned to this city. They failed to make any contacts.

I have [etc.] SAMUEL J. FLETCHER

[Enclosure—Translation [4]]

General Sandino to the Manager of the La Luz and Los Angeles Mines

LA LUZ, *April 29, 1928.*

MY DEAR SIR: I have the honor to inform you that on this date your mine has been reduced to ashes by order of this command and to make more tangible our protest against the warlike invasion your Government [5] has made of our territory with no other right than that of brute force.

Until the Government of the United States orders the retirement of the pirates from our territory there will be no guarantee in this country for North American residents therein.

In the beginning I confided in the thought that the American people would not make themselves creditors of the abuses committed in Nicaragua by the Government of Calvin Coolidge, but I have been convinced that North Americans in general uphold the attitude of Coolidge in my country; and it is for that reason that everything North American which falls into our hands is sure to meet its end.

The losses which you have had in the mine mentioned you may collect from the Government of the United States—Calvin Coolidge, who is the only one truly responsible for the horrible and disastrous situation through which Nicaragua is now passing.

If you are a just man, you will understand that what has been mentioned above is an effective reality.

The pretext that Mr. Calvin Coolidge gives for his intervention in Nicaragua is to protect the lives and interests of North Americans and other foreign residents in the country, which is a tremendous hypocrisy. We Nicaraguans are respectable men and never in our history

[3] In a communication to the Navy Department dated June 2, 1928, Admiral Sellers reported that Sandino was at the mine in person on April 23, and left the letter (file No. 817.00/5766).

[4] File translation revised.

[5] For the actual nationality of the mine superintendent, see Department's telegram No. 99, Apr. 23, 5 p. m., p. 572.

have there ever been registered events like those now taking place which is the fruit harvested from the stupid policy of your Government in our country.

The most honorable decision that your Government ought to make in the present conflict with Nicaragua is to retire its forces from our territory, thus permitting us Nicaraguans to elect our national Government, which will be the only means of pacifying our country.

Upon your Government depends the preservation of good or bad friendship with our national Government; and you, the capitalists, will be appreciated and respected by us as long as you treat us as equals and not in the erroneous manner of today, believing yourselves lords and masters of our lives and property.

I am your affectionate servant,

Fatherland and Liberty,
A. C. SANDINO

817.00/5704 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

[Paraphrase]

MANAGUA, *May 29, 1928—5 p. m.*
[Received 9:12 p. m.]

237. I have been informed by President Diaz that he is considering asking the Honduran Government to comply with its obligations under the Central American treaties by taking action against . . . who is openly giving aid to Sandino. Such action would probably greatly embarrass Sandino and have a good psychological effect in Nicaragua, but we hesitate to encourage President Diaz to proceed without knowing whether such action, taken by him and on his own responsibility, would embarrass the Department elsewhere.

Repeated to the Legation in Honduras.

EBERHARDT

817.00/5711 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *May 31, 1928—4 p. m.*
[Received 7:59 p. m.]

242. General Feland has furnished me the following summary of the military situation on May 31.

"A concentration of guerrilla forces with about 200 rifles appears to have formed in the wild country north of Pena Blanca; most of these probably returned from the Pis Pis area. This force is in rugged and heavily wooded terrain, making reconnaissance difficult.

[Paraphrase.] Preparations have been completed and operations against them will proceed at the proper time. Operations to clear out any remaining outlaws in the country surrounding Pis Pis are now proceeding. [End paraphrase.]

A small band of outlaws remains in the southwest corner of Nueva Segovia very near the frontier of Honduras. It is believed that this band frequently crosses the border to escape continuous pressure of marine patrols."

EBERHARDT

817.00/5713 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *May 31, 1928—5 p. m.*

[Received 9:55 p. m.]

243. My May 29, 2 p. m.[6] The group which attacked the police and the revenue guards at Masaya later attacked the police station at Niquinohomo, obtaining four more rifles. They then fled southward. They are being closely followed by marines and *guardia*, who have already recovered 10 rifles and killed 2 men.

The facts about this raid are still obscure and all political factions are disclaiming responsibility. Several Conservative military leaders and professional gunmen are more or less implicated and the *guardia* are now holding Luis Zelaya and Joaquin Espana, both Conservative generals. On the other hand, three Liberals who were arrested yesterday at Granada are alleged by the Conservative authorities to have stated that they were on their way to join an expected Liberal uprising. President Diaz informs me that he regards the movement as an evidence simply of disaffection and Sandinista sentiment among the lower classes.

[Paraphrase.] We suspect very much that the raid was instigated by one or both of the factions for some political purpose. [End paraphrase.] It is notable that no resistance was made either by the police or by the revenue guard and that some members of both forces seem to have joined the assailants. General Feland regards the incident as unimportant from a military point of view and feels that its prompt suppression will have an excellent effect.

There are persistent rumors that a similar movement will occur in the near future at Leon. Several days ago there was an assault on the *guardia* post at Posoltega and there is a strong suspicion that the assailants were members of the revenue guard.

EBERHARDT

---

[6] Not printed.

817.00/5704 : Telegram

The Secretary of State to the Minister in Nicaragua (Eberhardt)

WASHINGTON, *June 1, 1928—3 p. m.*

125. Your 237, May 29, 5 p. m. Action contemplated by Nicaraguan Government would not embarrass this Government, and would appear proper under Central American treaties. The Department does not desire however to appear as pressing for such action. Repeated to Tegucigalpa.[7]

KELLOGG

810.43 Anti-Imperialistic League/65

The Secretary of State to the Minister in Nicaragua (Eberhardt)[8]

No. 381 WASHINGTON, *June 12, 1928.*

SIR: The Department has received your despatch No. 668 of May 7, 1928, transmitting copies of circulars issued by the All-America Anti-Imperialist League. You inquire whether it may be possible to take legal action against those responsible for propaganda of this nature.

For your information in the above matter, there is enclosed a copy of a decision refusing the issuance of an injunction against an order of the Post Office Department barring from the mails matter bearing the so-called Sandino stamps issued by the All-America Anti-Imperialist League, said decision having been rendered by the United States District Court for the Southern District of New York, in the case of Manuel Gomez, individually and as Secretary and Acting Treasurer of the All-America Anti-Imperialist League, Plaintiff, versus the Postmaster of the City of New York and the Postmaster General of the United States of America.[9]

For your confidential information the Department informs you that the United States Attorney will now consider whether the acts of the persons connected with the All-America Anti-Imperialist League constitute a violation of any criminal statute. It is, therefore, desired that you inform the Department of any information in your possession which may indicate that the funds collected by the All-America Anti-Imperialist League in the United States are being used for the purchase of munitions for the Sandino forces in Nicaragua.

I am [etc.]

For the Secretary of State:
FRANCIS WHITE

---

[7] Sent to Honduras as telegram No. 42.

[8] The same instruction was sent on the same date to the Ministers in Guatemala (No. 1091), Honduras (No. 263), and Salvador (No. 134).

[9] See *Gomez* v. *Kiely, Postmaster of City of New York, et al.*, 27 F. (2d) 889.

817.00/5780

The Chargé in Costa Rica (De Lambert) to the Secretary of State

No. 1237 SAN JOSÉ, *June 14, 1928.*
[Received June 26.]

SIR: Referring to despatch No. 1225 of May 31, 1928,[10] with regard to the presence of former followers of Sandino in Costa Rica, I have the honor to report that on June 13, 1928 there appeared in *La Tribuna* of this city an interview purporting to have been given to a representative of that paper by the "Nicaraguan General Alberto Larios, one of the chiefs of the recent uprisings".

In this interview Larios was quoted as saying that he had been leading more than 180 of Sandino's forces for some time and that on May 28th last he and his men were defeated at Masaya by 660 marines and 20 national guards, that his forces were so badly routed and scattered that it was impossible to get them together again so he and forty-five of his followers had fled into Costa Rica, many of his men being seriously wounded and he himself having at the present time three wounds in his right arm. The report states that Larios came to San José, leaving his men in Liberia, the capital of the province of Guanacaste, in the northwestern corner of Costa Rica. Liberia is approximately forty-five miles from the Nicaraguan border.

But the following statement also was attributed to Larios: "I shall do everything possible to rejoin Sandino as soon as possible in order to continue fighting in defense of our beloved Nicaragua. My companions also will return and again put themselves at the disposal of the chiefs who are fighting for the liberty and sovereignty of Nicaragua. The forty-five who accompanied me have remained in Guanacaste, among them four of my staff, and only await the opportunity to rejoin the army."

How much of this may be bravado and how much truth I am not in a position to state, but I felt that if Sandino's men are fleeing to safety in Costa Rica with the intention of remaining here only long enough to recondition themselves and perhaps to secure some of the elements of war, and then to return to rejoin Sandino, it is time for the Costa Rican Government to take such action as may be necessary to prevent its territory from being used as a temporary sanctuary or as a base of hostilities.

Therefore I have discussed the matter with the Secretary of State for Foreign Affairs and he has assured me that his Government will lose no time in having an investigation made and also in having such steps taken as the case may require. He also promised to advise me as soon as he has any information in the matter.

[10] Not printed.

The Department will, of course, be kept advised of any developments.

I have [etc.] R. M. DE LAMBERT

810.43 Anti-Imperialistic League/71

The Minister in Guatemala (Geissler) to the Secretary of State

No. 1997 GUATEMALA, *June 25, 1928.*

[Received July 6.]

SIR: With reference to the Department's Confidential Instruction No. 1091 of June 12, 1928,[11] I have the honor to state, that the Legation is not in possession of any information indicating for what the funds collected by the All-America Anti-Imperialist League in the United States are being used, except the reputed purpose of the organization to foment trouble for the United States.

I have [etc.] ARTHUR H. GEISSLER

810.43 Anti-Imperialistic League/73

The Minister in Salvador (Caffery) to the Secretary of State

No. 1217 SAN SALVADOR, *June 25, 1928.*

[Received July 12.]

SIR: I have the honor to acknowledge receipt of the Department's instruction No. 134 of June 12, 1928,[11] transmitting for my information a copy of a decision refusing the issuance of an injunction against an order of the Post Office Department barring from the mails matter bearing the so-called Sandino stamps issued by the All-American Anti-Imperialist League. The Department informed me that the United States Attorney would consider whether the acts of the persons connected with the All-American Anti-Imperialist League constitute a violation of any criminal statute. It was therefore desired that I inform the Department of any information in my possession which might indicate that the funds collected by the All-American Anti-Imperialist League in the United States were being used for the purchase of munitions for the Sandino forces in Nicaragua.

In this connection, I have the honor respectfully to refer to my despatch No. 1090 of April 25, 1928,[12] in which I stated that I had sent a telegram to the Legation at Tegucigalpa reading as follows:

"I hear that Sandino adherents in this country are endeavoring to transmit money for Sandino to . . . at Tegucigalpa and that they will probably endeavor soon to send an emissary bearing funds from them to him."

---

[11] See footnote 8, p. 578.

[12] Not printed.

I have been frequently told by the Salvadorean authorities that they have reason to believe that all communication between Sandino and his adherents in this country passes through the hands of . . . at Tegucigalpa; that, if any funds are sent from Salvador they are sent to . . . I have not been able to secure evidence that funds have actually been sent to him, although at one time or another I have heard rumors that funds were about to be sent to him. On the other hand, I have heard that small amounts collected ostensibly for Sandino were eventually divided up among the collectors.

I have [etc.] JEFFERSON CAFFERY

810.43 Anti-Imperialistic League/72

The Minister in Honduras (Summerlin) to the Secretary of State

No. 647 TEGUCIGALPA, *July 2, 1928.*
[Received July 11.]

SIR: I have the honor to refer to the Department's confidential instruction No. 263 of June 12, 1928,[13] (file No. 810.43 Anti-Imperialist League/65), directing me to report any information I may have which would indicate that the funds collected by the All-America Anti-Imperialist League in the United States are being used for the purchase of munitions for the Sandino forces in Nicaragua.

According to reliable information it does not appear that arms and ammunition purchased from any source are reaching Sandino through Honduras, except possibly in entirely negligible quantities. It is not the same, however, in regard to money. There is no doubt that . . ., who is Sandino's openly avowed agent in Tegucigalpa, is sending money in considerable amounts to Sandino, although it would be difficult to prove in a court of law. The money is said to come to . . ., by messengers, directly from Mexico City. According to information received by the Legation, all money collected for Sandino goes to . . . or . . ., both addresses in Mexico City. It is more than probable that the larger portion of these funds is collected in the United States and forwarded via Mexico, to . . . and possibly other agents of Sandino in Central America. There appears to be little doubt too, although there is no tangible proof, that . . . is in touch with, if he is not actually an agent of, the All-America Anti-Imperialist League in the United States. The enclosed propaganda sheet issued by the League,[14] came from . . . office and I understand that it is planned to have a translation into Spanish made and to distribute the sheet in that language in Tegucigalpa.

I cannot understand why the Government of Nicaragua has not long ago demanded, under the Treaties of 1923, that this Government

---

[13] See footnote 8, p. 578.
[14] Not printed.

curb the activities of . . . In view of widespread native sympathy for Sandino and the weakness of Dr. Paz's Government it is not within reason to expect him to take such action unless an appropriate demand is made upon him. . . . whole activity indicates that he feels he can act with impunity and it may be that he has received advices from Nicaragua that no serious attempt will be made to interfere with him, for it appears that Sandino enjoys considerable popular sympathy even in Nicaragua.

I have [etc.] GEORGE T. SUMMERLIN

817.00/5815 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *July 11, 1928—4 p. m.*
[Received 8:35 p. m.]

278. A short time ago the Nicaraguan Government offered amnesty to all former bandits in Nueva Segovia who might wish to resume their lawful occupations. One hundred eighty-nine men have taken advantage of this offer in the past few days and have registered with the marine commander before returning to their homes. Many of them had been living in Honduras or in hiding on the Nicaraguan side of the frontier. Their return should do much to promote the reestablishment of normal conditions in the north, where conditions have greatly improved in the past few days.

EBERHARDT

817.00/5704 : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, *July 14, 1928—3 p. m.*

63. Department's 42 June 1, 3 p. m.,[16] and your despatch 647 of July 2, 1928, third paragraph. Department informed by Legation at Managua that Nicaraguan Government instructed its Minister in Tegucigalpa on June 21, 1928, to deliver note to Honduran Government requesting that Government to curtail activities of . . .

In view of the initiative taken by Nicaraguan Government you may bring informally to the attention of the Honduran Government the profound and friendly interest which the United States has in Central American peace and stability. The Honduran Government is of course fully aware of its obligations under the Treaties of 1923 and of its responsibility for the subversive acts of persons within its territory against the recognized governments of other Central American countries. This Government therefore concurs fully in the

[16] See footnote 7, p. 578.

request made by the Nicaraguan Government that the Honduran Government take steps to curb the activities of those persons in its territory now aiding subversive movements in Nicaragua or engaging in such activities in the future. Such action by the Honduran Government would necessarily be welcomed as evidence of its sincere desire to comply with its obligations under the Central American Treaties.

KELLOGG

817.00/5844a : Telegram

The Secretary of State to the Minister in Honduras (Summerlin)

WASHINGTON, *July 21, 1928—noon.*

66. Legation Managua telegraphs [17] reliable information indicates that what is apparently main body Sandino's force is just north of Patuca River in disputed boundary area in very favorable position for aerial attack. General Feland, General McCoy and Eberhardt consider matter so important that they are sending Munro to Tegucigalpa by aeroplane today to discuss matter with you. Please take matter up immediately upon Munro's arrival with President Paz and endeavor to obtain an immediate consent to this action and cable authority to Managua.

KELLOGG

817.00/5846 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *July 21, 1928—3 p. m.*

[Received 8:30 p. m.]

292. General Feland has just reported the following to this Legation:

"July 21st, 1928. Today 2 planes of this command while on reconnaissance duty in northeastern part of Nueva Segovia discovered a band of armed outlaws on the north bank of the Patuca River about 10 miles up that stream from its mouth. Our planes were fired upon by the outlaws' machine guns and rifles. The planes dropped some handbills, were uninjured, and did not return the fire."

Repeated to Tegucigalpa.

EBERHARDT

817.00/5860 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *July 25, 1928—7 p. m.*

[Received 10:50 p. m.]

295. General Feland reports that five aeroplanes returned today from region described in Legation's 292, July 21, 3 p. m., reporting

[17] Telegram No. 289. July 20, 2 p. m.; not printed.

that they were again subjected to machine gun and rifle fire, three aeroplanes being hit by rifle fire but not seriously damaged. They returned the fire, but results not yet reported and difficult to ascertain due to dense forest. This occurred at a lumber camp owned by a German citizen which the outlaws had seized and were occupying.

EBERHARDT

810.43 Anti-Imperialistic League/79

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 760 MANAGUA, *July 31, 1928.*

[Received August 18.]

SIR: With reference to my despatch No. 744 of July 18,[18] in which I reported that it was impossible to obtain any evidence indicating that funds collected by anti-imperialist organizations in the United States are being used for the purchase of munitions and war supplies for the outlaws in Nicaragua, I have the honor to report that information obtained from the Military Attaché at Tegucigalpa indicates that the funds collected by friends of Sandino in the United States and other countries are not sent directly to his forces . . . Military supplies purchased with these funds, therefore, would not necessarily be shipped from the United States.

Although very large sums must have been collected during the campaign which has been carried on in several foreign countries, including the United States, only a few thousand dollars appear to have reached Sandino. This has been sent to him through . . . in Tegucigalpa, who appears to be Sandino's sole means of communication with the outside world. Several messengers from . . . to Sandino have been killed and robbed during recent months because of the supposition that they might be carrying money.

From the character and past record of those who are most prominent in the campaign in foreign countries on behalf of Sandino it may safely be assumed that the greater part of the funds collected are used for the immediate benefit of those who collect them. An investigation would probably show that agitation against the policy of the United States in Nicaragua has been a very profitable occupation for such persons as . . . Sandino, on the other hand, has not appeared to be well-supplied with money or with other military necessities, and it is not thought probable that any great quantity of supplies could reach him under present conditions.

I have [etc.] CHARLES C. EBERHARDT

---

[18] Not printed; it was a reply to the Department's instruction No. 381, June 12.

817.00/5894 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *August 9, 1928—8 a. m.*
[Received 10:33 a. m.]

305. On August 7th Captain Edson, proceeding up Coco River with 46 marines, attacked what believed to be the main body of outlaws about 20 miles below Wamblan, inflicting known losses on the enemy of 10 killed, 3 wounded. One marine named Meyer Stengel was killed and 3 wounded, the latter being now cared for at Puerto Cabezas. Outlaws believed to be the retreating survivors of the forces which engaged the American planes on July 25th.

EBERHARDT

817.00/5966

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 775 MANAGUA, *August 24, 1928.*
[Received September 7.]

SIR: I have the honor to transmit herewith a copy and translation of a decree issued by the Nicaraguan Government on August 9th [19] granting full and unconditional amnesty to all bandits who may surrender voluntarily to the authorities before September 15th of this year. This decree has been given extensive publicity throughout the Republic and many copies and leaflets relating to it have been dropped from airplanes in the northern sections of the country.

During the past few weeks, taking advantage of this proclamation and of earlier promises of amnesty, more than 1200 persons have registered with the authorities in Nueva Segovia as former bandits. A few of these appear to have been active members of Sandino's forces. Many of the others were members of an extensive organization created by the Liberal leader, José Leon Diaz, to resist aggression on the part of the authorities and the Conservative bandits some of whom were apparently operating with the connivance of the authorities. Diaz himself with his immediate followers apparently operated at times in connection with Sandino, but it is doubtful whether he ever fully admitted Sandino's authority. Very few of those who registered have surrendered any weapons. I do not believe that any large number of them were ever actively engaged in acts of real banditry, but the fact that they have renounced their connection with outlaw organizations indicates the great improvement which has taken place in Nueva

[19] Not printed.

Segovia. The Conservative bandits Hernandez and Torres are now in the penitentiary at Managua, whereas José Leon Diaz is hiding in the North and has been inactive for several months.

The Legation has recently received from the Chief of the *Guardia Nacional* an interesting report regarding the operations of a mobile patrol of *Guardia* which visited several points in the former bandit country around San Juan de Telpaneca during July. The patrol leader reported that the inhabitants of this region were still somewhat demoralized and terrorized and that it would be difficult to persuade them to till their fields and thus restore normal economic conditions until their confidence in the re-establishment of order was more complete. The people seemed well-disposed and friendly, however, and the *Guardia* Commander was able to organize several large groups of vigilantes who promised to cooperate with the *Guardia* and the Marines by furnishing information regarding bandit activities by acting as guides and scouts and by disseminating propaganda.

I have [etc.] CHARLES C. EBERHARDT

817.00/5977 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *September 13, 1928—noon.*

[Received 4:20 p. m.]

341. The following telegram was sent to the Legation, San Jose:

"September 13, 10 a. m. A letter has been intercepted here which states that . . . has been recruiting men for a revolt in Nicaragua about September 15th. The party will go apparently by way of the Zapote River to Rivas. The letter indicates that there is a conspiracy to start movements at other places in Nicaragua at the same time, presumably in order to prevent the registration of voters. . . . is probably participating. The letter is from . . . at Limon.

Will you kindly inform me at once of any information which you may have or can obtain about this and also of the steps which the Costa Rican Government is taking or will take to stop these activities against Nicaragua.

General Feland considers this information important. . . . was one of the leaders of the Masaya uprising last May and is understood to have been openly conducting Sandinista propaganda in Costa Rica since then. Many reports have been received lately indicating that some form of attack from that side was to be expected.

President Diaz has requested the Legation to ask the Department to request the Costa Rican Government on his behalf to take immediate measures to prevent the organization of movements of this kind in Costa Rica and to arrest or deport those involved."

EBERHARDT

817.00/5978 : Telegram

The Chargé in Costa Rica (De Lambert) to the Secretary of State

SAN JOSÉ [*September 13, 1928—5 p. m.*]
[Received 9:18 p. m.]

60. The following telegram was sent to the Legation, Managua:

"September 13, 5 p. m. Your September 13, 10 a. m.[20] No information now available, but the Costa Rican Government is taking immediate steps to investigate and Foreign Minister indicates desire to assist in every way possible to prevent such activities. Will inform you as soon as I have any information. Repeated to the Department."

DE LAMBERT

817.00/5978 : Telegram

The Secretary of State to the Chargé in Costa Rica (De Lambert)

WASHINGTON, *September 14, 1928—4 p. m.*

30. Your 60, September 13, 5 p. m. Please watch developments carefully and keep the Department and the Legation at Managua fully informed.

KELLOGG

817.00/5984 : Telegram

The Chargé in Costa Rica (De Lambert) to the Secretary of State

SAN JOSÉ, *September 18, 1928—4 p. m.*
[Received 11 p. m.]

61. Department's telegram September 14, 4 p. m. President Gonzales Viquez has informed me that he has learned that . . . has gone to some unknown destination with "lots of money which he took from . . . " and . . . is reported to be leaving Tilaran, near Canas, in the greatest poverty, for Nicaragua today via Guanacaste. This information evidently came through a woman connected with . . . party.

The Costa Rican Government believes that they are moving about merely as individuals, as it has been able to find no evidence of any organization with intent of armed invasion of Nicaragua, although . . . has been traveling around to various communities in Guanacaste in company with several persons of both sexes giving shows.

The President promises to keep me informed and expresses desire to cooperate in prohibiting any armed or organized expedition from Costa Rican soil but also expresses desire not to interfere with movements of individuals crossing the border on legitimate affairs.

Repeated to Legation at Managua.

DE LAMBERT

---

[20] See telegram No. 341, Sept. 13, noon, from the Minister in Nicaragua, *supra*.

817.00/6013

The Minister in Nicaragua (Eberhardt) to the Secretary of State

No. 800 MANAGUA, *September 20, 1928.*

[Received October 4.]

SIR: I have the honor to report that the operations conducted by the Marines against Sandino and other outlaws in northern Nicaragua have now reached a point where it appears extremely improbable that the outlaws can seriously interfere with either the registration of voters or with the election itself. For several months these outlaws have been confined to the wildest and most sparsely settled sections of Nicaragua and to the equally wild adjacent portions of Honduras, and the Marine patrols have made their movements in these districts more and more difficult. Although they have avoided contact even with small groups of our forces, airplanes and ground patrols have been able to inflict serious damage on them in the few encounters which have recently occurred.

Information received from various sources, including reports from persons who have actually visited the camps of the principal leaders, indicates that the combined strength of the various outlaw groups does not exceed two hundred men, and that these are poorly armed and equipped. For the most part, the bands are now composed of professional bandits and other border ruffians, of the type which has always infested the frontier districts. A recent and apparently reliable report indicates that Sandino's main force now consists of approximately eighty men.

The situation has changed radically since a year ago, when Sandino was able to terrorize practically the entire area of the Departments of Nueva Segovia, Estelí, and Jinotega, and when a very large part of the population in those and many other districts, not only sympathized with but actively aided the outlaws. Popular sentiment in the Northern provinces is now friendly, rather than hostile, to the Marines, who are finding it far easier than formerly to obtain information and assistance from the inhabitants. More than sixteen hundred persons who were formerly associated with Sandino or one of the other bandit leaders have recently availed themselves of the President's amnesty proclamation and registered with the authorities as a pledge of future good conduct. The growing conviction that the election would be really free and fair has led many others, who had formerly sympathized with the outlaw movement, to align themselves with the Liberal Nationalist party in order to take part in the presidential campaign. So far as Nicaraguan internal politics are concerned, in fact, the Sandinista movement has lost practically all of its significance.

It must not however be assumed that there is no further possibility that Sandino or other disaffected elements may cause grave embarrassment during the electoral period. Although life and property are probably more secure, and general conditions more peaceful, both in the northern departments and throughout the Republic, than ever before in the history of Nicaragua, it is entirely impossible with any forces which could possibly be made available to prevent the movement of small armed bands in the mountainous country of the North, and it is very probable that such bands will continue to commit depredations and acts of terrorism from time to time. There will even be danger that some of the more remote polling places may be attacked, although every effort has been made to assure their safety. No operations which Sandino could conceivably conduct with his present forces would have any appreciable effect upon the outcome of the election, but the mistreatment of a few voters or a raid on two or three villages might later enable the defeated party to assert that the election had not been held under conditions which enabled it to poll its full vote.

There is in fact some probability that one or the other of the two political parties, if it believes itself likely to lose, will deliberately attempt to create disturbances in the northern departments or in the interior, in an attempt to prevent the holding of the election or to provide an excuse for maintaining that it was invalid. At the present time, when both parties are apparently confident of victory, there is no immediate reason to fear such activities, but one or the other may become discouraged after the results of the registration of voters become known, as each party keeps a careful check on the number of its partisans registering. Even with continued confidence in both parties, furthermore, there will be danger that Conservative or Liberal leaders will foment disturbances in districts where they see a possibility of keeping their opponents from the polls by intimidation. It is hoped that the presence of a large force of Marines and the policing of every town and village in the country by them or by the *Guardia Nacional* will render such manoeuvers fruitless if they do not altogether prevent them.

I have [etc.] CHARLES C. EBERHARDT

817.00/5999 : Telegram

The Chargé in Costa Rica (De Lambert) to the Secretary of State

SAN JOSÉ, *September 25, 1928—4 p. m.*

[Received 10 p. m.]

64. Department's telegram September 14, 4 p. m. Indications are that . . . has not returned to Nicaragua. Foreign Office today informed me that he last Saturday arrived at Las Juntas in southern Guanacaste with small theatrical troop and is under surveillance.

Repeated to Managua.

DE LAMBERT

817.00/6019 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *October 8, 1928—4 p. m.*
[Received 8:08 p. m.]

359. On September 26, the Liberal political member and the Liberal secretary to the local electoral board in the Canton of Santa Cruz, Department of Jinotega, together with several [others?] were attacked and murdered at a farm near that place. On October 1st Juan Carlos Mendieta and two other Liberals were murdered at San Marcos, 11 miles west of Jinotega, while campaigning for Moncada. While the first of these murders may have been the result of an old private feud the second was clearly a premeditated and purely political crime. The authorities, including the Liberal *jefe político*, have reported that it was committed by a band under Pedro Altamirano, a notorious outlaw of this region, and one of Sandino's principal leaders. It now appears fairly well established that this was the case although the leading Liberals in Managua, all of which are intensely excited, still profess to believe that both sets of murders were either committed by Conservatives or by Sandinistas instigated by the Conservatives. The tone of the Liberal press has been so extreme that we have urged Moncada to use his influence to prevent the publication of articles which might incite the Liberals to reprisals.

At the suggestion of the Legation the President has issued a decree calling upon the public to assist in the capture of the criminals and authorizing the chief of the *guardia* to organize volunteer non-partisan forces of vigilantes under American officers for this purpose. In the discussion of this matter we have encountered a curious reluctance on the part of some of the President's advisers to commit the administration to a public reprobation of the murders.

While difficulties of communication have thus far made it impossible to obtain satisfactory information it is possible that both sets of murders were part of an effort to carry out Sandino's public threat to create such conditions that the election would be impossible. There is much uneasiness in Jinotega and totally unfounded rumors of battles and impending bandit attacks are constantly being received. Fortunately this situation apparently arose too late to prevent a fairly satisfactory registration of voters in the department. Every effort will be made to establish completely peaceful conditions throughout the region before election day.

Outside of this one region conditions throughout the registration period which ended yesterday have been completely satisfactory and the total registration will apparently be large.

EBERHARDT

817.00/6029 : Telegram

The Minister in Nicaragua (Eberhardt) to the Secretary of State

MANAGUA, *October 11, 1928—noon.*
[Received 3:53 p. m.]

362. The following telegram was sent to the Legation, San Jose:

Information has reached us from two separate sources that . . . is preparing to invade Nicaragua from Costa Rica about the end of this month. One report states that he has a force of about 80 men at Paris Mina and that he is preparing to attack San Carlos presumably by way of the San Juan River. The other, coming from El Cairo farm between Siquierres and La Estrella, indicates that he has been enlisting laborers on farms in that vicinity but that he plans to invade Nicaragua by way of the west coast. The United Fruit Company could perhaps furnish information regarding his whereabouts. Any information which you can obtain or any steps which can be taken to check . . . activities would be very helpful.

EBERHARDT

817.00/6032 : Telegram

The Chargé in Costa Rica (De Lambert) to the Secretary of State

SAN JOSÉ [*undated*].
[Received October 12, 1928—3:40 p. m.]

68. The following telegram was sent Managua:

October 12, 11 a. m. Your telegram October 11, noon.[21] President Gonzales Viquez states that he will try to secure further information about . . . and that he will have orders sent to Paris Mina and Colorado to be especially watchful and to report any activities, but at the same time he minimizes possibility of any real trouble arising here.

The United Fruit Company also is investigating.

Repeated to the Department.

DE LAMBERT

817.00/6037 : Telegram

The Minister in Costa Rica (Davis) to the Secretary of State

SAN JOSÉ [*undated*].
[Received October 17, 1928—7:40 p. m.]

70. The following telegram was sent Managua October 17, noon:

The following telegram from the Assistant Inspector of Hacienda at Colorado Bar relative to the activities of . . . was given to me today by the President:

"I arrived at Boca Sarapiqui where I learned that the person commissioned to receive . . . and companions was . . . , also a Nicaraguan, who had been there and departed for Boca de San Carlos. I also learned there that he had entered this place and decided to follow him. In effect he is here and it appears that tomorrow

[21] See telegram No. 362, Oct. 11, noon, from the Minister in Nicaragua, *supra*.

he will depart for Nicaragua according to what he says. I have given this information to the Sub-Inspector here and I expect to leave tomorrow, returning to the Barra, at the same time watching . . . Of . . . and his agent I only know that they are in effect expected, but I do not know where they are nor where they will enter, although the presence of . . . here makes it appear that it will be through here."

After a conversation with the President he stated that he would immediately instruct Costa Rican authorities to watch . . . and his friends and detain them should they attempt an invasion of Nicaragua. He also stated that he would disarm individuals leaving Costa Rica for Nicaragua and that he would keep me advised of the movements of . . . and his friends.

Second section follows.[22] Repeated to the Department.

DAVIS

BOUNDARY DISPUTE WITH COLOMBIA

(See volume I, pages 701 ff.)

[22] Not printed.

NORWAY

TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND NORWAY, SIGNED JUNE 5, 1928, ADDITIONAL ARTICLE SIGNED FEBRUARY 25, 1929, AND EXCHANGE OF NOTES CONCERNING TARIFF TREATMENT OF NORWEGIAN SARDINES

711.5721/42

The Norwegian Chargé (Steen) to the Secretary of State

WASHINGTON, *July 31, 1925.*

SIR: In a note of June 2nd[1] last Your Excellency has been good enough to inform the present Legation that the Government of the United States is prepared to submit to the Legation a draft of a treaty of friendship, commerce and consular rights for the consideration of the Norwegian Government, but before submitting the draft Your Excellency wishes to know whether my Government will find it agreeable to conduct negotiations at this capital.

The Legation has not failed to transmit copy of Your Excellency's note to the Norwegian Government and has now been informed that the Government of Norway will be glad to see the negotiations conducted in Washington.

I shall therefore be pleased to receive the draft of a treaty embodying the views of the American Government at any time convenient to Your Excellency.

Accept [etc.] DANIEL STEEN

711.5721/42

The Secretary of State to the Norwegian Chargé (Steen)

WASHINGTON, *August 13, 1925.*

SIR: I beg to acknowledge the receipt of your note of July 31, 1925, informing me that your Government will be glad to negotiate at Washington the Treaty of Friendship, Commerce and Consular Rights, which this Government desires to propose. I take pleasure in submitting to you for the consideration of your Government the draft of such a treaty.[2]

---

[1] Not printed.

[2] Draft treaty not printed. For text of treaty as signed, see p. 646.

416955—42—VOL. III——38

The document embodies a consular convention as well as a treaty of friendship and commerce. An attempt has been made to express the several articles in terms which definitely set forth the principles involved. By this means it is sought to avoid as far as possible danger of conflicting interpretations.

Article VII makes full provision for the enjoyment of the most favored nation treatment in its unconditional form, as applied to persons, vessels and cargoes, and to articles the growth, produce or manufacture of the United States and Norway. It will be seen that the most favored nation clause is applied to duties on imports and exports and to other charges, restrictions and prohibitions on goods imported and exported. In Article XXX it is provided that the Treaty shall from the date of the exchange of ratifications supplant the Treaty of Commerce and Navigation concluded by the United States and the King of Sweden and Norway on July 4, 1827.[3]

Your Government will of course understand that this Government reserves the right to make minor changes in the proposals in the event that in the course of the negotiations, occasion should arise for so doing.

While the negotiations will be conducted at this capital, the American Legation at Oslo will be kept fully informed in regard to the progress of the negotiations and will be prepared to engage in conversations directly with the Norwegian Foreign Office.

Accept [etc.] FRANK B. KELLOGG

711.572/53

The Minister in Norway (Swenson) to the Secretary of State

No. 909 OSLO, *December 1, 1926.*
[Received December 21.]

SIR: Adverting to the Department's instruction No. 289 of July 28, 1926 (File No. 711.572/50) and to this Legation's despatch No. 846, dated August 13, 1926,[4] with reference to the negotiations for a Treaty of Friendship, Commerce, and Consular Rights between the United States and Norway, I have the honor to transmit herewith for the information of the Department a translation of a letter from the Norwegian Undersecretary, in which he encloses, at my request, a memorandum setting forth some of the Norwegian Government's objections to the proposed treaty.

I have [etc.] LAURITS S. SWENSON

---

[3] Miller, *Treaties*, vol. 3, p. 283.
[4] Neither printed.

[Enclosure—Translation]

The Norwegian Under Secretary for Foreign Affairs (Esmarch) to the American Minister (Swenson)

OSLO, *November 29, 1926.*

DEAR MINISTER SWENSON: With reference to your conversation of the seventeenth instant with Mr. Morgenstierne,[5] I have the pleasure of transmitting herewith for your information a short memorandum regarding the position of the Norwegian authorities with respect to the draft of the Treaty of Friendship, Commerce, and Consular Rights between Norway and the United States.

Sincerely yours,

AUG. ESMARCH

[Subenclosure—Translation]

MEMORANDUM

The Foreign Office has received expressions of opinion from most of the authorities interested with regard to the draft of the proposed Treaty of Friendship, Commerce, and Consular Rights between Norway and the United States. The reason the Department is not yet ready to inform the Legation in Washington of the Norwegian Government's position in regard to the various articles of the draft, is because the appropriate authorities are extremely loath to agree to certain provisions contained therein. This applies particularly to Article XXX, third paragraph, according to which article VII, fifth and sixth paragraphs, as well as articles IX and XI, could be denounced after one year upon three months' notice, whereby the American Government would be able to apply differential treatment to our shipping and even levy higher customs duty on goods imported in Norwegian ships. Article XXX would, moreover, allow the United States to denounce the provisions regarding the right of Norwegian ships to domestic treatment with respect to taxes and to most favored nation treatment with respect to the coasting trade.

The Foreign Office presumably will be able in the near future to advise the Legation in Washington, which is well acquainted with the case, of the Norwegian Government's position regarding the draft of the Treaty.

711.572/53

The Acting Secretary of State to the Minister in Norway (Swenson)

No. 336 WASHINGTON, *March 9, 1927.*

SIR: With reference to your despatch No. 909 of December 1, 1926, you are informed that the Norwegian Chargé d'Affaires had a conference at

[5] Chief of the Anglo-Saxon and Far Eastern Division, Norwegian Foreign Office.

the Department on February 4th last in regard to several of the provisions of the proposed Treaty of Friendship, Commerce and Consular Rights between the United States and Norway. Among the matters taken up by the Chargé d'Affaires was the question of the acceptance by the Norwegian Government of paragraph three of Article XXX which was the subject of the memorandum from the Foreign Office, of which a copy was transmitted with your despatch.

There is enclosed a copy of a memorandum in regard to the third paragraph of Article XXX which the Department will be glad to have you transmit to the Norwegian Foreign Office, unless you should ascertain before such transmission that the Government of Norway has decided to accept the paragraph without further discussion. In the event the Norwegian Government has decided to accept the paragraph, you will in your discretion make an appropriate reply to the Foreign Office using such material from the enclosed memorandum as you may consider pertinent.

You may also informally and orally present the following considerations to the Foreign Office. The provision to which objection has been made by Norway was not contained in the text of the Treaty of Friendship, Commerce and Consular Rights between the United States and Germany, as signed.[6] Under the second paragraph of Article XXXI of that Treaty, which is identical with the second paragraph of Article XXX of the draft under consideration, the fifth paragraph of Article VII and Articles IX and XI which correspond to the same paragraph and Articles in the draft under negotiation would have had a duration of ten years in common with all the other Articles of the Treaty. The reservation which the Senate made to the treaty with Germany[7] making paragraph five of Article VII and Articles IX and XI terminable at the end of one year, the provision to which the Norwegian Government takes exception when applied in the draft submitted to it, was the result of mature consideration by the Senate and represents a deliberate policy on the part of that body. There have been no developments which would support a belief that the Senate would change its views at this time or in the near future that it is undesirable to bind the United States in respect of these provisions for a longer period than one year.

The provision contained in Article VII, paragraph 6 of the draft submitted to Norway was inserted as a result of a suggestion made by one of the other Governments with which this Government was negotiating. As the suggestion was not made until after the Treaty with Germany was signed the provision is not contained in that Treaty. It is contained in the treaty signed by the United States

---

[6] *Foreign Relations*, 1923, vol. II, p. 29.
[7] See bracketed note, *ibid.*, p. 45.

and Salvador,[8] ratifications of which have not yet been exchanged. A similar provision is contained in a number of the older treaties to which the United States is a party. The paragraph clearly falls within the spirit of the Senate reservation to the treaty with Germany and it is therefore essential that the mode of termination required by that reservation be extended to it.

In view of the position of the Senate, the Department would be unwilling to conclude a treaty in which the provisions contained in paragraphs 5 or 6 of Article VII or in Articles IX or XI of the draft under negotiation are not made terminable at the end of one year as is provided in the third paragraph of Article XXX of the draft. This Government expects to insist for some time to come on the inclusion of the latter provision in all treaties of commerce and navigation which it concludes.

The Department considers that there is no occasion for the Norwegian Government to fear that discrimination will be put into operation against it. Should the United States avail itself of its freedom under Article XXX, paragraph 3, to pass legislation inconsistent with Article VII, paragraphs 5 or 6, or Articles IX or XI, such legislation doubtless would apply in equal degree in respect of the vessels of all foreign countries, and the cargoes carried in them. There is no reason to believe that it would be applied so as to discriminate against Norwegian vessels and their cargoes as compared with the vessels of any other foreign country and their cargoes.

The older treaties of commerce and navigation to which foreign countries are now parties with the United States are terminable on notice of one year with the exception of a small number of treaties which are terminable on shorter notice. The provisions of the fifth paragraph of Article VII and Articles IX and XI in the treaties of the United States in force with Germany, Hungary, and Estonia,[9] as already mentioned are terminable at the end of one year. Norway would not be placed in an unfavorable position through acceptance of the third paragraph of Article XXX since in the event that Congress should enact any legislation inconsistent with the provisions of the fifth or sixth paragraphs of Article VII or Articles IX or XI, it would become necessary for this Government to give notice of the abrogation of the Treaty of Commerce and Navigation of 1827 now in force between the United States and Norway, or to enter into negotiations with Norway for the elimination of the provisions of that treaty affected by such legislation.

I am [etc.] JOSEPH C. GREW

---

[8] *Foreign Relations*, 1926, vol. II, pp. 940, 944.

[9] For the treaties with Estonia and Hungary, see *ibid.*, 1925, vol. II, pp. 70 and 341.

[Enclosure]

MEMORANDUM

The memorandum from the Foreign Office transmitted to the Legation on November 29, 1926, states that the Norwegian authorities are loath to agree to Article XXX, paragraph 3, of the draft of the Treaty of Friendship, Commerce and Consular Rights, submitted by the Government of the United States, under which Article VII, paragraphs 5 and 6, and Articles IX and XI could be denounced at the end of one year, upon three months previous notice. The objection stated is that if these articles should be terminated the Government of the United States would be able to discriminate in respect of duties against Norwegian vessels and goods imported in those vessels, in respect of taxes on Norwegian ships and as to most favored nation treatment with respect to the coasting trade.

The provisions of the fifth paragraph of Article VII and Articles IX and XI of the draft under consideration are the same as the corresponding paragraph and articles of the Treaty of Friendship, Commerce and Consular Rights, signed by the United States with Germany on December 8, 1923. One of the conditions upon which the Senate of the United States gave its advice and consent to the ratification of the Treaty between the United States and Germany, was that the paragraph and articles just mentioned should be terminable at the end of one year on ninety days previous notice and that thereafter they should lapse at the end of sixty days after the enactment of legislation inconsistent therewith. The Senate considered that the Congress of the United States might desire to give consideration to the subjects embraced in the paragraph and Articles with a view to possible legislative action. The reservation was notified to and accepted by Germany.

The provision contained in Article VII, paragraph 6, of the draft submitted to Norway although not included in the Treaty between the United States and Germany clearly falls within the spirit of the Senate reservation.

The policy which makes these provisions terminable at the end of one year has been accepted in treaties concluded by the United States with Hungary, Salvador and Estonia as well as with Germany. It has not been deviated from in any treaty which the Government of the United States has signed subsequent to the Treaty of 1923 with Germany.

The proposed provisions in regard to duration and termination are in all respects reciprocal and as acceptance of them by Norway would not place the treaty relations between the United States and Norway on a basis less favorable than the relations between

the United States and other countries, the Government of the United States entertains the hope that the Government of Norway will on further consideration perceive in the provisions of the third paragraph of Article XXX no hindrance to the conclusion of the treaty.

711.572/55

The Minister in Norway (Swenson) to the Secretary of State

No. 965 OSLO, *March 24, 1927.*
[Received April 14.]

SIR: I have the honor to report that I had a conference with the Minister for Foreign Affairs on the twenty-second instant in which I presented to him orally the considerations contained in the Department's instruction No. 336 of March 9, 1927, relating to the provisions of the proposed Treaty of Friendship, Commerce and Consular Rights between the United States and Norway.

On the following day I communicated to the Foreign Office a copy of the memorandum accompanying your instruction.

I explained to the Minister for Foreign Affairs the attitude of the United States Senate and the policy of the Government of the United States in connection with the conclusion of a treaty of this nature and expressed the hope that the Government of Norway would agree to the signature of the proposed treaty at an early date. Mr. Lykke appeared to realize the fact that Norwegian interests would be sufficiently safeguarded by the treaty as drafted and said that he would request the appropriate departments to give the matter renewed consideration in the light of the Department's memorandum with a view to an early decision.

I have [etc.] LAURITS S. SWENSON

711.572/58

The Secretary of State to the Minister in Norway (Swenson)

No. 367 WASHINGTON, *July 7, 1927.*

SIR: With reference to your despatch No. 980 of April 25, 1927,[10] the Department desires that you bring informally to the attention of the Norwegian Foreign Office that it is the earnest desire of this Government to proceed promptly to the completion of the negotiations of the Treaty of Friendship, Commerce and Consular Rights which are in progress.

The purpose of this Government to substitute treaties containing unconditional most favored nation clauses in respect of commerce for

[10] Not printed.

those of its treaties resting on the conditional most favored nation principle as promptly as arrangements to that effect can be made with foreign countries, is, in respect of its treaty relations with Norway, given a further impulse by the situation hereinafter set forth.

Under Acts of Congress of June 26, 1884, Section 14[11] and August 5, 1909, Section 36,[12] a tonnage duty of two cents per ton, not to exceed in the aggregate ten cents per ton in any one year, is imposed at each entry on all vessels engaged in trade which enter any port of the United States from any foreign port or place in North America, Central America, the West India Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering on the Caribbean Sea, or Newfoundland, and a duty of six cents per ton, not to exceed thirty cents per ton per annum, is imposed at each entry on all vessels engaged in trade which enter in any port of the United States from any foreign port in countries other than those mentioned.

Article VIII of the Treaty of Commerce and Navigation of 1827 between the United States and Sweden and Norway is as follows:

"The two high contracting parties engage not to impose upon the navigation between their respective territories, in the vessels of either, any tonnage or other duties, of any kind or denomination, which shall be higher or other than those which shall be imposed on every other navigation except that which they have reserved to themselves, respectively, by the sixth article of the present treaty."

(Malloy's Treaties, Conventions etc., Vol. 2, pp. 1748, 1751).

The reservation made in Article VI relates to the coastwise navigation of the respective countries and is not pertinent to the subject matter of this instruction.

Norwegian and American vessels arriving in ports of the United States from Norway have for many years enjoyed the benefit of the two-cent tonnage rate provided in the Acts of Congress referred to above, the provisions of the Acts having been applied in the light of Article VIII of the Treaty, so as not to impose a higher tonnage duty on navigation between Sweden and Norway and the United States in Swedish, Norwegian and American vessels than on navigation between the countries of the Western Hemisphere mentioned in the Acts and the United States. As the treaty was terminated as between Sweden and the United States February 4, 1919,[13] the navigation from Norway by vessels of Norway and the United States is the only exception now in force to the collection of the duty at the rate of six cents per ton on vessels of any nation arriving in the

[11] 23 Stat. 53, 57.
[12] 36 Stat. 11, 111.
[13] See *Foreign Relations*, 1919, vol. I, pp. 67 ff.

United States from countries other than those of the Western Hemisphere mentioned in the Acts of Congress. The situation as so far stated is well known to the Norwegian Government.

The Government of Denmark has demanded of the United States that in virtue of the most favored nation agreements in regard to commerce and navigation contained in Articles I and III of the Convention of Friendship, Commerce and Navigation of 1826, between the United States and Denmark [14] (Malloy's Treaties, Conventions, etc., vol. I, page[s] 373, 374). Danish vessels arriving in the United States from Danish ports shall be granted the favor accorded Norwegian vessels arriving from ports in Norway and shall be allowed to pay this tonnage duty at the rate of two cents per ton instead of six cents per ton.[15]

No agreement has yet been reached by this Government and the Government of Denmark as to the correct interpretation of the Articles of the treaty of 1826 on which the Government of Denmark relies. As it is apparent that the preferential rate of tonnage duty in effect in behalf of navigation from Norway to the United States in Norwegian and American vessels as compared with navigation from Denmark to the United States in Danish vessels, and with other navigation to which the two cent rate is not expressly accorded by the Acts of Congress, is an exception to the policy of those Acts, this Government desires to have that special privilege discontinued at the earliest possible moment. Such discontinuance can be most conveniently effected by the replacement of the Treaty of 1827 between the United States and Norway, by the Treaty of Friendship, Commerce and Consular Rights now under negotiation, the draft of which does not contain a provision relating to navigation similar to the one in the Treaty of 1827, which is the basis of the demand which has been made by the Government of Denmark.

The Department desires that, without mentioning the name of the country which has made the demand hereinabove mentioned, you bring the situation informally to the attention of the Norwegian Foreign Office. State to the Foreign Office that it is the desire of this Government to proceed promptly with further negotiations on the Treaty of Friendship, Commerce and Consular Rights and to bring these negotiations rapidly to a conclusion and that it will be gratifying to this Government if the Government of Norway is in a position to cooperate to this end. Informally advise the Foreign Office that unless the progress of negotiations by December of this year, indicates that the new treaty will be concluded and made effective within a short time thereafter, this Government will be constrained to consider whether the discontinuance of the special advantage accorded under Article

[14] Miller, *Treaties*, vol. 3, p. 239.
[15] See vol. II, pp. 722 ff.

VIII to navigation between Norway and the United States in Norwegian and American vessels is of sufficient urgency to require it to give notification of its intention to arrest the operation of that Treaty, pursuant to the provision with respect to such notification contained in Article XIX thereof.

It is hoped that it will be clearly recognized by the Government of Norway that in intimating the intention to terminate the Treaty of 1827, this Government is actuated by no uncordial motive directed against the Government of Norway, or the shipping of that country, but that it is actuated solely by the purpose of effecting the discontinuance of a special advantage inconsistent with the provisions of the Acts of Congress, the benefit of which already has been demanded by one other country under the most favored nation clause of a treaty in force, and which likewise may be demanded by other countries similarly situated. The impartiality of the purpose of this Government is obvious when it is considered that the discontinuance of the special advantage to navigation stipulated in Article VIII of the Treaty of 1827 will extend to American vessels entering ports of the United States from Norway as well as to Norwegian vessels and that after such discontinuance the six cent rate of tonnage duty prescribed by the Acts of Congress will apply in equal measure to the vessels of both countries.

I am [etc.] FRANK B. KELLOGG

711.572/62

The Minister in Norway (Swenson) to the Secretary of State

No. 1077 OSLO, *November 5, 1927.*
[Received November 25.]

SIR: With reference to the Department's instruction No. 367, of July 7, 1927, I have the honor to report that I brought informally to the attention of the Norwegian Foreign Office the earnest desire of the United States Government to proceed promptly to the completion of the negotiations of the Treaty of Friendship, Commerce, and Consular Rights, which have been carried on for some time. I explained the situation as outlined by the Department, stating that unless progress by December first of this year indicates that the new treaty will be concluded and made effective a short time thereafter, steps would likely have to be taken to terminate the Treaty of 1827. I have made inquiries from time to time regarding the status of the deliberations on this matter by the Norwegian Government and have been assured that the Foreign Office was bringing pressure to bear on the departments most immediately concerned with a view to meeting our wishes. I am now in receipt of a copy

of a memorandum forwarded to the Norwegian Legation at Washington, under date of the third instant,[16] containing suggestions regarding the final text of certain stipulations in the draft under consideration. It appears that Norway is ready to yield to the representations made by the Department respecting Article VIII, thus eliminating the principal obstacle. In order to avoid violating diplomatic usage the Undersecretary for Foreign Affairs does not wish me to transmit the memorandum under report to the Department of State. However, the Norwegian Chargé d'Affaires at Washington will, as a matter of course, convey to you the contents thereof and I find it unnecessary to add anything to the comments which I have made in the above. I am of the impression that the Norwegian Government is now prepared to conclude a treaty substantially as set forth in the present draft and I take it that some of the proposed modifications may be accepted in part.

In view of the retirement of the Lykke Ministry sometime in the latter part of January I would suggest the desirability of having the pending treaty signed before the change of Government takes place.

I have [etc.] LAURITS S. SWENSON

711.572/63

The Norwegian Chargé (Lundh) to the Secretary of State

WASHINGTON, *December 9, 1927.*

SIR: Referring to Your Excellency's note of August 13, 1925, I have the honor to inform Your Excellency that the Norwegian Ministry for Foreign Affairs has very carefully studied the draft of Treaty of Friendship, Commerce and Consular Rights which was enclosed with the note in reference,[17] and that the Ministry makes the following observations to the draft submitted:

ARTICLE I

1. The first paragraph provides that "nationals of each of the High Contracting Parties shall be permitted . . . to lease lands for . . . manufacturing, commercial and mortuary purposes . . . upon the same terms as nationals of the state of residence or as nationals of the nation hereafter to be most favoured by it. . . ." It does not appear to be quite clear what the term *land* comprises, but it seems as if the wording of this paragraph goes further than contemplated by the Norwegian legislation in question. A government license (concession) is required i. a. for any one owning or operating water-

[16] See note of December 9, 1927, from the Norwegian Minister, *infra*.
[17] Draft treaty not printed. For text of signed treaty, see p. 646.

falls, and applications for such licenses are usually dealt with according to the merits of each individual case. The authorities distinguish as a rule between concerns which are wholly Norwegian, and concerns in which foreign capital is interested. In view hereof, it is suggested that the words ". . . nationals of the state of residence or" be deleted. The paragraph, as amended, would therefore be limited to most-favoured nation treatment in this respect.

As stated above, the Norwegian legislation in this connection provides that foreigners who desire to acquire waterfalls, mines, timber lands or other real property (including buildings), in certain cases also in regard to leasing such, must obtain a license from the Government. In order to cover this contingency, it is suggested that an additional paragraph should be added to art. I, in fine, to the effect that the provisions of paragraph I shall not affect any statutory enactments in either country whereby the right of foreigners to own, erect or lease and occupy lands or real property is made dependent upon license being granted, even if such license is not required in the case of nationals of the country, and that most-favoured nation treatment be accorded in this respect.

2. With regard to the expression . . . "all local laws" in Article I, paragraph one, *in fine*, the Norwegian Government takes it for granted that this is meant to include federal as well as state and municipal laws.

3. Paragraph two, Article I of the draft reads as follows:

"The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals."

In accordance with the Norwegian legislation relative to the acquisition of waterfalls, mines and other real property, the granting of licenses to Norwegian subjects or Norwegian companies to operate waterfalls in Norway may be made subject to the payment of certain charges to the Crown and to the municipality, such charges to be computed on the basis of the natural horse-power available. Such licenses may also in certain cases be granted to foreigners or to companies not wholly Norwegian, the terms and conditions in such cases to be fixed by the King in each individual instance.

The Norwegian Government takes it for granted that the wording of paragraph two as here quoted is not understood to restrict the right of Norway, if or when granting licenses to American citizens to operate waterfalls in Norway in accordance with the above mentioned legislation, to make such licenses subject to the payment of charges other or higher than those which in similar cases would have been imposed on Norwegian subjects.

ARTICLE IV

With regard to paragraph two, the Norwegian Government would suggest the inclusion of an additional clause, following the last word of paragraph two as it now stands, and of the following wording, which is self-explanatory, viz.:

"In the same way, property left to nationals of one of the High Contracting Parties by nationals of the other High Contracting Party, and being within the territories of such other Party, shall be subject to the payment of such duties or charges only as the nationals of the High Contracting Party within whose territories such property may be or belong shall be liable to pay in like cases."

ARTICLE VI

Under the Norwegian laws in question, there is no authority for granting native-born Norwegians permission to leave the country within sixty days after a declaration of war, in order to escape military service. It is therefore suggested that this article should be supplemented by a provision to the effect that the right to leave the said belligerent Party within sixty days after a declaration of war shall not apply to persons who are natives of the Party drafting compulsory military service, unless such right is accorded to native-born persons who are subjects or citizens of the most-favored nation. A similar clause was inserted in the treaty of commerce and navigation signed between Norway and Japan on June 16, 1911 (article I, 4).[18]

ARTICLE VII

Paragraph 1. This contains a clause to the effect that nothing in the treaty shall be construed to restrict the right of either Party to impose prohibitions or restrictions of a sanitary character, designed to protect human, animal or plant life, or regulations for the enforcement of police or revenue laws.

A Norwegian Act of June 27, 1924, authorizes the King to prohibit i. a. the importation of foreign seeds that are not considered suitable for use in Norway by reason of their place of growth, or that fall short of the desired standard in respect of germinating power, etc. By virtue of this Act, regulations have been issued prohibiting i. a. the importation of certain seeds for use in agriculture, except from certain countries where the climatic conditions approximate those of Norway. The purpose of these regulations is to prevent seeds and plants which are not sufficiently hardy, from being used in Norwegian agriculture.

In view hereof, it is suggested that the words "of a sanitary character" be deleted, while the words "health or" be inserted between

[18] *British and Foreign State Papers*, vol. cv, pp. 702, 703.

"plant" and "life", so that the last period of paragraph one will read as follows:

"Nothing in this treaty shall be construed to restrict the right of either High Contracting Party to impose, on such terms as it may see fit, prohibitions or restrictions designed to protect human, animal, or plant health or life, or regulations for the enforcement of police or revenue laws."

Various stipulations contained in the draft Treaty appear to have too wide a scope in relation to the legislation and practice existing in Norway regarding the importation, sale and transit of alcoholic beverages (see remarks relative to articles XIV and XVI). Thus, all trade in wine and spirits is in Norway placed under a Wine Monopoly controlled by the Government. In view hereof, the Norwegian Government would suggest the inclusion of an additional clause, for instance after the first paragraph of Article VII, of the following tenor:

"Nothing in this Treaty shall be construed to restrict the right of either High Contracting Party to impose prohibitions or restrictions upon the importation and sale of alcoholic beverages or narcotics."

Paragraph 7. It is suggested that the words "and goods" be added to the last line, after "its nationals and vessels"; the word "and" in the last line of the paragraph before "vessel" would then have to be omitted.

Paragraph 8. This paragraph provides that the stipulations of article VIII shall not be extended to the special treatment accorded by the United States to the commerce of Cuba, any of the dependencies of the United States, or the Panama Canal Zone.

In the same way, the Norwegian Government would suggest the addition of a supplementary paragraph, of the following wording:

"No claim may be made by virtue of the stipulations of the present Treaty to any privilege that Norway has accorded, or may accord, to Denmark, Iceland or Sweden, as long as the same privilege has not been extended to any other country.

"Neither of the High Contracting Parties shall by virtue of the provisions of the present Treaty be entitled to claim the benefits which have been granted or may be granted to neighbouring states in order to facilitate short boundary traffic."

Article IX

The Norwegian Government would prefer another wording of this article, and suggest the following, viz.:

"The vessels and cargoes of one of the High Contracting Parties shall, within the territorial waters and harbors of the other Party in all respects and unconditionally be accorded the same treatment as the vessels and cargoes of that Party, irrespective of the port of

departure of the vessel or the port of destination, and irrespective of the origin or the destination of the cargo. It is especially agreed that no duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar duties or charges of whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals. corporations or establishments of any kind shall be imposed in the ports of the territories or territorial waters of either country which shall not equally, under the same conditions, be imposed on national vessels."

Article XIV

Clause (*c*) of this article is not in accordance with the Norwegian Trade Act. Foreign commercial travellers may not in Norway sell samples (other than certain jewellery, watches, etc.), and it is therefore suggested that clause (*c*) be struck out.

Clause (*g*) is likewise contrary to the provisions of the Norwegian legislation, as foreign peddlers and other salesmen may not, except in certain limited cases, sell direct to the consumer. The Norwegian Government would prefer that also this clause be struck out. If this should not be found feasible the Norwegian Government would suggest that this clause be worded so as to include only selling by Norwegians in the United States and not vice versa.

With regard to clause (*h*), the Norwegian Government would prefer paragraph (1) to be given a somewhat wider scope, so that the wording of the same would be as follows, viz.:

"Persons travelling only to study trade and its needs, even though they initiate commercial relations, provided they do not make sales of merchandise, or are instrumental in making such sales."

Article XV

The provisions contained in this Article are very detailed, and the Norwegian Government would prefer the entire article to be struck out. Paragraph (*c*) is contrary to the provisions of the Norwegian Trade Act.

Article XVI

It appears that the provisions of this article may be at variance with the Barcelona Convention of April 20, 1921,[19] wherefore the Norwegian Government would suggest that an additional paragraph be included to the effect that "Nothing in this Article shall be construed to be in conflict with the Convention of Barcelona of April 20, 1921."

[19] League of Nations Treaty Series, vol. VII, p. 11.

Article XVIII

This article refers in paragraph 1 to "Consular officers, nationals of the state by which they are appointed", a term which is no doubt intended to cover that of *consules missi*. However, it frequently occurs that consuls are nationals of the state by which they are appointed, without being consuls de carrière, and for this reason it would be desirable to amplify the said wording by inserting the words "and not engaged in any profession, business or trade" after "appointed" or to substitute the words "Consular officers de carrière" for the designation contained in the draft.

With regard to paragraph 2, it is suggested that this be amended to read "In criminal cases the attendance at the trial by a consular officer as witness may be demanded by the prosecution or defence, or by the court, except in regard to acts performed by such consular officer in his official capacity. In the same way it is suggested that paragraph 3 be altered to read "Consular officers shall, except in regard to acts performed by them in their official capacity, be subject to the jurisdiction of the courts in the state which receives them in civil cases . . ." The reason for these alterations is obvious, and in accordance with international practice, namely that a consul is not answerable to the courts of the state to which he is appointed in regard to acts performed by him qua consul. This principle also appears to be borne out by the third paragraph of article XXIV of the draft.

Article XIX

First paragraph, last period, states that "All consular officers and employees, nationals of the state appointing them, shall be exempt from the payment of taxes on the salary, fees or wages received by them in compensation for their consular services." This would mean that an honorary Norwegian consul in the U. S. A. if a Norwegian subject, would be exempted from taxation of the kind referred to, while other honorary Norwegian Consuls in the States not being Norwegian subjects, would not enjoy such exemption. Moreover, certain honorary consuls in Norway from states entitled to most-favored nation treatment in this respect would be able to claim an exemption from taxation apparently not provided for by Norwegian legislation. It is therefore suggested that the wording be made clear by inserting after the words "nationals of the state appointing them", the same words as above referred to in connection with art. XVIII, paragraph one.

With regard to the second paragraph of article XIX, it appears that the provisions here contained respecting exemption of taxation

in regard to government-owned buildings etc., are more extensive than provided for by the Norwegian legislation in question. The exemption granted in Norway in this respect refers to capital and income tax to State and municipality in regard to legation houses owned by a foreign government, or property belonging to foreign diplomatic or consular officials. No exemption is accorded in respect of municipal rates on real estate. In order that the treaty should conform to the Norwegian legislation in this regard, it is suggested that a stipulation be included to the effect that the exemption from taxation does not apply to municipal rates levied on real estate.

Article XX

2nd paragraph. The Norwegian Government is entirely in accordance with the principle of stipulating in the treaty that the consular offices and archives shall be inviolable. In regard to honorary consulates it would, however, appear to be desirable to include for instance as a new paragraph three, a clause to the effect that such inviolability is subject to the archives and offices of the consulate being kept entirely apart from the archives and offices of the private business pursued by the incumbent, thus corresponding to article VII, paragraph three, of the Consular Convention between the United States of America and Cuba,[20] reading as follows:

"When a consular officer is engaged in business of any kind within the country which receives him, the archives of the consulate and the documents relative to the same shall be kept in a place entirely apart from his private or business papers."

Article XXI

The wording of this article as it stands would constitute a hindrance to such honorary Norwegian consuls in the United States as are not Norwegian subjects, from communicating with any public authorities in the States. It would further seem to give a consul general, if his district comprises the whole country, the right to address himself direct to the government. It is therefore suggested that the words "nationals of the state by which they are appointed" be deleted from the second line, and that "concerned" be inserted after "authorities", so that the commencement of this article would read as follows:

"Consular officers may, within their respective consular districts, address the authorities concerned, national, State, Provincial or Municipal. . . . "

[20] *Foreign Relations*, 1926, vol. II, pp. 27, 30.

ARTICLE XXIII

With regard to the last words of paragraph one, to the effect that a consul shall have jurisdiction over issues concerning the adjustment of wages and the execution of contracts relating thereto provided the local laws so permit, the Norwegian Government would draw attention to the existing Norwegian legislation in regard to matters of this character, notably section 43 of the Seaman's Act of February 16, 1923, which provides that disputes between the master and the crew as to the settlement of wages, or the service otherwise, shall, while the ship is abroad, be submitted to the decision of the consul. Moreover, according to section 33 of the said Act, a master is entitled to dismiss any seaman who causes a dispute respecting the service on board a Norwegian ship to be brought up before any foreign authorities. It would appear that the wording of article XXIII, paragraph one, as it now stands, is contrary to the letter and the spirit of the Norwegian legislation relative to the jurisdiction exercised by Norwegian consuls. The Norwegian Government would therefore suggest that the words: "provided the law of the vessel's flag be observed" be substituted for the words "provided the local laws so permit."

It appears from the memorandum handed M. Lundh by Mr. Barnes [21] in May, 1927,[22] that the proviso "provided the local laws so permit" has been included because the courts of the United States are open to seamen on foreign vessels while in harbors of the United States for the enforcement of the provisions of section 4530 of the Revised Statutes of the United States, as amended, according to which amended section such seamen i. a. are entitled, subject to certain provisos, to receive on demand from the master of the vessel one-half part of the balance of their wages earned and unpaid at every port. The rights accorded in this respect to seamen on board Norwegian vessels by Norwegian law are, however, more extensive, as under sections 19 and 21 of the Norwegian Seamen's Act of February 16, 1923, any seaman on board a Norwegian vessel may demand payment of wages once a week when the ship is in port, while the master is not at any time entitled to retain more than one-third of the wages to which the seaman is entitled. It will be seen from the above that the proviso "provided the local laws so permit" in article XXIII, paragraph one, is

(*a*) contrary to the Norwegian legislation on the subject,
(*b*) incompatible with the right of Norway as a sovereign nation to exercise jurisdiction on board her own vessels, and
(*c*) detrimental to the interests of seamen on board Norwegian ships, as such seamen are protected more fully by the Norwegian than by the American legislation on this subject.

2. With regard to the proviso "except in so far as he is permitted to do so by the local law" contained in the latter part of the second

[21] Charles M. Barnes, Chief of the Treaty Division, Department of State.
[22] Not printed.

paragraph of section XXIII, the Norwegian Government would, in view of the explanation furnished in Mr. Barnes' memorandum to M. Lundh, refrain from suggesting that this proviso be suppressed.

3. When the authorities of one of the High Contracting Parties in accordance with the principle of paragraph two of section XXIII exercise jurisdiction in connection with criminal acts committed on board of a vessel under the flag of the other Party, it would seem reasonable that the consul of the vessel's country were given due notice thereof. The Norwegian Government would therefore suggest that an additional paragraph be inserted after paragraph two, and reading as follows:

"Where, in accordance with the above, the local authorities of one of the High Contracting Parties exercise jurisdiction in connection with a criminal act committed on board of a vessel flying the flag of the other High Contracting Party, the consul concerned of such other Party shall be notified without delay."

4. The Norwegian Government does not propose that the third paragraph of article XXIII should contain a clause respecting the right of consular officers to invoke the assistance of the local police in connection with the apprehension of deserted seamen.

5. The provision contained in paragraph four that a consul may appear in court as an interpreter or agent is not wholly in accordance with Norwegian legislation. A consul may not *ipso facto* appear in court as an agent, but he will in most cases be so qualified that the court may recognize him as an agent. Likewise, interpreters must be appointed by or recognized by the court, and a consul may usually count on obtaining such recognition. In view hereof, it is suggested that paragraph four be amended, by adding after the words "interpreter or agent", the words ". . . provided the local laws so permit".

ARTICLE XXIV

With regard to paragraph one, the Norwegian Government would suggest that the words ". . . without having in the territory of his decease any known heirs or testamentary executors by him appointed . . ." be deleted, whereafter this paragraph will read as follows:

"In case of the death of a national of either High Contracting Party in the territory of the other the competent local authorities shall at once inform the nearest consular officer of the State of which the deceased was a national of the fact of his death, in order that necessary information may be forwarded to the parties interested."

It is further suggested that a new and additional paragraph two be inserted of the following tenor, viz.:

"Likewise, in case of the death of a resident of either of the High Contracting Parties who leaves or is presumed to leave heirs residing in the country of the other Party, the proper local probate authorities

having knowledge of such death and such heirs from petition for letters of administration presented to them or otherwise shall at once inform the nearest consular officer of the nation to which the heirs are presumed to belong, of the death, in order that necessary information may be fowarded to any parties interested."

It is further considered desirable that still another additional paragraph be added, reading as follows, viz.:

"In case of escheatment of an estate of a resident of either of the High Contracting Parties who was or had been the subject or citizen of the other Party, leaving no known heirs in the country where the estate belongs, the escheatment as provided by the local law shall only be computed from the time of the serving of notice of death on the consul of the other Party."

With regard to paragraph two as it now stands, it is suggested that the initial lines be somewhat amended, to the following effect: "In case of the death of a national of either of the High Contracting Parties without will or testament whereby he has appointed testamentary executors, in the territory of the other High Contracting Party. . . ."

The amendments of article XXIV suggested above are largely self-explanatory. The article, as it now stands would mean that in case a Norwegian subject dies in the United States leaving distant relatives (heirs-at-law) there, in which case the consul would receive no notification of the death, such relatives could conceivably conceal from the court the fact that there are or may be other heirs in Norway. Further, if the deceased was an American citizen, the consul could only by chance learn of the death, and would therefore presumably in many cases be unable to inform any existing heirs in Norway of the case. It is considered that the suggested alterations of the article's text in this respect would be conducive to furthering the interests of justice and equity.

In regard to the new clause respecting escheatment, reference is made to the attached copy of "Findings by the Consular Corps of the State of Washington",[23] which also deals with the other matters referred to above under this article.

Article XXV

The Norwegian Government would suggest that this article commences with the following paragraph:

"A consular officer of either High Contracting Party shall within his district have the right to appear personally or by delegate in all matters concerning the administration and distribution of the estate of a deceased person under the jurisdiction of the local authorities for all such heirs or legatees in said estates, either minors or adults, as may be non-residents and subjects or citizens of the country represented by the said consular officer, with the same effect as if he held

[23] Not printed.

their mandate to represent them, unless said heirs or legatees themselves have appeared, either in person or by duly authorized representative. And the consul shall have the authority to receive the distributive shares or interests due to such heirs or legatees and to give sufficient receipt or release therefrom."

The sole paragraph of article XXV as it stands in the draft treaty would then come in as paragraph two of article XXV.

ARTICLE XXVI

The provision that a foreign consular officer in Norway shall have the right to inspect vessels in Norwegian ports appears not to be wholly consistent with Norwegian legislation, and the Norwegian Government would prefer this Article to be deleted from the draft.

ARTICLE XXVII

The Norwegian regulations in force grant to foreign consuls de carrière in Norway exemption from the payment of customs duties on their baggage and all other personal effects brought by the consuls and their families upon their first arrival in Norway. The wording of article XXVII appears to go somewhat further, and the Norwegian Government would prefer the modified text contained in the treaty between the United States of America and Esthonia, article XXVI, paragraph one, as follows:

"Each of the High Contracting Parties agrees to permit the entry free of all duty of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their baggage and all other personal property, accompanying the officer to his post, provided, nevertheless, that no article the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories. Personal property imported by consular officers, their families or suites during the incumbency of the officers in office shall be accorded the customs privileges and exemptions accorded to consular officers of the most favored nation."

The use of the expression "consular officers . . . as are its nationals" in paragraph one of this article is for the reasons set forth above in regard to article XVIII considered undesirable, wherefore a change of the expression to "consular officers de carrière . . ." would be preferred.

ARTICLE XXVIII

The Norwegian Government would prefer this article to be amended in the way suggested by Mr. Barnes in his memorandum, so that the article would read as follows:

"All proceedings relative to the salvage of vessels of either High Contracting Party wrecked upon the coasts of the other shall be di-

rected by the consular officer of the country to which the vessel belongs and within whose district the wreck may have occurred or by some other person authorized thereto by the law of that country. Pending the arrival of such officer, who shall be immediately informed of the occurrence, or the arrival of such other person, whose authority shall be made known to the local authorities by the consular officer, the local authorities shall take all necessary measures for the protection of persons and the preservation of wrecked property." (The rest of the article to be retained as in the original draft submitted by the United States.)

ARTICLE XXIX

The Norwegian Government would suggest that there be added to this article, after ". . . Panama Canal Zone" the words "and Svalbard,[24] in respect of which the High Contracting Parties accord each other reciprocal most-favored nation treatment."

ARTICLE XXX

Paragraph one. The draft provides that the Treaty should be in force for ten years. The Norwegian Government considers this to be a very long duration, and would prefer a shorter term, for instance two or three years.

Paragraph two. During the conversation with Mr. Hackworth[25] and Mr. Barnes, Mr. Lundh stated that the Norwegian authorities were extremely loath to accept paragraph three of this article. In view of the information to hand, the Norwegian Government realizes, however, that there are but slight chances for the U. S. Senate ratifying a treaty which does not contain the reservations embodied in paragraph three. The Norwegian Government is therefore while primarily desirous of having paragraph three deleted from the draft prepared alternatively to accept the same; in such case they would suggest that there be added to the last word of paragraph three a provision to the effect that most-favored nation treatment shall apply in case the stipulations in question should lapse. The wording of paragraph three would appear to be satisfactory in this respect if it were altered to read as follows, viz:

"The fifth and sixth paragraphs of Article VII and Article IX and XI shall remain in force for twelve months from the date of exchange of ratifications, and if not then terminated on ninety days previous notice shall remain in force until either of the High Contracting Parties shall enact legislation inconsistent therewith when the same shall automatically lapse at the end of sixty days from such enactment. If the fifth or sixth paragraph of Article VII or Article IX or XI be terminated or lapse in accordance with the provisions of this para-

[24] Norwegian Arctic territory, comprising Spitsbergen, Bear Island, and all other islands between 74 and 81 degrees North and between 10 and 35 degrees East.

[25] Green H. Hackworth, Solicitor for the Department of State.

graph, each of the High Contracting Parties shall enjoy, unconditionally and without compensation, the same treatment in respect of the subject matter of such paragraph or article as is accorded by the other Party to the most favored nation."

In a number of treaties of commerce lately concluded between the Norwegian Government and other governments, it has been provided, either by exchange of notes or by a separate protocol, that Norwegian sardines shall not pay a higher tariff rate than other sardines. The Norwegian Government would be pleased if the United States Government would agree to a similar provision being accepted in connection with the present Treaty. The wording of the provision suggested could be as follows:

"Norwegian sardines prepared from fish belonging to the species "Clupea sprattus" (Brisling) or "Clupea harengus" (Sild) shall, when imported into the United States of America not pay a higher tariff rate than sardines prepared from fish belonging to the species "Clupea pilchardus" imported from any country."

Your Excellency will note from the above observations that the Norwegian Ministry for Foreign Affairs in principle has accepted the stipulations of the draft of the Treaty as regards the question of tonnage dues. The Ministry, therefore, ventures to hope that the Department of State will not find it necessary to give notice of abrogation of the existing treaty, which in all probability shortly will be supplanted by a new treaty.

I beg leave to assure Your Excellency that representatives of this Legation will be happy, at any time, to meet representatives of the Department of State and verbally discuss with them such questions as they may wish to raise in connection with the observations made by the Norwegian Ministry for Foreign Affairs, should it be the opinion of the Department of State that such procedure will contribute to an early termination of the treaty negotiations.

Accept [etc.] A. LUNDH

711.572/63

The Secretary of State to the Norwegian Minister (Bachke)

WASHINGTON, *March 23, 1928.*

SIR: I have the honor to acknowledge the receipt of your Legation's note of December 9, 1927, in which observations were submitted regarding the draft treaty of Friendship, Commerce and Consular Rights, a draft of which accompanied the Department's note to your Legation dated August 13, 1925.

I have pleasure in commenting herein, article by article, on the observations made in the note under acknowledgment, up to and including Article XXI.

ARTICLE I

The comments made in the note of December 9, relating to Article I of the draft treaty are directed to the first and second paragraphs of that article. It is observed from the Legation's note that the expression in the first paragraph of Article I—"to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes; . . . upon the same terms as nationals of the state of residence or as nationals of the nation hereafter to be most favored by it . . . " is not regarded by the Norwegian Government as clear in all respects and that the expression goes farther than is contemplated by Norwegian legislation. It is suggested in the note that the obstacle to the acceptance of the first paragraph of Article I by the Norwegian Government be removed by omitting "nationals of the state of residence or" in the latter part of the article so that the paragraph would provide for most favored nation treatment instead of national or most favored nation treatment as is done in the draft submitted to your Legation. As you are aware, the Government of the United States has concluded a number of treaties with foreign Governments in which the expression set out above is included. The nationals of the countries concerned therefore enjoy in the United States the rights defined in the portion of the treaty under discussion. The omission of the expression "nationals of the state of residence or" would not, therefore, in any way reduce the rights enjoyed by Norwegian nationals in the United States under the first paragraph of Article I below those that would be accorded by the provision as proposed by the United States Government. The omission of that expression would, however, reduce the rights enjoyed by American nationals in Norway below those accorded by that provision. Consequently amendment of the first paragraph of Article I as suggested in the Legation's note would operate unequally with respect to American citizens in Norway and Norwegian nationals in the United States. The Government of the United States does not desire to have the treaty so worded as to establish a condition of inequality with respect to the subject matter of the first paragraph of Article I of the treaty. It is suggested, therefore, that the expression "to own, erect or lease and occupy appropriate buildings and to lease lands for residential, scientific, religious, philanthropic, manufacturing, commercial and mortuary purposes;" be omitted from the first paragraph of Article I and that except for this omission the paragraph be allowed to stand as it was in the original draft. The Government of the United States would much prefer this amendment to the one suggested in the note of the Legation.

It is stated in the Legation's note that the Norwegian Government takes it for granted that the expression "all local laws" used

in the latter part of the first paragraph of Article I of the draft, includes Federal as well as state and municipal laws. I am glad to be able to concur with the Norwegian Government in its views as to the meaning of the expression "all local laws".

It is stated in the Legation's note that the Norwegian Government takes it for granted that the wording of paragraph two of Article I does not restrict the right of Norway, if, or when, granting licenses to American citizens to operate waterfalls in Norway in accordance with Norwegian legislation, to make such licenses subject to the payment of charges other or higher than those which in similar cases would be imposed on Norwegian subjects. I regret that I do not find it possible to concur with the views of the Norwegian Government in regard to the meaning of the second paragraph of Article I. It is my feeling that the language of the paragraph would not lend itself to the meaning which the Norwegian Government indicates an intention to attribute to it. If the article were given the meaning which the Norwegian Government attributes to it, the extent to which American citizens in Norway would be entitled to receive in the matter of internal charges or taxes treatment similar to that accorded Norwegian nationals, would be rendered uncertain. In the course of the discussions which recently took place in the Department regarding the second paragraph you suggested that there be added to the paragraph, the following:

"This paragraph does not apply to charges and taxes on the acquisition and exploitation of waterfalls, mines or forests."

This addition is acceptable to the Government of the United States.

ARTICLE IV

The Legation suggested that the following be added to the second paragraph of Article IV of the original draft:

"In the same way, property left to nationals of one of the High Contracting parties by nationals of the other High Contracting Party, and being within the territories of such other Party, shall be subject to the payment of such duties or charges only as the nationals of the High Contracting Party within whose territories such property may be or belong shall be liable to pay in like cases."

This suggestion is acceptable to the Government of the United States on the understanding that the added part relates only to personal property. To make this clear the word "personal" should, therefore, be inserted before the word "property" in the first line. This additional change is deemed necessary in order to make it clear that the added provision does not relate to real property which is dealt with in the first paragraph of Article IV.

ARTICLE VI

The amendment to Article VI proposed in the Legation's note is acceptable to the United States.

ARTICLE VII

The proposal made in the Legation's note that the words "of a sanitary character" be deleted from the last sentence of the first paragraph of Article VII and that the words "health or" be inserted between "plant" and "life" is acceptable to the Government of the United States.

The Legation also suggested that there be added to the first paragraph of Article VII a provision reading as follows:

"Nothing in this Treaty shall be construed to restrict the right of either High Contracting Party to impose prohibitions or restrictions upon the importation and sale of alcoholic beverages or narcotics."

While the Government of the United States has no objection to adopting this suggestion the addition is not deemed necessary by the Government of the United States because it is considered that the exception established by the proposed addition is already included in the portion of the last sentence of the original draft of that paragraph relating to police laws. If the Norwegian Government deems it important to include the proposed addition in the first paragraph of Article VII it is suggested that it be done by changing the last sentence of the first paragraph to read as follows:

"Nothing in this treaty shall be construed to restrict the right of either High Contracting Party to impose on such terms as it may see fit, prohibitions or restrictions designed to protect human, animal, or plant health or life, or regulations for the enforcement of revenue or police laws, including laws prohibiting or restricting the importation or sale of alcoholic beverages or narcotics."

The suggestion made in the Legation's note regarding the amendment of paragraphs seven and eight of Article VII of the draft treaty are acceptable to the Government of the United States.

Since the original draft of the treaty was submitted to the Legation on August 13, 1925, occasion has occurred in the course of negotiating with other Governments treaties containing an article similar to Article VII of the draft submitted to your Legation, to introduce slight amendments in paragraph two, four and eight of Article VII. There is enclosed herewith a draft of Article VII revised [26] to incorporate the suggestions made in the Legation's note and to include the changes which the Government of the United States desires to have made in paragraphs two, four and eight of Article VII. The portions of the

[26] Not printed.

article which constitute departures from the original article are underscored. It is believed that the effect of the changes in paragraphs two, four and eight which my Government desires made, will be apparent and will be acceptable to your Government.

Article IX

The purposes of the changes in Article IX, proposed in the Legation's note, were not explained in the note. In discussions which took place at the Department, however, you were good enough to explain that the changes were calculated to procure for the vessels and cargoes of either High Contracting Party within the waters and harbors of the other the same treatment as national vessels in respect to some matters not mentioned in the original draft of Article IX or in any other articles of the treaty. The Government of the United States is particularly anxious that Article IX be so worded that there shall be no misunderstanding by the two Governments as to its meaning. As explained orally to you it is the intention of the Government of the United States to accord Norwegian vessels coming to the United States from any particular foreign port or ports the same treatment as is accorded American vessels coming from the same port or ports, but it is desired to avoid a provision which would be susceptible of the construction placed upon Article VIII of the existing treaty between the United States and Norway under which Norwegian vessels coming to the United States from Norway are accorded rates of tonnage dues intended to apply only to navigation to the United States from a different geographic region specified by Statute.

It is understood that it was your view that your Government would not consider that it would be in a position to demand preferential treatment equivalent to that accorded vessels coming from a particular geographic region for Norwegian vessels coming to the United States from other regions. Subject to your confirming the views of your Government to be as described herein, Article IX as modified by your Government can be considered as acceptable to the Government of the United States.

Articles XIV and XV

In view of the comments made in the Legation's note regarding Article XIV and Article XV of the original draft, it is felt that it would be advisable to omit both Articles and substitute in place of them a single Article placing commercial travelers on a favored nation basis. The following is suggested as the text of an Article to replace Article XIV and Article XV and to become Article XIV of the Treaty:

"Commercial travelers representing manufacturers, merchants and traders domiciled in the territories of either High Contracting Party

shall on their entry into and sojourn in the territories of the other Party and on their departure therefrom be accorded the most favored nation treatment in respect of customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

"If either High Contracting Party require the presentation of an authentic document establishing the identity and authority of a commercial traveler, a signed statement by the concern or concerns represented, certified by a consular officer of the country of destination shall be accepted as satisfactory."

ARTICLE XVI

The reference in the Legation's note to the Barcelona Convention of April 20, 1921, and the suggestion that there be added to Article XVI of the original draft a paragraph to the effect that nothing in the Article shall be construed to be in conflict with the Convention of Barcelona of April 20, 1921, is noted. It is not apparent with what provisions of the Barcelona Convention Article XVI might be regarded as in conflict. The effect of the addition proposed in the Legation's note would, therefore, be uncertain. Examination of the Barcelona Convention does not reveal provisions establishing obligations on the part of the Norwegian Government as party thereto which would be violated by compliance by the Norwegian Government with the provisions of Article XVI of the original draft. The necessity for the addition proposed in the Legation's note would, therefore, seem to call for further explanation.

As stated to you orally, a similar question regarding the Barcelona Statute arose in the course of negotiations with another Government and in response to an inquiry as to precisely what reservation that Government sought to make by reference to the Barcelona Statute it was stated that an exception to the Article permitting the Government concerned to adopt the measures contemplated by Article 7 of the Barcelona Statute would meet the requirements of that Government. A specific amendment to Article XVI of the original draft limited to the substance of Article 7 of the Barcelona Statute was thereupon proposed. A counter-proposal slightly modifying the text of the amendment suggested by the other Government was then offered by the Government of the United States. A copy of that counter-proposal was handed to you. Slight modifications of language have since been made therein so that the sentence which will probably be adopted now reads as follows:

"The measures of a general or particular character which either of the High Contracting Parties is obliged to take in case of an emergency affecting the safety of the State or the vital interests of the country may in exceptional cases and for as short a period as possible, involve a deviation from the provisions of this paragraph; it being understood that the principle of freedom of transit must be observed to the utmost possible extent."

The amendment is underscored in the enclosed revised draft of Article XVI.[27] Several other slight changes in the Article are indicated by underscoring and parentheses. The purpose and effect of these changes will, it is believed, be obvious. The draft enclosed would be accepted by the Government of the United States as a substitute for Article XVI of the original draft.

Article XVIII

The suggestion made in the Legation's note that the expression "and not engaged in any profession, business or trade" be inserted after the word "appointed" in the first paragraph of Article XVIII is acceptable to the Government of the United States.

The changes suggested in the Legation's note regarding the second and third paragraphs of Article XVIII appear to be more extensive in scope than is necessary to accomplish the purpose of the proposed changes. The changes as worded would have the effect of establishing an exception to the right of a court to summon a consular officer as a witness and to the duty of a consular officer to attend a trial as a witness. The Government of the United States agrees with the Government of Norway that it would be undesirable to require a consul to give testimony regarding acts performed by him in his official capacity but it is felt that it would be preferable to provide in the Treaty that a consular officer shall not be required to testify regarding his official acts rather than to provide an exception to the right of a court to summon a consular officer or to the duty of the consular officer to attend as a witness.

It is proposed, therefore, that the second and third paragraphs of Article XVIII be unchanged and that there be added to the Article a paragraph reading as follows:

"No consular officer shall be required to testify in either criminal or civil cases regarding acts performed by him in his official capacity."

Article XIX

The suggestion made in the Legation's note that the expression "and not engaged in any profession, business or trade" be inserted after "nationals of the state appointing them" in the last sentence of the first paragraph of this article is satisfactory to the Government of the United States.

As to the suggestion regarding the second paragraph of this article, that a stipulation be included to the effect that the exemption from taxation does not apply to municipal rates levied on real estate, it may be stated that the scope and effect of the proposed change is

[27] Not printed.

not clear. The Government of the United States would prefer to omit the entire second paragraph of Article XIX.

Article XX

The Government of the United States has no objection to the addition to this Article as suggested in the Legation's note, of a paragraph following paragraph two of the original draft of the Article, reading as follows:

"When a consular officer is engaged in business of any kind within the country which receives him the archives of the Consulate and the documents relative to the same shall be kept in a place entirely apart from his private or business papers."

Article XXI

The change suggested in the note of the Norwegian Legation is acceptable to the Government of the United States. The omission of the expression "nationals of the State by which they are appointed" from the second line as suggested by the Legation would seem to necessitate the substitution of the expression "the nationals of the State by which they are appointed" in place of the words "their countrymen" after the word "protecting" in the seventh line of the original draft. The Article would then read as follows:

"Consular officers of either High Contracting Party may within their respective consular districts address the authorities concerned, national, State, provincial or municipal, for the purpose of protecting the nationals of the State by which they are appointed in the enjoyment of their rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a Consul General or the consular officer stationed at the capital may apply directly to the Government of the country."

I shall address a further communication to you regarding the remaining articles of the draft of the treaty on which the Legation commented in the note of December 9, 1927, when the oral discussions which are in progress between you and officers of the Department shall have been completed.

In view of the desirability of completing the negotiations at the earliest possible date, which has been explained to you, I hope you will deem it expedient to forward to your Government the comments made herein without awaiting the receipt of a further communication of this Government in order that the articles on which complete agreement has not been reached may have the earlier attention of your Government.

Accept [etc.] Frank B. Kellogg

711.572/63

The Secretary of State to the Norwegian Minister (Bachke)

WASHINGTON, *April 6, 1928.*

SIR: In my note to you of March 23, 1928, I stated that I would address a further communication to you regarding the articles of the treaty of friendship, commerce and consular rights, a draft of which accompanied the Department's note to your Legation dated August 13, 1925, which were the subject of observations in the Legation's note to the Department of December 9, 1927. In my note I commented on the observations made by your Legation on the articles of the draft treaty up to and including Article XXI.

ARTICLE XXIII

It is observed from the note of December 9, 1927, that your Government regards Article XXIII of the original draft of the treaty as not entirely satisfactory. It seems that your Government does not find the expression "provided the local laws so permit", at the end of the first paragraph of Article XXIII, acceptable because of the restrictions which are thereby placed on the jurisdiction of consular officers over issues concerning the adjustment of the wages of seamen and the execution of contracts relating to wages.

As has been explained to you the courts of the United States are open to seamen for the enforcement of the laws of the United States regarding wages. It seems that your Government regards the laws of the United States insofar as they relate to the wages of seamen and to remedies in the courts of the United States for the enforcement of those laws as—

(*a*) contrary to Norwegian legislation on the subject;
(*b*) not compatible with the right of Norway to exercise jurisdiction on board her own vessels, and
(*c*) detrimental to the interests of seamen on board Norwegian ships.

In answering the points regarding the first paragraph of Article XXIII, made in the Legation's note of December 9, 1927, in the order in which those points are stated, I observe that it is not perceived in what respect the laws of the United States applicable, so far as Norwegian seamen are concerned, solely in the territory of the United States, could be contrary to Norwegian legislation. It is not believed that any serious question could be raised as to the supremacy of the laws of a territorial sovereign over the laws of a foreign country which might be intended to have extraterritorial effect. It is the view of the Government of the United States that the mere

existence of a difference between the laws of the United States and the laws of Norway regarding the jurisdiction of consular officers over issues concerning the wages and contracts of seamen does not place the laws of the two countries in conflict, having due regard for the limitations which must be placed upon the extraterritorial effect of legislation. In any event the limitation placed on the jurisdiction of consular officers by the expression "provided the local laws so permit" to which your Government takes exception would apply to the jurisdiction of American consular officers in Norway in the same way that it would apply to Norwegian consular officers in the United States. The expression, therefore, does not establish a condition of inequality as between the Government or the laws of the United States and the Government or laws of Norway.

With respect to the second point in relation to the proviso of the first paragraph of Article XXIII, made in your Legation's note, namely that the application of local laws to matters of wages and contracts of seamen would be incompatible with the right of Norway as a sovereign nation to exercise jurisdiction on board her own vessels, I reply that the Government of the United States does not admit that Norway can claim the right to apply its legislation in the territory of the United States, to the exclusion of the laws of the United States. The proviso to which your Government takes exception would not operate to prevent the submission of issues concerning the adjustment of wages and the execution of wage contracts, to the consular officers of your Government in the United States by masters and seamen of vessels. It would merely concede the operation of the laws of the United States if either the master or seamen should seek to invoke them.

With respect to the third point in respect of the same paragraph, namely that the proviso relating to local laws would be detrimental to the interests of Norwegian seamen, it may be observed that there would be no obligation on the seamen to avail of remedies open to them under the laws of the United States. If Norwegian legislation and action by the consular officers of Norway pursuant thereto would be more advantageous to Norwegian seamen than the legislation of the United States would be in any given case it is improbable that Norwegian seamen would invoke the laws of the United States.

I regret that for the foregoing reasons I do not find myself in a position to accept the suggestion of the Norwegian Government that the words "provided the laws of the vessel's flag be observed" be substituted for the words "provided the local laws so permit." I trust that your Government will see its way to accept the first paragraph of Article XXIII as contained in the original draft.

It is suggested in the Legation's note that there be inserted following the second paragraph of the original draft of Article XXIII an additional paragraph reading as follows:

"Where, in accordance with the above, the local authorities of one of the High Contracting Parties exercise jurisdiction in connection with a criminal act committed on board of a vessel flying the flag of the other High Contracting Party, the consul concerned of such other Party shall be notified without delay."

The purpose of the proposed addition seems to be to impose on local authorities the obligation to notify a consul in the event that the local authorities exercise jurisdiction with respect to a criminal act committed on board a vessel of the consul's nationality. The master of a vessel would of course be informed of any incident occurring on board his ship which constituted a criminal act. Inasmuch as the master of a ship has frequent occasion to come in contact with the consuls of his Government it would seem that there would be ample opportunity for the consul to become informed of the proceedings against a person committing an offense on board. In the circumstances I do not deem it necessary or advisable to impose on the prosecuting or judicial authorities of the United States the burden of communicating to Norwegian consuls the notice contemplated by the addition to Article XXIII proposed by your Government.

It is noted that the provision contained in the fourth paragraph of Article XXIII to the effect that a consul may appear in court as an interpreter or agent is not in accordance with Norwegian legislation. The suggestion of your Government that the paragraph be amended by adding after the words "interpreter or agent" the words "provided the local laws so permit" does not serve the purposes for which the provision to which your Government takes exception was originally inserted. The paragraph if thus amended would confer no affirmative right upon a consul. You will recall that it was tentatively agreed in the course of the discussions which recently took place at the Department, that consideration would be given to eliminating the words which follow the word "appointed" in the original draft and to substituting therefor, the following:

"for the purpose of observing the proceedings and rendering such assistance as may be permitted by the local laws."

The paragraph so amended would be acceptable to the Government of the United States. It would read as follows:

"A consular officer may appear with the officers and crews of vessels under the flag of his country before the judicial authorities of the State to which he is appointed for the purpose of observing the proceedings and rendering such assistance as may be permitted by the local laws."

ARTICLE XXIV

The suggestions of your Government that the expression "without having in the territory of his decease any known heirs or testamentary executors by him appointed" should be omitted from the first paragraph of Article XXIV and that a new paragraph quoted in the Legation's note, be inserted after paragraph one, have been given consideration. Under the constitutional system obtaining in the United States the matter of administering estates and of prescribing the duties of the local authorities in connection therewith is within the competence of the individual States and not of the Federal Government. It has been the traditional practice of the Executive in concluding treaties to refrain from imposing on the States or local authorities any obligation except such as a proper regard for the division of authority between the Federal Government on the one hand, and the States on the other permit, or which necessity requires. The omission of the expression "without having in the territory of his decease any known heirs or testamentary executors by him appointed" from the first paragraph as proposed in the Legation's note and the adoption of the new paragraph proposed would entail a departure from the practice hitherto followed by the Executive and an encroachment upon the prerogatives of the Governments of the States and would impose upon local State authorities duties which it is not believed they can reasonably be required to discharge. No Executive has in the past seen fit to incorporate in a treaty provisions such as would result from the amendments to Article XXIV proposed in the Legation's note.

Several other Governments with which the Government of the United States has recently concluded treaties, proposed the adoption of provisions similar to those which your Government desires to have adopted but the Government of the United States was for the reasons stated in the preceding paragraph unable to accede to their wishes. While I understand the purposes which actuated your Government in proposing the amendments of Article XXIV, I do not feel that I could recommend to the President the adoption of them in a treaty entailing as they do so radical a departure from the practice hitherto followed in the treaties of the United States and the imposition on the State authorities of a duty to concern themselves to so large an extent with the private affairs of individuals. I venture therefore to express the hope that your Government will be disposed to accept paragraph one of Article XXIV as contained in the original draft, without any substantial modifications and will not insist upon the adoption of the new paragraph which it proposed be inserted immediately after that paragraph.

For the reasons developed in the foregoing discussion relating to the first paragraph of Article XXIV and the proposed new second paragraph, I do not deem it expedient to adopt the paragraph regarding escheatment suggested in your Legation's note.

The suggestion made in the Legation's note that the initial lines of the second paragraph of Article XXIV be amended to read "In case of the death of a national of either of the High Contracting Parties without will or testament whereby he has appointed testamentary executors" is acceptable to the Government of the United States.

Article XXV

The new introductory paragraph to Article XXV proposed in the Legation's note is acceptable to the Government of the United States with the exception of the last sentence thereof which appears to cover in part the substance of the sole paragraph of Article XXV of this Government's draft. This Government proposes, therefore, that the last sentence of the new paragraph proposed by your Government be struck out and that the Article XXV of this Government's draft be placed as the second paragraph of that article amended, however, by the insertion of the words "collect and" before "receipt" in the fourth line and by the substitution of the words "for transmission through channels prescribed by his Government to the proper distributees" in place of all that part of the original article which follows the word "statutes" at the end of the ninth line. The entire article will then read as follows:

"A consular officer of either High Contracting Party shall within his district have the right to appear personally or by delegate in all matters concerning the administration and distribution of the estate of a deceased person under the jurisdiction of the local authorities for all such heirs or legatees in said estates, either minors or adults, as may be non-residents and subjects or citizens of the country represented by the said consular officer, with the same effect as if he held their mandate to represent them, unless said heirs or legatees themselves have appeared, either in person or by duly authorized representative.

"A consular officer of either High Contracting Party may in behalf of his non-resident countrymen collect and receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of so-called Workmen's Compensation Laws or other like statutes, for transmission through channels prescribed by his Government to the proper distributees."

Article XXVI

This article was incorporated in the draft treaty after full consideration by the agencies of the Government of the United States concerned with its provisions.

It is felt that the granting of the right of inspection of vessels to the consular officers of the United States will in some instances expedite the entry of vessels in ports of the United States and will relieve them from delay and inconvenience. It may be pointed out that under the Quarantine Act of February 15, 1893, of the United States,[28] American consular officers are required before granting a bill of health to any vessel at a foreign port clearing for the United States to be satisfied that the matters and things stated therein are true and that a vessel clearing and sailing from a foreign port without such bill of health and entering a port of the United States is liable to a fine up to $5,000.

In the course of discussions which took place at the Department you expressed the view that the article might result in delay in the departure from foreign ports of vessels destined for the United States. You suggested that if the Government of the United States was unwilling to omit Article XXVI there be added a provision requiring consular officers to act promptly in exercising the right conferred upon them by this article. This suggestion is acceptable to the Government of the United States. It is proposed, therefore, that the following paragraph be added to the article:

"In exercising the right conferred upon them by this article, consular officers shall act with all possible despatch and without unnecessary delay."

It is hoped that your Government will see its way to accept the article amended as proposed.

ARTICLE XXVII

The Government of the United States is willing to substitute the first paragraph of Article XXVI of the treaty between the United States and Estonia for the first paragraph of Article XXVII of the original draft of the treaty submitted to your Legation with slight modifications. The paragraph thus modified is set forth below with the insertions desired by this Government underscored [29] and a proposed omission enclosed in brackets; [29a]

"Each of the High Contracting Parties agrees to permit the entry free of all duty of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their baggage and all other personal property, accompanying the officer, *his family or suite*, to his post, provided, nevertheless, that no article the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories. Personal prop-

[28] 27 Stat. 449, 450 (sec. 2).
[29] Printed in italics.
[29a] There are no brackets in the file copy.

erty imported by consular officers, their families or suites during the incumbency of the officers (in office) shall be accorded *on condition of reciprocity* the customs privileges and exemptions accorded to consular officers of the most favored nation."

It is believed that the purposes of the changes proposed are obvious.

It is desired that the second paragraph of the original article be retained.

This article if changed by omitting "consular officers . . . as are its nationals" and by substituting therefor the expression "consular officers de carrière . . .", as proposed in the Legation's note, would not fully serve the purpose for which it was intended. As explained to you orally there are in the consular service of the United States officers who are not consuls of career but who it is believed are entitled to receive the benefits of Article XXVII. For this reason it is desired that the description of the officers contained in the original article be retained.

ARTICLE XXVIII

The form proposed in the Legation's note for the first paragraph of Article XXVIII is acceptable to this Government.

ARTICLE XXIX

It is agreeable to the Government of the United States to add at the end of Article XXIX the words "and Svalvard [*Svalbard*]". It is not deemed desirable to accept the portion of the addition proposed in the Legation's note reading "in respect of which the High Contracting Parties accord each other reciprocal most favored nation treatment." The purpose of Article XXIX is to define the territory in which the Treaty shall be operative and to except the Panama Canal Zone and as amended Svalvard [*Svalbard*], from the scope of the Treaty. It would be inconsistent with the purposes of the article to write into it any provision regarding favored nation treatment in the Panama Canal Zone and Svalvard [*Svalbard*].

ARTICLE XXX

A term of three years for the duration of the Treaty would be acceptable to the Government of the United States.

As explained to you orally I am willing to accede to the wishes of your Government that the third paragraph of Article XXX of the original draft be omitted from the treaty, hoping that by so doing the completion of the negotiations and the signing of the treaty may be expedited.

With respect to the request of your Government that there be included in the Treaty a special provision relating to Norwegian sar-

dines, I may state that it would be contrary to the policy of this Government and that it is not deemed desirable to incorporate in a treaty, general in character, provisions relating to particular products. Under the present tariff laws of the United States, Norwegian sardines are accorded the same tariff treatment as sardines imported from any other country. Under the most favored nation provision of the Treaty under negotiation such equality of treatment would be continued. There is, therefore, no present occasion for including in the Treaty an express provision on this subject. It is hoped that your Government will not deem it necessary to insist upon this feature.

In conclusion, I desire to express my appreciation of your cooperation and assistance in these treaty negotiations and to express the hope that you can obtain instructions from your Government which will admit of the signing of the Treaty at an early date.

Accept [etc.] FRANK B. KELLOGG

711.572/63

The Secretary of State to the Norwegian Minister (Bachke)

WASHINGTON, *April 27, 1928.*

SIR: In compliance with the request made by you during your call at the Department on April 20, 1928, I have the honor to propose hereinbelow for the consideration of your Government an amended Article VI of the draft treaty of Friendship, Commerce, and Consular Rights which we are negotiating, having the purpose of incorporating in the Article the substance of the addition suggested in your Legation's note of December 9, 1927, and accepted in my note of March 23, 1928.

The Article which I now propose is as follows, the new portion being indicated by underlining:[30]

ARTICLE VI

In the event of war between either High Contracting Party and a third State, such Party may draft for compulsory military service nationals of the other having a permanent residence within its territories and who have formally, according to its laws, declared an intention to adopt its nationality by naturalization, unless such individuals depart from the territories of said belligerent Party within sixty days after a declaration of war. *It is agreed, however, that such right to depart shall not apply to natives of the country drafting for compulsory military service who, being nationals of the other Party, have declared an intention to adopt the nationality of their nativity. Such persons shall nevertheless be entitled in respect of this matter to treatment no less favorable than that accorded the nationals of any other country who are similarly situated.*

I shall be glad to be informed whether the addition herein pro-

[30] Printed in italics.

posed to the Article correctly expresses the suggestions made in your Legation's note.

Accept [etc.] FRANK B. KELLOGG

711.572/67

The Secretary of State to the Norwegian Minister (Bachke)

The Secretary of State presents his compliments to the Minister of Norway and has the honor to inform him that consideration has been given to the inquiry made by the Minister on the occasion of his call at the Department April 26, 1928, whether the United States would be willing to substitute in Article VIII of the Treaty of Friendship, Commerce and Consular Rights under negotiation between the two Governments the expression "goods, products and merchandise" or the expression "goods, products, wares and merchandise" in place of the single word "merchandise".

The Secretary of State has the honor to inform the Minister that either of the two suggestions made in the Minister's inquiry is acceptable to this Government.

WASHINGTON, *April 27, 1928.*

711.572/68

The Norwegian Minister (Bachke) to the Secretary of State

WASHINGTON, *May 7, 1928.*

MR. SECRETARY OF STATE: I have had the honor to receive Your Excellency's notes of March 23 and April 6, 1928, containing comments on the observations made in the note of this Legation of December 9, 1927, regarding the draft treaty of Friendship, Commerce and Consular Rights, transmitted by the note of State Department to this Legation, dated August 13, 1925.

Having submitted to the consideration of my Government Your Excellency's notes, I have been informed by the Foreign Minister at Oslo that his department at once has commenced studying the observations therein presented so as to expedite its reply as much as possible. I have had the honor already verbally to mention in the Department of State two questions relating to Article VI and VIII in the draft for the treaty concerning which I have received instructions from Oslo. Your Excellency's two notes of April 27, 1928, dealing with said articles, have been transmitted by cable to my Government.

At the present occasion I beg leave to state:

1. As far as concerns the word "personal" which the American Government desires to be placed before the word "property" in the first line in the addition to article IV, 2nd paragraph, proposed by my Government, the said amendment is accepted.

2. Your Excellency's note of March 23, 1928, mentions that as to the suggestion made by my Government regarding the second paragraph of Article XIX that a stipulation be included to the effect that the exemption from taxation does not apply to municipal rates levied on real estate, the scope and effect of the proposed change is not clear. The Legation is now in a position to give the following information which it is hoped will explain the change: In Norway the greatest part of the municipal taxes is levied by assessment on income and capital of individuals and corporations. Real estate purchased by a foreign government for the official use of its legation or consulate, is exempt from these municipal taxes. In addition thereto the municipalities levy a special immovable property tax on estate, situated within the confines of the municipality. This last tax is imposed upon all property and, according to the present Norwegian Legislation no exemption from the payment of this tax is granted.

3. ad Article XXIV. It will be recalled that during the verbal discussions in the State Department during the month of March last, I took leave to point out the great importance which the Norwegian Government attaches to the acceptance of the alterations suggested in the treaty's article XXIV, concerning an extension of the duty of the local authorities to notify the respective consular representative, in certain cases of deaths of nationals or residents of either of the High Contracting Parties. My Government has carefully considered the views expressed by Your Excellency in the note of April 6th explaining the difficulties for the United States Government to subscribe to the amendments proposed. In view of the fact that an acceptance undoubtedly would signify an important improvement in the conditions actually existing in this respect, my Government wants me, however, once more to point out how desirable it finds the acceptance of the amendments by Your Excellency's Government. As stated in this Legation's note, dated December 9, 1927, it is considered that the suggested alterations of this article's text would be conducive to furthering the interests of justice and equity and the Norwegian Government would, therefore, appreciate it if the Government of the United States of America could see its way to take into renewed consideration whether it could not be found possible to accept the substance of the modifications so highly desired by the Norwegian Government.

As soon as I receive further remarks from my Government, I will, in order to hasten the negotiations and to make possible the signing of the Treaty at an early date, immediately take leave to again communicate with Your Excellency.

Accept [etc.] H. H. BACHKE

711.572/68

The Secretary of State to the Norwegian Minister (Bachke)

WASHINGTON, *May 22, 1928.*

SIR: I have the honor to acknowledge the receipt of your note of May 7, 1928, relating to questions which have arisen in the negotiation of the Treaty of Friendship, Commerce and Consular Rights between this Government and your Government.

1. Note has been made that your Government has accepted the proposal to insert the word "personal" in the first line in the addition to Article IV, second paragraph.

2. From the explanation concerning taxation in Norway made in connection with the second paragraph of Article XIX of the Treaty, it appears that in view of existing Norwegian law, your Government is unwilling to accept this paragraph in a form which would exempt the American Legation or other immovable property of the United States Government in Norway from the special immovable property tax levied by the municipality in which such property is situated. As was explained to you by the Solicitor in the conference on May 15, the exemption in this paragraph as proposed by the United States is very broad and if agreed upon would admit of no form of property tax being levied by either National, State, Provincial or Municipal authorities, on lands or buildings in the United States, owned by the Norwegian Government and used exclusively for Governmental purposes. The provision has been included in a number of treaties recently concluded by the United States and this Government would, as stated in my note of March 23 last, prefer to withdraw the paragraph rather than agree to a similar provision in narrower form which would admit of the levying of municipal rates in a foreign country on lands and buildings owned by the United States and used exclusively for Governmental purposes.

The effect of such withdrawal would be to leave the local law or practice in respect to the taxation of such property in each country unaffected by Treaty provision. It is understood from your note and statements to the Solicitor that under the existing law of Norway the American Legation in Norway is subject to the payment of the municipal rates referred to in your notes of December 9, 1927 and May 7, 1928, and to no other form of taxation. I may state that a Legation owned by the Government of Norway in the United States, situated in the District of Columbia would, pursuant to the practice of this Government but not under positive provision of law, be exempt from the payment of general and special taxes or assessments.

3. As requested by you, further consideration has been given to the matter of enlarging the scope of the stipulation in the first paragraph of Article XXIV, providing that the local authorities of each

country shall inform the consular officers of the other in certain cases of deaths in their territories. As has been explained to you, this Government is very reluctant to impose large duties in regard to the giving of notice upon the local authorities, both because the local authorities on whom the duty would be placed are officers of the State Governments and not of the Federal Government and because the Department knows from experience that it is difficult to obtain complete compliance with such a provision by the local authorities throughout the United States, even in the instances included in this Government's original draft. I am informed that the Solicitor offered to accept the paragraph submitted by you at the conference on May 15, modified so as to read as follows:

"Likewise in case of the death of a resident of either of the High Contracting Parties in the territory of the other Party from whose remaining papers which may come into the possession of the local authorities, it appears that the decedent was a native of the other High Contracting Party, the proper local authorities shall at once inform the nearest consular officer of that Party of the death."

I understand that you will submit the provision as above quoted for consideration by your Government. I trust that it will be acceptable to your Government for it embraces the greatest extension of the stipulation in regard to giving notice to consuls in case of death that would be agreed to by this Government.

The progress that has been made in these negotiations during recent weeks is a source of satisfaction to me and I am glad to express to you my appreciation of the cooperation of the Legation and the Norwegian Government in this matter. I shall be glad to receive and to consider promptly the further remarks which you expect to receive from your Government in regard to provisions of the draft under negotiation.

Accept [etc.] FRANK B. KELLOGG

711.572/71

The Norwegian Minister (Bachke) to the Secretary of State

WASHINGTON, *May 23, 1928.*

MR. SECRETARY OF STATE: Referring to my note of May 7th, 1928, I now have the honor to communicate the further remarks of my Government to the comments in Your Excellency's notes of March 23 and April 6, 1928, on certain observations made in the note of this Legation of December 9, 1927, regarding the draft treaty of Friendship, Commerce and Consular Rights between Norway and the United States, now under negotiation. These remarks, which I take leave to submit hereafter, will be found to deal also with articles XIX and XXIV of the draft treaty referred to in Your Excellency's note of May 22nd, 1928, the receipt of which is hereby acknowledged.

ARTICLE I

First paragraph. The amendment proposed in your note dated March 23, 1928, is acceptable to the Norwegian Government.

With regard to the second paragraph Your Excellency has in the said note formulated the following addition, viz.:

"This paragraph does not apply to charges and taxes on the acquisition and exploitation of waterfalls, mines or forests."

This addition is acceptable to my Government, who, however, would prefer the words "energy produced by waterfalls" to be inserted after the word "waterfalls".

ARTICLE VI

The amendment to Article VI, proposed by the Legation and formulated in Your Excellency's note, dated April 27th, is acceptable to my Government.

ARTICLE VII

With regard to the final (additional) paragraph of Article VII, the proviso regarding short boundary traffic was formulated in my note dated December 9, 1927, as follows:

"Neither of the High Contracting Parties shall by virtue of the provisions of the present Treaty be entitled to claim the benefits which have been granted or may be granted to neighbouring states in order to facilitate short boundary traffic."

In the revised text of Article VII accompanying your note dated March 23, 1928, this paragraph has been worded as follows:

"Neither of the High Contracting Parties shall by virtue of the provisions of the present Treaty be entitled to claim the benefits which have been granted in order to facilitate short boundary traffic."

If the American Government has no particular objections thereto, my Government would prefer the wording to stand as originally suggested.

The revised text of this Article is otherwise acceptable to my Government.

ARTICLE VIII

It is agreed that the words "goods, products, wares" be inserted after the word "nationals" appearing twice in Article VIII.

ARTICLE IX

I am authorized by my Government to state that it agrees with the opinion expressed by me when discussing with your Department

the proposed new text of Article IX, namely that my Government would not under Article IX as now modified consider that it would be in a position to demand preferential treatment equivalent to that accorded vessels coming from a particular geographic region for Norwegian vessels coming to the United States from other regions.

ARTICLE XIV

The Norwegian Government observes that the American Government is willing to have Article XIV and XV of the draft substituted by a single Article which places commercial travellers on a most favored nation basis. The text suggested by the State Department for the new Article, to become Article XIV of the Treaty, is entirely satisfactory to my Government.

ARTICLE XV

(Originally Article XVI)

The amended wording of this Article, as proposed by the State Department, is acceptable to my Government.

ARTICLE XVII

(Originally Article XVIII)

The proposal of the State Department that the second and third paragraph[s] of this Article be unchanged and that there be added to the same a new paragraph reading

"No consular officer shall be required to testify in either criminal or civil cases regarding acts performed by him in his official capacity"

does not cover the requirements of the Norwegian legislation. My Government feels that the second paragraph should be amended, as outlined in my note of December 9, 1927, so that its first period would read as follows:

"In criminal cases the attendance at the trial by a consular officer as witness may be demanded by the prosecution or the defense, or by the court, except in regard to acts performed by such consular officer in his official capacity."

In the same way my Government finds that paragraph three should be amended, so that the first period of the same would read as follows:

"Consular officers shall, except in regard to acts performed by them in their official capacity, be subject to the jurisdiction . . . etc."

If the American Government should be unable to accept these amendments, my Government suggests that paragraph two be amended by inserting only the words "or by the court" as quoted above,

and that paragraph three be omitted. Under Norwegian law, the judge, as well as the prosecution and the defense, is entitled to call witnesses.

ARTICLE XVIII

(Originally Article XIX)

The omission of the second paragraph is accepted.

ARTICLE XX

(Originally Article XXI)

The wording of this article, as given in the State Department's note, dated March 23, 1928, is acceptable to my Government.

ARTICLE XXII

(Originally Article XXIII)

First paragraph. Re the words "provided the local laws so permit" and the substitution of a new wording for same.

The reasons why my Government found the said first paragraph unsatisfactory are stated in my note of December 9th, 1927. Your Excellency's note of April 6th, 1928, explains why the expression to which the Norwegian Government takes exception "does not establish a condition of inequality as between the Government or the laws of the United States and the Government or laws of Norway". I am to say in this connection that my Government is unable to share this opinion of the matter. The facts of the case are that under Norwegian law all disputes between the master and the crew on board Norwegian ships shall, when the ship is abroad, be submitted to the consul for decision, and that a master is entitled to dismiss any seaman who causes such a dispute to be referred to any foreign authorities. The expression to which my Government takes exception would make it possible that laws were passed in the United States prohibiting a foreign consul there from exercising any jurisdiction at all in civil cases over members of vessels belonging to the consul's nation. This provision of the Treaty would thus lend itself to limiting the exclusive right of jurisdiction in these cases granted by Norwegian legislation to Norwegian consuls. It will be readily understood that the Norwegian Government would be extremely loath to accept such a provision. An amendment to the effect that the words cited above be deleted and the words "provided, however, that the local laws also may decide that the local authorities shall have jurisdiction over cases of this character", to be substituted therefore would, as I have had the honor to inform

Your Excellency's Department, be somewhat less unsatisfactory, in so far as the latter wording would not prohibit the consul from exercising jurisdiction but would constitute a recognition of such local laws as place jurisdiction over such issues in the local courts. Such a wording would appear to be consistent with the views of the American Government, as in your note of April 6th, 1928, (page 4) it is stated that the expression to which my Government takes exception would not operate to prevent the submission of issues concerning the adjustment of wages etc. to the consuls, but would merely concede the operation of the laws of the United States if a master or a seaman should seek to invoke them. It seems therefore that the expression contained in the draft treaty goes further than considered necessary by your Department. Under the verbal negotiations I was informed, on May 15th, that the American Government, while willing not to insist upon retaining the original wording, would prefer in lieu of the change suggested as an improvement by my Government the following wording "provided, however, that such jurisdiction shall not exclude the jurisdiction conferred on local authorities under existing or future laws". My Government has instructed me to accept this modification, but I am desired to say that it is with the greatest reluctance my Government gives its consent to any clause rendering possible the jurisdiction of foreign local courts over controversies concerning adjustment of wages etc. on board Norwegian vessels, and that it does so only in order not to jeopardize the signing of the treaty. The Norwegian Government does not admit that the American Government has the right to prevent the laws of Norway from being applied on board Norwegian ships in American territorial waters in regard to issues concerning the adjustment of wages and the execution of wage contracts, neither is my Government aware of any country except the United States ever having claimed to possess any such right. When in Your Excellency's note it is said that the expression to which my Government takes exception would apply to the jurisdiction of American Consuls in Norway in the same way that it would apply to Norwegian consuls in the United States, my Government desires me to say that the courts in Norway have no jurisdiction over civil cases touching the internal order on board foreign ships in Norwegian ports. The number of American vessels calling at Norwegian ports is, moreover, very small while a very great number of Norwegian vessels call at American ports. When in the note of Your Excellency it is observed, that the said expression "does not establish a condition of inequality as between the Government or the laws of the United States and the Government or laws of Norway", this is, therefore, a statement which my Government is unable to accept.

ARTICLE XXIII

(Originally Article XXIV)

In view of the comments made in Your Excellency's note of April 6, 1928, relating to the suggestions of my Government of certain alterations in this article, my Government accepts said article in its original form, with the additions consented to by the American Government, viz.: 1) The paragraph submitted by me at the conference on May 15th, as amended in Your Excellency's note of May 22nd; 2) The insertion of the words "whereby he has appointed testamentary executors" after the words "without will or testament" in the original second paragraph.

My Government appreciates the acceptance by Your Excellency of these modifications.

ARTICLE XXIV

(Originally Article XXV)

My Government agrees to the wording of paragraphs one and two, as amended by the State Department.

The words "subjects or citizens" in paragraph one apparently ought to be changed to "nationals" which latter term is that usually employed in this connection throughout the draft.

ARTICLE XXV

(Originally Article XXVI)

The addition proposed by the State Department is acceptable to my Government.

ARTICLE XXVI

(Originally Article XXVII)

My Government would as previously stated prefer Article XXVII to be changed by omitting "consular officers . . . as are its nationals" and substituting therefor the expression "consular officers de carrière". The article as it now reads would, through most-favored-nation clauses in treaties between Norway and other countries, accord to an honorary consul in Norway being a national of the country by which he was appointed and not engaged in any private occupation for gain, customs privileges, to which he would not be entitled under Norwegian practice. It is recognized, however, that the case of honorary consuls of such a category will not arise often, wherefore my Government does not feel inclined to stress this point.

The Norwegian Government agrees otherwise with the provisions of the first paragraph of this article; it is also agreed that the second paragraph of the same be retained.

ARTICLE XXIX

(Originally Article XXX)

It is with great satisfaction that the Norwegian Government has learnt that Your Excellency is willing to accede to its wishes in having omitted from the Treaty the third paragraph of the original article XXX of the draft.

The first lines of the first paragraph, containing a reference to paragraph three, would then have to be modified accordingly.

With regard to the last paragraph of this article, is is desired that the words ". . . and the King of Sweden and Norway" be changed to ". . . and the King of Norway and Sweden."

The insertion in same paragraph of the words "as between Norway and the United States", desired by the Department of State, is accepted.

Please accept [etc.] H. H. BACHKE

711.572/74

The Minister in Norway (Swenson) to the Secretary of State

No. 1196 OSLO, *June 1, 1928.*

[Received June 19.]

SIR: I have the honor to report that when I called at the Foreign Office on the weekly diplomatic day, the 31st ultimo, the Minister for Foreign Affairs informed me that at a council of state held May 29th the Government had decided to authorize signature of the new Treaty of Friendship, Commerce, and Consular Rights between the United States and Norway and that the Norwegian Minister at Washington had been instructed by cable to affix his signature to the document. Both Mr. Mowinckel and the Secretary General of the Foreign Office expressed their gratification at the successful issue of the negotiations in this matter.

I have [etc.] LAURITS S. SWENSON

711.572/79

The Chief of the Treaty Division (Barnes) to the Secretary of State

[WASHINGTON,] *June 2, 1928.*

DEAR MR. SECRETARY: The negotiations of the Treaty of Friendship, Commerce and Consular Rights between the United States

and Norway are nearly completed and the texts are now being put in final form for signature. The Minister desires to sign the Treaty on Tuesday, June 5th, if the texts can be put in final form and it is agreeable to you to sign on that date.

In the Minister's note of December 9, 1927, which discussed a large number of the articles of the Treaty, it was proposed that an exchange of notes or protocol be signed in connection with the Treaty, stating that Norwegian sardines prepared from fish belonging to the species "Clupea sprattus" (Brisling) or "Clupea harengus" (Sild), when imported into the United States would not pay a higher tariff rate than sardines prepared from fish belonging to other species "Clupea pilchardus" imported from other countries. It was stated that such a provision had been made by protocol or exchange of notes in connection with treaties signed by Norway with other countries.

In your note of April 6, 1928, to the Norwegian Minister, discussing Articles XXIII and following of the Treaty, the following statement was made in regard to the foregoing proposal concerning Norwegian sardines:

"With respect to the request of your Government that there be included in the Treaty a special provision relating to Norwegian sardines, I may state that it would be contrary to the policy of this Government and that it is not deemed desirable to incorporate in a treaty, general in character, provisions relating to particular products. Under the present tariff laws of the United States, Norwegian sardines are accorded the same tariff treatment as sardines imported from any other country. Under the most favored nation provision of the Treaty under negotiation such equality of treatment would be continued. There is, therefore, no present occasion for including in the Treaty an express provision on this subject. It is hoped that your Government will not deem it necessary to insist upon this feature."

The Minister now asks that on the occasion of the signing of the Treaty notes be exchanged in regard to the tariff treatment of Norwegian sardines of substantially the same tenor as the statement made in your note of April 6, 1928. Copies of the Minister's proposed note and a proposed reply are attached.[31] The statements in the notes are the same statements that were made in your note of April 6, 1928. The Norwegian Government attaches considerable importance to having the formal exchange of notes in connection with the Treaty so that it will be in a position to publish it with the Treaty, since your note of April 6, 1928, dealing with the questions under negotiation will not be published. The Minister stated

[31] See notes exchanged June 5, 1928, p. 662.

in the oral negotiations that the Norwegian varieties of sardines had been discriminated against by higher import duties in certain countries and that there is a good deal of pressure on the Government to have a promise in every treaty that no higher duties will be charged on them than on other varieties.

There would appear to be no objection to agreeing to the Minister's proposal and effecting the exchange of notes in connection with the signing of the Treaty. As it is desired to meet the Minister's wishes to sign the Treaty on Tuesday, June 5th, if the preparation of the final texts can be completed by that time and an appointment on that date will be convenient for you, I should be glad to be informed as to whether you approve the proposed exchange of notes.

C. M. B[ARNES]

711.572/71

The Secretary of State to the Norwegian Minister (Bachke)

WASHINGTON, *June 4, 1928.*

SIR: I have the honor to acknowledge the receipt of your note of May 23, 1928, and to express my appreciation of the acceptance by your Government, as therein set forth, of proposals made in my notes of March 23, April 6, April 27, and May 22, 1928, and in conversations between you and officials of the Department, regarding the draft treaty of Friendship, Commerce and Consular Rights between the United States and Norway. On the other hand, it has given me pleasure to accept, on the part of the United States, certain proposals of your Government recited in your note, as follows:

1. The insertion of the words "energy produced by waterfalls" after the word "waterfalls", so that the addition suggested in my note of March 23 to the second paragraph of Article I of the draft will read as follows:

"This paragraph does not apply to charges and taxes on the acquisition and exploitation of waterfalls, energy produced by waterfalls, mines or forests."

2. The wording of the final paragraph of Article VII,—the proviso regarding short boundary traffic, to remain as formulated in your note of December 9, 1927, as follows:

"Neither of the High Contracting Parties shall, by virtue of the provisions of the present Treaty, be entitled to claim the benefits which have been granted or may be granted to neighboring States, in order to facilitate short boundary traffic."

3. The substitution in the first paragraph of Article XXIV (originally Article XXV) of the word "nationals" for the words "subjects or citizens".

4. The transposition in the last paragraph of Article XXIX (originally Article XXX) of "the King of Sweden and Norway" to "the King of Norway and Sweden".

With respect to Article XVII (originally Article XVIII), I deem it desirable to make of record in this way that as a result of oral discussions with you at the Department of State, it was agreed to insert after the word "defense" at the end of the first sentence of the second paragraph, the words "or by the court"; to omit the first clause of the third paragraph and further revise this paragraph so that it will read:

"When the testimony of a consular officer who is a national of the State which appoints him and is engaged in no private occupation for gain is taken in civil cases, it shall be taken orally or in writing at his residence or office and with due regard for his convenience. The officer should, however, voluntarily, give his testimony at the trial whenever it is possible to do so without serious interference with his official duties.";

and to retain the fourth paragraph as proposed by this Government, viz:

"No consular officer shall be required to testify in either criminal or civil cases, regarding acts performed by him in his official capacity."

Note has been made of your statement with respect to Article IX that your Government "would not under Article IX as now modified consider that it would be in a position to demand preferential treatment equivalent to that accorded vessels coming from a particular geographic region for Norwegian vessels coming to the United States from other regions"; and of the observations, as well, which you present on behalf of your Government with respect to the first paragraph of Article XXII (originally Article XXIII) and Article XXVI (originally Article XXVII).

I have directed that the text as agreed upon be prepared for signature, and I shall be happy to sign the treaty with you on Tuesday, June 5, at twelve o'clock, noon.

Accept [etc.] FRANK B. KELLOGG

711.572/62 : Telegram

The Secretary of State to the Minister in Norway (Swenson)

WASHINGTON, *June 5, 1928—4 p. m.*

11. Your 1077, November 5, 1927. Treaty of Friendship, Commerce and Consular Rights between United States and Norway signed here June 5, 1928.[32]

KELLOGG

---

[32] For text, see p. 646.

711.572/99

The Department of State to the Norwegian Legation

MEMORANDUM

Before proceeding to the ratification of the treaty of friendship, commerce and consular rights between the United States and Norway, signed June 5, 1928,[33] it seems necessary to consider the effect its ratification would have upon the rights of commercial men of either country to enter and reside for protracted periods in the other for the purpose of carrying on commerce between the two countries. This is especially necessary with regard to Norwegian commercial men coming to the United States to reside, in view of the provision of subsection (6) of Section 3 of the Immigration Act of 1924.[34]

Section 3 of the Immigration Act of 1924 classifies as immigrants all aliens "departing from any place outside the United States destined for the United States, except" aliens of six specified classes the last of which is

"(6) an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of a present existing treaty of commerce and navigation."

The statutory provision just quoted was adopted for the purpose of preserving the rights of aliens to enter, sojourn and reside in the United States for commercial purposes under the provisions of the then existing commercial treaties, since it was believed that such rights would not be preserved by the provision of subsection (2) of Section 3, which classified as a non-immigrant "an alien visiting the United States temporarily as a tourist or temporarily for business or pleasure". It was believed that aliens coming to the United States to remain indefinitely in this country as representatives of foreign commercial concerns could not be regarded as residing "temporarily" in the United States within the meaning ordinarily attached to that word.

Article I of the Treaty of Commerce and Navigation of 1827 of the United States with Norway and Sweden, which is still in effect as between the United States and Norway, reads as follows:

"The citizens and subjects of each of the two high contracting parties may, with all security for their persons, vessels, and cargoes, freely enter the ports, places, and rivers of the territories of the other, wherever foreign commerce is permitted. They shall be at liberty to sojourn and reside in all parts whatsoever of said territories; to rent and occupy houses and warehouses for their commerce; and they shall enjoy, generally, the most entire security and protec-

[33] *Infra.*
[34] 43 Stat. 153, 155.

tion in their mercantile transactions, on condition of their submitting to the laws and ordinances of their respective countries."

The first paragraph of Article I of the treaty of friendship, commerce and consular rights between the United States and Norway, signed June 5, 1928, reads as follows:

"The nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in professional, scientific, religious, philanthropic, manufacturing and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to employ agents of their choice, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the State of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established."

Article XXIX of the new treaty contains the following paragraph:

"The present Treaty shall, from the date of the exchange of ratifications be deemed to supplant, as between the United States and Norway, the Treaty of Commerce and Navigation concluded by the United States and the King of Norway and Sweden on July 4, 1827."

As the new treaty was not "existing" on the date of the passage of the Immigration Act of 1924, the provisions of Section 3 (6) of the latter will not be applicable to it. The Department has recommended to the appropriate Committees of Congress an amendment of Section 3 (6) of the Act which would make it applicable to persons entering the United States under commercial treaties which have been or shall be concluded after May 26, 1924, as well as to persons entering the United States under the provisions of commercial treaties concluded before that date, but no assurances can be given that such an amendment will be made in the immediate or near future.

For the reasons mentioned, in order to make it possible, after the ratification of the new treaty, for Norwegian nationals to enter the United States and remain in this country for such periods of time as the exigencies of the trade and commerce between the two countries in which they may be engaged may require, it will be necessary either to amend the treaty signed June 5, 1928, or to enter into a supplementary agreement under which the provisions of the treaty of 1827, concerning entry and residence for commercial purposes, will be kept in effect, notwithstanding the termination of the other provisions of the same treaty. It is suggested that the simpler way to accomplish this end would be by concluding an additional Article

to be made a part of the treaty signed June 5, 1928, and ratified at the time that treaty is ratified. A tentative draft of such an Article is annexed hereto.[35]

WASHINGTON, *December 7, 1928.*

Treaty Series No. 852

Treaty and Additional Article Between the United States of America and Norway, Signed at Washington, June 5, 1928, and February 25, 1929 [36]

The United States of America and the Kingdom of Norway, desirous of strengthening the bond of peace which happily prevails between them, by arrangements designed to promote friendly intercourse between their respective territories through provisions responsive to the spiritual, cultural, economic and commercial aspirations of the peoples thereof, have resolved to conclude a Treaty of Friendship, Commerce and Consular Rights and for that purpose have appointed as their plenipotentiaries,

The President of the United States of America,

Mr. Frank B. Kellogg, Secretary of State of the United States of America; and

His Majesty the King of Norway,

Mr. H. H. Bachke, His Envoy Extraordinary and Minister Plenipotentiary to the United States of America;

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following Articles:

ARTICLE I

The nationals of each of the High Contracting Parties shall be permitted to enter, travel and reside in the territories of the other; to exercise liberty of conscience and freedom of worship; to engage in professional, scientific, religious, philanthropic, manufacturing and commercial work of every kind without interference; to carry on every form of commercial activity which is not forbidden by the local law; to employ agents of their choice, and generally to do anything incidental to or necessary for the enjoyment of any of the foregoing privileges upon the same terms as nationals of the State of residence or as nationals of the nation hereafter to be most favored by it, submitting themselves to all local laws and regulations duly established.

---

[35] Draft adopted. For signed text, see p. 661.

[36] In English and Norwegian; Norwegian text not printed. Ratification advised by the Senate, Apr. 5 (legislative day of Apr. 4), 1932; ratified by the President, Apr. 16, 1932; ratified by Norway, July 30, 1932; ratifications exchanged at Washington, Sept. 13, 1932; proclaimed by the President, Sept. 15, 1932.

The nationals of either High Contracting Party within the territories of the other shall not be subjected to the payment of any internal charges or taxes other or higher than those that are exacted of and paid by its nationals. This paragraph does not apply to charges and taxes on the acquisition and exploitation of waterfalls, energy produced by waterfalls, mines or forests.

The nationals of each High Contracting Party shall enjoy freedom of access to the courts of justice of the other on conforming to the local laws, as well for the prosecution as for the defense of their rights, and in all degrees of jurisdiction established by law.

The nationals of each High Contracting Party shall receive within the territories of the other, upon submitting to conditions imposed upon its nationals, the most constant protection and security for their persons and property, and shall enjoy in this respect that degree of protection that is required by international law. Their property shall not be taken without due process of law and without payment of just compensation.

Nothing contained in this Treaty shall be construed to affect existing statutes of either of the High Contracting Parties in relation to the immigration of aliens or the right of either of the High Contracting Parties to enact such statutes.

Article II

With respect to that form of protection granted by National, State or Provincial laws establishing civil liability for bodily injuries or for death, and giving to relatives or heirs or dependents of an injured party a right of action or a pecuniary compensation, such relatives or heirs or dependents of the injured party, himself a national of either of the High Contracting Parties and within any of the territories of the other, shall regardless of their alienage or residence outside of the territory where the injury occurred, enjoy the same rights and privileges as are or may be granted to nationals, and under like conditions.

Article III

The dwellings, warehouses, manufactories, shops, and other places of business, and all premises thereto appertaining of the nationals of each of the High Contracting Parties in the territories of the other, used for any purposes set forth in Article I, shall be respected. It shall not be allowable to make a domiciliary visit to, or search of any such buildings and premises, or there to examine and inspect books, papers or accounts, except under the conditions and in conformity with the forms prescribed by the laws, ordinances and regulations for nationals.

416955—43——18

ARTICLE IV

Where, on the death of any person holding real or other immovable property or interests therein within the territories of one High Contracting Party, such property or interests therein would, by the laws of the country or by a testamentary disposition, descend or pass to a national of the other High Contracting Party, whether resident or non-resident, were he not disqualified by the laws of the country where such property or interests therein is or are situated, such national shall be allowed a term of three years in which to sell the same, this term to be reasonably prolonged if circumstances render it necessary, and withdraw the proceeds thereof, without restraint or interference, and exempt from any succession, probate or administrative duties or charges other than those which may be imposed in like cases upon the nationals of the country from which such proceeds may be drawn.

Nationals of either High Contracting Party may have full power to dispose of their personal property of every kind within the territories of the other, by testament, donation, or otherwise, and their heirs, legatees and donees, of whatsoever nationality, whether resident or non-resident, shall succeed to such personal property, and may take possession thereof, either by themselves or by others acting for them, and retain or dispose of the same at their pleasure subject to the payment of such duties or charges only as the nationals of the High Contracting Party within whose territories such property may be or belong shall be liable to pay in like cases. In the same way, personal property left to nationals of one of the High Contracting Parties by nationals of the other High Contracting Party, and being within the territories of such other Party, shall be subject to the payment of such duties or charges only as the nationals of the High Contracting Party within whose territories such property may be or belong shall be liable to pay in like cases.

ARTICLE V

The nationals of each of the High Contracting Parties in the exercise of the right of freedom of worship, within the territories of the other, as hereinabove provided, may, without annoyance or molestation of any kind by reason of their religious belief or otherwise, conduct services either within their own houses or within any appropriate buildings which they may be at liberty to erect and maintain in convenient situations, provided their teachings or practices are not contrary to public morals; and they may also be permitted to bury their dead according to their religious customs in suitable and convenient places established and maintained for the purpose, subject to the reasonable mortuary and sanitary laws and regulations of the place of burial.

ARTICLE VI

In the event of war between either High Contracting Party and a third State, such Party may draft for compulsory military service nationals of the other having a permanent residence within its territories and who have formally, according to its laws, declared an intention to adopt its nationality by naturalization, unless such individuals depart from the territories of said belligerent Party within sixty days after a declaration of war.

It is agreed, however, that such right to depart shall not apply to natives of the country drafting for compulsory military service who, being nationals of the other Party, have declared an intention to adopt the nationality of their nativity. Such natives shall nevertheless be entitled in respect of this matter to treatment no less favorable than that accorded the nationals of any other country who are similarly situated.

ARTICLE VII

Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation. The nationals of each of the High Contracting Parties equally with those of the most favored nation, shall have liberty freely to come with their vessels and cargoes to all places, ports and waters of every kind within the territorial limits of the other which are or may be open to foreign commerce and navigation. Nothing in this Treaty shall be construed to restrict the right of either High Contracting Party to impose, on such terms as it may see fit, prohibitions or restrictions designed to protect human, animal, or plant health or life, or regulations for the enforcement of revenue or police laws, including laws prohibiting or restricting the importation or sale of alcoholic beverages or narcotics.

Each of the High Contracting Parties binds itself unconditionally to impose no higher or other duties, charges or conditions and no prohibition on the importation of any article, the growth, produce or manufacture, of the territories of the other Party, from whatever place arriving, than are or shall be imposed on the importation of any like article, the growth, produce or manufacture of any other foreign country; nor shall any duties, charges, conditions or prohibitions on importations be made effective retroactively on imports already cleared through the customs, or on goods declared for entry into consumption in the country.

Each of the High Contracting Parties also binds itself unconditionally to impose no higher or other charges or other restrictions or prohibitions on goods exported to the territories of the other High Contracting Party than are imposed on goods exported to any other foreign country.

Any advantage of whatsoever kind which either High Contracting Party may extend by treaty, law, decree, regulation, practice or otherwise, to any article, the growth, produce, or manufacture of any other foreign country shall simultaneously and unconditionally, without request and without compensation, be extended to the like article the growth, produce or manufacture of the other High Contracting Party.

All articles which are or may be legally imported from foreign countries into ports of the United States or are or may be legally exported therefrom in vessels of the United States may likewise be imported into those ports or exported therefrom in Norwegian vessels, without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in vessels of the United States; and reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Norway or are or may be legally exported therefrom in Norwegian vessels may likewise be imported into these ports or exported therefrom in vessels of the United States without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in Norwegian vessels.

In the same manner there shall be perfect reciprocal equality in relation to the flags of the two countries with regard to bounties, drawbacks, and other privileges of this nature of whatever denomination which may be allowed in the territories of each of the Contracting Parties, on goods imported or exported in national vessels so that such bounties, drawbacks and other privileges shall also and in like manner be allowed on goods imported or exported in vessels of the other country.

With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels and goods of a third State, whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third State shall simultaneously and unconditionally, without request and without compensation, be extended to the other High Contracting Party, for the benefit of itself, its nationals, vessels, and goods.

The stipulations of this Article do not extend to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902, or any other commercial convention which hereafter may be concluded by the United States with Cuba. Such stipulations, moreover, do not extend to the commerce

of the United States with the Panama Canal Zone or with any of the dependencies of the United States or to the commerce of the dependencies of the United States with one another under existing or future laws.

No claim may be made by virtue of the stipulations of the present Treaty to any privileges that Norway has accorded, or may accord, to Denmark, Iceland or Sweden, as long as the same privilege has not been extended to any other country.

Neither of the High Contracting Parties shall by virtue of the provisions of the present Treaty be entitled to claim the benefits which have been granted or may be granted to neighboring States in order to facilitate short boundary traffic.

Article VIII

The nationals, goods, products, wares, and merchandise of each High Contracting Party within the territories of the other shall receive the same treatment as nationals, goods, products, wares, and merchandise of the country with regard to internal taxes, transit duties, charges in respect to warehousing and other facilities and the amount of drawbacks and export bounties.

Article IX

The vessels and cargoes of one of the High Contracting Parties shall, within the territorial waters and harbors of the other Party in all respects and unconditionally be accorded the same treatment as the vessels and cargoes of that Party, irrespective of the port of departure of the vessel, or the port of destination, and irrespective of the origin or the destination of the cargo. It is especially agreed that no duties of tonnage, harbor, pilotage, lighthouse, quarantine, or other similar or corresponding duties or charges of whatever denomination, levied in the name or for the profit of the Government, public functionaries, private individuals, corporations or establishments of any kind shall be imposed in the ports of the territories or territorial waters of either country upon the vessels of the other, which shall not equally, under the same conditions, be imposed on national vessels.

Article X

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties, and carrying the papers required by its national laws in proof of nationality shall, both within the territorial waters of the other High Contracting Party and on the high seas, be deemed to be the vessels of the Party whose flag is flown.

ARTICLE XI

Merchant vessels and other privately owned vessels under the flag of either of the High Contracting Parties shall be permitted to discharge portions of cargoes at any port open to foreign commerce in the territories of the other High Contracting Party, and to proceed with the remaining portions of such cargoes to any other ports of the same territories open to foreign commerce, without paying other or higher tonnage dues or port charges in such cases than would be paid by national vessels in like circumstances, and they shall be permitted to load in like manner at different ports in the same voyage outward, provided, however, that the coasting trade of the High Contracting Parties is exempt from the provisions of this Article and from the other provisions of this Treaty, and is to be regulated according to the laws of each High Contracting Party in relation thereto. It is agreed, however, that nationals of either High Contracting Party shall within the territories of the other enjoy with respect to the coasting trade the most favored nation treatment.

ARTICLE XII

Limited liability and other corporations and associations, whether or not for pecuniary profit, which have been or may hereafter be organized in accordance with and under the laws, National, State or Provincial, of either High Contracting Party and maintain a central office within the territories thereof, shall have their juridical status recognized by the other High Contracting Party provided that they pursue no aims within its territories contrary to its laws. They shall enjoy free access to the courts of law and equity, on conforming to the laws regulating the matter, as well for the prosecution as for the defense of rights in all the degrees of jurisdiction established by law.

The right of such corporations and associations of either High Contracting Party so recognized by the other to establish themselves in the territories of the other Party, establish branch offices and fulfill their functions therein shall depend upon, and be governed solely by, the consent of such Party as expressed in its National, State, or Provincial laws.

ARTICLE XIII

The nationals of either High Contracting Party shall enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the organization of and participation in limited liability and other corporations and associations, for pecuniary profit or otherwise, including the rights of promotion, incorporation, purchase and owner-

ship and sale of shares and the holding of executive or official positions therein. In the exercise of the foregoing rights and with respect to the regulation or procedure concerning the organization or conduct of such corporations or associations, such nationals shall be subjected to no condition less favorable than those which have been or may hereafter be imposed upon the nationals of the most favored nation. The rights of any of such corporations or associations as may be organized or controlled or participated in by the nationals of either High Contracting Party within the territories of the other to exercise any of their functions therein, shall be governed by the laws and regulations, National, State or Provincial, which are in force or may hereafter be established within the territories of the Party wherein they propose to engage in business.

The nationals of either High Contracting Party shall, moreover, enjoy within the territories of the other, reciprocally and upon compliance with the conditions there imposed, such rights and privileges as have been or may hereafter be accorded the nationals of any other State with respect to the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain of the other.

Article XIV

Commercial travelers representing manufacturers, merchants and traders domiciled in the territories of either High Contracting Party shall on their entry into and sojourn in the territories of the other Party and on their departure therefrom be accorded the most favored nation treatment in respect of customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

If either High Contracting Party require the presentation of an authentic document establishing the identity and authority of a commercial traveler, a signed statement by the concern or concerns represented, certified by a consular officer of the country of destination shall be accepted as satisfactory.

Article XV

There shall be complete freedom of transit through the territories including territorial waters of each High Contracting Party on the routes most convenient for international transit, by rail, navigable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries, to persons and goods coming from, going to or passing through the territories of the other High Contracting Party except such persons as may be forbidden admission into its territories or goods of which the importation may be prohibited by law or regulations. The measures of

a general or particular character which either of the High Contracting Parties is obliged to take in case of an emergency affecting the safety of the State or vital interests of the country may, in exceptional cases and for as short a period as possible, involve a deviation from the provisions of this paragraph, it being understood that the principle of freedom of transit must be observed to the utmost possible extent.

Persons and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, or to any discrimination as regards charges, facilities, or any other matter.

Goods in transit must be entered at the proper customhouse, but they shall be exempt from all customs or other similar duties.

All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic.

ARTICLE XVI

Each of the High Contracting Parties agrees to receive from the other, consular officers in those of its ports, places and cities, where it may be convenient and which are open to consular representatives of any foreign country.

Consular officers of each of the High Contracting Parties shall after entering upon their duties, enjoy reciprocally in the territories of the other all the rights, privileges, exemptions and immunities which are enjoyed by officers of the same grade of the most favored nation. As official agents, such officers shall be entitled to the high consideration of all officials, national or local, with whom they have official intercourse in the State which receives them.

The Governments of each of the High Contracting Parties shall furnish free of charge the necessary exequatur of such consular officers of the other as present a regular commission signed by the chief executive of the appointing State and under its great seal; and they shall issue to a subordinate or substitute consular officer duly appointed by an accepted superior consular officer with the approbation of his Government, or by any other competent officer of that Government, such documents as according to the laws of the respective countries shall be requisite for the exercise by the appointee of the consular function. On the exhibition of an exequatur, or other document issued in lieu thereof to such subordinate, such consular officer shall be permitted to enter upon his duties and to enjoy the rights, privileges and immunities granted by this Treaty.

ARTICLE XVII

Consular officers, nationals of the State by which they are appointed, and not engaged in any profession, business or trade, shall be exempt

from arrest except when charged with the commission of offenses locally designated as crimes other than misdemeanors and subjecting the individual guilty thereof to punishment. Such officers shall be exempt from military billetings, and from service of any military or naval, administrative or police character whatsoever.

In criminal cases the attendance at the trial by a consular officer as a witness may be demanded by the prosecution or defense, or by the court. The demand shall be made with all possible regard for the consular dignity and the duties of the office; and there shall be compliance on the part of the consular officer.

When the testimony of a consular officer who is a national of the State which appoints him and is engaged in no private occupation for gain, is taken in civil cases, it shall be taken orally or in writing at his residence or office and with due regard for his convenience. The officer should, however, voluntarily give his testimony at the trial whenever it is possible to do so without serious interference with his official duties.

No consular officer shall be required to testify in either criminal or civil cases regarding acts performed by him in his official capacity.

Article XVIII

Consular officers, including employees in a consulate, nationals of the State by which they are appointed other than those engaged in private occupations for gain within the State where they exercise their functions shall be exempt from all taxes, National, State, Provincial and Municipal, levied upon their persons or upon their property, except taxes levied on account of the possession or ownership of immovable property situated in, or income derived from property of any kind situated or belonging within the territories of the State within which they exercise their functions. All consular officers and employees, nationals of the State appointing them, and not engaged in any profession, business or trade, shall be exempt from the payment of taxes on the salary, fees or wages received by them in compensation for their consular services.

Article XIX

Consular officers may place over the outer door of their respective offices the arms of their State with an appropriate inscription designating the official office. Such officers may also hoist the flag of their country on their offices including those situated in the capitals of the two countries. They may likewise hoist such flag over any boat or vessel employed in the exercise of the consular function.

The consular offices and archives shall at all times be inviolable. They shall under no circumstances be subjected to invasion by any authorities of any character within the country where such offices are located. Nor shall the authorities under any pretext make any exami-

nation or seizure of papers or other property deposited within a consular office. Consular offices shall not be used as places of asylum. No consular officers shall be required to produce official archives in court or testify as to their contents.

When a consular officer is engaged in business of any kind within the country which receives him, the archives of the consulate and the documents relative to the same shall be kept in a place entirely apart from his private or business papers.

Upon the death, incapacity, or absence of a consular officer having no subordinate consular officer at his post, secretaries or chancellors, whose official character may have previously been made known to the Government of the State where the consular function was exercised, may temporarily exercise the consular function of the deceased or incapacitated or absent consular officer; and while so acting shall enjoy all the rights, prerogatives and immunities granted to the incumbent.

ARTICLE XX

Consular officers of either High Contracting Party may, within their respective consular districts, address the authorities concerned, National, State, Provincial or Municipal, for the purpose of protecting the nationals of the State by which they are appointed in the enjoyment of their rights accruing by treaty or otherwise. Complaint may be made for the infraction of those rights. Failure upon the part of the proper authorities to grant redress or to accord protection may justify interposition through the diplomatic channel, and in the absence of a diplomatic representative, a consul general or the consular officer stationed at the capital may apply directly to the Government of the country.

ARTICLE XXI

Consular officers may, in pursuance of the laws of their own country, take, at any appropriate place within their respective districts, the depositions of any occupants of vessels of their own country, or of any national of, or of any person having permanent residence within the territories of, their own country. Such officers may draw up, attest, certify and authenticate unilateral acts, deeds and testamentary dispositions of their countrymen, and also contracts to which a countryman is a party. They may draw up, attest, certify and authenticate written instruments of any kind purporting to express or embody the conveyance or encumbrance of property of any kind within the territory of the State by which such officers are appointed, and unilateral acts, deeds, testamentary dispositions and contracts relating to property situated, or business to be transacted within, the

territories of the State by which they are appointed, embracing unilateral acts, deeds, testamentary dispositions or agreements executed solely by nationals of the State within which such officers exercise their functions.

Instruments and documents thus executed and copies and translations thereof, when duly authenticated under his official seal by the consular officer shall be received as evidence in the territories of the Contracting Parties as original documents or authenticated copies, as the case may be, and shall have the same force and effect as if drawn by and executed before a notary or other public officer duly authorized in the country by which the consular officer was appointed; provided, always that such documents shall have been drawn and executed in conformity to the laws and regulations of the country where they are designed to take effect.

Article XXII

A consular officer shall have exclusive jurisdiction over controversies arising out of the internal order of private vessels of his country, and shall alone exercise jurisdiction in cases, wherever arising, between officers and crews, pertaining to the enforcement of discipline on board, provided the vessel and the persons charged with wrongdoing shall have entered a port within his consular district. Such an officer shall also have jurisdiction over issues concerning the adjustment of wages and the execution of contracts relating thereto provided, however, that such jurisdiction shall not exclude the jurisdiction conferred on local authorities under existing or future laws.

When an act committed on board of a private vessel under the flag of the State by which the consular officer has been appointed and within the territorial waters of the State to which he has been appointed constitutes a crime according to the laws of that State, subjecting the person guilty thereof to punishment as a criminal, the consular officer shall not exercise jurisdiction except in so far as he is permitted to do so by the local law.

A consular officer may freely invoke the assistance of the local police authorities in any matter pertaining to the maintenance of internal order on board of a vessel under the flag of his country within the territorial waters of the State to which he is appointed, and upon such a request the requisite assistance shall be given.

A consular officer may appear with the officers and crews of vessels under the flag of his country before the judicial authorities of the State to which he is appointed for the purpose of observing the proceedings and rendering such assistance as may be permitted by the local laws.

ARTICLE XXIII

In case of the death of a national of either High Contracting Party in the territory of the other without having in the territory of his decease any known heirs or testamentary executors by him appointed, the competent local authorities shall at once inform the nearest consular officer of the State of which the deceased was a national of the fact of his death, in order that necessary information may be forwarded to the parties interested.

Likewise in case of the death of a resident of either of the High Contracting Parties in the territory of the other Party from whose remaining papers which may come into the possession of the local authorities, it appears that the decedent was a native of the other High Contracting Party, the proper local authorities shall at once inform the nearest consular officer of that Party of the death.

In case of the death of a national of either of the High Contracting Parties without will or testament whereby he has appointed testamentary executors, in the territory of the other High Contracting Party, the consular officer of the State of which the deceased was a national and within whose district the deceased made his home at the time of death, shall, so far as the laws of the country permit and pending the appointment of an administrator and until letters of administration have been granted, be deemed qualified to take charge of the property left by the decedent for the preservation and protection of the same. Such consular officer shall have the right to be appointed as administrator within the discretion of a tribunal or other agency controlling the administration of estates provided the laws of the place where the estate is administered so permit.

Whenever a consular officer accepts the office of administrator of the estate of a deceased countryman, he subjects himself as such to the jurisdiction of the tribunal or other agency making the appointment for all necessary purposes to the same extent as a national of the country where he was appointed.

ARTICLE XXIV

A consular officer of either High Contracting Party shall within his district have the right to appear personally or by delegate in all matters concerning the administration and distribution of the estate of a deceased person under the jurisdiction of the local authorities for all such heirs or legatees in said estate, either minors or adults, as may be non-residents and nationals of the country represented by the said consular officer, with the same effect as if he held their mandate to represent them, unless such heirs or legatees themselves have appeared, either in person or by duly authorized representative.

A consular officer of either High Contracting Party may in behalf of his non-resident countrymen collect and receipt for their distributive shares derived from estates in process of probate or accruing under the provisions of so-called Workmen's Compensation Laws or other like statutes, for transmission through channels prescribed by his Government to the proper distributees.

ARTICLE XXV

A consular officer of either High Contracting Party shall have the right to inspect within the ports of the other High Contracting Party within his consular district, the private vessels of any flag destined or about to clear for ports of the country appointing him in order to observe the sanitary conditions and measures taken on board such vessels, and to be enabled thereby to execute intelligently bills of health and other documents required by the laws of his country, and to inform his Government concerning the extent to which its sanitary regulations have been observed at ports of departure by vessels destined to its ports, with a view to facilitating entry of such vessels therein.

In exercising the right conferred upon them by this Article, consular officers shall act with all possible despatch and without unnecessary delay.

ARTICLE XXVI

Each of the High Contracting Parties agrees to permit the entry free of all duty of all furniture, equipment and supplies intended for official use in the consular offices of the other, and to extend to such consular officers of the other and their families and suites as are its nationals, the privilege of entry free of duty of their baggage and all other personal property, accompanying the officer, his family or suite, to his post, provided, nevertheless, that no article, the importation of which is prohibited by the law of either of the High Contracting Parties, may be brought into its territories. Personal property imported by consular officers, their families or suites during the incumbency of the officers shall be accorded on condition of reciprocity the customs privileges and exemptions accorded to consular officers of the most favored nation.

It is understood, however, that this privilege shall not be extended to consular officers who are engaged in any private occupation for gain in the countries to which they are accredited, save with respect to Governmental supplies.

ARTICLE XXVII

All proceedings relative to the salvage of vessels of either High Contracting Party wrecked upon the coasts of the other shall be

directed by the consular officer of the country to which the vessel belongs and within whose district the wreck may have occurred, or by some other person authorized thereto by the law of that country. Pending the arrival of such officer, who shall be immediately informed of the occurrence, or the arrival of such other person, whose authority shall be made known to the local authorities by the consular officer, the local authorities shall take all necessary measures for the protection of persons and the preservation of wrecked property. The local authorities shall not otherwise interfere than for the maintenance of order, the protection of the interests of the salvors, if these do not belong to the crews that have been wrecked and to carry into effect the arrangements made for the entry and exportation of the merchandise saved. It is understood that such merchandise is not to be subjected to any customhouse charges, unless it be intended for consumption in the country where the wreck may have taken place.

The intervention of the local authorities in these different cases shall occasion no expense of any kind, except such as may be caused by the operations of salvage and the preservation of the goods saved, together with such as would be incurred under similar circumstances by vessels of the nation.

Article XXVIII

Subject to any limitation or exception hereinabove set forth, or hereafter to be agreed upon the territories of the High Contracting Parties to which the provisions of this Treaty extend shall be understood to comprise all areas of land, water, and air over which the Parties respectively claim and exercise dominion as sovereign thereof, except the Panama Canal Zone and Svalbard.

Article XXIX

The present Treaty shall remain in full force for the term of three years from the date of the exchange of ratifications, on which date it shall begin to take effect in all of its provisions.

If within one year before the expiration of the aforesaid period of three years neither High Contracting Party notifies to the other an intention of modifying by change or omission, any of the provisions of any of the Articles in this Treaty or of terminating it upon the expiration of the aforesaid period, the Treaty shall remain in full force and effect after the aforesaid period and until one year from such a time as either of the High Contracting Parties shall have notified to the other an intention of modifying or terminating the Treaty.

The present Treaty shall, from the date of the exchange of ratifications be deemed to supplant, as between the United States and Norway, the Treaty of Commerce and Navigation concluded by the United States and the King of Norway and Sweden on July 4, 1827.

ARTICLE XXX

The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at Washington as soon as possible.

In witness whereof the respective plenipotentiaries have signed the same and have affixed their seals thereto.

Done in duplicate, in the English and Norwegian languages at Washington, this 5th day of June 1928.

FRANK B. KELLOGG [SEAL]
H. H. BACHKE [SEAL]

ADDITIONAL ARTICLE

The United States of America and the Kingdom of Norway by the undersigned, the Secretary of State of the United States and the Minister of Norway at Washington, their duly empowered Plenipotentiaries, agree as follows:

Notwithstanding the provision in the third paragraph of Article XXIX of the Treaty of Friendship, Commerce and Consular Rights between the United States and Norway, signed June 5, 1928, that the said treaty shall from the date of the exchange of ratifications thereof be deemed to supplant as between the United States and Norway the treaty of Commerce and Navigation concluded by the United States and the King of Norway and Sweden on July 4, 1827, the provisions of Article I of the latter treaty concerning the entry and residence of the nationals of the one country in the territories of the other for purposes of trade shall continue in full force and effect.

The present additional Article shall be considered to be an integral part of the treaty signed June 5, 1928, as fully and completely as if it had been included in that treaty, and as such integral part shall be subject to the provisions in Article XXIX thereof in regard to ratification, duration and termination concurrently with the other Articles of the treaty.

Done, in duplicate, in the English and Norwegian languages, at Washington this 25th day of February, 1929.

FRANK B. KELLOGG [SEAL]
H. H. BACHKE [SEAL]

711.572/73

The Norwegian Minister (Bachke) to the Secretary of State

WASHINGTON, *June 5, 1928.*

MR. SECRETARY OF STATE: During the negotiations relating to the conclusion of the Treaty of Friendship, Commerce and Consular Rights, which to-day has been signed, I was given to understand that under the present tariff laws of the United States Norwegian Sardines are accorded the same tariff treatment as sardines imported from any other country and that such equality of treatment would be continued under the most favored nation provision of the Treaty. Upon the request of my Government I have the honor to inform Your Excellency that my Government would appreciate very much to receive, if this be found possible, a communication from Your Excellency, stating that the tariff treatment of the Norwegian Sardines is as above mentioned.

Please accept [etc.] H. H. BACHKE

711.572/73

The Secretary of State to the Norwegian Minister (Bachke)

WASHINGTON, *June 5, 1928.*

SIR: I have the honor to acknowledge the receipt of your note of this day's date, stating that during the negotiations relating to the conclusion of the Treaty of Friendship, Commerce and Consular Rights between the United States and Norway, which you have this day signed with me, you were given to understand that under the present tariff laws of the United States, Norwegian sardines are accorded the same tariff treatment as sardines imported from any other country, and that such equality of treatment would be continued under the most-favored-nation provision of the treaty.

In reply I am happy to confirm the correctness of your understanding, as above recited, of the equality of treatment which is now accorded under the tariff laws of the United States, and will continue to be accorded under the most-favored-nation provision of the treaty, to Norwegian sardines.

Accept [etc.] FRANK B. KELLOGG

PANAMA

PROPOSALS BY PANAMA TO MODIFY THE UNPERFECTED TREATY BETWEEN THE UNITED STATES AND PANAMA, SIGNED JULY 28, 1926[1]

711.192/354

The Panaman Minister (Alfaro) to the Secretary of State[2]

[Translation[3]]

MEMORANDUM CONCERNING THE MODIFICATIONS SUGGESTED BY THE GOVERNMENT OF PANAMA FOR THE REVISION OF THE TREATY OF JULY 28, 1926

Preamble.

The objections that have been made to the preamble agree with the remarks that have frequently been made by the Panaman Commissioners to the American Commissioners during the negotiations. The American negotiator well knows how strongly we objected to including in the preamble the expression "sovereign rights" of the United States, which, in the form in which it stands, does not impart to the United States any new right, nor increase in any way the rights it acquired under the treaty of 1903,[4] nor recognize that the United States holds absolute and titular sovereignty in the Canal Zone. But although this be so, and so appear from the logical, grammatical, and juridical analysis of the preamble, yet it tends to produce an impression to the contrary which is therefore erroneous. Proof of this is found by references in various newspapers of this country, the *New York Times* among others, to the new treaty in which this sentence occurs: "It is understood that the new treaty finally determines the sovereignty of the Panama Canal Zone."

This, and other similar utterances in the American press, formed the subject of a correction given to the press by the undersigned Minister under date of December 18, 1926. This correction was clear and specific and before it was given to the press was shown per-

[1] Continued from *Foreign Relations*, 1927, vol. III, pp. 484–490. For text of unperfected treaty, see *ibid.*, 1926, vol. II, p. 833.

[2] This undated memorandum was handed to Francis White, the Assistant Secretary of State, by the Panaman Minister on January 5, 1928.

[3] File translation revised.

[4] *Foreign Relations*, 1904, p. 543.

sonally by the Minister to the Chief of the Latin American Division, Mr. Stabler, who did not object to it in any way. The statement ended with these words:

"It was specifically agreed during the negotiations that that language (that of the preamble) means solely a recognition of the rights conceded to the United States by article III of the treaty of 1903 and does not mean an extension of such rights.

"If the language used in the news despatches here referred to intended to express the idea that the new treaty contains any stipulation that makes or recognizes the United States as the absolute and titular sovereign of the Canal Zone, the Legation categorically declares that the treaty does not contain any such stipulation and that the Government of Panama has never shown even any intention to agree to any such stipulation."

The impression made by the language of the preamble on the mass of the public of Panama is, nevertheless, that it is intended to force upon Panama an indirect and veiled recognition of the fact that the Republic conceded to the United States absolute and unrestricted sovereignty in the Canal Zone. As Panama has stated before, during and after the negotiations, this is a proposition to which it can never agree and, as said by the undersigned Minister on more than one occasion to the American negotiator, if Panama should have to pay that price for any concessions, no matter how advantageous, it would forego obtaining them rather than pay such a price.

What has happened since the treaty was signed has brought into prominence the reason why the Panaman Commissioners objected to inserting a sentence which besides being juridically ineffective and innocuous and therefore unnecessary and useless, is likely to cause erroneous impressions that may in the future lead to conflicting constructions which it is to our interest to avoid.

The Government of Panama, therefore, considers that the preamble would directly express the original purpose of the High Contracting Parties and that neither would be injured if the first paragraph should be changed as follows:

"The Republic of Panama and the United States of America desiring to settle certain points of difference between them and desiring also to regulate certain features of their future intercourse arising from the contiguity of the Republic of Panama and the Canal Zone, have resolved to conclude a treaty and have accordingly appointed as their plenipotentiaries."

Article I.

The *raison d'être* for this article was Panama's complaint about the construction put by the authorities of the United States on article VI of the treaty of 1903 in that part which has reference to the appraisal of the property expropriated for Canal purposes

and the willingness of the Department of State to put in the place of the rule established by that article for appraisals another clearly stating that the expropriated property shall be appraised according to its value at the time of the expropriation. That purpose was achieved but the American Commission insisted on two points that have been the source of bitter criticism of that stipulation:

1. The declaration in the article that in every condemnation case "title to the property shall be deemed to have passed from the owner thereof to the United States when the formality of giving the notice has been complied with."
2. The requirement of the United States that the Umpire be solely and exclusively an American citizen.[5]

Those two demands being insisted upon as conditions *sine qua non* instead of the fundamental demand made by Panama which the representatives of the United States positively and unhesitatingly declared to be fair, the Government of Panama could do nothing but agree to them. Nevertheless, the Government deems it proper to make the following remarks on the first point:

The stipulation that "title to the property shall be deemed to have passed from the owner thereof to the United States when the formality of giving notice has been complied with" is intended, as personally stated by the Secretary, Mr. Hughes, "to prevent speculation in the land over which the United States desires to extend control." That purpose is achieved by reproducing in article I of the new treaty the stipulation contained in article VI of the treaty of 1903, that the proceedings of the Joint Commission or of the Umpire "shall not prevent, delay or impede any part whatsoever of the work on the Canal or the Railroad or any of the auxiliary works relating to both."

It is a well known principle of law that expropriation puts out of human commerce the thing which it is intended to expropriate and therefore there is no occasion to indulge in speculation subsequent to the notice referred to in the article in question, which is the starting point of the expropriation proceedings. The best proof of this is that by operation of article VI of the Canal Treaty there have been miles of property expropriated for the construction of the work without a single case being recorded of speculation subsequent to the notice of expropriation that has had any effect upon the Government of the United States.

With respect to the second point, the Government of Panama can do nothing else than insist upon the reasons and statements contained in Document R,[6] submitted by the Panaman Commissioners at the

[5] See exchange of notes, July 28, 1926, *Foreign Relations*, 1926, vol. II, p. 853.
[6] Not printed.

session of the negotiating Commissions held on May 3, 1924, and ask that in accordance with that document the appointment of an American Umpire be not a contracted obligation for the Government of Panama but a voluntary act based on friendship and confidence.

The Panaman Government asks, therefore, that the notes exchanged on the subject on July 28, 1926,[7] and article I be modified by omitting the passage above referred to.

This is also the place to point to a defect in article I, consisting in that it covers only the cases of expropriation of land or estates owned by private persons. There are many cases in which the United States has extended its control to public land or bodies of water belonging to the Panaman Nation and the case might occur again in the future. As the proceeding in these cases is to be the same it would be desirable to insert at the beginning of paragraph 2 after the words "private property" the phrase "or occupied public lands" and further on after the words "said lands or properties" also insert the phrase "or occupied public lands."

Article II.

The American negotiators well know how firmly the Panaman Commissioners objected to the stipulation in this article which transfers to the United States jurisdiction over a large part of the city of Colon, an extremely painful sacrifice to Panaman patriotism which violates to the injury of Panama the principle sanctioned by the treaty of 1903 of keeping the cities of Panama and Colon out of the Canal Zone.

The American negotiators know that Panama agreed to that stipulation forced upon it by the declaration of the United States, which for Panama constitutes a case of *force majeure* in that the United States would not sign any treaty with Panama unless we agreed to the said transfer. Panama found itself obliged to yield this point because it was indispensable to obtain through the other clauses of the treaty the basic security which its economic life imperatively demands.

Panama adheres to the sentiments expressed in documents C, S, EE and FF submitted during the negotiations,[8] and at this date after the unanimous manifestations of public opinion against the transfer of jurisdiction dealt with in this article, holds that it should be wholly struck out.

In view of the persistence of the United States in making this article a condition *sine qua non* of the new pact, the Government of Panama thought it was performing a patriotic duty in submitting

[7] *Foreign Relations*, 1926, vol. II, pp. 849–853.
[8] None printed.

to the sacrifice demanded of it in Colon in return for guarantees for the economic life of her country. But evidence subsequent to the signing of the treaty and its presentation to the National Assembly for approval have served to demonstrate that article II is wholly inacceptable to the country and that the Panaman people would prefer facing the consequences that may flow from the failure of the treaty than to agree to any transfer of jurisdiction over a large part of the city of Colon. The fundamental reason for this attitude is that the transfer of jurisdiction is not indispensable for the operation and protection of the Panama Canal, but on the other hand profoundly wounds the national feelings and is the cause of the greatest apprehension and uneasiness on the part of persons who have interests in the city of Colon.

In the presence of the situation thus created the National Government deems it its duty to act in accord with the sentiment of all its citizens and confront, should the case arise, the consequences that might flow from a failure to conclude the treaty.

The one consideration which to the mind of the National Government might warrant or compensate a transfer of jurisdiction in the north part of the city of Colon would be the transfer by the United States as owner of the stock of the Panama Railway Company of all its rights, titles and interests to and in the land it now owns or holds in the city of Colon which is not occupied by offices, stations, yards, tracks, workshops, storehouses or any other property intended for the operation of the Panama Railway or its dependencies. (Document C.)

Consequently Panama again proposes to the Government of the United States to take as the element of that compensation the city lots held by the Railway Company in the city of Colon that are not necessary either for the work of the Canal or for the operation of the Railway.

During the negotiations it was represented that the city of Colon is built on territory given to the Railway Company in *usufruct* by the Government of New Granada with the exception of four hectares which the said Government reserved to itself and which Panama owns as the successor to the rights and obligations of Colombia in the territory of the Isthmus. And so practically all the homes and business houses are built in Colon on land leased from the Panama Railway Company, for 15 years in the case of frame buildings and 25 years for concrete or masonry buildings. The situation of the city of Colon is as a consequence most precarious, since it lies within the power of the Railway Company to refuse a renewal of leases or to raise the rentals to such high figures as to make them prohibitive, thus bringing in one way or another ruin upon the owners of houses in Colon. This possibility is not very remote from reality because it is a fact that lately the rentals have been increased in most cases by

500 percent and the apparent tendency is to continue increasing them more and more. And out of the enormous income so earned by the Railway Company it refuses to pay any tax whatsoever to the Republic of Panama, and holds as a dead letter article 18 of the contract of 1867 in force between the Panaman Government and the Railway Company and adduces in its place article X of the Canal Treaty.

The Panaman Government requests the American Government to study anew all the questions related to this article and, by reconciling as far as possible necessity with equity, agree to its being wholly stricken out or revised so as to make it acceptable to the Panaman Nation.

Article III.

Under section 4 of this article it was originally stipulated that for the maintenance of the roads therein stipulated Panama would assume the obligation of appropriating the sum of $25,000 yearly. The amount was afterwards increased to $55,000, account being taken of the keeping in repair of the roads north of Alhajuela whereby an annual outlay of $30,000 was considered to be needed.

When the stipulation relative to the construction of roads north of Alhajuela is stricken out of the treaty, section 4 should be amended by reducing the amount there stated to $25,000. Likewise, section 6 should be amended by substituting the word "article" for the word "treaty."

The wording of section 5 should be harmonized with the last paragraph but one of article VI. The first stipulation has been interpreted by some in the sense that it announces the free use of the roads by the two Governments only, seeing that the intention is the same as expressed in article VI that persons residing in the Canal Zone will have the use of the roads of Panama in the same way as persons residing in the Republic will continue to enjoy the right to travel over the roads of the Canal Zone which is recognized in article VI of the treaty of 1903.

The alternative of a bridge or a ferry across the Canal is not suitable. As the traffic of vehicles between the capital and the interior of the Republic increases it is felt in the main that the only satisfactory solution of the question of connecting the two sections of the Republic separated by the Canal is to build an adequate bridge to perform a service of a permanent character independent of the operation of the Canal. A bridge over the locks or a ferry service across the Canal may be acceptable as a temporary or provisional service while a bridge as suggested is being built. There might be also provided a tunnel between the two sides of the Canal instead of a bridge if that method were more practicable in the opinion of the two Governments.

Therefore there should be stricken from the said paragraph the following passage: "at Pedro Miguel Locks or establish and operate a ferry across the Canal on the Pacific side."

As will be remembered, article III of the treaty reproduces the convention signed *ad referendum* in January 1923 by two special commissions of the two countries concerned which met at Panama. Should the Government of the United States prefer wholly to strike out this article and reserve for a special agreement the question of building roads through the cooperation of the two Governments, the Government of Panama declares itself quite agreeable thereto.

Article IV.

With regard to this article, the chief complaint of Panaman trade and the cause of greatest concern to the Government, is the considerable extension it gives to the privilege of the commissaries, consisting in the recognition of that privilege to contractors and all persons who reside in the Canal Zone. Among these last are included the officers, employees or workmen of companies that have a right to do business in the Canal Zone, the hucksters, settlers and small merchants who settle there and the members of the families and domestic servants of those persons.

The Government and the trade are resigned to having the commissary privilege enjoyed by the officers, employees, workmen and laborers of the Canal and the Railway and the members of the families of all those persons, as also by the members of the Army and Navy and their families. But the Government of Panama has not ceased to maintain the idea that it is very unjust for the United States to insist on giving the commissaries an extension as broad as that which implies the opening of their doors to all the persons mentioned in the foregoing paragraph. And since both the Government directly and the negotiators up to the last minute endeavored without result to arrive at an agreement on a stipulation conforming to that desire, the Panaman Government cannot but find good reason for the criticism that has been made on that ground of section 1 of article IV. It therefore points out again the expediency of striking out in that section the final part of the first sentence from where it says "and the other persons to whom the United States" etc., as far as "such sales." [9]

Another serious objection which was pointed out during the negotiations and which has since become the occasion for serious criticism

[9] The part of the sentence meant is "and to such other persons as under the provisions of Section 4 of this Article may be permitted by the United States to dwell in the Canal Zone, and who actually do dwell in said zone, it being understood that guests of the hotels operated by the Panama Canal or the Panama Railroad Company are not included unless they come under one of the other classes to which such sales may be made."

was the vagueness of some of its clauses. Precision is a most desirable element in treaties because vague clauses necessarily give rise to conflicting interpretations.

There has been no precise definition in writing, although it was requested by the Panaman Commissioners, of what is understood, for instance, by "contractors operating in the Canal Zone." Merchants have felt considerable alarm at that phrase in the treaty because they think that certain public utility companies, as for instance, the power and light company which runs its tramways to the Canal Zone, the gas company which also supplies that territory with fluid, any transportation company whose cars cross the Zone, any entity or person residing or settled in Panama, but who performs services for or furnishes supplies to the Canal, the Railway or its employees under a contract, becomes a "contractor operating in the Zone" and naturally is included in the treaty stipulation which would remove from the field of the local trade a very large number of persons.

We, the Panaman negotiators, always remark in connection with those objections that that is not the spirit of the stipulation and that it was understood during the negotiations that "contractors operating in the Zone" are simply those contractors who perform in the Zone works of such a nature as permit them to be considered as genuine employees of the United States to whom compensation is paid in the form of a contract in place of doing so in the form of wages, giving as an example the companies that construct and put in place the gates of the locks of the Canal; and that merchants, concerns, farmers, cattle raisers and other persons who have their business headquarters in Panama or any other part and render services or furnish supplies to the Panama Canal, as they do with any other customer, may not be considered as such. Fear and concern, nevertheless, prevailed because the Government was unable to produce any document evidencing such agreement, since, as the Department of State is well aware, the American Commission declined to express this in the text of the treaty itself and persistently maintained that it was unnecessary to record it either in the minutes or in the notes exchanged at the time of the signing of the Treaty.

The phrase "settlers employed in the cultivation of small tracts" is considered vague. What may be understood by "small tract?" On that point, also, the Panaman Commissioners requested that some understanding be reached during the negotiations, but their request was not granted.

There is also the same doubt as to whether the "small traders" who are permitted to settle in the Zone have or have not the right to import merchandise free of duty, the same as the commissaries. The Panaman Government, when informed by its Commissioners, repeatedly

declared that that was not the understanding during the negotiations, since what was intended to be stipulated was that only the commissaries, that is to say, the American Government itself, and the companies that supply coal and oil could import merchandise into the Canal Zone for consumption there. The bonded warehouses, it is clear, did not import for local consumption but only for distribution or reexportation.

With respect to the bonded warehouses there has also been felt some alarm and fear among the merchants and people of Panama. It is considered that the stipulations relating to those bonded warehouses (paragraphs 1 and 3) mean ruin to the local wholesale trade. This fear springs from a belief that when the treaty provides that the bonded warehouses which the United States permits to be established in the Canal Zone may "distribute merchantable articles in wholesale and not in retail quantities" it means that those warehouses will sell, as it is a fact that they are wholesale establishments in the Zone, they may sell to any merchant or private person who may go there to buy, not only those who come from abroad but also from the Republic of Panama itself.

The Republic is now carrying on a rather important business with merchants in Colombia and various neighboring countries in Central and South America which are supplying themselves with dry goods in the cities of Panama and Colon that are obtained in those ports at very reasonable prices, considering the light duty, 15 percent ad valorem duty, which is the rate usually charged on dry goods imported into the Republic. These goods so imported and sold allow a satisfactory profit to the trade and yield import duties to the Panaman treasury. If merchants abroad can go tomorrow to make that kind of purchases in the Canal Zone and buy there from bonded warehouses which would not be obliged to pay any duty whatsoever, that commerce will disappear, to the injury of both the merchants and the Panaman treasury.

There is a certain kind of goods which from its nature is always sold in such quantities that the sale cannot come under any other head than a wholesale business. One might mention as an illustration, timber, cement, structural iron, paints, and in general all building material. If a bonded warehouse established in the Canal Zone were allowed to sell such material at wholesale to any private person or company residing in or outside the Republic, the local merchant would have a direct competitor in the Canal Zone. It is true that what is imported into the Republic will pay to the Republic the import and other duties which may be established by the Republic. But, nevertheless, the merchant doing business in the Zone and on that account enjoying the privilege of the commissary, together with his employees, domestic servants and family, apart from other benefits

and facilities which his residence there would give to him, would have a considerable advantage over the merchant established in Panama, who in the end would be compelled either to close his place of business or try to move into the Canal Zone to establish himself there in the character of "a bonded warehouse."

This possibility is not met by the declaration which was reported on this point in the minutes of the last session. That declaration excludes from the right to reside in the Zone, and therefore to enjoy the privilege of the commissaries, only merchants or concerns which may limit themselves to renting space on the piers for the distribution of goods. But those merchants still have open to them the establishment of bonded warehouses of their own.

In confirmation of the prevailing fears in this respect there is a typical case cited in Panama: The Ford car agency in the Republic formerly maintained in the cities of Panama and Colon large stores and garages for the exhibition and distribution of its products. The officers, employees and workmen of the Ford agency lived in Panama and in this way formed a part of the economic life of the Republic to the advantage of the local trade, the treasury and the national capital. Now, since the Ford agency uses the bonded warehouses of the Canal Zone, the establishments which it formerly maintained in Panama have been reduced to small offices, and the cars and parts which the agency imports are stored in the Zone until they find a local purchaser or receive an order for foreign shipment. This case of the Ford agency will become general, and then it will happen that the population hereafter engaged in the business of importation and exportation on a large scale will go and establish themselves in the Canal Zone and there enjoy the same privileges that the Government of the United States grants to its own employees, while the Republic of Panama observes the decline and death of the possibilities of profiting from the privileged circumstance of its geographical position. Panama is unable to understand why the United States is bent on setting up a policy which deprives the Republic of Panama of the legitimate profits it expected to receive from the interoceanic traffic, in order to confer them upon private enterprises and merchants who go to the Isthmus to carry on their business.

All these circumstances tend to show the expediency of revising and suitably clarifying article IV in order to accomplish the purpose of the negotiators to insure for the employees and laborers of the Canal the benefits originally stipulated in the treaty of 1903 and at the same time protect the local trade and treasury from the enormous damages occasioned by the practically unlimited extension of those benefits to persons who, by not being in the service of the United States, have no right to enjoy those benefits.

In short, this privilege ought to be confined to the employees of the Panama Canal and Railway, the officers and privates of the Army and Navy of the United States stationed in the Zone and the contractors, since the American Government insists on including these. But it should be clearly established that the contractors referred to in the stipulation are those who are performing some work in the Canal at so much for a job or a part or whole of any certain work within the Canal Zone; but in no case should the privilege be extended to employees of banks and of public service utilities such as tramways, gas and others that are established in Panama and have branches outside of the Canal Zone, or those of concerns that have special contracts for the supplying of goods or effects to be used and consumed in the Canal Zone.

Article V.

Fear has been expressed in connection with this article, that it may permit the introduction into Panama of all kinds of goods purchased in the commissaries and bonded warehouses without any other obligation on the part of the importer than that of paying the import duty to the Republic. When the first part of the article which only mentions those duties is read separately there is foundation for that fear.

There is no doubt that that Article must be harmonized with article XIII of the treaty of 1903 which in its second sentence speaks of "import or other duties" and with the remainer of article V itself which, following the passage here objected to, says: "without the payment of import or other duties" in referring to certain articles which are granted free entry in the Republic; and, finally, with article VI which in paragraph 3 also speaks of "duties and charges."

Doubt has also been expressed as to whether it is lawful for any employee of the Canal to sell in Panama what he buys in the commissaries upon paying the proper duties. In this respect objections have been met with the remark that the final part of article V grants free entry into the Republic of articles purchased in the commissaries "when they are intended for their own personal use and benefit or that of their families," but to this observation it was replied that as there is no such limitation in article IV, which is the one directly dealing with the commissary privilege, it may be considered as an indication that the treaty establishes the limitation solely for the employees of the Canal or of the Railway who reside in Panama and not for persons of all classes who reside in the Canal Zone.

The observations made in discussing article IV with respect to the phrase "contractors operating in the Canal Zone" are also applicable here.

The Government considers, therefore, that it is desirable to clarify this article in such a way that all objections that have been made against it will be completely eliminated, and that in its wording it be made to conform to what was the unmistakable judgment and will of the negotiators who represented the two contracting Parties.

Article VI.

The objections to this article are based upon the lack of clearness which has been pointed out with respect to articles III, IV, and V. If these are clarified in a suitable manner, this article would remain as it is, except for the following modifications:

Paragraph 3 ought to be harmonized with paragraph 2, taking into account the fact that the tolls, dues, taxes or charges referred to in the two paragraphs must be those which each one of the High Contracting Parties "may have established or will in future establish."

The last paragraph but one ought to be harmonized with section 5 of article III. To do this it is desirable, as was already suggested during the negotiations, that the paragraph cited should not state through a negative stipulation that the United States "will not impose charges of any kind whatsoever upon persons passing from the territory of the Republic of Panama into the Canal Zone," but that it be stated as a positive stipulation that "it shall grant free passage" as is later on stated in the same paragraph which is reciprocally granted by the Republic of Panama to persons who go from the territory of the Canal Zone to the Republic of Panama.

This is a desirable modification because, as the paragraph is now worded, it might permit the belief that the United States could prohibit the passage across the Zone of the inhabitants of Panama and that its obligation is solely that of not imposing charges while the passage is kept open.

Article VII.

There is no observation to make concerning this article.

Article VIII.

This article has been severely criticized on account of the idea that it involves new limitations of Panaman sovereignty which go beyond the sphere of action granted in the matter of sanitation to the United States by the treaty of 1903. The Panaman Government has endeavored to show that the article aims no further than to maintain the system which has been in force in the Republic in the matter of sanitation since the Taft Agreement [10] was concluded, with the needful reservations and explanations. But the Government can-

[10] See *Foreign Relations*, 1904, p. 640 and 37 Stat. 560.

not cease to recognize that the wording of that article leaves much to be desired, nor can it forget the prolonged and lively discussion which the wording of the article created, a fact which is established by the documents relative to the negotiations. The documents of the Panaman Commission, as a matter of fact, constitute an anticipated expression of that which was afterwards expressed by the public of Panama and make it clear that within the necessities and desires of each one of the two Contracting Parties it was possible to word that article in a manner that would have given rise to no difficulty of any kind in the Panaman public opinion.

The explanation made by the American negotiators in the minutes of the session of July 27, 1926 merely proves the foregoing statement and makes it plain that the term "enforce" appears to have been used in the treaty of 1926 in a way which is conflicting with the meaning ascribed to it by the explanation given by the American negotiators themselves and with that which is also given to it in an unmistakable manner by article VII of the treaty of 1903.

The Panaman Government therefore suggests as desirable and expedient a modification of article VIII in accordance with the foregoing remarks when the pending treaty is revised.

Articles IX and X.

These articles provide that a number of stipulations looking to cooperation in the defense of the Canal in the matter of wireless and aerial communications in time of peace and of war.

The Panaman Government is animated by the best desire to lend that cooperation to the United States, but believes that it is not just that restrictions be required of Panama within the territory subject to its jurisdiction greater than those which the United States requires in its own, or that in those matters Panama be placed on a footing of inferiority with respect to other nations.

The Panaman Government thinks that the needs of the United States may be satisfactorily harmonized with the needs and the national prestige of Panama and that a revision of these articles would bring that about.

Article XI.

This article includes a number of stipulations dealing with the cooperation that Panama is ready to extend to the United States for the protection and defense of the Panama Canal.

The Panaman Government is firmly convinced that the safety of the Canal is a problem which affects the Republic of Panama the same as the United States. Panama cannot contemplate with indifference that the part of its territory where the Canal is constructed be attacked, or the Canal itself; and therefore, Panama from

the time when the treaty of 1903 was concluded, cannot be neutral in a war in which the safety of the Canal is threatened, and must cooperate in its defense and protection with every means at its command in its well known position as an unarmed nation.

The European press has generally clamored against this article, which it considers to be inconsistent with the obligations assumed by Panama through the Covenant of the League of Nations. The Panaman Government is firmly convinced that the obligations of Panama under this article do not involve any more inconsistency with the Covenant of the League than that which might be involved in the obligations of Panama assumed under the treaty of 1903 which had been in force for 16 years when Panama signed that Covenant. Compliance with certain stipulations of the treaty of 1903 in time of war is incompatible with a status of neutrality. The obligations of Panama under the Covenant of the League can only refer to conflicts in which Panama should be a direct and original party but not to conflicts of the United States in which Panama might find itself indirectly involved against its will by reason of the ties created by the treaty of 1903 on account of the situation in which it is placed by the construction of the Canal and by virtue of the supreme law of self defense, which is as sacred to nations as to individuals.

In the Republic this article has been charged with unconstitutionality on the ground that the agreement therein entered into is incompatible with the power ascribed by the Constitution to the National Assembly in its article 65, section 7, to "declare war, and to authorize the Executive to make peace." [11]

The opinion of the Panaman Government in this respect is that there is not and cannot be any incompatibility between the stipulation of the treaty and the Constitutional provision. The stipulation points out a possible cause for belligerency in compelling Panama to perform certain measures of cooperation which on account of their being inconsistent with the condition of neutrality Panama must carry out, "considering herself in a state of war." [12] The Constitutional provision lays down the manner in which the condition of belligerency will be formally pronounced if there should be occasion therefor. If an armed conflict in which the United States be a party should arise, it will devolve upon the Executive Power immediately to carry into effect the clause in the treaty, and the National Assembly, if it should not be in session, will have to be called in this grave emergency, and it will be for it to decide afterwards whether or not there is occasion to "declare war."

---

[11] *Foreign Relations*, 1904, p. 569.

[12] The whole phrase in article XI of the treaty of July 28, 1926, reads: "Consequently the Republic of Panama will consider herself in a state of war in case of any war in which the United States should be a belligerent."

The two points above stated do not call for any substantial change in the article and may be explained in a manner that will leave no room for doubt.

The article must also be clarified so that there may not appear on the part of Panama a belligerency of an offensive nature which was wholly out of the intent and purpose of the High Contracting Parties. The clause exclusively refers to the protection of the Canal. Its nature is therefore essentially defensive and its sphere of action cannot go beyond the territory of the Isthmus.

The Panaman Government deems it desirable and advisable to clarify that article in the manner suggested in the remarks that have just been offered.

Article XII.

No substantial objection has been made to this clause. In this connection it is enough to point to the expediency of making small changes in certain paragraphs introduced by the Treasury Department that do not conform to the predecessor of this article, which is the monetary agreement concluded in June 1904, which changes were suggested as desirable during the negotiations.

Articles XIII and XIV.

There is no remark to be made.

711.192/371

The Minister in Panama (South) to the Secretary of State

No. 1838 PANAMA, *October 20, 1928.*

[Received October 27.]

SIR: I have the honor to report that the day before yesterday I asked the Panaman Foreign Minister orally whether he expected the National Assembly to take any action on the Treaty of July 28, 1926, during its present session. I did not go into details, but merely mentioned the treaty in connection with other matters which I discussed with the Foreign Minister at his formal weekly reception.

The Foreign Minister replied that he understood that Dr. Ricardo J. Alfaro had initiated a discussion of the treaty with the Department of State at Washington,[13] and that the treaty would not be presented to the Assembly in its present form, for he personally considered that it would be futile to do so.

I have [etc.] J. G. SOUTH

---

[13] Marginal note by Assistant Secretary of State reads: "Alfaro has not yet done so. F[rancis] W[hite]."

STATEMENT BY THE DEPARTMENT OF STATE THAT THE UNITED STATES DOES NOT INTEND TO SUPERVISE ELECTIONS IN PANAMA [14]

819.00/1459a : Telegram

The Secretary of State to the Minister in Panama (South)

WASHINGTON, *July 27, 1928—7 p. m.*

52. The Secretary of State issued the following statement today:

"Presidential elections in Panama will be held on August 5th. The opposition party has submitted to the Department of State charges of fraud and corruption on the part of the Government and has alleged that free and fair elections cannot be held without American supervision and has asked that the United States intervene and supervise the elections.

A painstaking analysis of the representations made and of the documents submitted has failed to convince the Department that there is sufficient ground to authorize the intervention of the United States. While the Government has vital interests to protect in the Canal Zone and authority to intervene for the purpose of maintaining public order, the primary obligation, as the Department has heretofore stated, to conduct a free and fair election and for the maintenance of law and order in Panama rests upon the Panaman Government. Between the two parties, the United States maintains an attitude of perfect impartiality and will do nothing to help either the party in power or the opposition party. The Panaman election law places extraordinary powers and control over the election in the hands of the administration in office and correspondingly imposes grave obligations upon the Panaman Government. This Government is so deeply desirous, as contributing to the development, prosperity and well being of Panama, that there should be a free and fair election that it will follow the proceedings with the greatest interest. The Department has been assured by the Panaman Minister in Washington that his Government will administer the law in a scrupulously impartial manner as otherwise it would not expect the recognition by the Government of the United States of the successful candidates. The opposition party has stated that unless there is intervention by this Government, revolutionary activities will ensue. The Department sincerely trusts that such counsel will not prevail. Nevertheless, should such a lamentable situation arise, the Department believes the Panaman Government will be able to preserve public order. Should this unfortunately not be the case, the United States would be compelled to exercise the power granted under the treaty [15] and the Constitution [16] to maintain order."

KELLOGG

---

[14] Continued from *Foreign Relations*, 1927, vol. III, pp. 490–498.

[15] See treaty of November 18, 1903, *ibid.*, 1904, p. 543.

[16] See Constitution of the Republic of Panama, *ibid.*, p. 562.

REPRESENTATIONS BY PANAMA RESPECTING STATEMENT OF PRESIDENT COOLIDGE CLASSIFYING THE PANAMA CANAL ZONE AS A POSSESSION OF THE UNITED STATES

711.1928/152

The Panaman Minister (Alfaro) to the Secretary of State

[Translation]

No. D-276 WASHINGTON, *November 15, 1928.*

MR. SECRETARY: In compliance with instructions received from my Government, I have the honor to make the following statements to Your Excellency:

In the speech which His Excellency Mr. Calvin Coolidge, President of the United States, gave in the Auditorium on the evening of the 11th instant, during the ceremony held there in commemoration of the Armistice, he said, among other things, the following:

"Our outlying possessions, with the exception of the Panama Canal Zone, are not a help to us but a hindrance."

Although the Government of Panama does not even for a moment think that the phrase quoted is intentional, the fact remains that with these words the President of the United States implicitly classified the Panama Canal Zone among the "possessions" of the United States. The term "possessions" is used in current language in regard to those territories which nations acquire in full dominion and ownership by means of colonization, annexation, purchase, conquest, or by other methods recognized by international law. None of these methods is of the same kind as the grant *sui generis* made by the Republic of Panama to the United States by the Treaty of November 18, 1903.[17]

In virtue of the foregoing, my Government desires to declare its disagreement with any expression which may be contrary to the idea which Panama holds concerning the legal status of the territorial zone whose "use, occupation and control" was granted to the United States for the construction, maintenance, operation, sanitation and protection of the inter-ocean canal.

Otherwise, the statement made by His Excellency the President that the Canal Zone is a help to the United States is a source of real pleasure to my Government. Panama is glad that it is so recognized and feels sincere satisfaction in having contributed, through the use of its territory, to the realization of the dream of four centuries. Our two countries bound themselves together with ties so close as to be indestructible when, upon the signing of the agreement of 1903, not

[17] *Foreign Relations*, 1904, p. 543.

only did world commerce benefit, but the greatness and strength of the United States were consolidated. My Government confidently hopes that our international relations will always be infused with this first and supreme consideration.

I repeat to your Excellency [etc.] R. J. ALFARO

711.1928/152

The Secretary of State to the Panaman Minister (Alfaro)

WASHINGTON, *November 28, 1928.*

SIR: I have received your note of November 15 in which you inform me that your Government takes exception to the statement in the speech which the President of the United States made on the 11th instant, in which he said among other things the following:

"Our outlying possessions, with the exception of the Panama Canal Zone, are not a help to us but a hindrance."

You state that by these words the President of the United States implicitly classified the Panama Canal Zone among the possessions of the United States, and you inform me that your Government desires to declare its disagreement with any expression which may be contrary to the idea which Panama holds concerning the legal status of the territorial zone whose use, occupation and control were granted to the United States for the construction, maintenance, operation, sanitation and protection of the inter-oceanic canal.

In reply I have to point out that the position of the United States with regard to the status of the Canal Zone was completely set forth in the note dated October 24, 1904, addressed by the then Secretary of State, Mr. John Hay, to the then Minister of Panama, Mr. J. D. de Obaldía,[18] and to inform you that the position of the United States Government with regard to this question remains unchanged.

I have been much pleased to note your statement that the Government of Panama has been gratified by the President's statement that the Canal Zone is a help to the United States. I feel sure you will agree with me that Panama has just cause for pride and sincere satisfaction in having contributed to making possible the construction of the canal, which has been of such inestimable benefit to the whole world, and that the relations between Panama and the United States, founded upon their co-operation in this great project, will always be marked by mutual consideration and friendly understanding.

Accept [etc.] FRANK B. KELLOGG

---

[18] *Foreign Relations*, 1904, p. 613.

PARAGUAY

BOUNDARY DISPUTE WITH BOLIVIA

(See volume I, pages 672 ff.)

PERSIA

EXCHANGE OF NOTES BETWEEN THE UNITED STATES AND PERSIA, MAY 14 AND JULY 11, 1928, FOLLOWING TERMINATION OF TREATY OF FRIENDSHIP AND COMMERCE OF 1856[1]

791.003/64a : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *December 29, 1927—5 p. m.*

75. Since termination of the treaty of 1856 between the United States and Persia is possible next May, the Department wishes an early written report from you with your observations regarding the following:[2]

(1) The Persian Government's present views as to the evident disinclination of the treaty powers to initiate negotiations shortly in order to conclude new treaties.

(2) The policy which the Persian Government envisages in order to meet the situation on May 10, 1928, if there are no new agreements with the treaty powers.

(3) What effectual reforms, if any, Davar[3] has accomplished in the Persian judiciary and the nature of new codes, if any, which Persia may propose promulgating before the present treaties lapse. Included in this should be a consideration of the presumable attitude toward such legislation of the Medjliss and the chances for Davar to complete the work he has begun.

(4) Any indication of the Persian Government being disposed to extend the period in which the present treaties are valid or being ready to consider signature of a *modus vivendi* to preserve the *status quo* and to afford most-favored-nation treatment.

(5) The attitude at present of your colleagues, especially the British, toward this question, and your views concerning the possible effect of the recently negotiated Perso-Soviet agreements on British policy in Persia.[4]

[1] For previous correspondence, see section on notification by Persia of the termination of capitulations, *Foreign Relations*, 1927, vol. III, pp. 567 ff. For text of the treaty of 1856, see Malloy, *Treaties*, 1776–1909, vol. II, p. 1371.

[2] Minister's written report not printed.

[3] Ali Akbar Davar, Persian Minister of Justice.

[4] Exchange of notes signed October 1, 1927. *Collection of Laws and Decrees of the Soviet Union*, pt. II, No. 66, December 18, 1928, pp. 1613–1615.

(6) Your views regarding the best means, in the absence of either a formal treaty or a *modus vivendi*, of affording proper protection to American interests in Persia.

KELLOGG

791.003/66 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *January 17 [18], 1928—8 [7] p. m.*

[Received January 18—11:40 a. m.]

7. Department's 75, December 29, 5 p. m. The British Minister here states that he wrote, in December 1927, to the Persian Prime Minister and expressed the British Government's willingness for negotiations to replace the existing commercial agreements between Great Britain and Persia,[5] to provide a new tariff schedule which will take into consideration the Perso-Soviet one, and to recognize Persia's suppression of the capitulations on May 10, 1928, in a new treaty.

The British Minister subsequently received verbal assurances from the Shah and others that prompt settlement will be made of outstanding British claims and questions. The British Minister states his Government is ready to accept the abrogation of the capitulations as a necessity under existing circumstances and without regard to the probable imperfection of Persian judiciary reforms. As to the Persian Government's determination not to use the "most-favored-nation" phrase in treaties when treating tariff questions, the British Minister believes all the powers which make new treaties will equally benefit in provisions to be granted any one of them.

The only powers now actively interested here which have not expressed readiness to negotiate are the United States, Belgium, and Italy. In our case, however, I do not consider that delay is at present prejudicial.

PHILIP

791.003/67 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *January 26, 1928—6 p. m.*

6. Your 7, January 17[*18*], 8[7] p. m. The Ambassador in Great Britain has been informed by the British Foreign Office of the follow-

---

[5] Commercial convention signed February 9, 1903, *British and Foreign State Papers*, vol. XCVI, p. 51; and tariff agreement signed March 21, 1920 (but not ratified by Persian Medjliss), League of Nations Treaty Series, vol. IV, p. 47.

ing safeguards desired for the protection of British nationals in Persia when consular jurisdiction ends:

(1) Appointment by the Persian Government of foreign judicial advisers recommended by international court or some such tribunal.
(2) Evidence in Persian courts to be reduced to writing and copies of it and verdict to be given to accused.
(3) Religious courts to be debarred from jurisdiction and police courts to handle cases of only minor importance.
(4) Foreign nationals, following their arrest, not to be kept in prison more than 24 hours without the authority of the foreign advisers.
(5) Consuls to be notified of the arrest of their nationals, bail to be generous, and prisoners to have the right to organize their own defense.
(6) Prisons to be suitable.
(7) An agreement to be reached with regard to the personal status of foreign nationals, to follow the lines adopted in the treaty of Lausanne.[6]
(8) Foreigners to receive the same treatment as Persians as regards taxation.
(9) Adjudicated cases not to be tried again.
(10) Persian legal codes to be satisfactory.

These points, the Department is informed, have been worked out in conjunction with the British Minister in Persia, but a certain latitude in the matter has been given to Clive.

. . . . . .

KELLOGG

791.003/67b : Telegram

The Secretary of State to the Minister in Persia (Philip)[7]

[Paraphrase]

WASHINGTON, *February 13, 1928—8 p. m.*

11. Department's 8, January 31, 3 p. m.[8] Today the following points were brought orally to the attention of the British Ambassador:

(1) The Department is in substantial agreement with the position of the British Government explained in the 10 points telegraphed in the Department's 6, January 26, 6 p. m.

(2) The Department would not be adverse to cooperating with the British Government so far as possible on the basis of its 10 points. The Department would particularly welcome a closer cooperation at Teheran between the two Legations.

(3) The Department would be glad to be more precisely informed as to the margin allowed to Clive's discretion for negotiation and, also,

---

[6] Art. 16, treaty signed July 24, 1923, League of Nations Treaty Series, vol. XXVIII, pp. 151, 163.

[7] A similar telegram, No. 35, Feb. 14, 1928, 5 p. m., was sent to the Ambassador in Great Britain (file No. 791.003/67c).

[8] Not printed.

as to how Great Britain proposes meeting the situation which will arise after May 10, 1928, if a new treaty is not then in effect.

(4) The Department is considering having conversations soon of a similar character with the French, German, and Italian Ambassadors.

KELLOGG

791.003/71 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *February 16, 1928—6 p. m.*
[Received February 16—1:50 p. m.]

14. My 10, February 8, paragraph 3, subdivision (2).[9] I now find the Persian Government's attitude toward the "most-favored-nation" clause, as expressed to the British and German Ministers by Teimourtache,[10] is as follows: Persia will not object to use of this phrase in the treaties with regard to all treaty privileges except those which relate to tariff matters. Regarding these, Persia will insist upon employing some other phrase, which may imply similar rights.

PHILIP

611.9131/9 : Telegram

The Minister in Persia (Philip) to the Secretary of State

TEHERAN, *February 21, 1928—5 p. m.*
[Received February 21—4:10 p. m.]

18. (1) Acting Minister for Foreign Affairs has asked me to request by telegraph the consent of our Government to the application by Persia of the new Persian-Soviet tariff to American imports prior to May 10 next. He said that this tariff will replace Anglo-Persian tariff of 1920 on May 10 next in any event, but that it is desired for the sake of convenience and uniformity to bring it into general effect if possible during the spring as provided for by the customs and tariff convention with the Soviet.

(2) This tariff of 1927 is more favorable to the existing chief American imports (automobiles and accessories, machinery, et cetera) than is that now in force and an [apparent omission] of the request by an exchange of notes might serve as preliminary to a treaty. Nielsen's report of February 4[11] deals with the new tariff.

(3) [Paraphrase.] Persia has similarly requested consent from representatives here of all the capitulatory treaty governments, with

[9] Not printed.
[10] Abdul Hussein Teimourtache, Minister of the Court in Persia.
[11] Not printed. Orsen N. Nielsen was the consul at Teheran.

the exception, of course, of the British. The German Minister has expressed to me some apprehension that, if Great Britain and Persia fail to conclude a treaty prior to May 10, this might result in British assumption of a similar exceptional position toward import duties as the Soviet Union maintained until its recent agreement with the Persian Government. He has, therefore, recommended to the German Government that it accept the application of the new tariff for northern Persia only, on the understanding that the 1920 tariff will remain in force in southern Persia pending Great Britain's acceptance of the new tariff to apply to British imports as well as to imports of other treaty states. [End paraphrase.]

PHILIP

791.003/78a : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *February 28, 1928—6 p. m.*

12. Department's 11, February 13, 8 p. m. As a result of conversation therein described, British Ambassador has supplied the Department with a copy of a summary of the 16 principal safeguards the British Government desires for the protection of nationals in Persia following abrogation of the treaties.[12] Presumably you also have a copy of the same summary, covering in general the ground embodied in the 10 points listed in Department's 6, January 26, 6 p. m.

The British Government's views are defined as follows by the Ambassador here:

(1) Opposition to any collective diplomatic *démarche* because of fear that Persian nationalist susceptibilities may be aroused.

(2) Would be most useful in case the representatives of the capitulatory powers could work together along the same fundamental lines when conversing with Persian Government about the protection of nationals after the treaties are abrogated.

(3) All 16 safeguards are important.

(4) Should no arrangement be arrived at prior to May 10, 1928, the Persian Government should be urged to consent to the postponement of the new system being put into effect.

The British Minister in Persia is receiving instructions in the sense of (1) and (2).

The Department wishes you, with the least possible delay, to confer with the British Minister at Teheran and, after you refer to the Anglo-American exchange of views which took place here through the British Embassy to discuss fully with him the progress of his negotiations for a treaty, with especial reference to his frank opinion as to the relative importance of the proposed 16 safeguards and the Persian Govern-

[12] Not printed.

ment's attitude so far manifested toward them. Please telegraph results of your talk with Clive.

If your conversation with him adds no new features to the situation, the Department contemplates giving you authority to inform the Persian Government of this Government's readiness in principle to take up negotiation of a new treaty. Simultaneously you would, however, explain the views of this Government about the protection of foreigners in Persia following abrogation of the treaties in terms substantially reproducing the 16 safeguards proposed by the British Government, probably with some modifications and additions required by the nature of American interests in Persia and by American treaty practice. When the Department has considered the report of your talk with Clive, it will instruct you precisely concerning the form and substance of representations by you to Persia.

KELLOGG

611.9131/10 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *February 28, 1928—7 p. m.*

13. Referring to your 18, February 21, 5 p. m. The Department is not clear concerning the reasons for the Persian Government's proposal and wishes you to cable more precisely an expression of your views in this regard.

If and when Persian officials question you on the subject, you should reply orally that the Department is examining the Persian Government's proposal that the Perso-Soviet tariff be applied to American imports, but that, owing to the necessity of consultation with other Government departments interested, a certain delay is inevitable in formulating a reply.

You should telegraph full information to the Department of any action which other foreign governments may take. In conversing with your British colleague in accordance with the Department's instructions (see telegram 12, February 28), you should try to determine his views regarding the Persian Government's present proposal, as well as the status at present of tariff negotiations between Great Britain and Persia.

Regarding paragraph (3) of your 18, February 21, 5 p. m. The Department is presuming that Persia's proposal was not made to Great Britain in view of the previously defined British position (as set forth in your mail despatch No. 518, January 12, under section (5) thereof [13]).

KELLOGG

---

[13] Not printed.

791.003/78b : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *March 3, 1928—5 p. m.*

16. Department's 35, February 14, 5 p. m.[14] In conversations March 1 and 2 with the French and German Ambassadors here, the Department presented its viewpoint regarding the following:

(1) The desirability of the representatives in Persia of the capitulatory powers working along the same lines in order to obtain adequate safeguards to protect foreign nationals following the abrogation of the treaties; and

(2) The necessity of urging the Persian Government to postpone the new system being put into effect, should that Government not accept satisfactory safeguards and should the latter not be in effect prior to May 10, 1928.

Next week a similar conversation will be held with the Italian Ambassador.

KELLOGG

791.003/65 : Telegram

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

[Paraphrase]

WASHINGTON, *March 3, 1928—5 p. m.*

59. Your 4, January 5, 5 p. m.[15] For oral use at the French Foreign Office:

On March 1 the following point of view was orally brought to the attention of the French Ambassador:

As all foreign non-Moslems in Persia have fundamentally the same interests and as reform in Persia is progressing slowly and precariously and there is lacking at present a qualified judicial personnel, certain safeguards are needed for the protection of all foreigners in Persia following the abrogation May 10 of the treaties. The 16 safeguards proposed by the British Government (a summary of which has been sent the United States, French, and German Governments) are indicative of the sort of safeguards which this Government has in mind. Clearly it is desirable for the representatives in Persia of the capitulatory powers to work along the same lines in connection with safeguards. Should satisfactory safeguards not have been accepted by the Persian Government and not be in operation before May 10, the Persian Government's postponement of putting the new system into effect should be urged.

---

[14] Number and date are those of a similar telegram sent to the Ambassador in Great Britain. Telegram under reference is telegram No. 11, Feb. 13, to the Minister in Persia, p. 684.

[15] Not printed.

A similar conversation has taken place with the German Ambassador and will occur next week with the Italian Ambassador.

While evincing little interest in this matter, the French Ambassador appeared to appreciate the view of the Department regarding the essential identity of foreign interests in Persia and the desirability of the foreign representatives at Teheran cooperating in the matter of safeguards. He said he would cable a summary of his talk with the Department to the French Foreign Office.

KELLOGG

791.003/75 : Telegram

The Secretary of State to the Ambassador in Germany (Schurman)

[Paraphrase]

WASHINGTON, *March 3, 1928—5 p. m.*

20. Your despatch No. 3179, February 13.[16] For oral use at the German Foreign Office:

On March 2 the following point of view was orally brought to the attention of the German Ambassador:

[Here follows text of the third paragraph of telegram No. 59, March 3, 1928, 5 p. m., to the Ambassador in France, printed *supra.*]

A similar conversation has taken place with the French Ambassador and will occur next week with the Italian Ambassador.

The discussion greatly interested the German Ambassador who agreed that, although nothing like a common approach or identic notes to the Persian Government was advisable, at Teheran the representatives of the various western powers should work together in greatest harmony.

The substance of his talk with the Department would be cabled immediately to his Government, he said, and he felt certain that the German Minister in Persia would receive instructions for close cooperation with the United States Minister there.

KELLOGG

791.003/76 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *March 5, 1928—11 a. m.*

[Received 11:40 a. m.]

21. Department's 12, February 28, 6 p. m.

(1) The British Minister here is quarantined with scarlet fever. The Counselor, Mr. Parr, informs me that the British Legation is

[16] Not printed.

still waiting for a reply from Teimourtache concerning the 16 points. The last Persian communication on the subject stated that the Government had the suggestions under consideration and would express its views before long. Mr. Parr is of the opinion that Persia may suggest modifications and will decline to incorporate in treaties any reference to judicial advisers or to grant them extensive powers (see my 10, February 8, paragraph 3 [17]). He mentioned also the possibility of the Anglo-Persian Oil Company insisting upon some special facilities to administer justice to the company's many Indian employees in southern Persia.

(2) A report says the German Minister here has already submitted to Persia a tentative draft treaty which embodies an acceptable phrase substituting for the most-favored-nation rights in tariff matters; but this report has not been confirmed by him. He should be informed fully regarding the 16 British suggestions and is apparently trying to complete a treaty prior to May 10. I have received a copy of the 16 British suggestions.

(3) As reflected by Teimourtache, the attitude of the Persian Government to the British and German proposals appears to have been receptive and satisfactory. I gather Persia wishes to complete a treaty with Germany immediately, although, owing to extraneous considerations, possibly it may desire to delay the negotiations with Great Britain. As to the progress of French negotiations, I have no news.

(4) I am of opinion that the intention of the Department to approach Persia regarding a treaty is wise, but that the appearance of associating with British aims should be carefully avoided.

(5) I believe it would be appropriate to suggest the desirability of providing for American religious, medical, and scholastic institutions being recognized.

PHILIP

791.003/76 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *March 5, 1928—6 p. m.*

18. Your 21, March 5, 11 a. m., paragraph (4). The Department presumes you were referring to political aims of Great Britain and that you approve cooperation with the British on a basis of the 16 safeguards to protect foreigners in Persia following abrogation of the treaties. Please cable a reply.

KELLOGG

---

[17] Not printed.

791.003/77 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *March 6, 1928—noon.*
[Received March 6—6 a. m.]

22. Department's 18, March 5.

(1) My reference was meant to imply that our independent attitude might be prejudiced with the Persians by an obvious cooperation in treaty negotiations with only the British.

(2) Belgium has now authorized its representative here to begin negotiations.

PHILIP

611.9131/12 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *March 7, 1928—1 p. m.*
[Received 1:24 p. m.]

23. Reference Department's 13, February 28, 8 [7] p. m.

(1) No further reason for the Persian proposal has appeared than that given in my 18, February 21, 5 p. m., paragraph(1). As to paragraph(3) of the same telegram, the German Minister says the Persian proposal has been declined by Germany, and I expect the other governments to do likewise.

(2) An identical draft of a proposed treaty has, I learn, recently been submitted to the French and German Ministers here. This draft is not satisfactory and does not contain a most-favored-nation treatment clause. Recently Teimourtache intimated to the German Minister with positiveness that no such privilege will be allowed in regard to tariff provisions; also the Minister of the Court has intimated the acceptability of common treaties of friendship and commerce. The German Minister now believes it may prove to be convenient, instead of attempting to cover the whole ground in a single treaty, to conclude three or four separate ones; namely, friendship, commerce, tariff, and possibly personal and legal rights of nationals.

(3) Count Schulenburg informs me that he has suggested to Teimourtache that, in view of the Reichstag's probable inability to ratify any treaty before May 10, it might be advisable for any treaty signed prior to that date to be put temporarily into effect pending ratification.

(4) The impression exists in Teheran that Persia particularly desires making one treaty as soon as possible, probably with Germany, and is delaying negotiations with Great Britain because of many extraneous matters involved.

PHILIP

791.003/78 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *March 9, 1928—5 p. m.*

22. Department's 12, February 28, 6 p. m. The British Ambassador here on March 6 supplied the Department with a copy of a memorandum in the French language which has been transmitted to Teimourtache by the British Minister in Persia[18] on the subject of "judicial safeguards". Containing 16 points, this memorandum substantially reproduces the first 15 points in the summary of 16 principal safeguards which was issued October 27, 1927 (file No. E 4575/526/34) by the British Foreign Office and supplied on February 20 to the Department by the British Ambassador here.[18] However, all reference to the subject of satisfactory Persian codes of law (point 16 in the summary) is omitted in the memorandum in French.

Please telegraph the Department at once whether:

(1) "Copy of the [16] British suggestions," which you mentioned in your 21, March 5, 11 a. m., paragraph (2), is the above-cited summary or the memorandum in French;

(2) The British Minister in Persia has taken or will take up with the Persian Government the question of satisfactory Persian codes of law.

KELLOGG

791.003/79 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

[Paraphrase]

BERLIN, *March 10, 1928—1 p. m.*

[Received March 10—9:05 a. m.]

43. Department's 20, March 3, 5 p. m. This matter has been informally discussed at the German Foreign Office, and as a result the German Minister in Persia has been telegraphically instructed to cooperate fully with his American colleague.

Although the German Government is in accord fundamentally with the British memorandum and is convinced that harmonious action is needed among the western powers, this Embassy today is informed that there exist some difficulties which the German Foreign Office wishes next week informally to discuss with the Embassy.

SCHURMAN

---

[18] Not printed.

791.003/79b : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *March 10, 1928—6 p. m.*

23. Department's 16, March 3, 5 p. m. A conversation on the subject mentioned therein took place with the Italian Ambassador on March 8. Greatly interested, he promised to cable immediately to the Italian Government and felt sure that it would appreciate greatly the suggestions of the Department and would very gladly instruct your Italian colleague to keep closely in touch with you.[19]

The Embassy in Germany reports instructions have been sent the German Minister in Persia for full cooperation with you.

KELLOGG

791.003/81 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

[Paraphrase]

BERLIN, *March 13, 1928—noon.*

[Received March 13—11:35 a. m.]

46. My 43, March 10, 3 [*1*] p. m. The difficulty mentioned by the German Foreign Office is the conviction, held by the German Minister in Persia (and his judgment of Persian affairs is respected greatly here), that the Persian Government will not concede the main point of the British memorandum, namely, foreign judicial advisers with real authority. The German Minister believes that foreign assessors without jurisdiction to be the most that can be hoped for.

He reports, in a telegram just received here, that he is in close touch with the American and other western Legations at Teheran, but that Minister Philip apparently has received no instructions as yet to negotiate. Germany, France, Great Britain, and Belgium have already started negotiations. The German Minister is convinced that the attempt to obtain an extension beyond May 10, 1928, will not succeed; the only practicable course, in his view, is to sign the treaty under negotiation and to bring it into operation provisionally prior to that date. This policy apparently will be followed by Germany. The German Minister at Teheran regards the situation very pessimistically, believing that nothing can be done with the Persian Government while the British and Russians continue at loggerheads.

---

[19] On March 10, 1928, the Secretary of State also cabled the Ambassador in Italy (No. 26), summarizing the conversation and adding that "Similar conversations have been held with the British, French, and German Ambassadors." (File No. 791.003/79c.)

As to the treaty under negotiation, the German Foreign Office understands that Persia will not accept the most-favored-nation clause; but the inverted form suggested by France is deemed to be almost as good, i. e., that the contracting power shall not be placed in a worse position than any other.

The above is sent by mail to Brussels, London, Paris, and Rome.

SCHURMAN

791.003/82 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *March 13, 1928—noon.*

[Received March 13—11:50 a. m.]

26. Department's 22, March 9, 5 p. m.

(1) The memorandum of 16 suggestions by Great Britain, which I mentioned in my 21, March 5, 11 a. m., paragraph (2), apparently is similar to the one supplied to the Department on March 6. It has been submitted by the British Minister here, I am assured, to the Persian Government.

(2) The British Counselor tells me that originally the question of satisfactory law codes was included in the suggestions, but prior to presentation it was suppressed as not practical. He thinks his Government will not raise this question as a condition. The final sentence in the first safeguard deals with the codes.

(3) My 18, February 21, 5 p. m. Persia seems to have abandoned its interest in replies to its request, and I hear that some Legations have now received notice from the Customs Administration that on March 21 the tariff of 1927 will go into general effect on Persia's northern boundary. A formal reply by the Department now appears unnecessary.

(4) The Persian Government, I am told, has stated its intention to adopt the preferential maximum-minimum tariff system, thus eliminating a necessity to embody in the treaties the most-favored-nation clause concerning tariff matters.

(5) The Persian Government's methods in the negotiations are being criticized by the foreign representatives, and the tone of this criticism is pessimistic and doubtful regarding a satisfactory understanding. Nevertheless, I think that a tentative expression of a willingness to negotiate is in order. This might at least insure receipt from Persian governmental sources of some information which now is not forthcoming to this Legation.

(6) With the annual religious holiday beginning today, all Government offices are closed until March 28, except for March 17–19 inclusive.

PHILIP

791.003/82 : Telegram

The Secretary of State to the Minister in Persia (Philip)

WASHINGTON, *March 14, 1928—3 p. m.*

24. Your 26, March 13, noon; 23, March 7, 1 p. m.; 22, March 6, noon; and 21, March 5, 11 a. m.

[Paraphrase.] You are to inform Teimourtache orally that the Government of the United States is agreeable in principle to the negotiation of a new treaty with the Persian Government; but this Government would like to reach an understanding with the Persian Government first, before sending you instructions to proceed further with more detailed negotiations, on the following six points, set forth below. Discreetly let Teimourtache understand that this Government, having in mind the role he is playing for Persia's advancement and his own personal comprehension of Persia's relations in general with the Western World, and in particular with the United States, has instructed you particularly to confer with him. After you have enumerated to him the six points below, you are to emphasize the importance this Government attaches to the principles therein indicated. After your conversation with him, you are to inform the proper official in the Persian Foreign Office in the sense of the first sentence of this paragraph, and thereupon you will leave with said official an *aide-mémoire* containing the six points but without any written comment.[20] [End paraphrase.]

"I. The appointment of foreign judicial advisers to assist the Persian Government in the contemplated establishment and in the conduct of modern judicial and penal systems.

II. The establishment of a system of modern Civil, commercial and criminal courts under supervision of the Ministry of Justice in which properly qualified lawyers may act as attorneys, in which American citizens shall enjoy public trials and, while subject to processes issued from such courts, may not be arrested, nor may their premises be forcibly entered and searched without a warrant from the competent judicial authority, countersigned by one of the judicial advisers.

III. In matters of personal status and family law and in respect to the law of testamentary or intestate succession to movable property and the distribution and liquidation thereof the non-Moslem nationals of the United States in Persia shall be subject exclusively to the jurisdiction of the national tribunals or other national authorities of the United States or of the competent State, territory or possession thereof.

IV. American citizens shall receive no less favorable treatment than Persians as regards taxation.

American merchandise shall, upon importation into Persia, be accorded the lowest rates of duty in force at the time of such importation.

[20] Also communicated by *aide-mémoire* to the British, French, German, and Italian representatives at Washington on April 7, and by mail to the Embassies in Great Britain, France, Germany, and Italy on April 13 (file No. 791.003/83).

V. After the termination of the present American-Persian Treaty, American citizens shall be accorded full and adequate protection and the treatment to be enjoyed by American citizens in Persia shall at no time be inferior in any respect to that enjoyed by any other foreign nationals in Persia.

VI. The vested rights of American educational, missionary and eleemosynary enterprises shall be respected and they shall be allowed to carry on and to develop such activities as are not inconsistent with public order and good morals."

[Paraphrase.] Should these instructions not be entirely clear to you, or if you consider any feature thereof unwise, you are to cable the Department and await a reply before you take action. [End paraphrase.]

KELLOGG

791.003/83

The Italian Embassy to the Department of State

We are very glad to co-operate with the United States in Persia. The Chargé d'Affaires of Italy at Teheran has been instructed to keep himself in touch with the American Representative. Italy, too, excludes the possibility of the system of Capitulations being maintained and is of the opinion that all interested Countries should act of one accord as to the guarantees to be requested. It is unfortunate that, so far, it has been impossible to come to an understanding, especially on account of the attitude of the French Government which has preferred to act singly. An extension of the treaty is evidently desirable, but in view of the present disposition of the Persian Government, it hardly seems that it can be obtained.

WASHINGTON, *March 15, 1928.*

791.003/84 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *March 20, 1928—noon.*

[Received 1 p. m.]

28. Department's 24, March 14, 3 p. m. I carried out the Department's instructions on March 19 in a friendly conference with Teimourtache. The Minister's reaction to the 6 American points was as follows:

(1) It is impossible to accept this, as the Persian Government must definitely decline to commit itself to appoint foreign judicial advisers, nor is their consideration acceptable as correlative to the laws. All interested Governments have been thus informed, he said, and the actual decision to engage such advisers has not been made.

(2) This will be accepted, except for the concluding allusion to the countersignature of warrants by one of the advisers.

(3) This will be accepted. In fact, Teimourtache said his Government's intention is to vest these rights also in Moslems of foreign nationality. He then remarked that the right to own and purchase [*purchase and sell?*] real estate, outside of certain frontier zones, is expected to be granted to foreigners.

(4) The first sentence's provisions will be accepted. As to sentence two, most-favored-nation rights in respect of import duties cannot possibly be granted, as the Government intends putting into effect May 10, 1928, for a period of five years an autonomous tariff, with maximum and minimum rates. My impression is that Persia intends placing in the minimum category those countries which negotiate new treaties before May 10, while those which do not will face maximum rates. Minimum rates will approximate those of 1927, while maximum rates will be about 50 percent higher.

(5) This will be accepted in principle, since Persia does not intend at all to impose penalties or inferior treatment of any sort upon American citizens owing to the possible lapse of treaty.

(6) This will be accepted, but Teimourtache suggested pointedly that the last two words ["good morals"] be changed to read "with the laws".

The Minister appeared very desirous of impressing on me his Government's regard for the United States. He urges me against presenting an official *aide-mémoire* containing the 6 points and instead to refer to the Department the result of our talk, then, after ascertaining the Department's further views, to confer with him again.

PHILIP

691.003/31 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *March 22, 1928—2 p. m.*

[Received March 22—10:55 a. m.]

31. My 28, March 20, noon, point (4). A bill consisting of one article was presented the night of March 18 by the Minister of Finance to the Medjliss as follows: [21]

"The National Consultative Assembly approves of the attached customs tariff and authorizes the Government to negotiate special customs treaties, within the maximum and minimum limits of the tariff, with foreign governments. The life of such treaties shall not be more than five years.

"NOTE: The maximum customs tariff limit will be levied on the merchandise of governments which make customs treaties after May 11."

PHILIP

---

[21] Quotation not paraphrased.

791.003/104

The Minister in Persia (Philip) to the Secretary of State

No. 564 TEHERAN, *March 24, 1928.*
[Received April 19.]

SIR: In my cable message No. 23 of March 7, 1 p. m. (paragraph 2), I mentioned that the Persian Government had furnished certain of my colleagues with its draft of a treaty which it proposes as a substitute for treaties with foreign powers carrying capitulatory rights, the denouncement of which will take effect on May 10th, next.

I have the honor to transmit herewith copies and translations of (1) a proposed Treaty of Friendship, and (2) a proposed Commercial Convention,[22] which have been handed by Abdul Hussein Teimourtache, Minister of the Court, to the representatives of those treaty Powers who have initiated negotiations for new conventions with the Persian Government.

I am indebted to the courtesy of my French colleague for the copies of the French text of these projects, in which there appear numerous typographical errors.

Insufficiency of time and lack of personal touch with such active negotiations as are now being carried on with the Persian Government prevents me from passing the separate features of these drafts under review.

The reaction to them of my French and German colleagues seems to be one of tolerance with the proposed Friendship Treaty and of disappointment with that for the Convention of Commerce. Neither proposal is deemed to offer any real assistance in the reaching of a solution of the treaty question now confronting the Powers. No provision for the extension of the "most favored nation" treatment appears in them.

I shall hope to submit to the Department further comments regarding these proposals in the near future.

The Department will understand that copies of these projects were not handed by the Persian Government to the British representative here, owing to the fact that the Anglo-Persian treaty has not been denounced. However, I am informed that the British Legation has procured copies of them.

Article 3 of the proposed Treaty of Friendship provides for the making of separate Consular Conventions, and I am informed that the Persian Government plans to initiate, on May 10th, next, a new Customs Tariff with maximum and minimum rates which would call for special Customs Agreements. Thus, the following pacts now seem to be contemplated by this Government: (1) Treaty of Friend-

[22] Neither printed.

ship; (2) Commercial Convention; (3) Consular Convention; (4) Customs Agreement.

I have [etc.] HOFFMAN PHILIP

791.003/86 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase—Extract]

TEHERAN, *March 27, 1928—1 p. m.*

[Received March 27—11:20 a. m.]

32. My 28, March 20, noon. Yesterday I asked the British Minister here informally as to the nature of the Persian Government's recent reply to his *aide-mémoire* of 16 points. With two exceptions, he said, the reply acquiesced in principle with all of his suggestions; and the exceptions were refusals to accept: (1) Engagement of foreign judicial advisers; and (2) Suggestion contained in point 8, which point is headed "Notice to the consular authorities of arrests."

. . . . . .

Teimourtache, I hear, has allowed it to be understood that the Persian Government will agree, by means of an exchange of notes, but not in texts of actual treaties, to certain desired safeguards. The Italian and Netherland Chargés d'Affaires have received instructions to broach tentative negotiations, the Italian for a most-favored-nation treaty. It appears to be most unlikely now that any power can ratify a treaty before May 10, but I believe it advisable to start negotiations at an early date.

PHILIP

791.003/86 : Telegram

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

[Paraphrase]

WASHINGTON, *March 28, 1928—7 p. m.*

77. Department's 35, February 14, 5 p. m.[23] It appears as a result of a preliminary conversation, which on March 14 the Department authorized the Minister in Persia to hold with Teimourtache, Minister of the Court, respecting the possible bases of a new treaty between the United States and Persia, that:

(1) Persia accepts in principle the establishment of several of the proposed safeguards, but there was no mention of the specific time when these safeguards will become operative; and

(2) Persia does not favorably regard the suggestion of "the appointment of foreign judicial advisers to assist the Persian Govern-

[23] See footnote 7, p. 684.

ment in the contemplated establishment and in the conduct of a modern judicial and penal system."

It is considered important by the Department that the Persian Government be asked to indicate the time when the already accepted safeguards are to become operative, in order that the situation after May 10 of foreigners in Persia may be foreseen with a certain degree of clarity.

Importance is also attached by the Department to the question of Persia's engaging foreign judicial advisers who have adequate powers.

Please endeavor informally to obtain from the British Foreign Office an expression of its views on the foregoing and cable as soon as possible to the Department.

OLDS

791.003/90

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

No. 8481 PARIS, *March 30, 1928.*

[Received April 9.]

SIR: With reference to the Department's telegraphic instruction No. 59 of March 3, 1928, conveying information concerning the approaching abrogation of the Persian treaties for oral use at the Foreign Office, I have the honor to report that I recently took occasion to have a conversation with M. Charvériat, Acting Chief of the Asiatic Section of the Foreign Office. He said that M. Claudel had telegraphed him a very summary report of his conversation on this subject at the Department on March 2, and as I could see that the report to which he referred consisted of but a few lines, the Department's conclusion as to M. Claudel's lack of interest would appear to be substantiated.

Some five or six months ago, according to M. Charvériat, France had been disposed to consider common or concerted action with a view to protesting against the denunciation of the treaties, but encountering no disposition among the other powers to take such action, France had felt that she must take her own line in the sense of which the Department is aware. She was the more inclined to adopt this position as her interests in Persia are of considerably less magnitude than those of certain other powers. The implication of his remarks was that it seems somewhat late now for the United States—or any other country—to try and line up the other powers for action in common, whether it be that of urging the Persian Government to postpone putting the new régime into effect or of insisting upon the acceptance by the Persian Government of the sixteen British safeguards; he likewise inferred that agreement with respect to these

or other safeguards, especially as to the advisability of pressing for their acceptance as a condition precedent to the signing of new treaties, would be difficult to attain.

M. Charvériat indicated that he hoped that by May 10 the new French treaty would be near enough to signature to render the transitory period a relatively short one, which should be devoid of unusual difficulties. In this connection, he stated that in his opinion the present Persian policy is actuated primarily and chiefly by motives of prestige, and the Persian Government, although insisting on the abrogation of the treaties, is not disposed in fact to mete out to foreigners harsher treatment of a judicial nature than they have heretofore enjoyed. I merely repeat these remarks for what they may be worth, not knowing, of course, how far they may be substantiated or discredited by M. Philip's observations (see e. g. despatch No. 498 of December 1, 1927, from the Legation at Teheran to the Department [24]).

I asked M. Charvériat what would happen if his expectations as to the status of the French treaty negotiations on May 10, and the ensuing transitory period, should be disappointed. His reply, while vague, conveyed the impression that in such a contingency the French Government might be more disposed to consider the possibilities of concerted or common action.

The conversation concluded by M. Charvériat stating that in spite of the present position of his Government, should the United States desire to make any more concrete suggestion looking toward action along the same lines than had been embodied in the conversation with M. Claudel and in his report thereof, the French Government would always be glad to give it full consideration.

I have [etc.]

For the Ambassador:
GEORGE A. GORDON
First Secretary of Embassy

791.003/88 : Telegram

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

LONDON, *March 31, 1928—noon.*
[Received March 31—9:45 a. m.]

65. Department's 77, March 28, 7 p. m., was discussed with Foreign Office yesterday who hoped latent interest evinced by several foreign governments might result in a more united front with British and United States Governments towards Persians. I was informed of Persian reply to the British memorandum (enclosure 7 to Depart-

[24] Not printed.

ment's instruction No. 1343, March 19, 1928)[25] which, while agreeing in principle to safeguards, stated that, in the view of the Persian Government, safeguards and capitulations were not related subjects. Memorandum concluded in substance: "Safeguards would not of necessity be embodied in treaties to be concluded between the two parties but could be recorded in special protocols of notes." Foreign Office believes since no treaty can be ratified by May 10 a *modus vivendi* is imperative.

Clive has telegraphed his personal doubt as to the efficiency of any foreign judicial adviser without knowledge of the Persian language and mentality (Foreign Office informally referred to situation in Turkey today with foreign judicial advisers). Clive continued should no agreement be reached concerning foreign judicial advisers "if in the light of a year or so's experience, justice is proven so bad as to fortify our position, then strongly to press for reform, including engagement judicial counselors."

Foreign Office telegraphed yesterday stating that engagement of foreign judicial advisers with adequate powers has been considered an imperative safeguard, but asking whether Clive in consultation with his colleagues can make any alternative recommendations.

I shall telegraph again next week.

. . . . . .

HOUGHTON

791.003/86 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *April 4, 1928—4 p. m.*

29. Your 28, March 20, noon, and 32, March 27, 1 p. m. For the present you should refrain from presentation of an official *aide-mémoire* with the 6 points and should hold a further conversation with the Persian Minister of the Court along these lines:

(1) The Department is gratified at Teimourtache's expression of friendly sentiments and particularly at his acceptance generally of point 2 as set forth in the Department's 24, March 14, 3 p. m. Obviously, Teimourtache has devoted much thought to the time factor respecting the establishment in Persia of a system of modern civil, commercial, and criminal courts and to the adoption of the codes without which, presumably, the courts could not function. The Department would like to know the conclusions he has reached in this regard. Doubtless he has evolved a plan, until the system of modern courts is functioning in all respects, to avoid confusion and embarrassment to the Persian Government and the risk of international

[25] Neither printed; this refers to the British memorandum of 16 points. See Department's telegram No. 22, Mar. 9, 5 p. m., to the Minister in Persia, p. 692.

incidents. During this transition period the usefulness of foreign advisers to assist the Persian Government would appear to be clear.

(2) As to point 3 (same telegram 24), it is to be presumed that, since the Persian Government's intention in these matters is entirely to disinterest itself, it has no interest in the mechanical means used to handle them. It would be a great convenience, owing to the great distance between the United States and Persia, if questions of personal status, etc., could be handled by consular officers of the United States in Persia.

(3) This Government is disposed to continue according, after May 10, 1928, to Persian merchandise imported into the United States unconditional most-favored-nation treatment as to customs duties, but on the necessary condition, of course, that American merchandise imported into Persia be accorded the lowest rates of duty in force when such importation takes place.

If you think wise, you may invite Teimourtache's attention to section 317, United States Tariff Act of 1922,[26] which authorizes the President to specify and declare new and additional duties on imported merchandise from countries which in any way discriminate against the commerce of the United States or, in case of need, to declare a complete embargo against specified merchandise of such countries being imported. In this connection, it may also be noted, in 1926 the total exported by the United States to Persia amounted approximately to $754,000, while the total exported by Persia to the United States amounted nearly to $8,500,000 in the same year.

As to Teimourtache's reply to point 6 (same telegram 24), you should confidentially discuss it with the leaders of American educational and missionary activities and report their views to the Department.

KELLOGG

791.003/89 : Telegram

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

LONDON, *April 5, 1928—3 p. m.*
[Received April 5—1:50 p. m.]

68. Foreign Office informed me today telegram has been received from Clive in answer to Chamberlain's[27] telegram referred to in next to last paragraph of my telegram 65, March 31, noon. Clive stated he had again discussed matter judicial advisers with Minister of Court who stated Persian Government had recently passed a law of compulsory arbitration when desired by either party and that furthermore Persian Government agreed that upon requests of any

[26] 42 Stat. 858, 944.
[27] Sir Austen Chamberlain, British Secretary of State for Foreign Affairs.

"British" subject under detention Persian authorities would notify nearest British consul.

Clive stated his belief shared by certain of his colleagues that good will of Persian Government should be tested by separate negotiations on part of several interested Governments, but that failing thereby to reach some time before May 10th acceptable compromise with Persian Government then joint action by several powers be considered. Foreign Office seemed inclined to favor this suggestion.

On leaving I requested an appointment for today week with Under Secretary of State for Foreign Affairs who said that at that time he hoped I might have some word from the Department of State as to Washington's attitude in regard to Persian affairs especially in view of the frank discussions and information that the Foreign Office supplied. I stated I would so inform my Government.

HOUGHTON

791.003/92 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *April 13, 1928—8 p. m.*

[Received April 14—9:40 a. m.[28]]

39. Department's 29, April 4, 4 p. m.

(1) Teimourtache's reaction to your observations was satisfactory. He said that, in the matter of the new codes, the Persian Government is fully aware of its obligations and is determined on carrying out reforms with complete justice to all foreign nationals. In order to inspire the confidence of the treaty powers, the Government here has passed a law which makes possible the settlement of civil and commercial suits by arbitration, at the option of a litigant. The Government has also passed a law to provide for the annual dispatch abroad of students. When I mentioned the possible danger from courts being suborned by powerful interests in Persia, Teimourtache answered that he considered greater security was offered against this by the new form of judiciary than by the existing Foreign Office tribunal. He declared also that the new codes will be free absolutely from the influence of Islamic law. He regretted, finally, that the Persian Government must reject any commitments on judicial advisers or [apparent omission], this question savoring of pressure by the foreign powers.

(2) Teimourtache assured me emphatically that problems involving the personal status, etc., of foreign nationals are to be left to the various foreign governments. Consular officers, if so authorized

---

[28] Telegram in two sections.

and qualified and should the interested parties thus elect, may be charged with these matters.

(3) As to the tariff situation, I informed Teimourtache as suggested. The tariff law which is now before the Medjliss, he said, entitled all who enjoy its minimum rate to any other more advantageous terms if subsequently such are accorded a single power, this concession forming thereafter a part of the minimum schedule. I inquired how the Persian Government would meet the situation if the British Government does not sign a tariff agreement by May 10, since in this case British imports would continue being taxed under the 1920 tariff schedule, but imports from other countries would be subject to the new rates. Teimourtache replied he was confident that prior to May 10 an arrangement would be made with the British Government. He showed the entire note from the British Legation, expressing tentative approval of the proposed autonomous tariff, subject to some modifications. When I pressed the question, he said it was not possible for him to give assurances in this regard, though he believed that the treaty powers would not suffer any great inconvenience from it.

I am of opinion that the British Government will withhold its final assent to signature of a new tariff agreement pending receipt of definite assurances of satisfaction for its outstanding claims. That an Anglo-Persian treaty will be signed by May 10 is doubted by my colleagues here. The German Minister, apprehensive that the situation may lead to serious tariff difficulties, contemplates seeking the consent of Persia for the extension of the 1920 tariff after May 10 to all capitulatory powers which sign new treaties until a new tariff agreement has been concluded with Great Britain. Under the new tariff American interests are somewhat more favorably treated than at present; therefore, the only danger to Americans would appear to lie in the possibility of a rupture of Anglo-Persian negotiations, which would involve a reversion to the 1903 tariff by Great Britain.

(4) Nothing more, I think, may be effected regarding satisfactory assurances until formal negotiations are begun and definite proposals made. I suggest early notice to the Persian Government that I am empowered to negotiate a new treaty. The French Minister, I understand, has advised his Government to negotiate by using the Persian drafts [29] (which I transmitted in my No. 564, March 24) as a basis, with some modifications and additions.

(5) As to point 6 (Department's 24, March 14, noon [*3 p. m.*]), the views of missionaries on this are not yet available, but they

[29] Not printed.

would, I believe, view with great satisfaction some special recognition by treaty of their institutions, as suggested.

(6) After talking with Teimourtache and others, I gather that the Persian Government is most anxious for the United States to enter into negotiations and now is inclined to give way on minor points for the sake of encompassing the principal objectives of a noncapitulatory treaty.

PHILIP

791.003/93 : Telegram

The Ambassador in Germany (Schurman) to the Secretary of State

[Paraphrase]

BERLIN, *April 13, 1928—8 p. m.*

[Received April 13—6:35 p. m.]

73. The German Foreign Office today received a report from the German Ambassador at Washington of his yesterday's conversation with Assistant Secretary Castle about Persia. This afternoon the Embassy was informed orally and informally that the 6 points which Mr. Castle enumerated represent generally also what Germany would like to obtain; but the practical situation is described thus:

As to points 1 and 2, Germany accepts as final the refusal by Persia to admit foreign judicial advisers through express treaty provision, but still is trying to induce the Persian Government in a covering note to undertake to consider, following signature of the treaty, the possibility of such officers being admitted. Great Britain is understood also to be weakening in this matter, because it is convinced that such advisers as Persia might conceivably admit would be of slight practical value.

Point 3 has already been conceded by construction.

Points 4 and 5 also have been substantially conceded. Although Persia declines to use the phrase "most-favored-nation", it will agree to an inverted form.

As to point 6, Germany is unable to cooperate owing to the established general policy of German missionaries entering Islamic countries at their own risk. Germany maintains no schools in Persia, only subsidizing German teachers in native schools.

The German Minister in Persia is expected about April 15 to receive a draft treaty from Berlin. This is the standard type of German treaty, altered along the lines above indicated in order to fit the Persian case.

SCHURMAN

791.003/92 : Telegram

The Secretary of State to the Minister in Persia (Philip)

WASHINGTON, *April 16, 1928—6 p. m.*

31. Your 39, April 13, 8 p. m. Please telegraph at once brief summary of new arbitration law and indicate the character of civil suits which it is proposed to submit for settlement thereunder.

KELLOGG

791.003/106

The British Ambassador (Howard) to the Assistant Secretary of State (Castle)

WASHINGTON, *April 16, 1928.*

MY DEAR MR. ASSISTANT SECRETARY: I duly communicated to my Government the substance of the *aide-memoire* which you were so good as to give me on April 7th on the subject of the attitude of the United States Government with regard to the Persian capitulations.[30]

I have now received instructions from His Majesty's Principal Secretary of State for Foreign Affairs to convey to the United States Government an expression of thanks for their action in keeping His Majesty's Government in Great Britain so fully informed of their negotiations with Persia.

I am also to communicate to you the sense of the instructions sent to His Majesty's Representative at Teheran, for which I would refer you to the enclosed memorandum.

His Majesty's Government hope that the United States Government will see their way to instruct the United States Minister at Teheran as soon as possible to cooperate with Sir R. Clive in this matter.

His Majesty's Government entirely agree with the view of the United States Government that it would be useful for the capitulatory Powers to work on similar lines. His Majesty's Government consider that perhaps, if it prove impossible to induce the Persian Government to come to some satisfactory arrangement before the beginning of May, joint action in Teheran would have satisfactory results.

Believe me [etc.] ESME HOWARD

[Enclosure]

The British Embassy to the Department of State

MEMORANDUM

His Majesty's Government in Great Britain have accepted the view of His Majesty's Representative in Teheran that it would serve no

---

[30] See footnote 20, p. 695.

useful purpose to press the Persian Government to engage foreign judicial advisers, and that the safeguards already agreed upon in principle between Sir R. Clive and the Persian Minister of Court will be sufficient for foreigners resident in Persia. The Persian Government appear to have informed Sir R. Clive that the proposed safeguards contained in the memorandum communicated by him to the Persian Minister of Court, a copy of which was enclosed in the letter from His Majesty's Ambassador to the Assistant Secretary of State dated March 6th,[81] are generally acceptable, with the exception of those dealing with the engagement of judicial advisers, and of the last part of No. 8, which provided that, in the event of the arrest of a foreign national, the Persian authorities should immediately notify his Consul.

His Majesty's Government in Great Britain consider that from every point of view it is essential that the nature of the *modus vivendi* for the period between May 10th and the entry into force of new treaties should be finally settled at the earliest possible moment. It would in their opinion be a mistake to allow this question to remain undecided until the entry into force of the new regime.

His Majesty's Minister at Teheran has therefore been instructed to urge the Minister of Court at once to draw up, in consultation with him, a draft of an official note stating the intention of the Persian Government to establish modern civil, commercial and criminal courts and their general readiness to afford to foreigners full and adequate protection of their persons, rights and property, and, in particular, embodying the safeguards which the Persian Government are prepared to give to foreigners in Persia during the period between May 10th and the coming into force of new treaties.

Sir R. Clive has been instructed, if possible, to ascertain that the terms of this draft note are acceptable to the Ministers of the United States and Germany in Teheran and then to press the Persian Government to despatch the draft note immediately to the Legations of all the countries concerned and to arrange for its publication in the Persian press. His Majesty's Government would similarly arrange for publicity to be given to the draft note in the British press.

WASHINGTON, *April 16, 1928.*

791.003/101 : Telegram

The Minister in Persia (Philip) to the Secretary of State

TEHERAN, *April 18, 1928—4 p. m.*
[Received April 18—11:20 a. m.]

41. Department's 31, April 16, 6 p. m. In substance, new law provides for arbitration in all suits admitted to trial before a justice of

[81] Not printed.

the peace, a court of first instance or a commercial court if one party to suit so requests. Sole arbiter without restrictions as to nationality may be agreed on by litigants or each may designate one while umpire is to be designated by judiciary from established list of Persians. Revision of the award may be demanded: the court to comprise three members consented to by the litigants together with the two original arbiters. In cases involving more than ten thousand tomans appellant may petition competent court of arbitration for revision and if need then court of cassation.

The Minister of the Court states that the law is destined to cover all but penal suits. Translation went forward with the consulate's despatch 3 of April 13th.[32]

PHILIP

791.003/92 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *April 25, 1928—6 p. m.*

35. Your 39, April 13, 8 p. m.

(1) Owing to the generally satisfactory character of the two conversations you had with Teimourtache, authorization is given you to begin formal negotiations. As a first step toward complete United States-Persian treaty relations, you will propose conclusion immediately of an exchange of notes relating to the tariff. These notes are to be identical with those exchanged December 9, 1924, with Greece [33] (see Treaty Series No. 706) and also with fifteen other countries, except that there will occur the following changes, of which the chief ones are meant to eliminate using the expression "most-favored-nation" in deference to Persia's susceptibilities:

(*a*) Throughout your note you will substitute "Persia" for "Greece".
(*b*) In paragraph 1, you will insert "our" before "recent conversations" and omit "held at Washington";
(*c*) In paragraph 2, lines 5 and 6, after "accord" you will insert in both cases "unconditionally".
(*d*) In paragraph 2, line 7, you will omit "unconditional most-favored-nation treatment" and will substitute therefor "treatment not inferior to that accorded to the commerce of any other country".
(*e*) In paragraph 2, line 10, you will omit "as favorable" and will substitute therefor "no less advantageous", and in line 11 will substitute "than" for "as".

(2) The Department has been informed by the British Ambassador here that the British Minister in Persia has been sent instructions to urge Teimourtache at once to draw up and to communicate to the inter-

[32] Not printed.
[33] *Foreign Relations*, 1924, vol. II, p. 279.

ested Legations at Teheran an official note which will state the Persian Government's intention to establish modern civil, commercial, and criminal courts and will in particular embody the safeguards Persia is prepared to allow foreigners after May 10, 1928. The British Minister has been instructed also to consult you and the German Minister regarding the terms of this note. Considering the statement by Teimourtache to you that Persia is fully aware of its obligations respecting the new codes and the protection of foreign nationals, it is presumed by the Department that a note such as is envisaged by the British Government would have distinct advantages from the standpoint of the Persian Government itself, particularly because of the unilateral character of this note. The Department wishes you to cooperate with the British and German representatives at Teheran in regard to this proposed note, with a view especially of assuring that it will be as complete and detailed as possible. All the safeguards for foreign nationals in Persia which have been accepted by Teimourtache after representations made to him by the United States, British, and German representatives should at least be included.

Further instructions, referring especially to the question of penal jurisdiction, will shortly be cabled to you.

KELLOGG

791.003/105 : Telegram

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

[Paraphrase]

WASHINGTON, *April 25, 1928—6 p. m.*

99. Your 83, April 24, 6 p. m.[34]

(1) The Department has been furnished by the British Ambassador with a summary of British instructions to their Minister at Teheran, with a view to having the Persian Government address an official note to the interested Legations and set forth its intentions respecting the adoption of modern codes, etc., and embody the safeguards to be given by Persia to foreign nationals after May 10.

(2) As to the usefulness of this proposed note, the Department is in accord with the British Government and accordingly has instructed the Minister in Persia to cooperate with the British and German representatives at Teheran in elaborating an appropriate text which at least would reproduce the detailed assurances of safeguards for foreign nationals given by Teimourtache, Minister of the Court, to the United States, British, and German Ministers.

(3) Of vital importance appears to this Government to be the

[34] Not printed.

question of Persia's exercise of penal jurisdiction over foreign nationals after May 10 and prior to the actual putting into successful operation of a modern penal system. The Persian Government indeed has undertaken the adoption of modern codes and the inauguration, in other ways, of an administration of justice conforming to Western ideals. However, the fact remains that as yet these reforms have not been carried out, nor has any indication been given as to when such reforms will be carried out and effectively carried out. There would thus, logically, appear to be only one way of meeting this situation: to urge Persia to postpone the exercise of penal jurisdiction over foreign nationals until the effective functioning of the modern penal system which it is proposed to adopt. The Department would welcome from the British Foreign Office an expression of its views on this point and also with respect to the feasibility of collective diplomatic action in the Persian capital early next month for the purpose of trying to induce the Persian Government to provide for postponing the exercise of penal jurisdiction, in the official note proposed by Great Britain to the Legations and mentioned above.

You will please discuss the foregoing with the British Foreign Office and cable a report as soon as possible.

KELLOGG

791.003/107 : Telegram

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

LONDON, *April 27, 1928—11 a. m.*
[Received April 27—6 a. m.]

86. As a result of discussion of Department's 99, April 25, 6 p. m., with Foreign Office, following is memorandum of telegraphic instructions being sent to Clive:

"The United States Government suggest the one way to meet situation is first to urge Persian Government to postpone exercising penal jurisdiction over foreigners until modern penal system, which has been proposed, effectively enters into force; and, secondly, the United States Government inquire as to feasibility of representations at Teheran in early May to induce Persian authorities to promise this postponement in the official note to be addressed to the Legations as proposed by the British Minister.

"Though Persian Government's previous attitude makes it doubtful whether they would accept continuation of capitulatory system after May 10th in our case, do you consider that joint representations by numerous missions might have effect; if so, you may, in conjunction with your United States colleague, and such others as are prepared to act with you, address Persian Government in above sense early in May."

HOUGHTON

416955—43——52

791.003/92 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *April 27, 1928—7 p. m.*

36. Referring to Department's 35, April 25, 6 p. m., concluding sentence. The Department on April 25 instructed the Embassy in Great Britain partly as follows:

[Here follows text of paragraph (3) of telegram No. 99, Apr. 25, 6 p. m., to the Ambassador in Great Britain, printed on page 710.]

After discussing the foregoing with the British Foreign Office, the Embassy telegraphs that the British Minister in Persia is receiving authority to join in collective representations, as outlined, if he deems them to be feasible and calculated to bring about a useful result.

If collective representations are decided to be feasible, they should, the Department believes, be oral and informal in character, and they might well take place as a friendly conversation between the interested foreign representatives and Teimourtache. The Department is of opinion, also, that the Persian authorities should be carefully impressed with the lack of any thought to try to change the Persian Government's decision to abolish the capitulations. It is wholly a question of dealing with a practical situation in a practical manner by recognizing that a certain amount of time is necessarily required to modernize the administration of justice in Persia or in any other country.

Please telegraph the Department as soon as possible after discussing the foregoing with the British Minister.

KELLOGG

791.003/110 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *May 2, 1928—8 p. m.*

[Received May 2—2:40 p. m.]

44. Department's 36, April 27, 7 p. m.

(1) Clive emphatically states his opposition to the suggested postponement of Persia's exercise of penal jurisdiction after May 10, which surely would be refused, and also to concerted pressure by the foreign powers as to this or any other question involved in the negotiations now, which Clive thinks would only render the Persian Government's attitude much less reasonable than is the case at present. Both the German Minister and I see no hope of any postponement respecting judicial matters.

(2) On April 26 Teimourtache read to me the draft of an official note to be sent the treaty powers. It embodied assurances regarding

the Persian Government's obligations respecting new codes and safeguards for interests of foreign nationals. There was also a paragraph which recognized religious and other institutions, resembling the Department's proposal in its 24, March 14, 3 p. m. It favored substitution of "educational laws" for "good morals" and in other respects appeared fairly satisfactory. The British Minister likewise deems the Persian Government's attitude regarding safeguards to be reasonably satisfactory and believes all the powers alike will benefit from them.

(3) As I have intimated previously, acceptance of the new tariff is being withheld by the British Government until its receipt of satisfactory assurances concerning outstanding British claims. The British Legation recently received a note on this subject, and I understand it was not entirely satisfactory.

(4) In view of the short time remaining, I believe the wisest course for the Department would be to authorize me to reach any favorable agreement provisionally that would assure the United States all the safeguards accorded any other power. In the meantime, I await a reply to the proposal of a tariff agreement which I submitted April 26.

PHILIP

791.003/110 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *May 3, 1928—7 p. m.*

37. Your 44, May 2, 8 p. m.

(1) The Department is prepared to accept the unfavorable views formed by you and your colleagues regarding (*a*) maintaining the *status quo* respecting exercise of penal jurisdiction following May 10 and (*b*) joint representations to Persia.

(2) Meanwhile, you should cooperate with your colleagues for the purpose of enlarging the scope, as far as possible, of the safeguards which the Persian Government is to set forth in the official note it is proposing to address to the interested Legations. See Department's 35, April 25, 6 p. m., paragraph (2). You will carefully see that the note's phraseology does not preclude handling by consuls after May 10 of matters affecting the personal status and family law of their own nationals. See your 39, April 13, 8 p. m., paragraph (2).

(3) Of course, the Department has no objection to your discussion with the proper Persian authorities of a provisional agreement which assures to American interests all the safeguards to be accorded any other power. Before the Department authorizes your actual conclusion and signature of such an agreement, however, it would desire

being informed in somewhat more detail than now regarding its scope and form.

KELLOGG

791.003/113 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *May 5, 1928—7 p. m.*
[Received May 5—4:20 p. m.]

47. Department's 37, May 3, 7 p. m.

(1) I am engaged in discussing with Teimourtache his counter-proposal for an exchange of notes which provides in three paragraphs for (*a*) diplomatic and consular representation, (*b*) establishment and residence, and (*c*) a commercial agreement, the terms according the equivalent of most-favored-nation treatment and being in other respects acceptable in principle, with a primary exception; namely, reciprocal treatment concerning personal status and family law. The United States Government, I judge, could not extend such reciprocity. I shall try to secure a satisfactory adjustment of this.

(2) The note is described in the preamble as provisional until the conclusion of treaties. The stipulations under the heading of duration and denunciation are identical with those of the 1924 Greek note.

(3) If the difficulty mentioned above is removed, will the Department authorize me to accept such a general note?

(4) I have been given by the Minister a draft of the declaration on safeguards which will be addressed formally to the Legation coincidentally with the signature of the notes to be exchanged. The provisions of this declaration seem to be quite adequate, especially when taken with the assurances of favored-nation treatment embodied in the proposed agreement.

PHILIP

791.003/114 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *May 7, 1928—2 p. m.*
[Received 4:05 p. m.]

48. Reference my 47, May 5, 7 p. m.

(1) In the proposed agreement the clause which I called an "exception" is translated as follows: [35]

"In matters of personal status the nationals of the two States remain subject to the prescriptions of their national law."

[35] Quotation not paraphrased.

As a substitution for this, I suggested paragraph 1 of article VIII of the Lausanne treaty with Turkey [36] and the addition, if desired, of an assurance to nationals of Persia in the United States as to favored nation rights in matters involving personal status, etc. Teimourtache definitely discredits my suggestion, saying his Government is not able to subscribe to a text implying a lack of reciprocity in this regard. Although the appearance of reciprocity, caused by political and other exigencies, is met, he said, his Government has resolved to grant to the treaty powers the right of applying their own law of personal status, etc., to their nationals in Persia, and on May 8 legislation will be voted to provide therefor. He mentioned that, incidentally, the French Government has accepted a proposal similar to the one quoted above, and he countered by a suggestion, to which I objected because it implied that the nationals of each state should, in matters of personal status, etc., accept the laws of the state of their residence.

I have today suggested to Teimourtache a draft which he agrees definitely to accept as follows: [37]

"In matters of personal status, et cetera (identical with Lausanne treaty through to 'the non-Mussulman') nationals of Persia in the United States, its territories and possessions, and nationals of the United States in Persia will be, within the limits of the laws of the country in which they are residing, subject to the prescriptions of their own national law, and in this connection will enjoy the treatment of the most favored nation."

This wording, in my opinion, renders possible and advisable the acceptance by the United States of the entire provisional agreement which I summarized in paragraph (1) of telegram 47.

PHILIP

791.003/114 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *May 8, 1928—7 p. m.*

38. Referring to your 48, May 7, 2 p. m., and your 47, May 5, 7 p. m.

(1) According to the Department's understanding, the proposed note on safeguards from the Persian Government to all of the interested Legations is both nonreciprocal and unilateral in character, with a duration indefinite, if not permanent; while your proposed notes, to be exchanged between you and the Persian Government, are based on the most-favored-nation principle and are reciprocal in character, with a provisional duration.

---

[36] Signed August 6, 1923; *Foreign Relations*, 1923, vol. II, pp. 1153, 1156.

[37] Quotation not paraphrased.

(2) The further understanding of the Department was that a non-reciprocal provision respecting jurisdiction in questions of personal status, family law, etc., was to be one of the safeguards included in the proposed note from Persia to the interested Legations and that such provision would not be limited by using terms such as the last three words of the first paragraph of article VIII of the treaty with Turkey,[38] but, on the contrary, would be phrased in order to permit United States consuls continuing to exercise jurisdiction over this class of cases. Americans in Persia would then secure the benefit of this particular safeguard through an appropriately phrased provision, in the American exchange of notes with Persia, for most-favored-nation treatment.

(3) The solution set forth above in paragraph (2) would be preferred by the Department to a provision concerning personal-status and family-law jurisdiction in the exchange of notes with Persia and especially to a provision in the words which you suggested to Teimourtache (set forth in your 48), for reasons as follows:

(*a*) In the American legal system, such matters as personal status and family law lie within the sovereign jurisdiction of the Union's various states, and the Federal Government is in no position in these matters to accord, by treaty or other agreements, exemptions to foreigners.

(*b*) From the American point of view, the effectiveness of your proposed text is dependent specifically upon Persia adopting and maintaining the necessary affirmative legislation. Any such basis for international rights would not seem to be substantial in a country such as Persia.

(*c*) In various of its recently negotiated treaties, Turkey has renounced voluntarily jurisdiction in matters of personal status and family law over foreign nationals and did not even raise the question of reciprocity in such matters.

(4) You should further converse, on the basis of this telegram, with Teimourtache with the view of persuading him to agree to the solution above outlined in paragraph (2). However, whatever may be the results of your conversation, you should also cable the Department the text, or at least a full summary, of the law which the Medjliss is passing today regarding personal status and family law.

(5) If the question of jurisdiction in personal status and family law can be satisfactorily arranged, the Department would immediately instruct you as to signing and exchanging the notes described in your telegram 47.

KELLOGG

[38] *Foreign Relations*, 1923, vol. II, pp. 1153, 1156.

791.003/117 : Telegram

The Minister in Persia (Philip) to the Secretary of State

TEHERAN, *May 10, 1928—11 a. m.*
[Received 11:30 a. m.]

52. Following is translation of:

(1) Personal status assurances contained in declaration on safeguards:

"Since question of personal status may be excluded from the competence of Persian courts, the procedure in such questions will be treated in detail in the convention of establishment to be concluded between Persia and (blank)."

[Paraphrase.] The French and Germans, at least, have accepted this assurance, and, in their provisional arrangements they have even included stipulations which accord full reciprocity to Persia. [End paraphrase.]

(2) More important articles of law on personal status and family law jurisdiction, voted May 8, translate as follows:

"Article 5. All the inhabitants of Persia, whether native or foreign subjects, shall be subject to the laws of Persia, except in cases exempted by law.

"Article 6. The laws concerning personal status, such as marriage, divorce, and capacity of persons and inheritance, shall be enforced in the case of all the subjects of Persia even if resident abroad.

"Article 7. Foreign nationals residing in Persian territory shall within the limits of treaties be subject to the laws and regulations of their own governments in matters connected with their personal status and capacity and also rights of inheritance."

(3) [Paraphrase.] The term "favored-nation treatment" appears specifically with respect to tariff treatment in a corrected copy of the Persian Government's proposals as delivered last evening to me. [End paraphrase.]

PHILIP

791.003/118 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *May 10, 1928—3 p. m.*
[Received May 10—12:05 p. m.]

53. Reference Department's 38, May 8, 11 a. m. [*7 p. m.*]

(1) Teimourtache showed surprise in receiving my representations regarding the Department's observations on jurisdiction in personal status and family law, since he had considered that the laws of the United States were taken fully into consideration by the clause "within the limits of the laws of the country in which they are re-

siding" (mentioned in my 48, May 7, 2 p. m.). He has offered now, however, to delete all reference from the proposed arrangement to the question of personal status, etc., and suggests the latter be handled subsequently in a note or in the definitive treaties to be negotiated eventually, whichever the Department elects.

(2) With this alteration made, I hope the Department will authorize me at once to sign the other agreements, which, I believe, accord to the United States more favorable treatment than to the other interested powers. I regret to report that delay has deprived the United States of the prestige due the first power to accord to Persia what must be given ultimately by all.

(3) The British Government having reached an agreement with Persia, the British representative will today, at 5 p. m., sign a provisional agreement.[39] This morning the French Minister signed one.[40] With the difficulty of the nonacceptance by Great Britain of the new tariff having been removed, Germany and other powers will now follow suit.[41]

PHILIP

791.003/118 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *May 10, 1928—7 p. m.*

40. Referring to your 53, May 10, 3 p. m.; 52, May 10, 11 a. m.; and 50, May 8, 3 p. m.[42]

You may suggest to Teimourtache the following provision concerning personal status and family law jurisdiction, to be included in the exchange of notes between you and the Persian Government:

Use the same wording as in the first paragraph of article VIII of the Treaty with Turkey, August 6, 1923, up to and including the word "thereof" and then use the following: "the nationals of the United States in Persia and the nationals of Persia in the United States shall enjoy unconditionally a treatment in no respect less favorable than that enjoyed or to be enjoyed by any other foreigners."[43]

---

[39] For treaty in regard to tariff autonomy of Persia, signed May 10, 1928, and notes exchanged, see Great Britain, Cmd. 3606, Persia No. 1 (1930); for Persian declaration on safeguards of May 10, see *ibid.*, pp. 20 ff.

[40] For provisional agreement, signed May 11, exchange of notes dated May 10, and 11, 1928, and Persian declaration on safeguards of May 10, see League of Nations Treaty Series, vol. LXXXII, pp. 43 ff.

[41] For provisional agreement with Belgium, signed May 15, 1928, see League of Nations Treaty Series, vol. XCIV, p. 447; for notes of the same date exchanged with Germany, see *ibid.*, vol. CVII, p. 389.

[42] No. 50 not printed.

[43] Quotation not paraphrased.

If Teimourtache accepts the above provision, you are authorized to sign and exchange notes. The French language may be used, if you so desire.

Should serious objection be made to the provision proposed above on personal status and family law jurisdiction, and if you see a danger of Persia seeking to apply its maximum tariff after May 11 to American merchandise unless an agreement on that day is signed and concluded, you may then at once sign and exchange notes with the Persian Government without any provision regarding personal status and family law jurisdiction, although on the express understanding that in the immediate future a further exchange of notes will be negotiated on this subject.

It is presumed by the Department that the provisions in the notes on most-favored-nation treatment in tariff matters contain the reservations respecting Cuba, the Panama Canal Zone, etc., set forth in the 1924 Greek note.

KELLOGG

791.003/119 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *May 13, 1928—2 p. m.*
[Received May 13—1:35 p. m.]

54. Reference Department's 40, May 10, 7 p. m. A less conciliatory Persian attitude developed during my negotiations of May 12. In order to prevent difficulties at the frontier for American merchandise now there, however, tomorrow morning I expect to conclude an arrangement along the following lines: The notes to be similar in substance to those I outlined in my telegram 47, May 5, 7 p. m., but, instead of being bilateral (thereby involving ratification and other difficulties on the Persian Government's part), to take the form of a unilateral declaration; while, coincidentally with their exchange, also there will be exchanged supplementary formal letters acknowledging and taking note of the contents of the notes themselves. These notes will also differ from the earlier drafts as to the principal points which follow:

(1) Agreement on questions of personal status and family law jurisdiction being arranged by exchange of notes shortly to follow; the assurance on personal status in the declaration on safeguards (see paragraph (1) of my 52, May 10, 11 a. m.) to be correspondingly altered (the Persian Minister at Washington, I am informed, is to be instructed to explain Persia's position in this regard in full detail to the Department).

(2) Provisions regarding most-favored-nation relations, reservations as to Cuba, Panama Canal Zone, etc., to be specified in this Legation's note only, but not in the one from the Persian Government, which

insists that it will take note thereof only in the supplementary formal letter, mentioned above, of general acceptance.

(3) Agreement yesterday on the notes bearing the date of their signature, while the tariff and other provisions to apply as from May 10, 1928.

Particularly because of the arrangements already made between Persia and Great Britain and France and of Germany's readiness to sign at any moment, the arrangement above now appears to be the best obtainable, nor do I see any fundamental disadvantage in it for the United States.

PHILIP

791.003/120 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *May 14, 1928—2 p. m.*

[Received May 14—10:55 a. m.]

55. Reference my 54, May 13, 2 p. m. As therein outlined, a provisional arrangement was effected today when the Persian Acting Minister for Foreign Affairs and I signed and exchanged notes.[44] I subsequently found that the declaration on safeguards,[45] handed to me following the exchange, omits reference to American institutions (as reported in my 44, May 2, 8 p. m., paragraph (2)).

This surprising failure to confirm assurances made verbally to me and corroborated by the draft of the note regarding safeguards, which was confidentially given me, may be owing to the fact that apparently no declaration of such nature has been made the other powers which may enjoy rights of the most favored nation. I shall not be able to see the Acting Minister nor Teimourtache about this omission before tomorrow morning. I shall report further developments.

PHILIP

791.003/121 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *May 16, 1928—3 p. m.*

[Received May 16—11:20 a. m.]

56. Reference my 55, May 14, 2 p. m. Notes dated May 14 were today exchanged between me and the Persian Acting Minister for Foreign Affairs. A translation of his note reads as follows:[46]

"In reply to your request relative to American missionaries, I have the honor to inform you that they will be permitted to carry

[44] *Post*, pp. 724–728.
[45] *Post*, p. 730.
[46] Quotation not paraphrased.

on their charitable and educational work on the condition that it contravenes neither the public order nor the laws and regulations of Persia."

These letters in substance are the same as those which were exchanged with the British Minister, and since the wording of the assurance is rather more inclusive here than in the original draft note of declarations on safeguards and of equal value, I am hopeful that the Department may approve the action taken.

PHILIP

791.003/121 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *May 17, 1928—6 p. m.*

42. (1) The Department approves entirely the action you describe in your 56, May 16, 3 p. m.

(2) The Department's understanding is that the net effect of the notes and declarations which you have exchanged and received to the present time is to insure as favorable treatment for Americans in Persia as is accorded to other foreigners there.

(3) The Department would be glad to have your telegraphic recommendations as to an exchange of notes regarding personal status and family law jurisdiction.

(4) Please send as soon as possible the texts of all the notes and declarations.

KELLOGG

791.003/140

The Minister in Persia (Philip) to the Secretary of State

No. 599 TEHERAN, *May 18, 1928.*

[Received June 14.]

SIR: Adverting to previous telegraphic and other correspondence exchanged with the Department relative to the consummation of a provisional agreement to replace our capitulatory treaty with the Persian Government which expired on May 10, 1928, and with particular reference to my cable messages Nos. 55 and 56 of May 14, 2 P. M. and May 16, 3 P. M., respectively, I have the honor to transmit herewith the following enclosures:

1. A copy of a note from the American Minister to the Persian Acting Minister of Foreign Affairs, dated May 14, 1928, which constitutes a provisional arrangement regarding Diplomatic, Consular, Tariff and other relations between the United States and Persia.

2. A copy of a note from the Persian Acting Minister of Foreign Affairs to the American Minister, dated May 14, 1928, to the same effect.

3 and 4. Copies of notes of acknowledgment and cognizance exchanged between the American Minister and the Persian Acting Minister of Foreign Affairs, dated May 14, 1928.

5. A copy and translation of a note from the Persian Acting Minister of Foreign Affairs to the American Minister, dated May 14 [*10?*], 1928, which constitutes a provisional declaration as to safeguards for citizens of the United States in Persia in the absence of Consular jurisdictional privileges.

6 and 7. Copies and translations of notes exchanged between the American Minister and the Persian Acting Minister of Foreign Affairs, dated May 14, 1928, in regard to the philanthropic and educational work of American Missionaries in Persia.

Desirous of complying with the Department's instructions to supply it with these copies without delay, I find it difficult in the short period now at my disposal to submit adequate comments, either upon the various phases of the negotiations which have led up to the signing of the notes herewith transmitted or upon the difficulties under which they were conducted. This I shall hope to do at a later date.

The Department will kindly observe that the last paragraph of Section 2 of the agreements exchanged on May 14th (enclosures 1 and 2 above) provide for the settlement of the question of personal status and family law jurisdiction by means of an early exchange of separate notes.

I regretted that the Department was unable to approve the wording of the draft mentioned in the third paragraph of my cable message No. 48 of May 7, 2 P. M., as a means of reaching an accord with the Persian Government in the matter of personal status and family law jurisdiction. Had such approval been possible at the time, I have reason to believe that I would have been the first to arrive at and sign an agreement with the Persian Government more satisfactory than had then been accorded to the other powers.

However, the last minute decision by the British Government to acknowledge Persia's new autonomous tariff had the effect of rendering the situation less acute and of ameliorating the attitude of the Persian Government toward all interested powers in the matter of most-favored-nation rights, etc. Our chief strong point in this matter lay in the fact that having been assured of favored nation rights in tariff matters our position was independent of such decision as might be reached by the British Government. Whereas the German representative together with those of practically all other powers, with the possible exception of France, had not been so assured, and were awaiting the outcome of the Anglo-Persian negotiations before taking definite action.

As soon as I am able to agree with the Persian Government upon what seems to be an appropriate text as a basis for an exchange of notes relative to matters of personal status and family law jurisdiction it will be at once submitted to the Department for its consideration.

With this exception, which I feel confident will offer no fundamental difficulty, I consider that the understandings now arrived at and signed assure to American citizens in Persia a treatment fully as favorable as that granted, or which may be granted, to the nationals of other foreign countries.

In my cable message No. 56 of May 16, 3 P. M. I informed the Department that I had exchanged notes under date of May 14th (enclosures 6 and 7) relative to the recognition by the Persian Government of the philanthropic and educational work of American Missionaries in this country.

The unannounced omission of such a statement from the Persian declaration on safeguards caused me both surprise and indignation. Subsequently, I learned that, for reasons of its own, the Persian Government had decided to eliminate this from its general declarations, but that it was prepared to exchange separate notes on the subject and that it had, in fact, done so in the case of the British Minister. I consulted with Sir Robert Clive, who appears to be much pleased with the result of his negotiations, and obtained from him copies of his note regarding missionary interests and the section of his provisional treaty which refers to personal status and family law jurisdiction. The text of my own note regarding missionary interests is practically identical with the former.

With regard to the question of personal status, etc., all my colleagues with whom I have discussed it seem to be of the opinion that, under the circumstances, there is no particularly vital issue involved therein; that the practical result will be that foreigners will administer their own laws of personal status, etc., in Persia, while Persians abroad will be only too desirous of seeking the assistance of the tribunals of the country of their residence whenever possible.

It was only toward the close of my negotiations with Teimourtache and when his hand had been palpably stiffened by success in other directions that he developed a definite intention of insisting upon the unilateral nature of the agreements under discussion.

This, I understand, was due to the fact that according to the Persian laws all bi-lateral agreements must be submitted to the Medjliss for its approval, whereas those of a unilateral nature are not subject to parliamentary discussion. At the same time, Teimourtache was equally insistent that my note should represent the initiative action to which that of the Persian Government would

be a reply. I took exception to this and insisted in turn that if the notes were to be unilateral they must also be identical as to the initiative taken. So acrimonious did the discussion of this apparently trivial point become that a complete breach of negotiations was for a time threatened. Finally the matter was adjusted by a mutual agreement to exchange supplementary notes expressing mutual receipt and cognizance.

This was rendered additionally necessary owing to the fact that Teimourtache, under the advice of the French legal adviser of the Foreign Office, consistently refused to embody in the note of the Persian Government reference to the contents of Sub-section 1 of my text of the provision regarding the treatment of Cuba, Panama Canal Zone, territories and possessions, etc. I understand that this refusal was based entirely upon the supposition that a repetition of the text of these reservations would be a departure from the unilateral nature of the arrangement.

I beg to mention also that Teimourtache requested the deletion from the text of the word "arrangement" wherever employed in a sense descriptive of the main document, and the substitution for it of the words "stipulation", or "stipulations".

Apparently, it was desired in this way to avoid the semblance of a more formal instrument in the eyes of the Persian public.

I have [etc.] HOFFMAN PHILIP

[Enclosure 1]

The American Minister (Philip) to the Persian Acting Minister for Foreign Affairs (Pakrevan)

TEHERAN, *May 14, 1928.*

EXCELLENCY: I have the honor to inform you that my Government, animated by the sincere desire to terminate as soon as possible the negotiations now in progress with the Imperial Government of Persia in regard to the conclusion of a Treaty of Friendship, as well as Establishment, Consular, Commercial and Tariff Conventions between the United States of America and Persia, has instructed me to communicate to the Imperial Government of Persia in its name the following provisional stipulations:

1) After May 10, 1928, the diplomatic representation of Persia in the United States, its territories and possessions, shall enjoy, on a basis of complete reciprocity, the privileges and immunities derived from generally recognized international law.

The Consular representatives of Persia, duly provided with exequatur, will be permitted to reside in the United States, its territories and possessions, in the districts where they have been formerly admitted.

They shall, on a basis of complete reciprocity, enjoy the honorary privileges and personal immunities in regard to jurisdiction and fiscal matters secured to them by generally recognized international law.

2) After May 10, 1928, Persian nationals in the United States, its territories and possessions, shall, on a basis of complete reciprocity, be received and treated in accordance with the requirements and practices of generally recognized international law.

In respect to their persons and possessions, rights and interests, they shall enjoy the fullest protection of the laws and authorities of the Country, and they shall not be treated, in regard to the above mentioned subjects, in a manner less favorable than the nationals of any other foreign country.

In general, they shall enjoy in every respect the same treatment as the nationals of the Country, without, however, being entitled to the treatment reserved alone to nationals to the exclusion of all foreigners.

Matters of personal status and family law will be dealt with in separate notes to be concluded and exchanged at the earliest possible date.

3) After May 10, 1928, and as long as the present stipulations remain in force, and on a basis of complete reciprocity, the United States will accord to merchandise produced or manufactured in Persia upon entry into the United States, its territories and possessions, the benefits of the tariff accorded to the most favored nation; from which it follows that the treatment extended to the products of Persia should not be less favorable than that granted to a third country.

In respect to the regime to be applied to the Commerce of Persia in the matter of import, export, and other duties and charges affecting commerce as well as in respect to transit warehousing and the facilities accorded commercial travelers' samples; and also as regards commodities, tariffs and quantities in connection with the licensing or prohibitions of imports and exports, the United States shall accord to Persia, on a basis of complete reciprocity, a treatment not less advantageous than that accorded to the commerce of any other country.

It is understood that no higher or other duties shall be imposed on the importation into or disposition in the United States, its territories or possessions, of any article, the product or manufacture of Persia, than are or shall be payable on like articles, the product or manufacture of any foreign country; similarly, and on a basis of complete reciprocity, no higher or other duties shall be imposed in the United States, its territories or possessions, on the exportation of

any articles to Persia than are payable on the exportation of like articles to any foreign country.

On a basis of complete reciprocity, any lowering of duty of any kind that may be accorded by the United States in favor of the merchandise of any other country will become immediately applicable without request and without compensation to the commerce of Persia with the United States, its territories and possessions.

Providing that this understanding does not relate to:

1) The treatment which the United States accords or may hereafter accord to the commerce of Cuba, or any of the territories or possessions of the United States, or the Panama Canal Zone, or to the treatment which is or may hereafter be accorded to the commerce of the United States with any of its territories or possessions, or to the commerce of its territories or possessions with one another;

2) Prohibitions or restrictions authorized by the laws and regulations in force in the United States, its territories or possessions, aiming at the protection of the food supply, sanitary administration in regard to human, animal or vegetable life, and the enforcement of police and revenue laws.

The present stipulations shall become operative on the day of signature, and shall remain respectively in effect until the entry in force of the Treaty and Conventions referred to in the first paragraph of this note, or until thirty days after notice of their termination shall have been given by the Government of the United States to the Imperial Government of Persia, but should the Government of the United States be prevented by future action of its legislature from carrying out the terms of these stipulations the obligations thereof shall thereupon lapse.

I shall be glad to have your confirmation of the understanding thus reached.

I avail myself [etc.] HOFFMAN PHILIP

[Enclosure 2—Translation [46a]]

The Persian Acting Minister for Foreign Affairs (Pakrevan) to the American Minister (Philip)

TEHERAN, *May 14, 1928.*

MR. MINISTER: I have the honor to advise you that my Government, animated by the sincere desire to terminate as soon as possible the negotiations now in progress with the Government of the United States relative to the conclusion of a treaty of friendship, as well as establishment, consular, customs, and commercial conventions, has

[46a] Translation printed from Department of State Executive Agreement Series No. 19.

directed me to communicate to you, in its name, the following provisional stipulations:

1. On and after May 10, 1928, the diplomatic representation of the United States of America in Persian territory shall enjoy, on condition of complete reciprocity, the privileges and immunities sanctioned by generally recognized international law.

The consular representatives of the United States of America in Persian territory, duly provided with an exequatur, shall be permitted, on condition of complete reciprocity, to reside there in the localities to which they were admitted up to that time.

They shall enjoy, on the condition of complete reciprocity, the honorary privileges and personal immunities in regard to jurisdiction and fiscal matters sanctioned by generally recognized international law.

2. On and after May 10, 1928, the nationals of the United States in Persia shall on the basis of complete reciprocity be admitted and treated in accordance with the rules and practices of generally recognized international law.

In respect of their persons and property, rights and interests, they shall enjoy there the fullest protection of the laws and the territorial authorities of the country, and they shall not be treated in regard to the above-mentioned matters in a manner less favorable than the nationals of other foreign countries.

They shall enjoy, in every respect, the same general treatment as the nationals of the country, without being entitled, however, to the treatment reserved to nationals alone, to the exclusion of all other foreigners.

Matters of personal status and family law shall be treated in special notes to be drawn up and exchanged as soon as possible.

3. On and after May 10, 1928, and as long as the present provisions shall remain in force, and on condition of complete reciprocity, merchandise produced or manufactured in the United States, its territories and possessions, on their entry into Persia, shall enjoy the tariff accorded to the most favored nation, so that the treatment accorded to the United States for its merchandise shall not be less favorable than the legal treatment accorded to a third country.

In respect to the régime applicable to the commerce of the United States of America, in the matter of import and export and other duties and charges relating to commerce, as well as to transit, warehousing, and the facilities accorded to commercial travelers' samples, and as to facilities, tariffs, and quantities in connection with the licensing and prohibition of imports and exports, Persia shall accord to the United States, its territories, and possessions, on condition of complete reciprocity, a treatment not less favorable than that accorded to the commerce of any other foreign country.

416955—43——53

It is understood that other or higher duties shall not be applied to the importation into or the sale in Persia of any articles, produced or manufactured in the United States, its territories and possessions, than those which would be payable on like articles produced or manufactured by any other foreign country.

Similarly and on condition of complete reciprocity, no other or higher duties shall be imposed in Persia on the exportation of any articles to the United States, its territories or possessions, than those which would be payable on the exportation of like articles to any other foreign country.

On condition of complete reciprocity, any lowering of duties of any kind that may be granted by Persia in favor of the products of any other country shall be immediately applicable, without request and without compensation, to the commerce of the United States, its territories and possessions, with Persia.

It is understood that these provisions do not refer to the prohibitions and restrictions authorized by the laws and regulations in force in Persia for protection of the food supply, sanitary administration in regard to human, animal, or vegetable life, the interests of public safety and fiscal interests.

The stipulations of the present note shall go into effect to-day and they shall remain respectively in force until the entry into effect of the corresponding treaty and conventions referred to in the first paragraph of this note or until the expiration of a period of thirty days from the notice which may be given to the Government of the United States by my Government of its intention to terminate them, but in case my Government should be prevented from fulfilling its engagements by the effect of a legislative measure, these stipulations shall lapse.

I would be glad to have confirmation of our understanding on these points.

Please accept [etc.] PAKREVAN

[Enclosure 3]

The American Minister (Philip) to the Persian Acting Minister for Foreign Affairs (Pakrevan)

TEHERAN, *May 14, 1928.*

EXCELLENCY: I have the honor to inform you, in the name of my Government, that I have received and taken note of the contents of your note of to-day's date setting forth provisional stipulations in regard to Diplomatic, Consular, tariff and other relations between the United States and Persia.

I avail myself [etc.] HOFFMAN PHILIP

[Enclosure 4—Translation [46b]]

The Persian Acting Minister for Foreign Affairs (Pakrevan) to the American Minister (Philip)

TEHERAN, *May 14, 1928.*

MR. MINISTER: I have the honor, in the name of my Government to acknowledge receipt of and place on record the contents of your note of to-day's date, specifying the provisional stipulations relative to diplomatic, consular, customs and other relations between Persia and the United States of America.

Please accept [etc.] F. PAKREVAN

[Enclosure 5—Translation]

The Persian Acting Minister for Foreign Affairs (Pakrevan) to the American Minister (Philip)

TEHERAN, *May 10 [14?], 1928.*

MR. MINISTER: In reply to requests that have been formulated, and on the eve of the realization of its decision to abolish on May 10, the regime heretofore known as the Regime of Capitulations, the Imperial Persian Government animated by a desire to dissipate any concern arising from a lack of familiarity with the new system to be applied to them hereafter, which might be entertained by foreign nationals residing in Persia, and desirous, through your intermediary, of placing your nationals in possession of the dispositions taken in their behalf by legislation and by the Persian Government, addresses to you for communication to your nationals, the present decision.

It is unnecessary to state, that the Persian Government, itself, vitally interested in securing to the citizens of Persia a maximum of guarantees and to maintain in the accomplishment of this aim a judicial system as nearly perfect as possible, has achieved very appreciable judicial reforms both in regard to personnel and legislation.

Without mentioning legislation familiar to every one, a knowledge of legal matters the equivalent of that represented by a degree in law is one of the obligatory conditions to entry in the judicial career.

Regarding the situation of the nationals of the United States of America as it results from this decision, the following measures, taken by the Persian Government, will be applicable as of May 10, 1928:

(1) On a basis of complete reciprocity, they will be received and treated in Persia in accordance with the rules and practices of international law, and will enjoy the most entire protection of the Persian laws and authorities, and will enjoy the same treatment as the nationals of Persia.

[46b] Translation printed from Department of State Executive Agreement Series No. 19.

(2) In civil or commercial suits where one of the parties is a national of the United States only written testimony shall be admitted.

In all suits, even criminal, sentences will be drawn up in writing and will set forth the considerations of law and of fact on which they are based.

Parties to a suit, or persons authorized by them, will have the right to obtain copy of the testimony and the judgment, on the condition of paying the regular fees.

In criminal cases, since oral testimony is normally accepted, the interests of the accused are safeguarded by Articles 215 and 216 of the Penal Code which provides against false-witness.

(3) Only the Courts and Tribunals directly under the Ministry of Justice, and no others, shall be competent in a suit where one of the parties is a national of the United States.

Only the Criminal Courts directly under the Ministry of Justice may, in general, pronounce a sentence of imprisonment in cases involving nationals of the United States.

However, should a state of siege be proclaimed, and a suit has come before a specially formed Tribunal this Tribunal will be able to take cognizance of the suit in which a national of the United States is one of the parties.

Moreover, in fiscal matters and, in general, in a litigation between an Administration and a national of the United States concerning a purely administrative matter, the Administrative Courts retain their competence.

(4) In any case a national of the United States will not be brought before any but Lay Courts, and only Lay Laws will be applicable to him.

(5) Simple Police Courts shall be competent in the case of nationals of the United States only in matters of minor importance punishable by a small fine.

They may not give prison sentences unless the national of the United States should himself request that the fine which he has been sentenced to pay be commuted to imprisonment. In conformity with law simple Police Courts may never pronounce a prison sentence of more than one week. It is understood that they will never sentence the said foreign nationals to corporal punishment.

(6) A national of the United States arrested in *flagranti delicto* for an act which is termed a misdemeanor or a crime may not be kept in prison for more than 24 hours without being traduced before the competent judicial authority.

Except in cases of *flagranti delicto* no national of the United States shall be arrested or imprisoned without an order emanating from the competent judicial authority.

Neither the private house nor business premises of a national of the United States shall be entered forcibly or perquisitioned unless a warrant has been issued by the competent judicial authority, with guarantees against abuse the character of which will be defined later.

(7) Nationals of the United States who have been arrested and imprisoned will have the right, in conformity with the prison regulations, to communicate with their nearest Consul, and their Consuls or their representatives will have permission to visit them, upon conforming to prison regulations.

The Governmental authorities will immediately transmit such requests for communication with prisoners to the addressee.

(8) The Imperial Government has envisaged a set of generous regulations governing release on bail, which shall be granted in every instance except in case of crime (as Crime is defined by the Penal Code).

The sum demanded for bail will be reasonably proportioned to the degree of the misdemeanor.

When a person appeals from a sentence the same facilities for release on bail as mentioned above shall be granted him until the sentence of the Appellate Court shall have been handed down.

(9) Since, according to Persian law, Court proceedings are, in general, and in all but exceptional cases, open to the public, therefore the parties interested in the suit or in the welfare of the litigants have the right to be present as spectators, in all but exceptional cases, without, however, having the right to take active part in the trial in any way whatsoever.

(10) In penal matters the accused is entirely free to choose his counsel or counsels, who may even be fellow nationals.

(11) The Imperial Government has decided to ameliorate the condition of the prisons so that they may be more in conformity with modern requirements; and a sum of money sufficient to establish prisons in Persia, meeting necessary demands of hygiene, has been already appropriated.

Meanwhile, nationals of the United States condemned to imprisonment for more than one month (Since imprisonment for one month or less may be commuted to a fine) will be transferred on their request to a prison meeting the necessary requirements of hygiene.

(12) In matters of taxation, nationals of the United States will be treated on an equal footing with Persian nationals, and will not be subject to any dues, fees, or other taxes whatsoever which Persian nationals are not required to pay.

(13) With respect to judicial matters, all judgments given by former Courts—even if they have not been executed—are considered as definitely settled and in no case may be reviewed; also all definitive judgments rendered by the former Courts must be executed. In short, all suits terminated under the old judicial system are considered as definitively settled and may not again be opened.

Unfinished proceedings before the Tribunal of the Ministry of Foreign Affairs or before the Tribunals of Governors of Provinces shall be terminated before these Tribunals unless the party of foreign nationality should demand prior to the conclusion of hearings that the case be taken to the law Courts.

The time limit granted by the Imperial Government in which to wind up unfinished litigation before these Tribunals is until May 10, 1929, at the latest.

(14) All questions relating to security for costs, to the execution of sentences, to the service of judicial and extra-judicial decrees, to commissions rogatories, to orders for the payments of costs and expenses, to free legal assistance, and to imprisonment for debt, are left to be regulated by special conditions between Persia and the United States of America.

(15) All Arbitration and stipulations of Arbitration being admitted under Persian law in civil or commercial matters and the decisions thus handed down being executory at the order of the President of the Court of First Instance upon whom it shall be mandatory to issue such order except in a case where the arbitral decision would be contrary to public order, obviously, nationals of the United States of America will enjoy the full benefits of these legal provisions.

(16) Nationals of the United States of America cannot be arrested nor their personal liberty restrained, as a measure of provisional protection in civil claims, except where the distraint to be made on his property actually located in Persia would appear to involve serious risk to the debtor or where no other measure of protection may be resorted to.

(17) In respect to immovable property and rights pertaining thereto, it is understood that nationals of the United States of America shall be permitted to occupy, acquire and possess property necessary to their residence and to the conduct of their commercial or industrial activities.

(18) It being possible to exclude questions relating to personal status from the jurisdiction of National Tribunals the procedure to be followed in such matters will be dealt with and detailed in a special arrangement.

Accept [etc.] F. PAKREVAN

[Enclosure 6—Translation [47]]

The American Minister (Philip) to the Persian Acting Minister for Foreign Affairs (Pakrevan)

TEHERAN, *May 14, 1928.*

MR. ACTING MINISTER: I should be very glad to receive from Your Excellency an assurance on the part of the Imperial Government that American missionaries in Persia will be permitted, as in the past, to carry on their charitable and educational work.

I avail myself [etc.] HOFFMAN PHILIP

[Enclosure 7—Translation]

The Persian Acting Minister for Foreign Affairs (Pakrevan) to the American Minister (Philip)

TEHERAN, *May 14, 1928.*

MR. MINISTER: In reply to your request relative to American missionaries, I have the honor to inform you that they will be authorized to carry on their charitable and educational work on the condition that it contravenes neither the public order nor the laws and regulations of Persia.

Please accept [etc.] F. PAKREVAN

[47] The original was in French.

791.003/139

The Minister in Persia (Philip) to the Secretary of State

No. 601 TEHERAN, *May 19, 1928.*
[Received June 14.]

SIR: I have the honor to transmit herewith a copy of a letter to the American Consul at Tabriz, dated the 18th instant,[48] in which I have mentioned the delicate subject of the refusal by the Persian Government to recognize the changed status of Persian nationals who have become naturalized American citizens without its consent.

In the course of my negotiations for a provisional agreement to replace our treaty with Persia, which expired on May 10, 1928, I took the liberty of broaching this subject in the faint hope that it might have been possible to reach some understanding in the matter of American naturalization with the Persian Government. Had the circumstances under which the negotiations were conducted been somewhat different and had the attitude of certain other interested powers in the matter of non-capitulatory agreements been less facile for the Persians, I am under the impression that something might have been capable of accomplishment in this direction.

My initiative with Teimourtache elicited from him an expression of readiness to enter into special negotiations for an international agreement regarding naturalization. However, with his customary astuteness, he refused to enter into the relative discussions until the matter of the capitulations had been settled. He said that his Government would be prepared to take this up at any time after May 10th, and he fully agreed with me that a more lenient attitude in the matter of the recognition of the foreign naturalization of Persian nationals would be a real benefit to Persia.

Teimourtache further said that the basic law of Persia would not authorize the Shah to grant an inclusive recognition of the changed status of all Persian nationals who may have acquired foreign nationality prior to any given date, but he did suggest that such action might be possible as regards individuals whose names were included in a list to be submitted for such action.

The question of the extension of protection to naturalized American citizens of Persian origin constitutes an ever present bugbear to the official representatives of the United States in Persia.

I have the honor to submit the above remarks to the consideration of the Department in the hope that it may find in them the nucleus of a possible solution of a vexing question. I have the idea that the present may be a favorable moment to take the initiative in the matter should such action meet with the Department's approval.

I have [etc.] HOFFMAN PHILIP

[48] Not printed.

791.003/126 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *May 26, 1928—6 p. m.*

44. (1) The Department is concerned because no reply has been received to its request telegraphed you May 17 (see Department's telegram 42, 6 p. m., paragraph (3)) on the subject of personal status and family law jurisdiction, particularly in view of the commitment made in the Persian declaration on safeguards as handed the British Minister on May 10. A copy of this has just reached the Department from the Embassy at London.

(2) Paragraph number (12) of this Persian declaration is quoted in part below as follows:[49]

"Whereas Persian subjects enjoy in the British Empire most-favored-nation treatment in questions of personal status, it is understood that in matters of personal status, etc., and family law in general, it is agreed between Persia and Great Britain that as regards non-Moslem British nationals in Persia their national tribunals will alone have jurisdiction."

(3) The Department is, in view of the above, at a loss to understand the Persian Government's delay in coming to an understanding on this matter with you along the lines which the Department originally suggested on May 8 (see telegram 38, 7 p. m., paragraph (2)), since the pertinent features of the therein outlined procedure seem to have figured on May 10 in the arrangement agreed upon between Persia and Great Britain.

(4) As the Department has assumed that the Persian Government, in handing to the representatives of the interested powers in Persia the unilateral notes on safeguards, would make these identical in form and applicable to all foreigners in Persia, therefore the Department is not able to understand the discrepancy to be found between the description in your telegram (see 52, May 10, 11 a. m., paragraph (1), safeguard on personal status, etc.) and that quoted above from the note delivered May 10 to Sir Robert Clive.

The Department wishes as soon as possible to be enlightened telegraphically regarding the questions raised herein. In this connection you should keep in mind the statement made in the Department's telegram 42, May 17, 6 p. m., paragraph (2).

KELLOGG

---

[49] Quotation not paraphrased. This translation does not correspond exactly with text printed in Great Britain, Cmd. 3606, Persia No. 1 (1930).

791.003/128 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *May 28, 1928—3 p.m.*
[Received May 28—2 : 10 p.m.]

59. Reference Department's 44, May 26, 6 p.m.

(1) After I was shown the Persian declaration handed the British Minister on personal status, etc., I resumed negotiating with the Persian Government in accordance with the draft embodied in the Department's telegram 40, May 10, 7 p.m.

Seemingly influenced by its French legal adviser, the Persian Government has shown an unwillingness in coming to a satisfactory agreement on the text of the proposed notes concerning personal status and family law jurisdiction; I have sensed a disposition here to avoid the issue. I think, in view of the assurance (see my 54, May 13, 2 p.m., paragraph (1)) that the Persian Minister at Washington would be sent instructions, the Department might well communicate its views now to him.

(2) The original draft declarations on safeguards, it was understood, were to be identical, except that special provisions concerning missionaries were included in the copy shown to me. As handed to me and to the other foreign representatives who have signed provisional agreements already, the declarations on safeguards appear to be identical, with the exception of the matters on personal status. The provisions for these were at the last moment made to correspond to the agreement texts themselves, though, in the case of Great Britain, the details were elaborated, not in the exchange of notes, but rather in the declaration. Since in matters relating to personal status and family law jurisdiction, all the other governments except Great Britain and the United States appear ready to grant equal rights to Persia, the latter may now be less disposed to effect with the United States a similar arrangement to that which the Persian Government may have been obliged by circumstances to make with Great Britain.

(3) In the text of the proposed note, would the Department approve using the word "non-Moslem" to qualify United States nationals?

(4) Tonight I shall see Teimourtache, and I will report as soon as I obtain any satisfactory information.

PHILIP

791.003/128 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *May 29, 1928—4 p.m.*

46. Referring to your 59, May 28, 3 p. m.

(1) Regarding personal status and family law jurisdiction, you should emphatically remind Teimourtache of his unqualified assurances that his Government had no intention whatever of imposing penalties or inferior treatment of any sort upon American citizens because of lapse of treaty. (See your telegram 28, March 20, noon, generally, and its paragraph (5), particularly.) The United States Government will not ask for its citizens in Persia special favors, but cannot agree to their being put in a less advantageous position than the nationals of any other country. Negotiations with Persia must proceed upon this fundamental principle, and it should be made perfectly clear by you to Teimourtache that any failure on Persia's part to recognize this principle would place the United States Government under the regrettable necessity to consider appropriate action for an entirely new situation.

(2) The Department's view of personal status and family law jurisdiction will be brought to the attention of the Persian Minister in Washington, but it is not anticipated, in view of his complete lack of familiarity with the negotiations hitherto proceeding in Teheran, that this move will gain much.

(3) There is no objection to using, in the note on personal status and family law jurisdiction, the term "non-Moslem" to qualify American nationals.

(4) Is it correct for the Department to understand from your telegram that jurisdiction over personal status and family law of Persian nationals in Belgium, France, Germany, and Italy is to be exercised by Persian tribunals which are either established in these countries or outside them?

KELLOGG

791.003/151b

The Secretary of State to the Consul at Teheran (Nielsen)

WASHINGTON, *May 29, 1928.*

SIR: Inasmuch as the Government of Persia has given due notice of its desire to abrogate the Treaty of Friendship and Commerce signed December 13, 1856, and as the treaty accordingly became ineffective after May 10, 1928, your attention is called to the fact that Persian subjects will not hereafter be entitled to classification as treaty

aliens under the provisions of Section 3 (6) of the Immigration Act of 1924.[50]

I am [etc.]

For the Secretary of State:
WILBUR J. CARR

791.003/128 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *June 2, 1928—1 p. m.*

47. The Department on June 1 brought to the Persian Minister's attention the substance of the first two sentences under paragraph (1), telegram 46, May 29, 4 p. m. Although not informed of the situation, the Minister expressed his general sympathy with the Department's viewpoint and promised to telegraph at once to his Government.

KELLOGG

791.003/134 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *June 5, 1928—8 a. m.*
[Received 3 p. m.]

61. Reference the Department's 46, May 29, 4 p. m.

(1) The departure of Teimourtache to meet the Ameer of Afghanistan at Pahlavi has temporarily interrupted conversations regarding personal status and family law jurisdiction. The Minister of the Court will return about June 9.

(2) Settlement on a basis of reciprocal favored-nation treatment is definitely refused by Teimourtache, who declares that such a formula involves the according to the United States of identical treatment to that given the European continental powers, the latter having, in turn, accorded unconditionally to Persians their national law in regard to personal status, etc., while the United States cannot undertake any obligations of this character at all.

(3) No attempt is made by the Persian Government to conceal the fact that the arrangement with Great Britain was negotiated on a

---

[50] Classifying a nonimmigrant as "an alien entitled to enter the United States solely to carry on trade under and in pursuance of the provisions of a present existing treaty of commerce and navigation"; 43 Stat. 153, 155.

In despatch No. 621, May 31 (not printed), the Department informed the Minister in Persia that its "records indicate that but two subjects of Persia have obtained non-immigrant visas as treaty aliens since the passage of the Immigration Act of 1924". (File No. 791.003/132a.)

give-and-take basis, with extraneous considerations taking a prominent part.

I am informed, moreover, that in order to obtain the terms in the Anglo-Persian arrangement, the British addressed a communication to Persia to the effect that, insofar as the British Empire's laws permit, Persians in the Empire would, in matters of personal status, etc., be under their national laws and would, in any event, receive favored nation treatment.

In the view of Teimourtache, the terms of the British arrangement amount, in their practical effect, to an important British concession because, whereas only a few non-Moslem British subjects are to be found in Persia, there are thousands of British Moslems, all of these now being brought within the scope and jurisdiction of Persian law, and also because this latter category will greatly increase eventually upon Iraq's recognition. Teimourtache referred to this point as a special consideration in effecting the British arrangement.

(4) The Germans, French, and Belgians have renounced definitely all consular rights to administer their national laws in matters of personal status, etc.; it has, therefore, not been possible to bring Teimourtache to accept such a stipulation regarding United States consuls. In conversations with the British, the Persian Government, furthermore, let it be understood clearly that "their national tribunals", when interpreted, did not mean that consulates could function juridically. Nor have the British any illusions on this subject.

(5) The personal status and family law jurisdiction over Persians in Belgium, France, and Germany is to be exercised by judiciaries belonging to those countries, though the Persian law will be applied. Conversely, Persian courts are to execute the laws of those countries in dealing with their nationals in Persia.

(6) The Minister of the Court's last proposal was that the arrangement with the United States might follow the general lines in the British case, but the provision as to "national tribunals" (which the Persian Government intends deleting from any definitive treaty and which Teimourtache refuses to accept now) would be changed to a stipulation substantially as follows:[51]

"When in a case involving the personal status, etc., of a national of the United States comes before a Persian court, American law will be applied."

Persia's French legal adviser, who has figured constantly during these discussions, meanwhile believes that Teimourtache would accept the following:[51]

"In matters of personal status, etc., American law will be applied to nationals of the United States in Persia."

[51] Quotation not paraphrased.

In my opinion, this formula is the maximum to be obtained in any declaration or temporary arrangement, and it affords the added advantage of obligating Persia to decisions rendered by any United States court sitting outside Persia. The probable procedure would be that followed when safeguards were obtained regarding missionaries (see my telegram 56, May 16, 3 p. m.).

PHILIP

791.003/134 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *June 29, 1928—7 p. m.*

55. Referring to your 61, June 5, 8 a. m. If you do not perceive any objection, you may propose exchanging notes setting forth an agreement with Persia on personal status and family law jurisdiction as follows:[52]

"Whereas Persian subjects enjoy in the United States most-favored-nation treatment in matters of personal status, it is understood that in such matters, i. e. all matters relating to marriage, conjugal rights, divorce, judicial separation, dower, paternity, affiliation, adoption, capacity, majority, guardianship, trusteeship, and interdiction, and in matters relating to succession to personalty, whether by will or by intestacy, and in the distribution and settlement of estates and in family law in general, it is agreed that, pending the coming into effect of a treaty between the United States and Persia, only American law will be applied to nationals of the United States in Persia. It is further agreed that if a case affecting a national of the United States in Persia and involving any of the matters specified above is brought before a Persian court, such court shall ascertain from American sources and shall apply only American law."

The advantages are recognized of the national tribunal provision of the Persian note to Great Britain. There are, however, serious practical disadvantages in applying such a provision to Americans in Persia, since, without new legislation, it might be impossible to locate an American court taking the necessary jurisdiction and, in any event, probably recourse would have to be to a court in the United States. In proposing the formula above, the Department has in mind (*a*) not to deprive Americans in Persia of a possible convenience of recourse to Persian courts and (*b*) to avoid so far as possible, in view of what Great Britain already has obtained and Germany may obtain, prejudicing the future by too specific a commitment of Americans to jurisdiction of Persian courts.

Not to be communicated to Persia at present: Possibly when it is realized that Persian courts, in dealing with American cases of

[52] Quotation not paraphrased.

personal status, will be obliged to consider the appropriate laws of fifty-three separate, distinct, and often contradictory state and territorial jurisdictions, the Persian attitude may undergo some change in regard to personal status and family law jurisdiction. The Department for this reason proposes the last sentence in the above formula.[53]

KELLOGG

791.003/153

The Minister in Persia (Philip) to the Secretary of State

No. 632 TEHERAN, *June 30, 1928.*

[Received July 27.]

SIR: In connection with my despatch No. 599 of May 17 [*18*], 1928, with which were transmitted copies of notes and other papers relative to the Provisional Arrangements entered into with the Persian Government on May 14, 1928, I have the honor to transmit herewith to the Department copies of an exchange of letters with the Ministry of Foreign Affairs in regard to the competence of American Consular Courts in Persia as applied to cases pending before those tribunals on May 10, 1928.

My letter of June 2 [*3?*], 1928, to the Ministry of Foreign Affairs was actuated by the fact that, whereas the Persian Government, in accordance with Article 13 of the Declaration on Safeguards delivered to me on May 14, 1928, accords a delay of one year for the liquidation of cases pending before the Tribunals of the Ministry of Foreign Affairs, no provision whatsoever was made as to Consular tribunals and cases that might be before them. Likewise the receipt of a report dated May 31, 1928, from the American Consulate at Teheran to the effect that two cases involving the settlement of estates were still before the Teheran Consular Court pointed to the advisability of obtaining an assurance that recognition of such Courts would not be summarily withdrawn.

I am informed that the German Minister requested a similar assurance from the Persian Government and that he has received a reply identical to that contained in the note from the Ministry of Foreign Affairs herewith enclosed.

I have [etc.] HOFFMAN PHILIP

[Enclosure 1]

The American Minister (Philip) to the Persian Acting Minister for Foreign Affairs (Pakrevan)

No. 293 TEHERAN, *June 3, 1928.*

EXCELLENCY: I have the honor to refer to the note of May 10, 1928,[54] wherein Your Excellency was good enough to inform me of the dis-

---

[53] See also final paragraph of telegram No. 54, June 29, to the Minister in Persia, p. 746.

[54] *Ante*, p. 729.

positions taken by the Imperial Persian Government in regard to the regime, particularly Judicial, which, effective May 10, 1928, would apply to nationals of the United States residing or sojourning in Persia.

In taking note of the decisions enumerated in that communication and with particular reference to paragraph numbered 13 thereof, I have the honor to inform Your Excellency that it would give me pleasure to receive from the Imperial Government a statement to the effect that cases which were pending before the American Consular Courts in Persia on May 10, 1928, should be liquidated by those tribunals.

I avail myself [etc.] HOFFMAN PHILIP

[Enclosure 2—Translation]

The Persian Acting Minister for Foreign Affairs (Pakrevan) to the American Minister (Philip)

No. 3750/578 [TEHERAN,] *June 21, 1928.*

MR. MINISTER: In reply to your respected letter No. 293 of June 3, 1928, concerning a request for the extension of the competence of American Consular Courts in Persia in regard to the cases which until May 10, 1928, had not been settled in said Courts, I beg to state that the Persian Government accords the American Consular Courts in Persia a respite until May 10, 1929, in which to terminate the pertinent cases which were before the said Courts prior to May 10, 1928, and which were not settled until that date.

I avail myself [etc.] PAKREVAN

791.003/145 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *July 6, 1928—6 a. m.*

[Received 6:07 a. m.]

67. Reference Department's 55, June 29, 7 p. m. Last evening I discussed with Teimourtache the Department's formula respecting personal status. To my surprise, the Minister of the Court reacted favorably and drafted a substitute text which, it seems to me, embodies precisely the desired fundamental principles. I have tentatively agreed to this and translate it closely below. After the seventeenth word in the Department's draft, namely, "status," read thus: [55]

"and, whereas this question will be definitively settled between the two States in an establishment convention, it is understood that in matters of personal status, that is, all matters relating to (insert here

[55] Quotation not paraphrased.

Department's enumeration of cases, concluding with word *general*) non-Moslem nationals of the United States in Persia shall be under their own national laws. If, notwithstanding, in connection with such questions the Persian courts should be invoked by one of the parties the said courts shall be obliged to apply American laws.

"In order to facilitate the undertaking of Persian courts in the cases above mentioned the competent American authorities will furnish, in case of need, necessary information relative to American laws."

On July 9 Teimourtache will leave for a 2-month tour of Europe, so I desire urgently a decision by the Department on the text as it now stands. In case of its approval, I may then sign and exchange the relative agreements tomorrow morning, before the Minister's departure.

PHILIP

791.003/145 : Telegram

The Secretary of State to the Minister in Persia (Philip)

WASHINGTON, *July 6, 1928—3 p. m.*

56. Your 67, July 6, 6 a. m. Text as modified is satisfactory. You may sign and exchange notes.[56]

KELLOGG

791.003/158

The American Minister (Philip) to the Persian Acting Minister for Foreign Affairs (Pakrevan)[57]

[Translation]

TEHERAN, *July 11, 1928.*

MR. ACTING MINISTER: Referring to the notes establishing the provisional stipulations relative to diplomatic, consular, customs, and other relations between the United States of America and Persia, exchanged on May 14, 1928, I have the honor, in the name of my Government, to make the following statement of my understanding of the results attained by our conversations concerning the question of personal status, held in conformity with the stipulation specified in subparagraph 4 of paragraph 2 of the said notes.

Whereas Persian nationals in the United States of America enjoy most-favored-nation treatment in the matter of personal status, and,

Whereas the said question will be definitively settled between the two states by the establishment convention, it is understood that in the said matter of personal status, that is, with regard to all questions

---

[56] The Minister reported in telegram No. 72, July 11: "Notes providing for Provisional Agreement in matters of personal status and family law jurisdiction signed and exchanged today." (File No. 791.003/147.)

[57] Copy transmitted to the Department by the Minister in Persia in his despatch No. 637, July 12; received August 8.

concerning marriage and conjugal community rights, divorce, judicial separation, dowry, paternity, affiliation, adoption, capacity of persons, majority, guardianship, trusteeship, and interdiction; in regard to movable property, the right of succession by will or *ab intestato*, distribution, and settlement; and, in general, family law, non-Moslem nationals of the United States in Persia shall be subject to their national laws.

If, however, with respect to the said questions, one of the parties should bring a matter before the Persian courts, the said courts would be obliged to apply American laws.

In order to facilitate the task of the Persian courts in the above-mentioned cases, the competent American authorities shall furnish, in case of need, the necessary information relative to American laws.

I shall be glad to have confirmation of our understanding on these points.

Please accept [etc.] HOFFMAN PHILIP

791.003/158

The Persian Acting Minister for Foreign Affairs (Pakrevan) to the American Minister (Philip)[58]

[Translation]

TEHERAN, *July 11, 1928.*

MR. MINISTER: Referring to the notes establishing the provisional stipulations relative to diplomatic, consular, customs, and other relations between Persia and the United States of America, exchanged on May 14, 1928, I have the honor, in the name of my Government, to make the following statement of my understanding of the results attained by our conversations concerning the question of personal status, held in conformity with the stipulation specified in subparagraph 4 of paragraph 2 of the said notes.

Whereas Persian nationals in the United States of America enjoy most-favored-nation treatment in the matter of personal status, and,

Whereas the said question will be definitively settled between the two states by the establishment convention, it is understood that in the said matter of personal status, that is, with regard to all questions concerning marriage and conjugal community rights, divorce, judicial separation, dowry, paternity, affiliation, adoption, capacity of persons, majority, guardianship, trusteeship, and interdiction; in regard to movable property, the right of succession by will or *ab intestato*, distribution, and settlement; and, in general, family law, non-Moslem nationals of the United States in Persia shall be subject to their national laws.

---

[58] Copy transmitted to the Department by the Minister in Persia in his despatch No. 637, July 12; received August 8.

If, however, with respect to the said questions, one of the parties should bring a matter before the Persian courts, the said courts would be obliged to apply American laws.

In order to facilitate the task of the Persian courts in the above-mentioned cases, the competent American authorities shall furnish, in case of need, the necessary information relative to American laws.

I shall be glad to have confirmation of our understanding on these points.

Please accept [etc.] F. PAKREVAN

791.003/151 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *July 17, 1928—11 a. m.*

[Received 12:45 p. m.]

73. Department's mail instruction No. 621 of May 31.[59] The treaty section of the Persian Foreign Office objects to the refusal of the consulate at Teheran to issue a nonimmigrant treaty-alien visa and claims a contravention of the favored-nation stipulation in paragraph 2 of the provisional arrangement dated May 14 between Persia and the United States.[60] Unless the principle involved is clarified satisfactorily, difficulties may be encountered in regard to other provisions of that agreement. Has the Department any further instructions?

PHILIP

791.003/151 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

Washington, July 20, 1928—5 p. m.

60. Referring to your 73, July 17, 11 a. m. The competent officials of the Persian Government should be informed by you that the Department was surprised to learn of the interpretation given paragraph 2 of the provisional arrangement of May 14 by the treaty section of the Persian Foreign Office. The above-mentioned paragraph, from its very phraseology, clearly cannot be regarded as according the right to Persian nationals to enter the United States as nonimmigrant treaty aliens.

It should be made perfectly clear by you to the Persian Government that exactly identical treatment is accorded to Persian nationals, in

---

[59] See footnote 50, p. 737.

[60] *Ante*, pp. 724, 732.

regard to the acquisition of treaty-alien status, as is accorded to nationals of all other foreign states.

Treaty-alien visas can, under the law, be accorded only to nationals of those states which have present existing treaties with the United States, negotiated before May 26, 1924, and specifically according to such nationals the right to enter the United States in order to carry on trade between their own country and the United States. Nationals in the United States of those states enjoying most-favored-nation treatment have, furthermore, never been accorded the right of treaty-alien status as an inherent part of most-favored-nation treatment. This situation holds true respecting France, Germany, and the great majority of the nations in the world.[61]

If you think it desirable, you may furthermore utilize the arguments below:

(1) Having denounced the United States-Persian and other treaties, Persia obtained the abolition of the capitulations. Only by retaining the treaty with the United States could Persia have kept the treaty-alien right for its nationals, a small compensation to Persia for the loss in other respects. In this connection you may remark that, according to the Department's records, only two Persian nationals have requested and obtained visas since 1924 as treaty aliens. You may also state that the question of the status of Persian treaty aliens in the United States at present is not expected to be raised so long as these aliens remain in this country, thus maintaining their original status.

(2) An unusual concession has already been made by the United States Government to Persia with the acceptance of a less favorable treatment regarding personal status, etc., than was accorded to Great Britain.

(3) The Persian Government has specified, in defining the conditions under which American missionaries might carry on their work in Persia, that such activity should not contravene, *inter alia*, the "laws and regulations of Persia". Likewise Persian nationals in this country are subject to United States laws and regulations, which apply equally to all foreigners here.

KELLOGG

[In its instruction No. 654, March 14, 1929, to the Chargé in Persia, the Department of State transmitted a draft treaty of friendship, commerce and establishment for submission to the Persian Government (file No. 711.9111/1). The draft was submitted by the Chargé on April 14 to the Persian Minister of the Court, who remarked "that he hoped nothing would prevent its early conclusion" (file No. 711.9111/2). However, no further negotiations followed.]

[61] The Minister in Persia, in his despatch No. 651, July 26, 1928 (not printed), reported his explanations "that the withholding of this particular visa involved no discrimination against Persian nationals," and so "the question might be considered settled"; received August 22. (File No. 791.003/160.)

PROPOSED TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND PERSIA

711.9112A/1 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *May 8, 1928—8 p. m.*

39. The Department is undertaking to negotiate with most, if not all, countries outside Latin America treaties of arbitration identical in effect with the treaty with France of February 6, 1928,[62] and, where there are no conciliation treaties (the so-called Bryan treaties), treaties of this sort also based upon the treaty with Great Britain of September 15, 1914.[63] The negotiations for these treaties are taking place in Washington.

In your opinion, would proposal to negotiate the treaties mentioned above be well received by Government of Persia at present time, and would such a proposal be of service in assisting you in the negotiations for *modus vivendi* which you are now conducting with Minister of the Court?[64] If you answer affirmatively, when do you think proposal should be made in order to obtain maximum good effect?

KELLOGG

711.9112A/3 : Telegram

The Minister in Persia (Philip) to the Secretary of State

[Paraphrase]

TEHERAN, *June 25, 1928—10 a. m.*

[Received 1:35 p. m.]

65. It is my impression that favorable moment exists now to advance proposal to negotiate treaties of arbitration and conciliation with Persian Government, as mentioned in Department's telegram No. 39, May 8, 8 p. m.

PHILIP

711.9112A/7 : Telegram

The Secretary of State to the Minister in Persia (Philip)

[Paraphrase]

WASHINGTON, *June 29, 1928—6 p. m.*

54. Your No. 65, June 25, 10 a. m. Today the Secretary of State handed Persian Minister draft of a proposed treaty of arbitration

---

[62] Vol. II, p. 816.
[63] *Foreign Relations*, 1914, p. 304.
[64] See pp. 682 ff.

between the United States and Persia.[65] The provisions of the draft text operate to extend policy of arbitration that was enunciated in the arbitration conventions which were concluded in 1908 with more than twenty other countries. Language used in the draft is identical in effect with that of the treaties of arbitration recently signed with Denmark, Finland, France, Germany and Italy,[66] and with the drafts which have already been submitted to other governments in the general program looking to the extension of these principles.

The Secretary of State also handed the Minister a proposed draft of a treaty of conciliation modeled after the so-called "Bryan treaties" which were signed by the United States with many other countries in 1913 and 1914.[67] The full texts are being forwarded to you in the next pouch.

You may be able to use foregoing advantageously in connection with your negotiations over exchange of notes on personal status and family law jurisdiction.

KELLOGG

711.9112/6a

The Chief of the Division of Near Eastern Affairs (Shaw) to the Counselor of the Persian Legation (Noury)

WASHINGTON, *September 23, 1928.*

MY DEAR MR. NOURY: Referring to your recent inquiry at the Department as to the status of the Treaty Looking to the Advancement of the Cause of General Peace signed at Teheran on February 4, 1914,[68] I beg to inform you that the Department's records reveal the following facts:

The ratification of the above Treaty was revised by the Senate of the United States on August 13, 1914, with the following amendments:

"Strike out Article IV. Change the title of the next Article so as to make it read Article IV instead of Article V."

On February 21, 1922 the Mejliss approved the Treaty with the above amendments made by the Senate and on June 17, 1922 it was ratified by the President of the United States.

The President's action in ratifying the Treaty was taken subsequent to the receipt of a communication dated June 9, 1922 addressed to the Department by Mr. Hussein Alai,[68] then Persian Minister in Washington, and reading in part as follows:

"I . . . have just been informed that the Treaty approved by the Mejliss has been sent to Paris for His Imperial Majesty the Shah's

---

[65] Draft not printed.
[66] Vol. II, pp. 720, 806, 816, 867, and *ante*, p. 102.
[67] Treaties for the advancement of general peace.
[68] Not printed.

ratification. It will be forwarded on from there to this Legation, so that the exchange may be effected in Washington."

Following the President's ratification, the Department under date of June 26, 1922,[69] replied to the Persian Minister's note of June 9, stating that the Secretary of State was prepared to exchange ratifications at the Minister's convenience.

No further communication on this subject appears to have been received from Mr. Alai, and the exchange of ratifications of the Treaty under reference was consequently never effected.

Sincerely yours,

G. HOWLAND SHAW

711.9112A/13 : Telegram

The Chargé in Persia (Treat) to the Secretary of State

[Paraphrase]

TEHERAN, *December 4, 1928—8 a. m.*

[Received 12:50 p. m.]

90. The Foreign Minister recently brought up question of the treaties of arbitration and conciliation, and although he was reminded that the negotiations were being conducted at Washington he has now sent the Legal Adviser of the Persian Foreign Office with request that following explanations be communicated to Department:

1. For reasons of political nature, which take into particular consideration situation of Persia with regard to British as well as to Russian relations, and also in interest of uniformity, the Persian Government prefers a general clause in a treaty of friendship to separate treaty of arbitration. Persian Government suggests as basis for clause of that sort, to be developed when the negotiations for definitive treaties shall have been inaugurated, a formula similar to that which is now under discussion with Germany. This formula provides for the arbitration of differences arising from interpretation or application of existing or future treaties; the designation of one arbitrator by each Government, a third to be appointed by common accord, or, failing that, by the President of the Permanent Court of the Hague.

Copy of this Perso-German draft clause is being sent Department. Persian Government is not averse to a wording which would leave tacitly understood that disputes of a political nature may also be susceptible to arbitration, but at present time is not disposed to accept any specific treaty undertaking of that character.

2. Also for political reasons, the Persian Government prefers to hold over question of a conciliation treaty to a future date; for

---

[69] Not printed.

example, until it has concluded and put into effect definitive treaties with Great Britain.

The following is situation with regard to negotiations in progress between Persia and other governments for the conclusion of definitive treaties:

(1) Treaties with Germany are on point of being signed.

(2) I am informed by British Minister that he expects to initiate conversations shortly, and has let it be understood that he has draft proposals to present.

(3) French Minister has had preliminary conversations with Foreign Minister. I understand negotiations will soon be started on basis of drafts furnished by both the French and Persian Governments.

(4) Italian Minister has not yet received drafts but has been instructed to begin *pourparlers*.

(5) Belgian Government is examining results of negotiations which were begun some months ago, and is awaiting conclusion of Perso-German treaties.

(6) Our delay in starting negotiations has not worked any harm as yet, I think, but I believe that some gesture should be made in near future.[70]

TREAT

[70] Further negotiations did not result in the signing of an arbitration or conciliation treaty.

PERU

THE TACNA-ARICA DISPUTE

(See volume I, pages 660 ff.)

POLAND

TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND POLAND, SIGNED AUGUST 16, 1928

711.60c12A/1

The Acting Secretary of State to the Polish Minister (Ciechanowski)

WASHINGTON, *March 28, 1928.*

SIR: I have the honor to transmit herewith for the consideration of your Government and as a basis for negotiation a proposed draft of a treaty of arbitration between Poland and the United States.[1]

The provisions of this draft operate to extend the policy of arbitration enunciated in the arbitration conventions concluded in 1908 between the United States and several other countries,[2] and are identical in effect with the provisions of the arbitration treaty signed between the United States and France on February 6, 1928, a copy of which is also enclosed.[3]

You will observe that Article I of the treaty with France does not appear in the draft submitted herewith. Its language was borrowed from the language of the Treaty for the Advancement of Peace signed in 1914,[4] and some question having arisen as to whether the new treaty affected the status of the Treaty of 1914, the matter has been resolved in the case of France by an exchange of notes [5] recording the understanding of both Governments that the earlier conciliation treaty was in no way affected by the later arbitration treaty. In order to obviate further questions of this nature, however, it seemed desirable to avoid the incorporation in other arbitration treaties of any portion of the language of the earlier conciliation treaties, where such treaties exist, and in such cases I have therefore proposed the elimination of Article I of the French treaty and amended Article II (which is Article I of the draft transmitted herewith) by substituting for the words "the above-mentioned Permanent International Commission" the words "the Permanent International Commission constituted pursuant to" the applicable

[1] Not printed; the text is the same, *mutatis mutandis*, as the text of treaty signed June 7, 1928, with Finland, vol. II, p. 806.

[2] Arbitration conventions were concluded in 1908 and 1909; see *Foreign Relations*, 1909, index, p. 676.

[3] Vol. II, p. 816.

[4] Signed September 15, 1914, *Foreign Relations*, 1915, p. 380.

[5] Dated March 1 and 5, 1928, vol. II, p. 819.

treaty of conciliation. As no such conciliation treaty is in force between Poland and the United States, this latter formula cannot of course be used. I have therefore made no mention in Article I of any Permanent International Commission referring instead to "an appropriate commission of conciliation". The negotiation and conclusion of an arbitration treaty can thus proceed independently of negotiations with respect to a conciliation treaty.

The Government of the United States would be pleased, however, to conclude with the Government of Poland not only the arbitration treaty referred to above, but also a conciliation treaty modeled after the so-called Bryan treaties which were signed by the United States with many other countries in 1913 and 1914,[6] and I take this opportunity to transmit for the consideration of your Government and as a basis of negotiation a proposed draft of a treaty of conciliation identical in effect with other treaties to which the United States is a party.[7]

I feel that by adopting treaties such as those suggested herein we shall not only promote the friendly relations between the Peoples of our two countries, but also advance materially the cause of arbitration and the pacific settlement of international disputes. If your Government concurs in my views and is prepared to negotiate treaties along the lines of the two drafts transmitted herewith, I shall be glad to enter at once upon such discussions as may be necessary.

Accept [etc.] ROBERT E. OLDS

711.60c12A/7

The Polish Minister (Ciechanowski) to the Secretary of State

71/T. 28 WASHINGTON, *May 14, 1928.*

SIR: Referring to your note of March 28, 1928 concerning your proposal to conclude a treaty of arbitration and a treaty of conciliation between the United States of America and Poland, I have the honor to notify you that my Government has received your proposal with real and sincere satisfaction, and has instructed me immediately to take up negotiations on the basis of the drafts proposed by you with the view to conclude treaties of arbitration and conciliation between the United States and Poland at the earliest possible date.

For reasons which I had the honor to explain personally today to Mr. Robert E. Olds, Undersecretary of State, my Government has

---

[6] For index references to the Bryan treaties for the advancement of general peace, see *Foreign Relations*, 1914, p. 1130; *ibid.*, 1915, pp. 1328–1329; and *ibid.*, 1916, p. 1007.

[7] Not printed; the text is the same, *mutatis mutandis*, as the text of treaty signed June 7, 1928, with Finland, vol. II, p. 806.

deemed it advisable to submit for your consideration certain modifications of the drafts of the two treaties as proposed by you. I have the honor to transmit herewith copy of the draft of the two treaties wherein are embodied the proposed modifications.

The Polish Government trusts that, while the proposed modifications do not tend to alter any one of the essential provisions of the two proposed treaties, it can look forward to an early and successful conclusion of the discussion which will be undertaken on the basis of your drafts and the modifications which it has proposed.

My Government shares entirely your views on the importance of the adoption of the two treaties, and expresses the hope that they will prove instrumental both for the promotion of the friendly relations between the Peoples of the United States and Poland, and the advancement of the cause of arbitration as well as the pacific settlement of international disputes, which cause has always been considered by my Government to be its foremost aim.

Accept [etc.] J. CIECHANOWSKI

[Enclosure 1]

Draft Arbitration Treaty Between the United States of America and Poland

The President of the Republic of Poland and the President of the United States of America

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have always existed between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall eliminate forever the possibility of war among any of the powers of the world;

Have decided to conclude a treaty of arbitration and for that purpose they have appointed as their respective Plenipotentiaries

The President of the Republic of Poland

The President of the United States of America

who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other by treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate Commission of Conciliation and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of international law or custom, shall be submitted to the permanent Court of Arbitration, established at the Hague by the Convention of October 18, 1907, or to any other competent tribunal, as shall be decided in each case by special treaty, which special treaty shall provide for the organization of such tribunal, if necessary define its power, state the question or questions at issue and settle the terms of reference.

The special treaty in each case shall be made on the part of Poland in accordance with its constitutional law and on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof.

ARTICLE II

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(*a*) is within the domestic jurisdiction of either of the High Contracting Parties,

(*b*) involves the interests of third parties,

(*c*) depends upon or involves the observance of the obligations of Poland in accordance with the covenant of the League of Nations,

(*d*) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe doctrine.

ARTICLE III

In all cases, according to the domestic jurisdiction of either of the High Contracting Parties, belong to the sphere of competence of national tribunals the Party in question shall have the right to refuse the application thereto of the procedure of arbitration, until a definite award of the competent tribunal is pronounced.

ARTICLE IV

The present treaty shall be ratified by the President of the Republic of Poland in accordance with the Polish constitutional laws and by the President of the United States of America by and with the advice and consent of the Senate thereof.

The ratifications shall be exchanged at Warsaw as soon as possible and the Treaty shall take effect on the thirtieth day after the date of exchange of the ratifications.

It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith thereof the respective plenipotentiaries have signed this treaty in duplicate in the Polish and English languages, both texts having equal force, and hereunto affix their seals.

Done at Washington the . . . . . day of . . . . . in the year of our Lord one thousand nine hundred and twenty . . . . .

[Enclosure 2]

Draft Conciliation Treaty Between the United States of America and Poland

The President of the Republic of Poland and the President of the United States of America, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose and to that end have appointed as their plenipotentiaries:

The President of the Republic of Poland

The President of the United States of America

Who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

Any disputes arising between the Government of Poland and the Government of the United States of America, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent international Commission constituted in the manner prescribed in the next succeeding Article, and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

ARTICLE II

The International Commission shall be composed of five members to be appointed as follows: One member shall be chosen from each country by the Government thereof, one member shall be chosen by each Government from some third country; the fifth member shall be

chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country.

The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty, and vacancies shall be filled according to the manner of the original appointment.

Unless this treaty provides otherwise, the International Commission shall follow the rules of procedure as stated in the part III of the Convention of October 18, 1907 for the pacific settlement of international disputes (International Commissions of Inquiry).

ARTICLE III

In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the Commission shall be completed within one year after the date on which it shall declare its investigations to have begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement.

The report shall be prepared in triplicate: one copy shall be presented to each Government and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ARTICLE IV

In all cases, which according to the domestic jurisdiction of either of the High Contracting Parties, belong to the sphere of competence of national tribunals the Party in question shall have the right to refuse the application thereto of the procedure of Conciliation, until a definite award of the competent tribunal is pronounced.

ARTICLE V

The present treaty shall be ratified by the President of the Republic of Poland in accordance with the Polish constitutional laws and by the President of the United States of America by and with the advice and consent of the Senate thereof.

The ratifications shall be exchanged at Warsaw as soon as possible and the treaty shall take effect on the thirtieth day after the date of exchange of the ratifications.

It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith thereof the respective Plenipotentiaries have signed this treaty in duplicate in the Polish and English languages both texts having equal force, and hereunto affix their seals.

Done at Washington the . . . . . day of . . . . . in the year of our Lord one thousand nine hundred and twenty . . . . . .

711.60c12A/23

The Polish Legation to the Department of State

MEMORANDUM

The use of the word "equity" in Articles 3 and 4 of the Arbitration and Conciliation Treaties respectively involves not only the danger of a very extensive interpretation of its meaning, but also the possibility of its being used by an arbitration court to apply principles of "equity" instead of the existing regulations of international law even in such cases where such regulations had been laid down in binding international treaties and agreements.

Moreover, according to the wording proposed by the State Department, there seems to be no guarantee that an arbitration court would be allowed to apply principles of "equity" only in such cases where a written or unwritten regulation, principle or precedent in international law or custom was lacking. On the other hand, the designation "international law" covering as it does not only existing international treaties and agreements but also generally recognized principles of international justice and equity, there seems to be no danger of restrictive interpretation of the words "international law" in case the words "and equity" are left out.

WASHINGTON, *August 8, 1928.*

711.60c12A/28

The Secretary of State to the Polish Minister (Ciechanowski)

WASHINGTON, *August 14, 1928.*

SIR: I have the honor to refer to your note of May 14, 1928, and to subsequent conversations relating to the changes proposed by the Government of Poland in the draft texts of proposed treaties of arbitration and conciliation between the United States and Poland

which were handed to you with Mr. Olds' note of March 28, 1928. I desire here to discuss the suggestion of your Government in respect of the phrase "law or equity". I am addressing you another note [8] for the purpose of discussing with you the other proposed alterations.

It appears that your Government regards as of especial importance the proposal which it has made to omit from the proposed arbitration treaty the phrase "law or equity" and to substitute for it the phrase "international law and custom", so that the obligation to arbitrate may extend to differences which are "justiciable in their nature by reason of being susceptible of decision by the application of the principles of international law and custom".

The term "international law" is less inclusive than the term "law", and I feel that it would be inadvisable to adopt language which would have the effect of restricting the criterion by which the parties to the proposed treaty must determine whether a particular dispute is or is not justiciable. Apparently, however, the alteration to which your Government attaches chief significance is the omission of the word "equity".

It may perhaps be well to point out that, in respect of justiciable disputes between nations, which involve the interpretation of treaties, the basis of the decision must be the language of the treaty in question.

At the time of our oral conversation, my understanding was that in proposing language for the treaty which would not include the word "equity", your Government was actuated solely by the desire to clarify the language of the treaty so as to make it readily comprehensible by persons accustomed to consider such matters in Poland. My impression was that the proposed change was not intended to alter the meaning of the text as originally submitted by this Government but merely to clarify it. In view of this understanding, I was disposed at first to accept the alteration which your Government desires. On further consideration, however, I was convinced that it would be impracticable for this Government to accept the change.

The question is not one which can be decided, so far as the United States is concerned, with reference to the pending treaty between the United States and Poland alone. This Government has recently proposed identical, or practically identical, treaties of arbitration to about thirty Governments and may later make similar proposals to still other Governments. Five such treaties have been signed during recent months: with France, Italy, Germany, Finland and Denmark.[9] In the case of Finland, there is no other text than the English. In the treaties with France, Italy, Germany and Denmark, the words

[8] *Infra.*

[9] For treaties signed with Denmark, Finland, France, and Germany, see vol. II, pp. 720, 806, 816, 867, respectively; and with Italy, *ante*, p. 102.

"équité", "equità", "billigkeit" and "billighed", are used respectively as the foreign equivalent of the English word "equity". The fact that other Governments have been willing to accept the word "equity" seems to me to have considerable significance. I trust that it will contribute to dispel any doubts which the Polish Government may have as to the appropriateness of the language used in the draft text originally submitted to it by this Government.

It is the desire of this Government that there should be uniformity in the series of treaties which it is now negotiating, and whenever a Government has requested an alteration such as is now requested by Poland, I have asked that it recede from the request in the interest of uniformity. Heretofore no Government has insisted upon the change. Should this Government consent to make the change in the present negotiations, it would be in the position of agreeing, at the request of Poland, to what it heretofore has uniformly refused.

I believe that you will sympathize with the position of the Government of the United States in this matter and I trust that you will point out fully to your Government the motives which actuate me in urging that it consider further whether it may find itself able to accept, consistently with its own laws and practices, the language used in the draft originally proposed by the United States.

Accept [etc.] FRANK B. KELLOGG

711.60c12A/29

The Secretary of State to the Polish Minister (Ciechanowski)

WASHINGTON, *August 14, 1928.*

SIR: I have the honor to refer to your note of May 14, 1928, and to the subsequent conversations relating to certain alterations proposed by the Government of Poland in the draft texts of treaties of arbitration and of conciliation between the United States and Poland, which were handed to you with Mr. Olds' note of March 28, 1928. It seems desirable to discuss briefly these alterations other than the ones involving very minor points obviously not regarded essential by either Government. I am making the subject of a separate note [10] the attitude of the Government of the United States in regard to the proposal of Poland that, in the draft treaty of arbitration, the phrase "international law and custom" be substituted for the phrase "law or equity", so that the obligation to arbitrate may extend to differences which are "justiciable in their nature by reason of being susceptible of decision by the application of the principles of international law and custom".

---

[10] *Supra.*

Your Government also proposed the insertion of a new article to read as follows:

"In all cases, (which) according to the domestic jurisdiction of either of the High Contracting Parties, belong to the sphere of competence of national tribunals the Party in question shall have the right to refuse the application thereto of the procedure of arbitration, until a definite award of the competent tribunal is pronounced."

I regard this addition as unnecessary. It is not the practice of States to resort to diplomatic action in cases that belong to the sphere of competence of national tribunals unless there has been a denial of justice. If it is not the practice to resort to diplomatic remedies, in the ordinary sense, it is even less the practice to resort to such remedies as arbitration and conciliation. The utilization of arbitration and conciliation, according to the practice of States, is appropriate only when there has been an exhaustion of more usual and normal remedies. It is not appropriate in substitution for such remedies. The present treaty, when effective, must, of course, be construed in accordance with international practice.

The practice of States in this regard seems so clear as to leave no room for apprehension that the remedies of arbitration and conciliation may be invoked in cases that belong to the sphere of competence of national tribunals so long as the national tribunals are open, are being resorted to and are reaching decisions that do not deny justice. But to include as a part of the text of the treaties the proposal of your Government might have the effect of inviting denials of the propriety of invoking arbitration and conciliation and might lead to delays and to controversies, otherwise avoidable, as to whether the very remedies which the treaties themselves are designed to supply could be invoked.

I feel confident of your agreeing with me that the added clause might complicate the initiation of arbitration and conciliation in particular cases and would undertake the extremely difficult task of trying to lay down a general rule about a subject of such complexity as to be capable of decision in respect of each case only as it arises.

Accordingly, I must say candidly that this proposal is not acceptable to the Government of the United States. I trust that, in the light of the foregoing statement, it may no longer be insisted upon by your Government.

I am very glad to have the exchange of ratifications take place at Warsaw instead of Washington, and to have the treaty become effective on the thirtieth day after instead of on the day of the exchange of ratifications. The language used in the texts may most appropriately be English and Polish.

The modifications which you suggested in the draft treaty of conciliation are in several cases the same as those suggested for the treaty of arbitration, and I need not deal with them again. At the end of Article II of the draft as submitted, you suggested the addition of a new sentence to the effect that except in cases where the treaty provides otherwise, the International Commission to be set up under it should follow the rules of procedure stated in Part III of the Convention for the Pacific Settlement of International Disputes concluded at The Hague on October 18, 1907.

Since both the United States and Poland are parties to this Convention, it is natural that the procedure laid down in it may be looked to in the event of the reference of a dispute to the International Commission to be created in accordance with the proposed treaty of conciliation. However, the Convention of 1907 differs in certain respects from the proposed Convention, and it seems to me preferable not to include in the latter a provision which might limit the freedom of action of the two Governments on this point. I shall be gratified, accordingly, if your Government may find itself in a position to recede from this request.

I should also prefer not to omit the last sentence of the first paragraph of Article III. It seems unnecessary to curtail the initiative of the International Commission and, since the offer of its services need not be accepted by the parties of the treaty, there appears to be little ground for apprehension lest either Government may be embarrassed by an offer of the Commission's services. I trust that on further consideration, Your Government may find itself in agreement with this point of view.

I am gratified at the cordial expressions of your Government referred to in your note of May 14, and I take pleasure in sending you herewith new draft texts [11] embodying the alterations which I have been able to accept among those you proposed in the texts transmitted to you on March 28.

Accept [etc.] FRANK B. KELLOGG

711.60c12A/30

The Polish Minister (Ciechanowski) to the Secretary of State

No. 3154/28 WASHINGTON, *August 15, 1928.*

SIR: I have the honor to acknowledge the receipt of your two notes of August 14th, 1928.

In these notes you discuss the attitude of your Government with regard to the proposals of the Polish Government to introduce certain changes in the drafts of the arbitration and conciliation treaties,

[11] These texts were the same as those signed August 16, 1928, pp. 763 and 765.

the conclusion of which between the United States and Poland has been suggested in the note of Mr. Olds of March 28, 1928.

As was stated in my note addressed to you of May 14th, 1928, containing these proposals, the Polish Government, in submitting them, were of the opinion that while they do not tend to alter any one of the essential provisions of the treaties as suggested by you, nevertheless their adoption might help further to clarify some of the provisions of the draft treaties which in the opinion of my Government might be liable to misunderstanding or permit of different interpretations.

Furthermore, my Government, basing Themselves on the note of Mr. Olds of March 28, 1928, acted in the belief that the drafts of the treaties enclosed with this note, were not meant to be regarded as "ne varietur".

From your note of August 14th, my Government understand that the Government of the United States, in negotiating at the present time identical treaties with about thirty States, desire in fact that this series of treaties be standardized.

Being anxious to assist the Government of the United States in attaining this aim, which practically precludes the introduction of any modifications in the original drafts, except minor changes of a strictly formal or technical nature; my Government have decided to withdraw such of Their suggestions as were deemed impossible or difficult to accept by the Government of the United States. My Government accordingly have instructed me to notify you of Their desire to conclude both treaties in the wording of the drafts attached to your note of August 14, 1928, declaring Themselves satisfied with the explanations contained in your two notes of August 14th, 1928, concerning those paragraphs of the treaties which did not appear to Them to be sufficiently clear.

My Government note with special satisfaction your explanation concerning the safeguard of the competence of national tribunals as well as that in which you deal with the use of the term "equity". Regarding the former,—I must frankly say that my Government do not fully share your views that—"it is not the practice of States to resort to diplomatic action in cases that belong to the sphere of competence of national tribunals, unless there has been a denial of justice".

My Government seem to recollect that in some, not infrequent cases such a practice has been actually followed by States. However, while suggesting that a provision clearly stating the inadmissibility of such a practice should be included in the treaties, my Government had no doubt, that the Government of the United States did not intend to have recourse to this practice, and it is in this spirit that They accept the explanations contained in your note respecting this subject.

Regarding the use of the term "equity", the insufficient precision of which appeared to my Government susceptive of misunderstanding, especially in view of the fact that there is no exactly corresponding notion in Polish jurisdiction,—my Government agree with your explanation to the effect that the use of the words "law or equity" in Art. 1 of the treaty of arbitration, should not be construed to contradict the basic principle expressed in your note, namely that, "in respect of justiciable disputes between nations, which involve the interpretation of treaties, the basis of the decision must be the language of the treaty in question."

My Government are satisfied that, similarly, principles of equity could not be invoked by a court of arbiters to supplement or override generally recognized principles of international law.

I have the honor to express my sincere gratification that the attitude of my Government, so clearly prompted by a sincere desire of bringing about a rapid conclusion of the Arbitration and Conciliation Treaties between Poland and the United States, permits me to ask you to fix a date upon which it will be convenient to you to sign the said treaties.

Accept [etc.] J. CIECHANOWSKI

Treaty Series No. 805

Arbitration Treaty Between the United States of America and Poland, Signed at Washington, August 16, 1928 [12]

The President of the United States of America and the President of the Republic of Poland

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have always existed between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a treaty of arbitration and for that purpose they have appointed as their respective Plenipotentiaries

The President of the United States of America

Mr. Frank B. Kellogg, Secretary of State of the United States of America;

---

[12] In English and Polish; Polish text not printed. Ratification advised by the Senate, Dec. 18 (legislative day, Dec. 17), 1928; ratified by the President, Jan. 4, 1929; ratified by Poland, Dec. 23, 1929; ratifications exchanged at Warsaw, Jan. 4, 1930; proclaimed by the President, Jan. 6, 1930.

The President of the Republic of Poland

Mr. Jan Ciechanowski, Envoy Extraordinary and Minister Plenipotentiary of Poland to the United States;

who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to an appropriate commission of conciliation, and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907; [13] or to some other competent tribunal, as shall be decided in each case by special treaty, which special treaty shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special treaty in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Poland by the President of the Republic of Poland in accordance with Polish constitutional law.

ARTICLE II

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(*a*) is within the domestic jurisdiction of either of the High Contracting Parties,

(*b*) involves the interests of third Parties,

(*c*) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(*d*) depends upon or involves the observance of the obligations of Poland in accordance with the Covenant of the League of Nations.[14]

ARTICLE III

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate

[13] *Foreign Relations*, 1907, pt. 2, p. 1181.

[14] Malloy, *Treaties*, 1910–1923, vol. III, p. 3336.

thereof and by the President of the Republic of Poland in accordance with Polish constitutional law.

The ratifications shall be exchanged at Warsaw as soon as possible, and the treaty shall take effect on the thirtieth day after the date of the exchange of ratifications.

It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate, each in the English and Polish languages, both texts having equal force, and hereunto affixed their seals.

Done at Washington the 16th day of August in the year of our Lord one thousand nine hundred and twenty-eight.

FRANK B KELLOGG [SEAL]
JAN CIECHANOWSKI [SEAL]

Treaty Series No. 806

Conciliation Treaty Between the United States of America and Poland, Signed at Washington, August 16, 1928 [15]

The President of the United States of America and the President of the Republic of Poland, being desirous to strengthen the bonds of amity that bind them together and also to advance the cause of general peace, have resolved to enter into a treaty for that purpose, and to that end have appointed as their Plenipotentiaries:

The President of the United States of America

Mr. Frank B. Kellogg, Secretary of State of the United States;

The President of the Republic of Poland

Mr. Jan Ciechanowski, Envoy Extraordinary and Minister Plenipotentiary of Poland to the United States;

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon the following articles:

ARTICLE I

Any disputes arising between the Government of the United States of America and the Government of Poland, of whatever nature they may be, shall, when ordinary diplomatic proceedings have failed and the High Contracting Parties do not have recourse to adjudication by a competent tribunal, be submitted for investigation and report to a permanent International Commission constituted in the manner

[15] In English and Polish; Polish text not printed. Ratification advised by the Senate, Dec. 20, 1928; ratified by the President, Jan. 4, 1929; ratified by Poland, Dec. 23, 1929; ratifications exchanged at Warsaw, Jan. 4, 1930; proclaimed by the President, Jan. 6, 1930.

prescribed in the next succeeding Article; and they agree not to declare war or begin hostilities during such investigation and before the report is submitted.

ARTICLE II

The International Commission shall be composed of five members, to be appointed as follows: one member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments, it being understood that he shall not be a citizen of either country.

The expenses of the Commission shall be paid by the two Governments in equal proportions.

The International Commission shall be appointed within six months after the exchange of ratifications of this treaty; and vacancies shall be filled according to the manner of the original appointment.

ARTICLE III

In case the High Contracting Parties shall have failed to adjust a dispute by diplomatic methods, and they do not have recourse to adjudication by a competent tribunal, they shall at once refer it to the International Commission for investigation and report. The International Commission may, however, spontaneously by unanimous agreement offer its services to that effect, and in such case it shall notify both Governments and request their cooperation in the investigation.

The High Contracting Parties agree to furnish the Permanent International Commission with all the means and facilities required for its investigation and report.

The report of the Commission shall be completed within one year after the date on which it shall declare its investigation to have begun, unless the High Contracting Parties shall limit or extend the time by mutual agreement.

The report shall be prepared in triplicate; one copy shall be presented to each Government, and the third retained by the Commission for its files.

The High Contracting Parties reserve the right to act independently on the subject matter of the dispute after the report of the Commission shall have been submitted.

ARTICLE IV

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate

thereof, and by the President of the Republic of Poland in accordance with Polish constitutional law.

The ratifications shall be exchanged at Warsaw as soon as possible, and the treaty shall take effect on the thirtieth day after the date of the exchange of ratifications. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate, each in the English and Polish languages, both texts having equal force, and hereunto affixed their seals.

Done at Washington the 16th day of August in the year of our Lord one thousand nine hundred and twenty-eight.

FRANK B. KELLOGG [SEAL]
JAN CIECHANOWSKI [SEAL]

PORTUGAL

REPRESENTATIONS REGARDING DISCRIMINATORY CHARGES IN PORTUGUESE PORTS

653.116/33

The Secretary of State to the Minister in Portugal (Dearing)

No. 859 WASHINGTON, *December 31, 1927.*

SIR: There is enclosed a copy of a letter dated December 2, 1927, from the Chairman of the United States Shipping Board [1] in which information is requested concerning the Portuguese regulations whereby a customs rebate of ten per cent is allowed on all classes of cargo landed or loaded by Portuguese vessels. It is pointed out that the Shipping Board operates the only direct service between the Gulf ports of the United States and Portugal and that tobacco shipments from those ports will no doubt be diverted to a northern European port for transshipment to Portuguese vessels in order to take advantage of the customs rebate.

The Department understands that in the trade between Portugal and foreign countries a rebate of ten per cent in import duties and twenty per cent in export duties is allowed on cargo carried in Portuguese vessels. You are requested to verify the foregoing statement and, with the cooperation of the Consul General, to submit a full report giving any further data which may be considered pertinent in response to the Shipping Board's inquiry. In particular you should ascertain definitely whether the discriminatory import duties on tobacco or other products imported from the United States or other foreign countries would apply when the only portion of the transportation service performed by Portuguese vessels is that from a European port of transshipment to Portugal. You should also furnish such information as may be readily obtainable respecting the import duties applicable to tobacco, and any special laws or regulations to which the importation of this product may be subject. In this connection reference is made to the Legation's despatch No. 43 of August 29, 1924,[1] on the subject of the Portuguese tobacco monopoly and the increase in duties on imported manufactured tobacco. Sup-

[1] Not printed.

plemental information on this subject giving any recent developments in the situation might prove useful to the Shipping Board.

In the event that no indication has been received by the Legation that a favorable response will soon be made to our representations respecting the discriminations against American shipping, you should again take up the matter with the appropriate authorities. You should point out that a year has elapsed since this question was brought to their attention, and strongly urge favorable action in the matter. The Department desires your further report on this subject.

If you consider it necessary you should make it clear in any discussion of this question with the Portuguese authorities that your representations relate not only to the failure of Portugal to accord national treatment in respect of port charges applicable to American vessels, but to discriminatory import duties applicable to the cargoes of such vessels as well.

I am [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.

653.116/35

The Minister in Portugal (Dearing) to the Secretary of State

No. 2202 LISBON, *January 31, 1928.*
[Received February 16.]

SIR: I have the honor to refer to the Department's instruction No. 859, of December 31, 1927, with enclosure, in respect of the customs rebates accorded by the Portuguese Government to cargoes imported and exported in Portuguese vessels, and in general to the discrimination practiced against foreign shipping.

With regard to the customs rebates, there is nothing in the decree which distinguishes between rebates to Portuguese carriers on cargoes reshipped from European or other nearby ports, and those carried in Portuguese bottoms directly to and from distant ports (American or other). A translation of this decree, No. 7822, of November 22, 1921, is enclosed herewith.[2]

The question of these rebates is an integral part of the entire matter of discrimination.

The British Embassy and the German and other Missions with whom I took similar and relatively coincident action at the Foreign Office—in accordance with Department's telegraphed instruction No. 36, of Dec. 31, 1926 [2]—are still at the present time waiting the promulgation of a further decree or decrees covering the discrimination, not affected by the decrees published on December 3rd and 5th

[2] Not printed.

last, as reported in my despatch No. 2150 of December 7, 1927.[7] These Missions, meanwhile, expect to make no renewed intervention, none, at least, in the immediate future. They believe the Portuguese Government intends very soon to issue a further decree or decrees, probably favorable, and that the recent visit to Lisbon of the British fleet (reported in my despatch No. 2196, of January 27, 1928)[7] will have accelerated this.

I concur with the opinions of my colleagues, and I earnestly advise against any isolated new intervention on this question for at least another month. I believe such action by the Legation at this time would have no good result but would merely cause irritation. If, in a few weeks, no action shall have been taken by the Portuguese Government, or if the action taken shall be unsatisfactory, the Legation will make such further representations as the Department may deem advisable.

With respect to the furnishing of information relative to import duties applicable to tobacco and any special regulations thereon; and supplemental information giving recent developments, the Legation will communicate with the Department in a further despatch.

I have [etc.] FRED MORRIS DEARING

653.116/36 : Telegram

The Chargé in Portugal (Andrews) to the Secretary of State

LISBON, *February 24, 1928—5 p. m.*
[Received February 24—4:05 p. m.]

7. Department's instruction number 859, December 31. Minister of Foreign Affairs informs me Government accepts in principle equality, will give their decision very soon; delay is due to necessity of finding means to compensate Portuguese shipping for losses consequent upon abolition of discrimination.

ANDREWS

653.116/37

The Chargé in Portugal (Andrews) to the Secretary of State

No. 2220 LISBON, *February 24, 1928.*
[Received March 9.]

SIR: I have the honor to refer to the Department's Instruction No. 859, of December 31, 1927, and to the Legation's despatch No. 2202, of January 31, 1928, and telegram No. 7, of February 24, 5 p. m.

No relief has as yet been afforded by the Portuguese Government in the matter of the 10% reduction on all imports carried in Portuguese bottoms. Mr. Dearing in the above despatch gave it as his opinion that it would be a mistake of the Legation to make an isolated new in-

[7] Not printed.

tervention on this subject, for at least another month, thus concurring with the opinion of the Chiefs of the other Missions who took concerted action last year.

I was recently told by the Counselor of the British Embassy that the Embassy contemplated no formal representation at the Foreign Office in the immediate future; and that he knew of no new representations by the other Missions. The British Ambassador, however, has informally referred to the matter whenever he has had conversation with the Minister for Foreign Affairs.

I raised the question yesterday with the Minister for Foreign Affairs who replied that his Government accepted, in principle, equality of treatment of cargoes in foreign and Portuguese bottoms, but that the reason for the delay lies in the necessity of finding a way to compensate the Portuguese merchant marine for the losses it would sustain from abolition of the favored treatment; that he hoped, in fact thought, means had been found to do this, and that a decision would be given very soon.

Personally, I think that if the projected League of Nations loan goes through at Geneva—see my despatch No. 2219, of February 23, 1928 [8]—it would have a considerable effect in influencing the Government to clear up the shipping question, if it should not have done so meanwhile. The Government would not wish to have any dissatisfaction felt by foreign Powers.

With regard to paragraph 3, of the Department's Instruction, I have, by reason of the absence of the Commercial Attaché, residing abroad in Spain, obtained from the Consulate General the following recent commercial information on the importation of tobacco.

The Managing Director of the "Companhia Portugueza de Tabacos" stated that the 10% reduction in duty on shipments entering the country in Portuguese vessels is still being applied; and the diversion of importations referred to in the Department's Instruction, paragraph 1, is taking place. The "Companhia Portugueza de Tabacos" is now receiving its tobaccos by way of Rotterdam, Amsterdam and Antwerp. The Companhia buys its American tobacco twice a year, the dark about February first, and the light in July; shipments of these being made at various times. The Companhia also buys tobacco from the East Indies, West Indies, and other places, but these tobaccos, being of different types, are not in competition with American tobaccos.

In 1927, up to October, American vessels brought to Lisbon five separate shipments of tobacco. Since that month no more tobacco has been imported in American bottoms because the shipments have been diverted to Northern European ports for transshipment into Portuguese vessels in order to obtain the 10% reduction in import duty. The last American freighter to Lisbon brought no tobacco.

[8] Not printed.

The purchases of the Companhia Portugueza de Tabacos are believed to be influenced by personal considerations, such as nepotism, rather than by the ordinary processes of trade, and price consideration. When a year ago the Government sold these factories, the Companhia Portugueza de Tabacos came under the control of the Burnay banking interests.

There was also about that time a new Tobacco Manufacturing Company organized, the "Tabaqueira", controlled by the "Sociedade Geral de Commercio, Industria e Transportes, Lda". The "Tabaqueira" recently declared a dividend, but, in the Consulate's opinion, this dividend must have either been paid from capital or from profit by importation of already manufactured tobacco, as this Company itself has not, according to information received, manufactured any tobacco.

Among the data furnished me is the following résumé of the present situation in tobacco, as described by an agent of an American Exporting firm:

(*a*) A change from Government control to private enterprise and a free market;
(*b*) The imposition of a very heavy import duty which did not enter into consideration during the period of Government control;
(*c*) The existence at present of a practical monopoly in the manufacture of tobacco, cigars and cigarettes, because of the existence of only one company, being that which took over Government factories; and
(*d*) The continuation under private ownership of the purchasing methods that existed under the Government control.[9]

The tobacco situation may within a few months be influenced by the proposed loan to be made to this Government under the auspices of the League of Nations—see Legation's despatch No. 2219, of February 23, 1928—which would in part be secured by the Customs duties (possibly increased) on importations of tobacco and by taxation on its sale, which also might be raised.

I have [etc.] WM. WHITING ANDREWS

653.116/38

The Chargé in Portugal (Andrews) to the Secretary of State

No. 2221 LISBON, *February 28, 1928.*
[Received March 16.]

SIR: I have the honor to refer to the information contained in my telegram No. 7, of February 24, 1928, and my despatch No. 2220, of February 24th, 1928, with respect to the question of discrimination against foreign shipping.

---

[9] For previous correspondence on this subject, see *Foreign Relations*, 1926, vol. II, pp. 880 ff.

Informal protests are being made on every available occasion by the interested Chiefs of Missions to keep before the Minister for Foreign Affairs the importance of a speedy abatement of this discrimination. When I talked with him on the last reception day he seemed genuinely anxious to reassure me that in a very short time his Government expected to issue a decree in the matter which he believed and hoped would be satisfactory to foreign interests. He was at some pains to emphasize that the Government accepted in principle equality of treatment and he attributed the delay, which he seemed to recognize as being very long, to the fact that the Government was endeavoring to find a means of compensating Portuguese shipping interests for the loss of the advantage of the 10 percent in imported cargoes and 20 percent in exported cargoes, which they are now receiving. His excellency said he believed that a means had been found, although the work was not yet completed, and that this would permit of the abolition of the discrimination.

The Consulate General does not find altogether satisfactory the changes effected by the Government's decrees relative to port charges and dues, published on December 3rd and 5th, 1927, reported in the Legation's despatch No. 2150, of December 7, 1927,[10] namely:

Decree No. 14,646—reducing the taxes established on steamship tickets, as well as the stamp tax incident on the cost of said tickets;

Decree No. 14,647—making various reductions on the taxes levied on maritime trade;

Decree No. 14,664—promulgating various provisions destined to promoting and facilitating the entry of ships into national ports, altering the lighthouse and pilot dues, and the taxes for entry into ports;

Decree No. 14,665—reducing consular fees relative to navigation services, in order to promote the increase of traffic in Portuguese maritime ports;

Decree No. 14,666—making various alterations in the tariff of Consular fees, with a view to promoting the lower cost of articles of importation most necessary for the consumption of the country, especially those destined for subsistence, agriculture and industry.

The criticism of the Consulate General is made on the grounds that whereas the decrees provide for an alleviation of the burden of charges and dues they are so drawn as to allow for an increasing of these at some future time. In contrast with this opinion the British Embassy informs me that the two chief British shipping firms in Lisbon: Messrs. Garland, Laidley & Co., and James Rawes & Co., have stated to the Embassy that they are fully satisfied with the changes effected by the decrees.

I have [etc.] WM. WHITING ANDREWS

[10] Not printed.

653.116/39 : Telegram

The Chargé in Portugal (Andrews) to the Secretary of State

LISBON, *April 10, 1928—7 p. m.*
[Received April 10—9:45 a. m.]

15. Legation's despatch 2220, February 24, 1928. Interested chiefs of mission are now disposed to make renewed representations to the Portuguese Government against shipping discrimination. The consultation will probably take place this week.

On April 6th the other representatives and myself received from the British Ambassador an identical note calling attention to the Government decree of February 28, last, granting a subsidy of one and one-half escudos per ton upon coal imported in Portuguese vessels, and implying that this also should be protested. A difference of opinion exists on the expediency of this. I intend to omit it, as the importation of American coal is extremely small, and to limit any renewed protests to the general percentage discrimination, following the sense of Minister Dearing's previous protest to the Foreign Office, number 554, on January 6, 1927, reported in despatch No. 1759, following day.[11]

On April 5th a note evidently in reply to some other person was addressed to me by the Minister for Foreign Affairs stating that in respect of the discrimination the Government had decided upon modifications, but that it alone could judge when to promulgate them.

The coal bounty is probably intended to compensate Portuguese shippers for losses produced by abolition or reduction of percentage discrimination.

ANDREWS

653.116/36

The Secretary of State to the Chargé in Portugal (Andrews)

No. 898 WASHINGTON, *April 11, 1928.*

SIR: The Department makes reference to the Legation's telegram No. 7, February 24, 5 p. m., and to its despatch No. 1538 of July 1, 1926.[12]

The Department feels that acceptance by Portugal of the principle of national treatment of shipping should be the occasion, on Mr. Dearing's return, for the expression of gratification. It may also afford a desirable opportunity to propose a Treaty of Friendship, Commerce and Consular Rights, which not only would give reciprocal effect to the principle of national treatment of shipping, but would place on a more definite and satisfactory basis the commercial relations between Portugal and the United States.

[11] Not printed.
[12] Despatch No. 1538 not printed.

Accordingly, on Mr. Dearing's return, unless he perceives objection to such a course, it is desired that he utilize an early opportunity to carry out the foregoing proposal. If the Foreign Office appears to be receptive, he may appropriately furnish it with copies of recent American commercial treaties, such as that of December 8, 1923, with Germany,[13] and the subsequent treaties with Estonia and Hungary,[14] and he may also inform the Foreign Office that he will shortly be in a position to submit a draft of treaty prepared especially for negotiation with Portugal. On his telegraphic request, such draft will be mailed to the Legation as soon as practicable.

It appears to the Department that careful preparatory work by the Minister will be necessary in order to persuade the Foreign Office to accept the American point of view for equality of treatment in respect of commerce and of shipping. His judgment as to time and manner of presentation is depended upon and he is requested to use all reasonable endeavor to bring about the desired result.

There is enclosed for your strictly confidential information only, a copy of a memorandum prepared in the Department on March 9, 1928, entitled "Portugal's Shipping Discriminations".[15]

I am [etc.]

For the Secretary of State:
NELSON TRUSLER JOHNSON

653.116/39 : Telegram

The Secretary of State to the Chargé in Portugal (Andrews)

WASHINGTON, *April 13, 1928—2 p. m.*

10. Your 15, April 10, 7 p. m. If subsidy of one and one-half escudos per ton upon coal imported in Portuguese vessels is payable to Portuguese shipowners, Department perceives no ground for representations. Such a measure must be accepted as direct subsidy. On the other hand, if such payments are made to importers who patronize national vessels for the purpose of giving the latter an advantage over competing foreign vessels in obtaining cargo, you should make informal representations, pointing out that abandonment of discriminating import duties in favor of national vessels will be rendered illusory if measures so similar in their effects are substituted.

Keep Department closely advised.

KELLOGG

---

[13] *Foreign Relations*, 1923, vol. II, p. 29.
[14] *Ibid.*, 1925, vol. II, pp. 70 and 341.
[15] Not printed.

653.116/40 : Telegram

The Chargé in Portugal (Andrews) to the Secretary of State

LISBON, *April 23, 1928—6 p. m.*
[Received April 23—4:12 p. m.]

18. Department's 10, April 13, 2 p. m. One and one-half escudos coal subsidy is direct [to] Portuguese shipowners. At meeting April 17, 5 p. m., Dutch, Italian, Norwegian, French Ministers, German Chargé d'Affaires, declared subsidy aggravation of already existing ten percent discrimination and announced renew protest on latter with incidental mention of subsidy. Not yet done.

British Ambassador stated that orders from his Government obliged him protest emphatically coal subsidy, but would include ten percent discrimination. Done.

Am I authorized without citing coal subsidy to recall formally to Minister for Foreign Affairs delay in correcting ten percent discrimination?

ANDREWS

653.116/40 : Telegram

The Secretary of State to the Chargé in Portugal (Andrews)

[Paraphrase]

WASHINGTON, *April 27, 1928—3 p. m.*

12. Reference your 18, April 23, 6 p. m.

(1) Authorization is given you for further representations regarding delay over abandonment of shipping discriminations. In addition to the ten percent customs discrimination against cargoes, the Department understands that there still exist discriminations as to port charges to be paid by foreign vessels. If this is so, refer to it in your communications to the Portuguese Foreign Office and make it clear that for American vessels full national treatment as to all dues and charges to be paid by them or their cargoes is sought.

(2) A coal subsidy to be paid to national shipowners does not belong in the same category with discriminating charges against foreign vessels and their cargoes, because a commonly accepted method to assist national shipping is the direct subsidy or subvention of this sort. The Department feels, moreover, that protesting such a measure may interfere with abandoning the discriminations, already made contingent by the Portuguese Government upon some means being found to compensate its national shipping in losing such advantages. The above considerations you may desire to bring to the attention of your colleagues informally.

(3) The Department on April 11 mailed an instruction to you saying that Portugal's acceptance, in principle, of national treatment

for shipping may provide an opportunity to propose a Treaty of Friendship, Commerce and Consular Rights, thus giving effect to the principle mentioned, and stating that it is desired, upon Minister Dearing's return from his visit to the Portuguese colonies, to take an early occasion unless he perceives objection, for the carrying out of this proposal. Involving an offer of reciprocal guarantees against discrimination, such a proposal might induce a more favorable reaction than continuing to press for Portugal's abandonment of discrimination. As the Department feels you are in a better position to decide whether further representations might create at this time an unfavorable attitude, you are allowed the discretion whether to postpone such action until Minister Dearing has had a chance to consider the proposal of a treaty.

KELLOGG

653.116/41 : Telegram

The Chargé in Portugal (Andrews) to the Secretary of State

LISBON, *May 3, 1928—2 p. m.*
[Received May 4—8:50 a. m.]

19. [Paraphrase.] Reference the Department's 12, April 27, 3 p. m. Since this Legation collaborated during the former joint protest, nothing would now be gained by abstention. A protest would also be the natural antecedent to future action concerning the treaty by Minister Dearing. A carefully drawn and courteous note was sent yesterday to the Portuguese Foreign Office. [End paraphrase.]

Eight nations have now renewed protests, except the German Minister who has returned and [is] in correspondence with Berlin.

ANDREWS

653.116/43

The Chargé in Portugal (Andrews) to the Secretary of State

No. 2281 LISBON, *May 4, 1928.*
[Received May 17.]

SIR: I have the honor to report the events of the present phase of the shipping discriminations questions referred to in my despatch No. 2273, of April 25, 1928.[16]

At the time of the Department's instruction No. 859, of December 31, 1927,[17] and Legation's despatch No. 2202, of January 31, 1928, in reply thereto, the diplomatic representatives, who had, concurrently with Mr. Dearing, delivered notes of protest to the Foreign Minister against the discriminations in favor of Portuguese vessels in the matter of port

[16] Not printed.
[17] *Ante*, p. 768.

charges and reductions in customs duties on cargoes, had no inclination for renewing protests.

What stirred them finally into activity was the Decree No. 15,086, dated February 15th, 1928, but published in the *Diario do Governo* of February 28, 1928, paying a bounty of one and one-half (1$50) escudos per ton on coal, sulphur, and fertilizers imported in Portuguese bottoms. This bounty was indicated as payable to Portuguese shipowners in compensation apparently for the losses resulting to them from the alterations in legislation affecting Portuguese shipping by the Decrees Nos. 14,646; 14,647; 14,664; 14,665 of December 3rd and 5th, 1927, reported in Legation's despatch No. 2150, of December 7th, 1927;[18] and by Decree No. 14,833, dated December 31, 1927, published in the *Diario do Governo* of January 7, 1928. Refer also to the Consulate General's voluntary reports Nos. 418, of December 22, 1927, and No. 433, of February 6, 1928.[19] This subsidy is also thought to be in anticipation of losses that would result when the 10% customs reduction on imported goods, and the 10% to 20% on those exported would be abolished. The Consulate General established the fact that the subsidy is actually being paid directly to the vessel owners.

Equality of treatment in respect of cargoes from foreign and Portuguese ships had been stated by the Foreign Minister to each of the interested Chiefs of Mission on occasions, as "accepted in principle" by the Portuguese Government who "were only awaiting a favorable opportunity" for putting the intended reform into effect.

The British Ambassador crystalized the general feeling by calling a meeting for April 17, 1927 [*1928*]. The Dutch, Norwegian, French, and Italian Ministers, the Spanish Ambassador, the German Chargé d'Affaires ad interim, and myself were present. The British Ambassador lead off by saying that orders from his foreign office obliged him to protest the 1½ escudos bounty because of coal, but that he would include in his note a protest on the customs discrimination. He then distributed copies of his intended note. The others present—except the Spanish Ambassador, who expressed no decided opinion but remarked that probably nothing they might write would produce any result!—practically agreed in describing the subsidy as in effect a discrimination and an aggravation of the discriminations still existing, i. e., a bounty in addition to the 10% reduction. By "discriminations" they meant the customs reductions, and not the port charges. They are all fairly well satisfied with the alterations in the latter made by the December decrees.

It was agreed among all—excluding the British Ambassador, the German Chargé, and myself—that the French Minister should draft a

[18] Not printed.
[19] Neither printed.

note, which the others with slight modifications would follow as a model. Monsieur Pralon became ill and a delay ensued. His draft, when it finally was distributed, was not quite satisfactory to the Dutch and Norwegian Ministers, who thought it—so they told me—not sufficiently emphatic on the 10% customs import discrimination. It should here be said that the 10% to 20% customs export discrimination is only perfunctorily mentioned, as it is relatively of small importance. I noticed in this conference that it was the subsidy on coal that was talked of, sulphur and fertilizers being treated as secondary. Sulphur and fertilizers are not prominent imports, although perhaps sulphur interests Italy to some extent, and fertilizers the French.

As reported in my telegram No. 18, of April 23, 1928, the Continental diplomats at this conference declared their intention of including the bounty in their protests. The Dutch and the Norwegian Ministers have in their notes particularly stressed the 10% customs import discrimination.

The German Minister, Dr. Voretzsch, who, subsequently to the above meeting, returned from leave, has informed me that he is still in correspondence with his Foreign Office in these matters, and has therefore not yet sent a note. Dr. Voretzsch is very soon relinquishing this post on transfer to Tokio and prefers, I think, not to leave it to his successor who is expected to arrive almost at once upon Dr. Voretzsch's departure.

The Department's telegram No. 12, of April 27, 1928, suggests bringing to the attention of the diplomats concerned that subsidies to shipowners are a method for compensating them for losses deriving from the doing away of discriminations. This point was brought up in the meeting at the British Embassy and was declared to be a substitution of one form of discrimination for others. The Dutch Minister said that in time the Portuguese Government would probably end all the discriminations and would replace them by compensating subsidies. There was general assent and the idea seemed very distasteful.

As I did not intend to take part in discussions at the conference, I had that morning a talk with Sir Lancelot and told him I would not have authority to protest the coal bounty, but probably might send a protest on the discriminations previously protested.

The following diplomatic representations have, I understand, now sent notes of protest embracing the 10% customs discrimination and the coal, sulphur and fertilizer bounty, but not the port charges discrimination: British, French, Dutch, Italian, Spanish, Norwegian, and (through the Norwegian Minister) Danish, and Swedish.

Referring to my telegram No. 19, of May 3rd, 1928, I could see no advantage from this Legation—which protested coincidentally and in collaboration on the previous occasions—now making itself an excep-

tion. I do not think abstention would have produced any effect at the Foreign Office valuable for later negotiations. On the contrary, participation in the action now taken would contribute that much more towards ending the procrastinations of the Government in carrying into effect the equality of customs treatment it has already stated it accepts in principle. The inclusion in my note of port charges discriminations merely maintains a consistent position in view of the forthcoming negotiations by the Minister. The other Missions are—as stated above—sufficiently satisfied with the corrections in port charges of last December and are doing nothing further. A renewed protest on this occasion is also, I think, a natural antecedent to treaty negotiations a few weeks hence.

A copy of my note to the Minister of Foreign Affairs with that of a personal note accompanying it is included among the enclosures to this despatch.

The memorandum enclosed with the Department's instruction No. 898, of April 11th, 1928, describes the discriminations in respect of port charges as only somewhat ameliorated by the Decrees of December, 1927. From information gathered by the American Consul in Charge, Consulate General, it is obvious that, through qualifying clauses, such as stipulate that foreign vessels must pay certain charges in gold or in pounds sterling and in differentiations in percentages favorable to national shipping, the improvement supposed to have been effected in the situation of foreign shipping is to a considerable degree more apparent than real.

Three weeks ago I talked with Senhor Gomes, a member of the commission created by the Government to study the question of changing the legislation affecting shipping in order to find ways of meeting the wishes of the diplomats who were objecting to the discriminations. He said that the influence of the leading Portuguese shipping man, Alfredo da Silva, President and Manager of the "Companhia Uniao Fabril", was so powerful in opposition to concessions that he did not think there was any chance in a relatively near future that the 10% customs import reduction discrimination would be abolished.

With regard to the project of obtaining full national treatment for our shipping in connection with a treaty of commerce and friendship, Mr. Dearing with his great ability and long experience may be expected to succeed, if possible at all. I think it improbable that this Government, which, though well disposed, is that contradiction in terms, a weak dictatorship, will have the courage to accord equality of treatment to American shipping on the basis of a treaty or on any other basis, until it is prepared also to grant equality to the other chief maritime nations, particularly Great Britain. In which case it would give the equality irrespective of a treaty.

I have [etc.] WM. WHITING ANDREWS

[Enclosure 1]

The American Chargé (Andrews) to the Portuguese Minister for Foreign Affairs (Rodrigues)

LISBON, *May 2, 1928.*

MR. MINISTER: I trust that it may not escape your observation that in my Note No. 726, of today, enclosed herewith, no reference has been made to subsidies payable direct to shipowners.

I am [etc.] WM. WHITING ANDREWS

[Subenclosure]

The American Chargé (Andrews) to the Portuguese Minister for Foreign Affairs (Rodrigues)

No. 726 LISBON, *May 2, 1928.*

EXCELLENCY: Under date of January 6, 1927, the American Minister had the honor to draw Your Excellency's attention to the injury resulting to American shipping from Portuguese legislation according various differentiations of treatment in favor of vessels of Portuguese registry, in respect of port charges, and by rebates on goods imported and exported.

While fully appreciating the spirit of consideration which lead Your Excellency's Government in December, last, to effect some amelioration with regard to port charges, I have the honor to bring to Your Excellency's attention that the favored treatment in these respects, at present granted to Portuguese ships, still constitutes a differentiation unfavorable to those of American nationality.

I have also the honor to recall to Your Excellency the serious disadvantage resulting to American shipping from the continued application of Decree No. 7,822, of November 22, 1921, under which goods, when imported in Portuguese vessels, are accorded a reduction of 10% in customs duties and surtaxes, and from 10 to 20% when exported.

With regard to these customs reductions, Your Excellency, in conversation February last, was good enough to inform me that the Portuguese Government accepted, in principle, equality of treatment; and I accordingly have the honor respectfully to express the hope that Your Excellency's Government may now soon see its way to withdrawing these differentiations, as well as those in respect of port charges.

I avail myself of this opportunity to mention to Your Excellency that my Government seeks for American vessels full national treatment in respect of all dues and charges payable in ports and on cargoes.

In highest consideration,

WM. WHITING ANDREWS

[Enclosure 2—Translation]

Portuguese Decree No. 15086, of February 15, 1928 [20]

It being recognized that the alterations, which have been introduced in the regulations to which Portuguese ships carrying coal, sulphur and fertilizers to our ports are subjected, represent a diminution of protection deeply affecting the situation in which those services were effected;

And not being fair and just that while endeavoring to attract shipping to our ports national shipping is prejudiced;

It being therefore necessary to accord to that shipping a compensation which may be remunerative in an equitable manner;

Making use of the power conferred upon me by No. 2 of Article 2, of Decree 12740, of November 26, 1926, under the proposal of the Ministers of all the Departments;

I hereby decree, to have the force of law, the following:

ARTICLE 1. A bonus of 1½ escudos is granted, in favor of the respective shipowners, for each unloaded ton of coal, sulphur and fertilizers, imported and carried directly in national vessels.

ARTICLE 2. The amount necessary to meet the charges resulting from the execution of the provisions of Article 1 shall be taken out of the Fund for the protection of the merchant marine and national ports, from the part assigned to State revenue.

ARTICLE 3. Legislation to the contrary is hereby revoked.

[Enclosure 3]

Memorandum by the Chargé in Portugal (Andrews) on "Port Charges Discriminations Still Existing"

Article 1 of Decree of December 3, 1927, No. 14,647. Charges for cargoes unloaded from vessels pay in gold. But in the case of Portuguese vessels the charges are reduced by 50% and are paid in escudos. Foreign vessels flying the flag of nations having the most favored nations' clause pay 25% less than others as above.

By Decree of December 31, 1927, No. 14,833, Foreign ships pay 10% more than Portuguese ships for water; for use of tugs alongside wharf. Payable, however, in Portuguese paper escudos.

Foreign ships pay approximately 500% more for tugs when going into the docks, as they must pay in pounds sterling.

Foreign ships must pay approximately three times more than Portuguese ships for tugs as over time.

Foreign vessels pay approximately 7 times more for services of floating cranes if lifting a certain weight than do Portuguese vessels.

W[ILLIAM] W[HITING] A[NDREWS]

[20] Published in *Diario do Governo*, No. 47, Ser. I, Feb. 28, 1928.

653.116/44

The Chargé in Portugal (Andrews) to the Secretary of State

No. 2284 LISBON, *May 9, 1928.*
[Received May 19.]

SIR: With reference to my despatch No. 2281, of May 4, 1928, on the subject of shipping discrimination, I have the honor to draw further attention to the difference in point of view held by the Department (Department's Confidential Telegram No. 12, April 27, 1928) and by the Chiefs of Mission here in respect of bounties or subsidies paid to shipowners on cargoes imported.

The Department finds the paying of such subsidies a natural and usual way of compensating vessels owners for losses incurred, i. e., an indicated way of solving the port charges and customs import duties reduction, discriminations, now existing against foreign, and in favor of Portuguese national, shipping.

The other Missions without exception—unless it be possibly the German, whose attitude I do not know, the Chargé d'Affaires having agreed with the others, but the Minister, subsequently returned, perhaps not so agreeing—expressed, at the conference on April 17th, objection in principle as well as specifically to the subsidy on coal, sulphur and fertilizers.

As stated in my despatch, the British Ambassador, in particular, protested to this Government, under direct orders from his Foreign Office, against the bounty on coal.

If the British Government, whose influence is, on a showdown, predominant with any Portuguese Government on any question, and the major part of, if not all, the other foreign governments' representatives here are also opposed to subsidies, considering them as discriminations in merely a different form, there would not appear to be much prospect of the Portuguese Government being brought to abolish the present discriminations through compensatory subsidies to the Portuguese vessels owners.

I have [etc.] WM. WHITING ANDREWS

711.532/3 : Telegram

The Minister in Portugal (Dearing) to the Secretary of State

LISBON, *June 22, 1928—noon.*
[Received June 22—10:15 a. m.]

25. Department's instruction number 898, April 11. Minister for Foreign Affairs desires to examine draft treaty. Please send.

DEARING

711.532/4

The Minister in Portugal (Dearing) to the Secretary of State

No. 2325 LISBON, *June 25, 1928.*
[Received July 1.]

SIR: I have the honor to refer to the Department's Instruction No. 898, of April 11, 1928, instructing me to propose a Treaty of Friendship, Commerce and Consular Rights to the Portuguese Government.

During a conversation I had with the Foreign Minister on the afternoon of Thursday last, June 21st, it seemed to me that the moment was one in which I could very well discuss the matter with him. The Minister has always been frank and easy to approach and is fair minded and friendly. He at once expressed interest in the matter, inquired whether I had a draft of such Treaty and said he would be glad to examine it; but he did not commit himself in any way.

The Department doubtless recalls that the head of the Consular and Commercial Division of the Foreign Office is Doctor Oliveira Soares. It is he who has the most direct charge of Portuguese Treaty matters, and who is the best informed concerning them. His attitude with regard to a Treaty will be found set out in my despatch No. 1538, of July 1, 1926.[21] I have no reason to think that he has changed, and I expect there may be still some difficulty from that quarter. I shall endeavor, however, after receiving the Department's draft, to speak to Doctor Oliveira Soares as well as to the Minister for Foreign Affairs.

With regard to the Legation's telegram No. 7, of February 24, 1928, and the Legation's despatch No. 2220, of February 24, 1928, stating that the Portuguese Government has accepted in principle equality of treatment, I am not so sure that the Portuguese Government has really done so. In the first place, and as the Minister for Foreign Affairs told me on the 21st, the so-called acceptance applied merely to Portugal and the Adjacent Islands, and in no wise whatever to the Portuguese colonies, where, the Foreign Minister says, the adoption of such a policy would mean the wiping out of Portuguese shipping lines. In the second place, the Minister constantly talks—even in the case of Portugal proper and the Islands—of finding some means of compensating shipowners before putting that policy into effect. The means he suggests is a subvention; but even this, he remarked, is not likely to be forthcoming soon, as the program of retrenchment and economy adopted by the Minister of Finance, who is now the dominant member of the Cabinet, makes it impossible to find money with which to pay a subvention.

[21] Not printed.

I must say that I rather share the feeling of my Colleagues here that efforts of this sort on the part of the Portuguese Government will leave foreign shipping exactly where it was, if not in a more difficult position. A reduction of the charges and the doing away with the discrimination in favor of Portuguese vessels may bring the burden upon foreign ships down to a reasonable figure, but Portuguese vessels will have the same advantage over them as before, that is, the measures the Portuguese Government is seeking on behalf of Portuguese shipping lines will be, as the Department states in its telegram No. 10, of April 13, 1928, "so similar in their effectiveness as to render illusory the removal of discriminating import duties in favor of national vessels".[22]

The Portuguese shipping interests are largely controlled by one Alfredo da Silva, who has been protected, probably rather too tenderly, by the Portuguese Government, and it may be unwise to sacrifice the interests of the country at large to this shipping magnate. One can understand, however, that the Portuguese Government will wish to retain its shipping.

The Minister explained to me that it was hoped the increased traffic under the lower charges would produce enough money to provide that subvention to the Portuguese shipowners, and compared this subvention to the subsidies and mail contracts given by Great Britain and other Nations. The Department will, however, note from the Reports from the Consulate General, particularly Mr. Pinkerton's Report No. 433, of February 6, 1928,[23] that a really national treatment is not yet accorded to foreign vessels.

The Foreign Minister has for a long time been promising an early and final solution of the shipping matter. I feel sure that he really wished and expected to be in a position to send to all the Missions here a comprehensive Note on the subject in reply to the original protest made in January 1927. The strenuous opposition of Mr. Alfredo da Silva and the slowness of the Commission headed by Mr. Carlos Gomes to pass upon the matter has brought about the delay. The Commission has been hearing the complaints of every one concerned.

Mr. Andrews laid the situation comprehensively before the Department in his despatch No. 2281, of May 4, 1928. The situation now is much the same, as one is always presented with the statement that final action will be taken when some means can be found to compensate the Portuguese interests that will suffer.

I am inclined to think that Mr. Alfredo da Silva will make an effective opposition for some time to come; and the economy program of the Finance Minister will also cause delay. My Colleagues are at

[22] Quotation not exact; see p. 775.
[23] Not printed.

present not doing very much, as most of them have recently been changed.

I think there is nothing to be lost in the meantime in talking to the Foreign Minister about placing our commercial relations on a more definite basis and in seeking a Treaty which will give reciprocal effect to national treatment of shipping.

As I see it, the point about which we should be particularly clear, and on which I shall appreciate as much guidance from the Department as possible, is what constitutes real national treatment and the extent to which that is offset and nullified by subventions, subsidies, special payments or other measures. I should appreciate having from the Department an elaboration of the situation described in its telegram No. 10, of April 14th [*13th*], which shows the difficulty of the situation. I gather from what the Department says that direct subsidy or subvention paid by the Government to Portuguese vessels, in spite of the fact that they give Portuguese vessels the same advantage over foreign vessels they had before, cannot be objected to. If this is the case, it would seem that there could be no effective reciprocal national treatment and that, while charges might be made the same for both national and foreign vessels, nothing would really have been accomplished. A general lowering of the scale of charges, however, will enable foreign vessels to do business on more advantageous terms, in spite of the fact that Portuguese charges, by virtue of the subsidy, are in effect lower still.

I have [etc.] FRED MORRIS DEARING

653.116/47

The Chargé in Portugal (Andrews) to the Secretary of State

No. 2413 LISBON, *October 16, 1928.*
[Received November 2.]

SIR: I have the honor to refer to copies of Notes to the Foreign Office from the Legation and the British Embassy here, transmitted to the Department among enclosures with despatches dated from November, 1926, to October 11, 1928, inclusive, on the subject of flag discrimination by the Portuguese Government in favor of Portuguese vessels against foreign.

For convenient reference copies of these Notes are enclosed herewith,[24] with also a copy of a memorandum by Minister Dearing giving the Legation's latest information as to the attitude of the Portuguese Foreign Office in the matter.

These Notes show the quality of action taken by the Legation and by Great Britain, the chief maritime Power. The Notes from

[24] Enclosures not printed.

other interested Missions, copies of which were also supplied the Department in Legation despatches, approximately resembled the British notes.

The Notes to the Foreign Minister that constituted the last united effort made by diplomatic representatives here (my despatch No. 2281 of May 4, 1928) following the meeting called by the then British Ambassador on April 17, 1928, either did not emphasize, or merely incidentally mentioned the port charges and dues, the only exception being the Note I sent based on the Department's Instructions. The others present at the conference without exception declared themselves fairly well satisfied with the changes in port charges and dues effected by the Portuguese Government in its Decrees of December 1927.

The Note which the British Chargé d'Affaires has just sent under instruction of his Government, a copy of which I forwarded to the Department on October [11] 1928 (and again herewith),[25] takes the Department's and Legation's point of view that the alterations of last December leave, in effect, the discrimination as bad as ever. The Chargé sent copies of this Note to all the Missions that had taken part last spring without (as in the case of his Note of a few weeks earlier on the port clearance of damaged vessels) inviting the making of similar protest. He merely in this instance sent copies, which amounts, however, to a tacit invitation.

Thus finally the leading maritime nation has come around to the American opinion, and has some five months afterwards protested to the Portuguese Government in the matter of the port charges and dues. This adhesion ought considerably to increase the chances for a real correction of the port discriminations as well as of those by Customs rebates.

It is interesting that this recent British Note makes no mention of the bounty (2.45 Escudos per ton) paid to Portuguese ship owners on coal imported in Portuguese bottoms (plus the 10% rebate).

To put it plainly, the Decrees the Portuguese Government promulgated last December were a very clever fraud perpetrated on the interested diplomatic officers. The changes effected presented superficially a seeming considerable abatement of the discriminations, whereas in reality, in the actual working, the changed or new regulations constitute in sum total discriminations as bad, or almost as bad, as before. As for the other flag discriminations, the Customs rebates on goods and the bounty on coal carried in Portuguese bottoms—to which latter the other Powers, and particularly the British, took strong exception—these remain unaltered.

I have [etc.] WM. WHITING ANDREWS

[25] Not printed.

[Enclosure]

Memorandum by the Minister in Portugal (Dearing)

JUNE 21, 1928.

I called on the Minister for Foreign Affairs this afternoon and discussed with him the question of 10% shipping discrimination.

The Minister said he was anxious to clear up this matter and that it had been proposed to solve it by putting foreign and Portuguese ships on the same basis but paying the Portuguese a subvention to offset their loss, but that in view of the Finance Minister's economy program it had been difficult to determine where the money for the subvention was coming from. I indicated that such a solution would seem to leave the foreign vessels right where they were, and said the shipping interests were fighting it hard. He said the plan would apply only to Portugal and the Adjacent Islands but that to open up the colonies to foreign shipping would be to annihilate the Portuguese lines. I said I thought the surest way to get the colonies developed would be to open them up and that the indirect advantage of so doing would more than offset to the country the shipping losses and that the country should have preference over a few firms.

[FRED MORRIS DEARING]

711.532/6

The Minister in Portugal (Dearing) to the Secretary of State

No. 2499 LISBON, *January 23, 1929.*

[Received February 5.]

SIR: I have the honor to refer to my despatch No. 2480 of December 19, 1928,[26] requesting the Department to send me a draft of a Treaty of Friendship, Commerce and Consular Rights to serve as a basis for negotiations with Portugal.

As I have reported to the Department in my despatch No. 2484 of December 28, 1928,[26] the new Foreign Minister, Commander Meyrelles, is now in office and seems intelligent and kindly disposed. I called upon him on the 17th inst. and, in the course of the conversation covering all of the pending business between the Legation and the Foreign Office, I mentioned the interest that had been excited in the Department when Dr. Bettencourt Rodrigues had made a promise that national treatment would be accorded foreign vessels in Portuguese ports, saying that my Government had thought that this might open the way for the negotiation of a treaty. Commander Meyrelles disclosed at once that he was entirely of the opinion of his immediate predecessor, Commander Mesquita Guimaraes, the Minister of Marine and until recently acting Minister for Foreign Affairs, by saying that Dr. Bet-

[26] Not printed.

tencourt Rodrigues had promised much more than had been intended. He said the matter was still being studied, that two commissions were working upon it, and that it was always a question of first discovering how to recompense those interests which would be injured by the according of national treatment to foreign vessels. I pointed out the fact that national interests should take precedence over private ones, and expressed the hope that a way would soon be found to deal fairly with the private interests so that national treatment could be accorded. Dr. Meyrelles indicated quite clearly that he feared it would be a very long time before such a development could take place.

In this connection, I beg to say to the Department that on the occasion of my first call upon the new Foreign Minister on December 28, I was met as I left him by Alfredo da Silva, who was coming through his anteroom to call upon him. He is the chief of the shipping magnates who is opposed to granting any concessions to foreign vessels, and he was evidently losing no time in laying his case before the new Foreign Minister.

In view of what was said to me during my interview with Commander Meyrelles, I do not anticipate any early or favorable developments either in the matter of shipping charges or in the matter of the negotiation of a Treaty of Friendship, Commerce and Consular Rights. I believe, nevertheless, that it would be advantageous for the Department to let me have a draft treaty for my own information and guidance. I left with the Foreign Minister, when I took my departure, copies of the treaties that have been celebrated with Germany, Esthonia and Hungary, and told the Minister that I was doing so merely so he could give the matter some thought and ponderation and that I should be glad to have his views in case he should later feel like expressing any. Here I shall let the matter of the treaty rest unless there is some new opening or unless the Department sees fit to instruct me to the contrary.

With regard to the shipping question, I expect to keep in touch with my colleagues and see what they intend to do. I called upon the British Ambassador a day or two ago but found him ill. My German colleague has also been ill, but I understand from my Dutch, Belgian, Norwegian and Italian colleagues that they are much disposed to adopt the point of view of the German Minister, Dr. von Baligand, that the diplomatic corps cannot take Dr. Bettencourt Rodrigues' promise about national treatment and other concessions as being an irresponsible one, and that an obligation rests upon the Portuguese Government to go some way at least towards carrying out the promise of better conditions which was repeated and maintained throughout a period of practically two years without anything having been said by any responsible member of the Government to subtract from its effect.

I have [etc.] FRED MORRIS DEARING

PORTUGUESE REGULATIONS REGARDING JURISDICTION ON BOARD FOREIGN SHIPS IN PORTUGUESE WATERS AND REQUEST FOR RECIPROCAL ACTION BY THE UNITED STATES

853.863/1

The Portuguese Minister (Alte) to the Secretary of State

BAR HARBOR, MAINE, *July 27, 1928.*
[Received July 30.]

SIR: The Portuguese Government Decree No. 54, of July 23, 1913, enacts that all matters pertaining to the internal discipline of foreign merchant vessels in Portuguese waters shall be regulated solely by the laws of the country to which the vessel belongs and carried out by the captain of the ship and by the resident consular officer of that country.

The same Decree further states that when the local authority has to take legal action on board a foreign vessel in Portuguese waters the resident consular officer of the country to which the ship belongs must, in every case, be advised, with due anticipation, of the date and hour at which such action will be taken as well as of the nature of the proceedings, in order that he may be present or send a representative. In the official report it must be stated that the consular officer was invited to attend and whether he was or not present during all or part of the proceedings. In any case, whether or not the consular officer attends, the proceedings shall take place.

The above mentioned Decree states that these provisions shall apply to the vessels of all nations that reciprocally grant the same treatment to Portuguese merchant vessels in their territorial waters. In these circumstances, I would esteem it a favour if you would kindly inform me whether the Portuguese consular officers are invited to be present when the American authorities take legal action on board Portuguese merchant vessels in American waters.

Accept [etc.] ALTE

853.863/3

The Acting Secretary of State to the Portuguese Minister (Alte)

WASHINGTON, *September 5, 1928.*

SIR: I have the honor to refer to your note of July 27, 1928, informing me that under Portuguese law all matters pertaining to the inter discipline of foreign merchant vessels in Portuguese waters are regulated solely by the laws of the country to which the vessel belongs and carried out by the captain of the ship and by the resident consular officer of that country. You add that these provisions apply to vessels of all nations that reciprocally grant the same treatment to Portuguese

merchant vessels in their territorial waters, and you inquire whether Portuguese consular officers are invited to be present when American authorities take legal action on board Portuguese merchant vessels in American waters.

In reply I have the honor to inform you that there are no statutory provisions enacted by the Federal Government having a bearing on the matter which you brought to my attention. I may add that the question of the jurisdiction of foreign consular officers in the United States over vessels of their respective countries, temporarily within the territorial waters of the United States, has been in most cases determined by appropriate treaty provisions.

Attention in this relation might be called to the new treaties of the United States expressive of the present American treaty policy: Article XXIII of the Treaty between the United States and Germany of Friendship, Commerce and Consular Rights (Treaty Series, No. 725; 44 Stat. Large, part 3–2132)[27] reads as follows:

"A consular officer shall have exclusive jurisdiction over controversies arising out of the internal order of private vessels of his country, and shall alone exercise jurisdiction in cases, wherever arising, between officers and crews, pertaining to the enforcement of discipline on board, provided the vessel and the persons charged with wrongdoing shall have entered a port within his consular district. Such an officer shall also have jurisdiction over issues concerning the adjustment of wages and the execution of contracts relating thereto provided the local laws so permit.

"When an act committed on board of a private vessel under the flag of the State by which the consular officer has been appointed and within the territorial waters of the State to which he has been appointed constitutes a crime according to the laws of that State, subjecting the person guilty thereof to punishment as a criminal, the consular officer shall not exercise jurisdiction except in so far as he is permitted to do so by the local law.

"A consular officer may freely invoke the assistance of the local police authorities in any matter pertaining to the maintenance of internal order on board of a vessel under the flag of his country within the territorial waters of the State to which he is appointed, and upon such a request the requisite assistance shall be given.

"A consular officer may appear with the officers and crews of vessels under the flag of his country before the judicial authorities of the State to which he is appointed to render assistance as an interpreter or agent."

However, as you are aware, there are not at present in force between the United States and Portugal any treaty provisions concerning the rights, privileges and immunities of consular officers of both countries.

---

[27] Also *Foreign Relations*, 1923, vol. II, pp. 29, 42.

In the absence of applicable statutory and treaty provisions, the rights and privileges of Portuguese consular officers in the United States in connection with Portuguese vessels within the territorial waters of this country are determined by general principles of international law and comity.

This Government, while conceding on the one hand that, when one of its vessels visits the port of another country for the purposes of trade, it is amenable to the jurisdiction of that country and is subject to the laws which govern the port it visits, so long as it remains, unless it is otherwise provided by treaty, has on the other hand, on a number of occasions, made clear its views to the effect that, by comity, matters of discipline and all things done on board which affect only the vessel or those belonging to her and do not involve the peace and dignity of the country or the tranquility of the port, should be left by the local government to be dealt with by the authorities of the nation to which the vessel belongs as the laws of that nation or the interests of its commerce may require.

In conclusion, I have the honor to state that since it has been the practice of this Government to determine the status of foreign consular officers in connection with shipping matters by treaty provisions, rather than by legislation, it is not deemed practicable to recommend the enactment of legislation similar to that of the Portuguese Government's Decree of July 23, 1913, adverted to in your note under acknowledgment.

It may also be stated that neither in treaties to which the United States is a party, nor in legislation enacted by it, is specific provision made requiring the competent authorities to invite foreign consular officers on board vessels of their nationality within the territorial waters of the United States when such vessels are boarded by officers of governmental agencies in this country.

This matter has received this Department's careful consideration and it has not been found practicable to include provisions of this nature in treaties to which the United States is a party. I may add that the Department has no doubt that upon the request of a Portuguese consular officer in this country the authorities concerned would have no objection to permitting such officer to be present whenever it is proposed by such authorities to board a Portuguese vessel in the waters of the United States. It would seem, moreover, that in the event the local authorities should board a Portuguese vessel the captain thereof would as a matter of course communicate with the nearest Portuguese consular officer, who would then be in a position to present his request to the authorities concerned.

Accept [etc.] J. Reuben Clark, Jr.

853.863/4

The Portuguese Minister (Alte) to the Acting Secretary of State

BAR HARBOR, MAINE, *September 8, 1928.*
[Received September 10.]

SIR: With reference to the subject matter of your note of the 5th instant, concerning the treatment of merchant vessels of one power in the territorial waters of the other, I have the honour to suggest that, as the Commercial Agreement between Portugal and the United States of America of June 28, 1910,[28] grants to both countries the most favoured treatment in respect to their citizens, merchandise and ships, this Agreement may be construed as extending to Portuguese and American ships in territorial waters the treatment granted to those of other nations through the appropriate treaty provisions agreed upon with them.

This understanding would, I believe, perhaps facilitate the application to American ships in Portuguese territorial waters of the provisions of the Decree of July 23, 1913, the substance of which I had the honour to embody in my note of July 27, 1928.

I would, therefore, esteem it a favour if you would kindly let me know whether the Department of State agrees with this interpretation of the Commercial Agreement between the two countries, in order that I may enlighten on this point my Government in forwarding to them a copy of your note of the 5th instant.

I profit [etc.] ALTE

853.863/5

The Secretary of State to the Portuguese Minister (Alte)

WASHINGTON, *September 26, 1928.*

SIR: I have the honor to acknowledge the receipt of your note of September 8, 1928, in which, in further relation to the decree of the Portuguese Government of July 23, 1913, you ask whether this Government interprets the most-favored-nation treatment stipulated in the Commercial Agreement between the United States and Portugal of June 28, 1910, as extending to vessels of the one country in the territorial waters of the other the treatment granted by the latter country to vessels of other nations through treaty provisions agreed upon with them.

You will recall that the negotiations which resulted in the Commercial Agreement of 1910 were conducted in view of a provision in the tariff law of 1909 of the United States[29] authorizing the ex-

[28] By exchange of notes; *Foreign Relations*, 1910, pp. 828 ff.
[29] Aug. 5, 1909; 36 Stat. 11.

tension to any foreign country, under certain conditions, of the benefit of the minimum tariff of the United States when it was shown that such foreign country enforced no import or export conditions or restrictions which unduly discriminated against the United States or the importation or sale of products of the United States, or paid no export bounty or imposed no export duty or prohibition which unduly discriminated against the United States or its products.[30]

In view of the relationship of the Agreement of 1910 to the Tariff Act, it would appear to be clear that the most-favored-nation treatment stipulated in the Agreement related to charges on commerce. So far as this Department is informed the Agreement has not been considered to apply to consular privileges with respect to matters pertaining to the internal discipline of vessels, which is the subject to which the Portuguese decree of July 23, 1913, and your note of July 27, 1928, relate. The Department takes the view that the Agreement should not be invoked with a view to its application to consular privileges with respect to vessels.

Accept [etc.] FRANK B. KELLOGG

853.863/9

Memorandum by the Assistant Secretary of State (Castle)

[WASHINGTON,] *October 12, 1928.*

The Portuguese Minister came to see the Secretary yesterday, bringing with him the attached note.[31] The Secretary looked it through and also looked at the text of the commercial agreement between the United States and Portugal. He was inclined to feel that the interpretation of that agreement, as set forth in our note of September 26th, was perhaps unduly narrow. He felt that there might be something in the Portuguese plea that it could properly refer to ships as well as to merchandise. The Minister pointed out that, if it could be so interpreted, the advantage would be entirely on our side, since Portugal has no ships which come to this country.

The Secretary asked the Minister to leave the note with him and told him that, if on reconsideration, it were found possible to take a different attitude, we would substitute another note and that, if it were necessary to maintain the stand taken here, we would write a covering letter of explanation.

W[ILLIAM] R. C[ASTLE, Jr.]

---

[30] Sec. 2, 36 Stat. 82.

[31] The Department's note of September 26, *supra*.

853.863/7

Memorandum by the Solicitor for the Department of State (Hackworth)[32]

[WASHINGTON,] *November 20, 1928.*

I do not think that there is the slightest justification for the view expressed by the Portuguese Minister that the most favored nation provision in the notes exchanged between him and the Acting Secretary of State under date of June 28, 1910, covers matters pertaining to consular privileges concerning the vessels of the respective countries in the ports of the other. The agreement is based in part on the Tariff Act of August 5, 1909, long since superseded by other Acts, which provided for a maximum schedule of duties to be applied to all countries found to be discriminating unduly against American trade and commerce. The Act contained a proviso to the effect that if the President should be satisfied that the Government of any foreign country was imposing no terms or restrictions of any kind upon the importation into or sale in that country of products from the United States which amounted to a discrimination against such products, and was paying no export bounty and imposing no export duty or prohibition upon the exportation of any article to the United States which amounted to a discrimination against the United States or the products thereof, and should issue his proclamation to that effect, articles imported into the United States from that foreign country should be admitted under the terms of the minimum tariff of the United States as prescribed in Section 1 of the Act.

The President found that Portugal did not discriminate against American products and accordingly issued a proclamation under date of January 29, 1910, according to Portuguese products imported into the United States the minimum tariff as prescribed in the above mentioned Act.[33]

On February 21, 1910, the President issued another proclamation extending the benefits of the minimum tariff to imports from certain Portuguese colonies.[34]

The Tariff Act of 1909 and the President's proclamations were apparently regarded by the Department as sufficient authority for entering into the exchange of notes specifying most favored nation treatment with respect to merchandise. I presume that the minimum duty under the Act amounted to most favored nation treatment in such matters.

While it is not apparent on what theory an effort was made to accord by an exchange of notes most favored nation treatment to

[32] Notation on Nov. 20, 1928: "App[rove]d [by] J. R[euben] C[lark, Jr.]", Under Secretary of State.

[33] 36 Stat. 2519.

[34] 36 Stat. 2543.

ships, it is possible that Section 4228 of the Revised Statutes [35] may have been regarded as sufficient authority for the incorporation of the provision with respect to ships. This Section provides that on satisfactory proof being given to the President by the Government of any foreign nation that no discriminating duties of tonnage or imposts are imposed in the ports of such nation upon vessels belonging to citizens of the United States or upon the produce, manufactures or merchandise imported in the same from the United States or from any foreign country, the President may issue his proclamation suspending the foreign discriminating duties of tonnage and imposts within the United States so far as respects vessels of such foreign nation and the produce, manufactures or merchandise imported into the United States from such foreign nation or from any other foreign country.

While no record has been found that a proclamation was issued in favor of Portugal under this Section, it seems not improbable that the Department may have thought that an arrangement of this sort with respect to vessels was permissible under the provisions of the Section. It is interesting to note, however, that the question of issuing a proclamation under Section 4228, Revised Statutes, with respect to duties of tonnage on Portuguese vessels, was the subject of correspondence between this Department and the Department of Commerce in 1924,[36] (File No. 853.843/32) and that in reply to a suggestion from the Department of Commerce that a proclamation should be issued, this Department stated that as Portugal considered the Commercial Agreement of 1910 was still in effect, notwithstanding the fact that the proclamations of 1909 had become inoperative, the Department did not see any necessity for issuing a proclamation exempting Portuguese vessels from the payment of maximum tonnage duties in view of the fact that the Commercial Agreement granted most favored nation treatment in this respect to Portuguese ships.

Whatever may have been the theory on which the Department undertook to grant most favored nation treatment with respect to "subjects, merchandise and ships" of Portugal in its note of June 28, 1910, these terms can not be said to include most favored nation treatment concerning consular officers. The exchange of notes could not have granted on the part of the United States anything which was not authorized by law. Section 4228, Revised Statutes, refers only to discriminating duties of tonnage or imposts on vessels, or on produce, manufactures and merchandise carried in them. The Tariff Act of 1909 had to do with restrictions on imports and ex-

[35] 46 U. S. C. sec. 141.
[36] Not printed.

ports. Obviously neither of these had to do with the consular jurisdiction over ships, or over matters occurring aboard ships. There was no legislative sanction for an executive agreement with respect to such matters. Without such sanction the Executive would be powerless, as you so well know, to grant to consuls, except by a formal treaty or convention approved by the Senate, any right not recognized by established international practice. Whenever the Government has thought it desirable to grant consuls any special privileges, this has been done either by consular conventions or by specific Articles in commercial treaties pertaining to consuls. The matter is not left to inference or covered by general provisions with respect to commerce and navigation. There is, therefore, in my opinion, no justification whatever for the contention by the Portuguese Minister that consular privileges were contemplated in the most favored nation provision contained in the exchange of notes. This would seem to be clear not only from the notes themselves but from the correspondence leading up to the signing of the notes.

On June 23, 1910, the present Portuguese Minister, Viscount d'Alte, sent a personal letter to Mr. Hoyt,[37] in which he stated that he had received the note of the Secretary agreeing to the wording of the notes to be exchanged "on the tariff relations between the United States and Portugal".

Later, in a formal communication addressed to the Secretary under date of June 23, 1910,[37] Viscount d'Alte stated that he had been authorized by the Minister for Foreign Affairs to proceed with the exchange of notes, drafts of which he enclosed,[37] "to regulate tariff relations between the two countries". The drafts submitted by the Minister are practically the same as those which were finally signed.

Again, on June 27, 1910, the Minister in a personal communication addressed to Mr. Hoyt [37] referred to the exchange of notes "regulating the tariff relations between the two countries". The same reference was contained in another personal communication addressed by the Minister to the Secretary under date of June 28, 1910.[37]

I think the Minister should be told that the Department's notes to him of September 5 and September 26, 1928, represent the Department's considered views on the subject.

G[REEN] H. H[ACKWORTH]

[No further correspondence on this subject has been found in the files of the Department of State, but the note of September 26, 1928, from the Secretary of State to the Portuguese Minister was not sent back to the Minister and is in the files, together with the memorandum of October 12, 1928, by the Assistant Secretary of State.]

[37] Not printed.

RUMANIA

EFFORTS TO REACH A SATISFACTORY SETTLEMENT REGARDING SUBSOIL RIGHTS IN LEASED RUMANIAN OIL LANDS[1]

871.63/40

The Minister in Rumania (Culbertson) to the Secretary of State

No. 565 BUCHAREST, *March 31, 1928.*
[Received April 16.]

SIR: Referring to my despatch No. 108 of January 9, 1926[2] and subsequent despatches relating to the subsoil rights of certain embatic lands in Rumania, I have the honor to report that the Rumanian Government has given me definite assurances that it will restore to the Romano-Americana (subsidiary of the Standard Oil Company of New Jersey) the subsoil rights in embatic lands, of which this American company was deprived by the so-called interpretive law of 1926.

About the middle of last November I was lunching with Prince Stirbey at his country place at Buftea. I had previously resolved to make another effort to clear up the oil situation for the Romano-Americana, at least so far as the embatic lands were concerned, and on that occasion I spoke frankly with the prince concerning the entire question. He showed real interest, and as subsequent events proved, he soon thereafter discussed the oil situation with Mr. Vintila Bratiano.[3] Mr. Bratiano came to see me on November 23 and I had an opportunity to speak further concerning the oil situation, particularly with reference to the embatic lands. Thereafter I arranged a meeting between Prince Stirbey and Mr. Seidel[4] in Paris (see my despatches, No. 499 of November 23, 1927 and 509 of December 14, 1927).[5]

When Prince Stirbey returned from Paris, he came to see me and, among other things, stated that the Rumanian Government, as evidence of good faith and independent of other negotiations with the Romano-Americana, intended to clear up the question of embatic

[1] For previous correspondence, see *Foreign Relations*, 1926, vol. II, pp. 901 ff.
[2] *Ibid.*, p. 901.
[3] Prime Minister of Rumania and head of the Liberal Party.
[4] European representative of the Standard Oil Co. of New Jersey, with headquarters at Paris.
[5] Not printed.

lands. It was evident that discussions were going on between Prince Stirbey, Mr. Bratiano, and Mr. Mrazec, the Minister of Industry and Commerce, but I heard nothing officially.

Last Saturday,[6] however, Mr. Mrazec came to see me at the Legation. He stated that he spoke for Mr. Bratiano. He said that all concessions taken by the Romano-Americana on embatic lands before the enactment of the so-called interpretive law of 1926 would be recognized. He said that there remained only the question of royalty, which he was sure could be adjusted satisfactor[il]y to both sides. In enclosures 1 and 2 will be found a memorandum which Mr. Mrazec stated Prince Stirbey had taken with him to Paris and in which the proposed solution concerning the embatic lands is referred to, together with a historical summary.

This week the lawyer of the Romano-Americana and Mr. Mrazec have drafted a law to make effective the agreement, and upon its enactment I will telegraph the Department.

It is possible that this is the beginning of a general settlement between the Romano-Americana and the Rumanian Government. Negotiations on other aspects of the oil situation are now being pursued in Paris by Prince Stirbey and other representatives of the Rumanian Government. From information which I have received through Mr. Hughes,[7] it appears that representatives of the Standard Oil Company and Blair and Company have discussed in New York the Rumanian oil situation. Mr. Seidel has addressed a letter to Mr. Teagle[8] summarizing the points at issue, and recently the representative of some bank (name not given) called on Mr. Seidel and asked him what his company would suggest as the solution of the oil problem in Rumania. Mr. Seidel gave him the following paragraph, which, he said, if enacted into law would clarify the situation completely:

"The sub-soil of lands on which the Government has a proprietary right in virtue of the constitution and the present law, derived from act of nationalization, will be given by the State in concession for exploration and exploitation, to all companies which satisfy the exigencies of the law relative to the conditions of technical and financial capacity and if they conform to the commercial law of the country without any distinction as to origin of capital or nationality of the shareholders. The provisions of the law which are contrary to these norms are abrogated."

It is obvious that this paragraph, if adopted by the Rumanian Government, would amount to an abandonment of the principle of nationalization.

I have [etc.] W. S. CULBERTSON

[6] March 24.
[7] Director of the Romano-Americana Co. at Bucharest.
[8] President of the Standard Oil Co. of New Jersey.

[Enclosure—Translation]

Rumanian Memorandum Pertaining in General to the Embatic Land Questions and Concessions From Embatic Holders Taken by the Romano-Americana Company

A. 1) The embatic holders only had the right to the use of the surface; the real right of ownership of the surface and of the subsoil belonging to the State, they were required to pay annually a so-called embatic tax.

2) In accordance with the agrarian law of 1921, the embatic lands were expropriated for the benefit of embatic holders, without, however, touching the subsoil question, which in accordance with elementary juridical principles remained the property of the State.

3) In March 1925, on the occasion of a law-suit concerning precisely the question whether petroleum concessions given by embatic owners are legal or not, following the pleading of Mr. Istrate Micescu, at a time when the State was poorly defended, the Court of Cassation decided that embatic owners also have the right to the subsoil of such properties.

Following this decision thousands of hectares of lands have been concessioned, until April 1, 1926, when the effect of the Court of Cassation's decision was stopped by the Interpretative law having retroactive effect.

The concessions obtained from embatic holders are divided in concessions acquired on the basis of the decision of the Court of Cassation (March 1925) up to the time of the Interpretative Law (April 1, 1926), in concessions obtained previous to the decision of the Court of Cassation, and in concessions made subsequent to the interpretative law.

In 1927, the Ministry of Industry, in the face of these incomplete consolidations against the State, especially because the real status of some of these concessions was fictitious when compared to that indicated in documents and plans, as to composition, size, evident violation against incontestable State property, some not even being embatic holders, decided to bring this entire question, on the occasion of a validation, again before Justice in order to better define the rights of the State to the subsoil.

4) Independent of this action, which tended to clarify a principle, the Ministry of Industry, taking into consideration the fact that the concessions were granted subsequent to the decision of the Court of Cassation, has admitted as an equitable solution to recognize the concessionee with all his rights and royalty obligations for the concessions taken in the period of time between the decision

of the Court of Cassation and the interpretative law, on grounds of good faith.

5) However, as through the gaining of the law suit at the Court of Appeal, Validation Section, in December 1927, the State's right to the subsoil was recognized in entirety, the State was able to call upon the provisions of the Mining Law, in which case there would be due to it the royalty of 8-25%.

However, in a spirit of equity and in order to show to concessionees of good faith that the State does not wish to cause difficulties to the petroleum industry even in this question, the Ministry of Industry has admitted a method of compromise, in the sense that the State be given a certain royalty—so far as possible comprised within the royalty obligations—so as to maintain the principle of property right recognized by the Constitution and the Mining Law in subsoil matters.

In the case of the Eldorado Company, after a detailed examination of the deeds and the real situation of the lands, its rights to the lands contained within the delimitation of 1864 in the Commune of Ocnița have been recognized in entirety, and at the same time the company has recognized in entirety the State's rights to the lands in the perimeter of the woods of Ocnița, while for the lands comprised between the line of delimitation of 1864 and the perimeter of the State's wood, as it was made evident that same were State Embatic lands, the concessions taken in the interval between the decision of Court of Cassation and the interpretative law have been recognized as valid, with the obligation for the company to give the State a royalty of 4% gross.

B. The Special Case of the Romano-Americana Company

1) The Eldorado Company was defended by attorney I. Micescu, Vice President of the Chamber of Deputies, and by Mr. Xeni, Deputy and Ex-Minister.

During the period of the law suit, the Minister of Industry declared to Mr. Xeni that he is disposed to envisage the question of the concessions of the Romano-Americana Company on the same basis as that of the Eldorado Company, and insisted that his point of view had the complete approval of the President of the Council of Ministers.

2) The Minister of Industry was absent from the country until the end of January, 1928, and on his return received Mr. Luca, of the Romano-Americana Company, who asked him what was the status of the embatic lands of the latter company.

The Minister replied that he recognizes the Romano-Americana Company as concessionee of the embatic lands taken in the interval

between the decision of the Court of Cassation and the interpretative law, and again repeated that in this regard he has the assent of the President of the Council.

In reply to Mr. Luca's objections that in the question of royalty the Romano-Americana Company has on its concessions variable obligations to various lessors, the Minister of Industry requested Mr. Luca to show him the entire status, and that in regard to the question of royalty it will be possible to arrive at a friendly understanding also on the basis of equity; at the same time he requested Mr. Luca to get in contact with Engineer Ivanceanu, the head of the Survey Register Department of the Ministry of Industry.

3) Engineer Ivanceanu has received instructions to the above effect, and from a memorandum by him on this question it results that the deeds concerning the embatic concessions of the Romano-Americana Company were only sent to him two weeks ago. The deeds were examined, the concessions verified, and a week ago Engineer Ivanceanu informed Mr. Brailoiu, of the Romano-Americana Company that he is at the company's disposition for definite clarification of the question from the technical standpoint, with a view to a compromise.

4) In accordance with the understanding established yesterday, March 10, Engineer Ivanceanu today again got in contact with Mr. Luca of the Romano-Americana Company in order to give due form to the work, and requested Mr. Luca to present a statement of the royalty obligations, in order that same might be discussed with the Minister himself.

5) On Monday, the 12th instant, the Minister of Industry will receive Mr. Luca on the question of royalty, and also Attorney Otulescu is summoned to the Ministry in order to discuss the form of the compromise which has to be submitted to parliament.

From all this it arises that the President of the Council, as well as the Minister of Industry, has from the beginning considered the concession rights of the Romano-Americana Company as being identical with those of the Eldorado Company, that they have advised the representatives of the Romano-Americana Company of this, and that since the first step taken by Mr. Luca the necessary orders have been given that these rights of the Romano-Americana Company should be settled by priority.

We hope in the present session, if the Romano-Americana Company is sufficiently in order with its concessions so that same may be included in the compromise, to present the law for the compromise before parliament within the course of 8–10 days.

MARCH 11, 1928.

871.63/41

The Minister in Rumania (Culbertson) to the Secretary of State

No. 572 BUCHAREST, *April 13, 1928.*
[Received April 30.]

SIR: Referring to my telegram No. 16 of April 11, 1928, 11 a. m.,[9] stating that the Standard Oil subsidiary (Romano-Americana) had accepted the proposal of the Rumanian Government for the settlement of the dispute concerning the subsoil rights of embatic lands, I have the honor to transmit herewith two documents prepared by the Romano-Americana: (enclosure No. 1) a memorandum reviewing the history of this case, and (enclosure No. 2) the draft convention between the Romano-Americana and the Rumanian State embodying the settlement. This convention, on account of the Easter holidays, has not been actually signed, but no reason exists, so far as I know, why it will not be signed in the immediate future.

I have [etc.] W. S. CULBERTSON

[Enclosure 1]

Memorandum Prepared by the Romano-Americana Company

BUCAREST, *12 April, 1928.*

The company Romano-Americana acquired petroleum concessions directly from the owners of the lands, or purchased same from the holders of the concessions, both before and after the war. The State contested our claims on some of these concessions before a special commission (Validation Commission), asserting that these concessions were part of the State's property, and that the owner-lessors held only the proprietorship of the surface as "Embatics" (perpetual leases).

With the Agrarian Law of 1921 it was decided that the Embatic owner becomes the full owner of the land held by him. The State, however, still maintained that the Agrarian Law only gave the holder the surface rights, and that the State was the owner of the subsoil rights.

In a case tried before the Supreme Court in this connection, it was established (Decision No. 81, of 29 Feb., 1924) that the subsoil of Embatic lands belonged to the Embatic holder, and that the concession granted by him is consequently valid on basis of this precedent set by the Supreme Court: thus most of these concessions were consolidated in spite of the State's contention. Not content with

[9] Not printed.

this the State again brought up the matter before another Commission called the "Validation Commission", instituted by the special provisions of the Mining Law of 1924, and in order to create stronger motives on which to base its rights the State promulgated the law of April 1, 1926, by which, through interpretation of some of the provisions of the Agrarian Law of 1921, it declared that the subsoil of Embatic lands did not belong to the Embatic holder but remained the property of the State. This law was enacted and made retroactive to June 1921.

In spite of this law, and through some motive or other, the State subsequently closed a convention with the Eldorado company, which was enacted into law and published in the *Monitorul Oficial* No. 41, of Feb. 22, 1928, in which the State recognized the rights of the Eldorado company over Embatic lands which they had taken into concession from the owner-lessors up to the promulgation of the interpretative law of April 1, 1926. In consideration of admitting the Eldorado company's rights the State demanded a royalty of 4%. This 4% is in addition to what is to be paid to the peasants, and a 2% tax which is collected by the Government.

The Eldorado company was more favorably situated in this respect than the Romalo-Americana, as their royalties average between 4–6%, whereas the average royalty contracted by the Romano-Americana was 12%. After the State had closed the convention with the Eldorado company it then proposed the same settlement to the Romano-Americana. The Romano-Americana objected to paying the State 4%, in view of the high royalties which they had obligated themselves to pay to the peasants and lessors, viz: 12%, besides the 2% tax to the State. The State refused to make any change in the conditions of the contract already made with the Eldorado company, stating that this had established a precedent from which it did not wish to deviate, but promised to assign a commissioner who would negotiate with the peasants for the reduction of their royalty to the Romano-Americana, under threat that the State considered itself the owner of the land, and if the peasant would not reduce the royalty the State would then bring suit for ownership, with the likelihood that the State would win and the peasant lose out.

In consideration of the incessant efforts of our Minister, Mr. Culbertson, in insisting upon the Government making an equitable settlement, and which undoubtedly prompted the Government to make the first contract with the above-mentioned Eldorado company—we have taken in good faith the Roumanian Government's proposal to assist us by getting the peasant to reduce the royalty, and

have agreed to settle with the Government under the conditions as outlined in the Eldorado agreement.

[Enclosure 2—Translation]

Draft Convention Between the Rumanian Government and the Romano-Americana Company, Prepared in April 1928

The Ministry of Industry and Commerce and the Ministry of Agriculture and Domains, representing the Roumanian State, close with the "Romano-Americana", Joint Stock Company for the Industry, Commerce and Export of Petroleum, domiciled in Bucharest, Calea Victoriei No. 126, the following convention:–

ART. 1. The Roumanian State recognizes, as acquired in good faith, the concessions which the Romano-Americana acquired before promulgation of the interpretive law of the Agrarian Law of April 1st, 1926; considering that it may have been convinced that the concessions taken were in conformity with the existing laws, in accordance with the judgment of the Supreme Court No. 81/924, for the exploitation of the subsoil. The concessions in question have a duration of 30 years from promulgation of the Constitution, or up to at most, July 1953, during which period the Romano-Americana Co. may have undisturbed possession and dispose of the exploitation of the lands comprised in the said concessions.

The Romano-Americana Company has not the obligation to work on these lands, unless it wishes to.

These concessions are shown in the table attached to the present convention, signed by both parties.

ART. 2. The Ministries of Industry and Commerce and of Agriculture and Domains withdraw, finally and irrevocably, the contestations made against the demands for consolidation, the execution of consolidation and the demands for validation, filed by the Romano-Americana Company, or its lessors, relative to the concessions shown in the table provided in Art. 1 of the present convention.

ART. 3. The Romano-Americana will pay the State, when it exploits the lands, a 4% royalty on the gross production of oil or gas, apart from the royalty paid to their lessors. Should the State establish its rights of property, by any means, so that the Romano-Americana Co. would cease to pay royalties to the owner-lessors or lessee-lessors of the lands, and would only pay a royalty to the State, this royalty will in no case exceed 10%.

ART. 4. The provisions of Art. 59, 98, 99, 100, 250, etc., of the Mining Law do not apply to the present convention.

ART. 5. The present convention is executed in triplicate.

[Enclosure 3—Translation]

Articles 59, 98, 99, 100, and 250 of the Rumanian Mining Law (Royal Decree No. 2294, July 3, 1924)

ARTICLE 59

Obligatory leases, charges on the land and expropriations are carried out exclusively in the interest of the exploration or exploitation of the stratum and the exploitation of the substances extracted. They form an integral part of the estate of the exploration or exploitation.

At the cessation of a concession for whatever cause, the expropriated surface (with the installations on it) return to the State by right, without indemnification, excepting in cases where it has been agreed otherwise as regards the installations of the last years of the concession.

If the State should sell the expropriated property the former proprietors have the preference, other conditions being equal. To this end, they, or their successors, will be notified through the administration, or by publicity, regarding the conditions of the sale.

If they do not answer the notification within the term of 30 days from the date on which it was made by the administration or by publicity, the State is free to sell the property to anyone they choose.

ARTICLE 98

When the lease ceases, the mine, with all its accessories and additions, passes into the possession of the State, without any indemnity and free of any charge or obligation of any nature.

On the cessation of the concession for any cause, the lessee is obliged to hand over to the State all plans of the mine together with the notes of Geological measurements, production and staff registers, the funds of the benevolent Society and its books of revenues as well as any other registers, deeds or documents in connection with the exploitation and sale of mining products.

ARTICLE 99

During the tenth year, and for petroleum during the fifth year, which precedes the end of the lease, the Ministry of Industry and Commerce, on its own initiative upon the Superior Council of Mines' advice, and after hearing the lessee first or on his request, will fix or approve firstly the working program which the lessee is obliged to execute during the period of the last 10 years, respectively 5 years, for the purpose of ensuring the continuity of the exploitation, and secondly it will fix the conditions and rules for dividing between the State and lessee the expenses incurred for these operations.

The concession may be exploited by the State according to regula-

tions of the Law of Commercialization, either renewed to the old lessee, or transferred to another enterprise, but in the last two instances according to the regulations provided by the present law and to the conditions which will be established in the new schedule of work, the latter keeping an account of the inventory and the existing installations given in use in the new concession period.

If the Ministry of Industry and Commerce considers it to be of general interest to renew the lease to the old lessee, it must advise the lessee within the tenth year preceding the end of the concession.

Concessions which expire may be renewed upon request, made two years previous, to the old lessees, under the conditions of the Law and if they respect the dispositions of the new schedule of work, if they fulfil the obligations in period expired.

ARTICLE 100

When the lessee has not been informed in regard to the renewal of the lease, in the term mentioned above, the Ministry of Industry and Commerce will take steps, during the course of the fourth year which precedes the end of the lease, for transfer according to the provisions of this Law. In the schedule of work there will be determined also the working program which has to be executed during the last three years for the account of the new lessee, in view of ensuring the continuity of the exploitation for the future.

The lessee is obliged to carry out these works within the period of the last three years of the lease for account of the new lessee, and under his supervision and that of the Mining Authority.

For this purpose the new lessee must deposit the corresponding guarantee, as fixed by the Ministry of Industry in the schedule.

When an understanding can be established between the old lessee and the new one, the work may be executed directly by the latter or by another enterprise, keeping in view not to impede the normal advance of the exploitation.

ARTICLE 250

All the lands which have become free by the expiration of the term for which the rights were validated, together with the installations located on them, become the mining property of the State, free of all burdens and any obligations without compensation, on the conditions and in accordance with the rules fixed in the present law. If the owner of the surface has any right to the installations, the State may retain same by granting due compensation, while in case of dispute the compensation shall be fixed in accordance with Art. 66 and the following articles.

The objects which may be taken away without impeding the continuation of the exploitation shall be fixed by regulation.

871.631/3

The Chargé in Rumania (Patterson) to the Secretary of State

No. 596 BUCHAREST, *June 22, 1928.*

[Received July 10.]

SIR: I have the honor to report that on June 8, 1928, there appeared in the *Monitorul Oficial* extensive regulations dealing with the methods of exploitation of petroleum and gas as stipulated in the Mining Law of 1924. In this connection it may be of interest to quote the final paragraph of the Legation's telegram No. 49 of 1 P. M., July 22, 1924 [10] concerning the Mining Law in general. This read as follows: "The most dangerous features of the law are exceedingly involved and well concealed. Aside from nationalization requirement, objectionable features grow out of manner and principle of future regulations."

These regulations, translations of which are enclosed in duplicate,[10] have now been published, but, coming four years after the promulgation of the Mining Law, oil companies in Rumania were taken by surprise, for it had been considered that many of the objectionable features of the law might have been forgotten or overlooked during this period and that the regulations, when issued, would not seriously affect foreign oil companies operating in this country.

Mr. Hughes, Director of the Romano-Americana (Standard Oil of New Jersey subsidiary), and Mr. Guest, Director of the Astra Romana (Royal Dutch subsidiary), have both discussed with me the contents of these new regulations and have pointed out those portions adversely affecting their companies. According to them it is now stipulated that the staffs of all oil companies, whether or not they are qualified to obtain state concessions under the Mining Law, are to be divided into the following categories, in each of which there must be at least 75% Rumanians:

1.—General manager, members of the committee of management, technical manager.
2.—Consulting engineers.
3.—Administrative and commercial manager, the respective assistant managers and persons authorized to sign for and engage the company.
4.—Technical inspectors and field managers.
5.—Section and assistant engineers who must possess the Rumanian certificate of exploitation chief.
6.—Assistants to exploitation chiefs.
7.—Chief master drillers.
8.—Workshop chiefs.
9.—Master drillers.
10.—Skilled workmen.

[10] Not printed.

11.—Heads of commercial and administrative departments.
12.—Clerks.
13.—Auxiliary personnel such as messengers, watchmen, chauffeurs, etc.

Besides reserving the right to increase the number of categories, the Ministry of Industry will decide whether and in what posts employees, now in the service of companies and whose qualifications are not in accordance with these regulations, will be permitted to remain in the service of the companies, and carte blanche is given to the Ministry of Industry to take any measures deemed necessary in this connection.

According to Mr. Hughes and Mr. Guest, foreign oil companies established in Rumania before the Mining Law, and who in fact founded the Rumanian oil industry, were informed in 1924 that their acquired rights would be fully respected. Therefore, the new regulations curtailing the number of foreigners, i. e. not Rumanians, on their staffs is indefensible. They state that quite naturally investors have chosen men whom they consider trustworthy in responsible positions, and now to find that three Rumanians of an equal grade must be appointed if the present holder is not a Rumanian merely means the glutting of the staffs of the foreign companies to such an extent that the oil industry in its present state simply cannot bear it. The foreign companies are extremely sympathetic with Rumania's desire to develop an education for her people in the oil industry, and both Mr. Hughes and Mr. Guest have informed me that well over 95% of the total employees of foreign companies are Rumanian subjects, but that it is another matter to insist that 75% of the staff in each of the thirteen categories specified should be Rumanians. Under the new regulations the employment of foreign specialists, which is considered necessary to bring Rumanian production methods up to date, will not be facilitated, and, further, no man will be allowed to act as field manager or in a higher capacity unless he had held Rumanian qualifications for at least five years.

According to the new regulations all gas produced with oil must be separated, collected and used in a rational manner. The burning of waste gas is prohibited, and any which cannot be used productively is to be repumped into the oil wells. Such gases as may be burned wastefully shall pay the mining tax of 2%, plus any royalties due to the State. It is stipulated that within one year all companies are to take such measures that production will be by natural flow, through the use of gas, compressed air, or by pumping. Bailing and swabbing, two methods much used in Rumania at the present moment, are to be prohibited. The theory underlying the latest methods of oil extraction by the use of gas

pressure, repumping gas into strata, etc., is well known, but the application needs much experience, skill and patience. I was given an example of one company which carried out experiments over a period of two years at a tremendous cost before it finally adopted a well known American pumping system in the local conditions where the influx of sand caused great difficulties. These regulations, according to foreign experts, impose conditions of the latest technical perfection and yet limit the employment of foreigners so that the oil companies are practically asked to make bricks without straw.

Mr. Guest considers this to be the latest of a succession of attacks made on foreign capital in Rumania since the war, and the fact that it can appear at a time when Rumania is strenuously seeking and will probably obtain financial assistance abroad gives very little hope of fair play for capital in the future.

Having been informed by the Romano-Americana of the seriousness of the present situation, I considered it of prime importance to telegraph to the Department a résumé of the new regulations, but before doing so and lest I transmit a false interpretation of these to the Department, I spoke informally with Mr. Bratiano. I remarked that the new regulations seemed of such importance that a telegram to my Government was necessary, but that before sending it I would appreciate any informal comment which he would care to make, affecting as it did American oil interests in Rumania. Mr. Bratiano replied that he knew very little concerning the new regulations, that they were drawn up by the Ministry of Industry and Commerce and suggested that before sending my telegram I see Mr. Mrazec, the Minister of Industry and Commerce. My visit did not last more than two minutes.

Upon my return to the Legation I requested an interview with Mr. Mrazec but was informed that pressure of business made it impossible for him to see me on that day or the next and an appointment was made for the following day. The next morning an urgent message was received at the Legation before my arrival stating that the Minister of Industry and Commerce "would appreciate it if I could come to see him as soon as possible." He had evidently been instructed by the Prime Minister to see me at an early date and explain in detail the new regulations. I informed Mr. Mrazec that I had neither been requested by the Romano-Americana to make a formal intervention on their behalf nor had I received any instructions from Washington to that effect, but that it was my intention merely to send a telegraphic resumé to the Department for its information and consideration. He then brought out a copy of the regulations and asked me to what portions there might be an objection. After again explaining that I was not in any way authorized

to discuss the regulations officially, I repeated to him the substance of the objections which Mr. Hughes and Mr. Guest had [made], and to my surprise he took a red pencil and drew lines through the first seven categories in which the percentage of Rumanians must be at least 75%, took full notes concerning the employment of foreign experts and the restrictions imposed upon them in the nature of certificates and requested me not to send an outline of the regulations to the Department of State until a thorough revision had been made.

Just what the outcome of this matter will be is difficult to state, but for the moment the Romano-Americana are very content with the "promise" to revise the regulations. In fact, Mr. Hughes in a joking manner has suggested that for the settling of any future difficulties with the Rumanian Government he write the Legation a series of identical and signed letters asking for intervention but with the subject matter and date left blank.

To me it is apparent that Mr. Bratiano is afraid of any sort of friction between large American business interests and Rumania, for a failure to obtain a loan at this time will be a great blow to the Liberal Party.

Some time ago the Standard Oil Company suggested to Mr. Culbertson, through Mr. Hughes, that he might inform the Rumanian Government unofficially that "not only were they not opposed to Rumania's getting a loan in America but that they were in favor of it." This assurance which reached Mr. Bratiano through Prince Stirbey may have been reflected in the urgent manner with which the Minister of Commerce and Industry requested me to see him and the willingness to revise any portion of the Regulations which I might suggest. Whether any real action in this matter will be taken, if and after a loan from American banking interests is granted, is difficult to state. Personally I am not optimistic.

I have [etc.] ROBERT R. PATTERSON

871.631/4

The Chargé in Rumania (Patterson) to the Secretary of State

No. 603 BUCHAREST, *July 5, 1928.*
[Received July 23.]

SIR: I have the honor to refer to the Legation's despatch No. 596 of June 22, 1928 concerning the publication of the new Mining Law regulations and the informal action which I subsequently took in this matter and to report that on June 27 there appeared in the government-controlled press the following announcement:

"Concerning the mining regulations applicable to oil companies operating in Rumania, it is stated that the advance project which was published by mistake is not the definite project, the latter which is actually being printed now states that the dispositions of the Min-

ing Law relative to the percentage of foreign and Rumanian personnel no longer apply to the central organizations of oil companies. Concerning the field service no modifications will be made affecting the actual situation. Basically the Mining Law itself allows a tolerance of seven years concerning the field service."

At first glance it would appear that my unofficial visit to Mr. Mrazec had had some results, but actually the benefit to the Romano-Americana is practically nil, for on July 3 when the company's lawyer (a Rumanian) interviewed the Minister of Commerce and Industry concerning the "definite project", he was informed that probably no change would be made after all.

Wishing to inform the Standard Oil Company of New Jersey Paris Office as quickly as possible and not being able to express his opinions freely by ordinary telegraphic means without endangering the position of the company, Mr. Hughes, the Director of the Romano-Americana, requested me on July 4 to send, as had previously been done in 1924, a message in code. This I did, it reading as follows:

"For Seidel 82 Avenue Champs Elysees from Hughes quote 04711 Your 164 Unofficial promises made by the Ministers to modify feature regarding 75% of each category employees have not been fulfilled. We doubt Government's sincerity as to making serious modifications. It is possible Government will not press the matter at this time awaiting a moment more favorable to the Government for enforcing the regulations and thus causing complete disorganization of foreign companies. Luca and I doubt the sincerity of the Government's expressed desire to give us any real assistance in regard to Embatic Lands or any other matter."

There is no need to enlarge on the expressions concerning the percentage of employees contained in this telegram, but the final sentence is of importance, for in Despatch No. 565 of March 31, 1928 Mr. Culbertson reported to the Department that Mr. Mrazec, the Minister of Commerce and Industry, had called at the Legation, saying that he spoke for Mr. Bratiano, and had given definite assurance that the subsoil rights in embatic lands would be restored to the Romano-Americana and that all concessions taken by the Romano-Americana on these lands before the enactment of the so-called interpretive law of 1926 would be recognized following the adjustment of the question of royalty.

Later in the Legation's Cablegram No. 16 of April 11, 1928[11] it was stated that the Romano-Americana had accepted the proposal of the Rumanian Government for the settlement of the dispute concerning these rights, and in despatch No. 572, two days later, there was forwarded to the Department a copy of the draft convention, drawn up by the Rumanian Government between the government and the Romano-Americana to be signed in the immediate future.

[11] Not printed.

According to Mr. Hughes, the Rumanian Government has never had the slightest intention of signing this convention, notwithstanding Mr. Mrazec's statements to Mr. Culbertson, and from present indications the Rumanian oil industry as far as foreign capital is concerned is rapidly approaching the most serious point in its history.

I have [etc.] ROBERT R. PATTERSON

871.631/3

The Secretary of State to the Chargé in Rumania (Patterson)

No. 307 WASHINGTON, *July 24, 1928.*

SIR: The Department has received your despatch of June 22, 1928, with regard to the new regulations dealing with the method of exploitation of petroleum and gas as stipulated in the Mining Law of 1924, and approves the action which you have taken in connection therewith. You will please keep the Department promptly advised of any further developments in the matter.

I am [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.

871.63/45

The Paris Representative of the Standard Oil Company of New Jersey (Seidel) to the General Counsel of the Standard Oil Company of New Jersey at New York (Swain)[12]

[PARIS,] *September 26, 1928.*

DEAR MR. SWAIN: In my letter to you of April 13th I stated that we had compromised our differences with the Roumanian government regarding our embatic lands on a basis whereby we maintained our concession rights by paying the Roumanian State an additional 4% royalty. Although the Roumanian government had given us assurances of a settlement on this basis, which involved a concession on our part, we call your attention to the fact that we have had no definite confirmation on the part of the Roumanian government. I merely refer to this question at this time to correct the impression that you may have received that the matter has been finally disposed of.

Assuming the intentions of the government were correct, subsequent disclosures of dishonesty on the part of State officials in similar instances with other companies would of necessity delay a confirmation of our question.

Yours very truly,

H. G. SEIDEL

[12] Copy transmitted by Mr. Swain to the Assistant Secretary of State (Castle), under covering letter of October 8, 1928; received October 9.

871.631/10

The Minister in Rumania (Wilson) to the Secretary of State

No. 50 BUCHAREST, *December 7, 1928.*
[Received December 27.]

SIR: I have the honor to transmit a copy in translation of an article which appeared in the *Dreptatea*,[13] now the government organ,[14] reporting an interview accorded by the Minister of Industry to a delegation representing local oil interests. The main point of interest is the repetition of the promise given by the Government to repeal the objectionable features of the mining law. Mr. Madgearu declared that the revision of this law is now in course of preparation and will be drawn up as a bill to be submitted to parliament.

I have [etc.] CHARLES S. WILSON

REFUSAL OF THE DEPARTMENT OF STATE TO ASSOCIATE THE FLOTATION OF AN AMERICAN LOAN TO RUMANIA WITH QUESTIONS PENDING BETWEEN THE TWO GOVERNMENTS

871.51 Rumanian Loan/1 : Telegram

The Minister in Rumania (Culbertson) to the Secretary of State

[Paraphrase]

BUCHAREST, *January 26, 1928—noon.*
[Received 4:30 p. m.]

8. Two Frenchmen, named Jean Monnet (director of Blair and Company, New York) and Pierre Denis, are now investigating, at the Rumanian Finance Minister's request, the financial situation in Rumania. On the basis of their report, they state, the advisability of an international loan being floated for currency stabilization and railroad improvements, to be under American leadership and similar to the Polish loan, will be considered next month by the large banks of issue, including the Federal Reserve Bank. Before such loan is made, the settlement of all cases pending between the United States and Rumania is indicated by them as desirable. My suggestion is that we try to get, among other things, a commercial treaty, better treatment for the Standard Oil Company, and settlement of bond and other claims.

CULBERTSON

---

[13] Not printed.

[14] A new ministry in Rumania was formed Nov. 10, 1928, under Juliu Maniu, leader of the Nationalist-Peasant Party.

871.51 Rumanian Loan/5 : Telegram

The Secretary of State to the Minister in Rumania (Culbertson)

[Paraphrase]

WASHINGTON, *January 28, 1928—2 p. m.*

5. Reference your 8, January 26, noon. The Department is attempting to verify the statement made by Monnet and Denis.

Meanwhile, in connection with negotiating a loan no matter what conditions American financiers may stipulate regarding settling pending questions between the United States and Rumania, you are to avoid scrupulously giving an impression that the United States Government associates in any way with the question of an American loan the negotiations for a treaty, the settlement of claims, or the revising of the Rumanian mining law.

KELLOGG

871.51/777

The Minister in Rumania (Culbertson) to the Secretary of State

No. 535 BUCHAREST, *February 2, 1928.*

[Received February 24.]

SIR: I have the honor to report concerning the status of Rumanian pre-war bonds, for example, the bonds held by Dulcie Hoffman-Steinhardt and several other American claimants.

Sometime ago I talked with Mr. Titulesco, Minister for Foreign Affairs, concerning the Rumanian Government's policy towards these bonds. He said that he would settle the few American cases immediately if he were sure that the successful claimants would not talk! This statement sums up the problem which confronts the Rumanian Government with reference to these pre-war issues. If the relatively few American claims are paid, a precedent would be established under which thousands of claimants, Rumanian and foreign, will demand payment on a like basis, and whatever the theoretical justice of these claims may be, the practical result which confronts the Rumanian Government is this: to attempt to pay the service in gold of these pre-war issues at once would mean the financial ruin of the government. I feel sure that the reason for not paying the American claims is not a disrespect for our urgent representations, but an unwillingness to commit financial suicide.

I, however, have continued to press for a satisfactory reply from the Rumanian Government in the cases of pre-war bonds held by American citizens. A few days ago Mr. Victor Badulesco, Secretary General of the Ministry of Finance, stated to me that it is the intention of the Rumanian Government to pay all of the pre-war bond issues and

that some plan of paying off these issues gradually is now being developed. It was evident from the figures which he produced that it is financially impossible for the Rumanian Government to meet the entire service of these issues immediately, but now that it is seeking a loan abroad it is confronted with the necessity of reaching some settlement with these pre-war bond holders.

It would seem, therefore, that in time the Rumanian Government will offer some sort of a settlement with respect to the pre-war bonds held by American citizens, but only in connection with a general settlement.

I have [etc.] W. S. CULBERTSON

871.51 Rumanian Loan/6

The Minister in Rumania (Culbertson) to the Secretary of State

No. 537 BUCHAREST, *February 4, 1928.*
[Received February 24.]

SIR: Referring to my telegrams No. 8 of January 26 and No. 10 of January 28, 1928,[15] I have the honor to report further concerning the proposed international loan to Rumania.

Jean Monnet, Director of Blair & Company, Inc., New York, and Pierre Denis (5 Avenue Mozart, Paris), employed by Blair & Company at Paris, have for two weeks been making a careful study of the financial position of the Rumanian Government and Rumanian banks. They have had an office in the Ministry of Finance and apparently have been given every opportunity to examine the records of the government and have been furnished all the information which they have requested from the Rumanian banks.

Mr. Monnet said in his opinion the Rumanian Government will not seek the aid of the Financial Committee of the League of Nations, and added further that if a loan from outside sources is obtained, a control, less obvious than in the case of Poland, would be required. He will submit his report this month and an effort will be made to enlist the cooperation of banks of issue, including the Federal Reserve Bank of New York, the Bank of England, and the Bank of France.

The German Minister has just returned from Berlin where he went to help prepare the way for the visit of Mr. Titulesco. On his return he talked with Mr. Vintila Bratiano and, while he feels that the differences between the German and Rumanian Governments are still very great, he said that Mr. Bratiano is much more reasonable in his attitude than he had ever been before. The minister hopes that Mr. Titulesco will be able to reach a basis of settlement while he is in Berlin with reference to all of those issues which were in-

[15] Latter not printed.

herited from the war and which have disturbed the relations between the two countries since that time.

The German Minister said that he understood that the proposition of a German loan through the Disconto Gesellschaft with the cooperation of Dillon Read and Company is still open to the Rumanian Government. In his opinion there will be four stages in the settlement of the financial difficulties of Rumania: (*a*) a stabilization loan, (*b*) a settlement with the holders of the Rumanian pre-war bonds, (*c*) a reorganization of the Rumanian National Bank, and (*d*) a material loan for the railroad and other industrial enterprises in which, he said, Germany is particularly interested.

Mr. Hughes of the Romano-Americana (subsidiary of the Standard Oil Company of New Jersey) stated that Dillon, Read and Company had definitely requested the cooperation of the Standard Oil Company in making a loan to Rumania. Dillon, Read and Company, he thought, were looking not only for business in Rumania but developing a financial program which would extend to Turkey and ultimately into Russia.

In my telegram No. 8 of January 26 I stated that Mr. Monnet expressed a desire to see all pending cases between the Rumanian and American Governments settled as a condition precedent to a loan, and I suggested to the Department that we seek a removal of the Standard Oil difficulties, a commercial treaty and settlement of bond and other small cases. The Department will realize, I hope, that I had no thought of connecting, in any direct negotiations with the Rumanian Government, a loan in the American market with the settlement of pending issues with the Roumanian Government. In fact, my conversations with Mr. Monnet have been entirely personal and informal. When he suggested that pending issues should be settled, I told him that I could not connect their settlement with the negotiations for the loan. If, however, as a result of the desire of the Rumanian Government for good will in America, it should show a desire to clear up all pending issues, I assume there is no objection to using such a favorable opportunity to obtain justice for American citizens and a stabilization of commercial relations between the two countries.

I mentioned above the bond cases which it is apparently the policy of the Rumanian Government to settle as a condition precedent to an international loan (see despatch No. 535 of February 2, 1928). In the second place, private negotiations are already under way for the adjustment of the Standard Oil difficulties in Rumania (see despatch No. 509 of December 14, 1927).[16] The conditions of the oil

[16] Not printed.

industry at the present time are extremely bad in Rumania and it is possible that many of the small companies will be forced out of business. Mr. Hughes stated that he would like to see an arrangement between the Romano-Americana, the Astra Română and the Steaua on the one hand, and the Rumanian Government on the other for the refining of the state royalty crude. At the present time this crude is thrown on the market from time to time and causes considerable embarrassment. He would also like to obtain from the Rumanian Government certain lands for exploration and also drilling contracts with weak nationalized companies which are not now financially able to meet their drilling obligations under the mining law.

I am anxious to stabilize the commercial relations between Rumania and the United States by the negotiations of a commercial treaty. American trade is increasing in this market and the present *modus vivendi* is from its very nature uncertain.[18] The automobile industry, in particular, wishes to have its position in this market made more certain, and in the negotiations of a commercial treaty, I believe, it might be possible to obtain for its guarantees of equal and fair treatment.

The National-Peasant Party has instituted a special campaign throughout the country with the object of forcing the resignation of the present Liberal Government. Their contentions are set forth in the attached statement issued this week by that party (enclosure No. 1).[19] They claim that the present government is provisional and that parliamentary government can be reestablished in Rumania only by new free elections. They also attack the right of the present government to contract a large loan abroad.

. . . . . .

I have [etc.] W. S. CULBERTSON

871.51 Rumanian Loan/42

The Secretary of State to Blair & Company, Incorporated, and Chase Securities Corporation

WASHINGTON, *August 15, 1928.*

SIRS: I beg to acknowledge the receipt of your letter of August 11, 1928,[19] stating that you contemplate participating in a credit which is being arranged for the Rumanian Government, in the probable amount of the equivalent of £4,000,000 Sterling, of which New York will take $5,000,000.

In reply I beg to state that, in the light of the information before it, the Department of State offers no objection to this financing.

[18] Agreement of February 26, 1926; *Foreign Relations*, 1926, vol. II, pp. 898–901.
[19] Not printed.

You of course appreciate that, as pointed out in the Department's announcement of March 3, 1922,[20] the Department of State does not pass upon the merits of foreign loans as business propositions nor assume any responsibility in connection with such transactions, also that no reference to the attitude of this Government should be made in any prospectus or otherwise.

I am [etc.]

For the Secretary of State:
W. R. CASTLE, JR.
Assistant Secretary

ATTITUDE OF THE DEPARTMENT OF STATE TOWARD PROTESTS BY JEWISH GROUPS REGARDING TREATMENT OF JEWS IN RUMANIA[21]

871.4016/147a

The Secretary of State to the Minister in Rumania (Culbertson)

WASHINGTON, *December 29, 1927.*

MY DEAR MR. CULBERTSON: You will readily understand that the recent anti-minority disturbances in Rumania are having very definite repercussions in this country. I received a few days ago the visit of Rabbi Wise and certain members of the American Committee on the Rights of Religious Minorities. They represented to me the very painful impression made in the United States, not only upon Jews but upon those of other religions as well, by the apparently periodic outbreaks in Rumania against the Jews and other minorities and by the failure to observe the provisions of the Rumanian Minorities Treaty of December 9, 1919.[22] These gentlemen are by no means the only ones to bring this situation to the Department's notice. There have already been many communications from Senators and Congressmen and the daily press furnishes ample evidence of the trend of American public opinion with respect to the treatment of the Minorities in Rumania.

I made clear to Rabbi Wise the reasons why this Government cannot protest to the Rumanian Government on these matters or even make representations in any form. I have, however, known Mr. Titulescu[23] when he was Rumanian Minister at London and I recall particularly his visit to Washington as the head of Rumania's Debt Funding Commission. I know him to be a man of statesmanlike vision and sensitive to the position of his country abroad. From the manner in which the Keller case has been settled[24] I feel confident that your relations

[20] *Foreign Relations*, 1922, vol. I, p. 557.
[21] Continued from *ibid.*, 1927, vol. III, pp. 637–640.
[22] Malloy, *Treaties*, 1910–1923, vol. III, p. 3724.
[23] Rumanian Minister of Foreign Affairs.
[24] *Foreign Relations*, 1927, vol. III, pp. 641 ff.

with Mr. Titulescu are characterized by cordial frankness and understanding. For all of these reasons it has seemed to me that it might be useful in the interest of good relations between Rumania and the United States if you could bring the contents of this letter to the attention of Mr. Titulescu in an informal and quite personal manner. Of course, you will explain that you are not making representations of any kind but simply communicating to Mr. Titulescu personally certain facts which have been brought to the attention of the Secretary of State and which do undoubtedly affect the relations between our two countries.

In any conversation you may have with Mr. Titulescu I shall be glad if you will convey to him the expression of my cordial esteem.

Sincerely yours,

FRANK B. KELLOGG

871.4016/162

The Minister in Rumania (Culbertson) to the Secretary of State

BUCHAREST, *February 29, 1928.*

[Received March 20.]

MY DEAR MR. SECRETARY: When I received your personal letter of December 29 concerning the anti-Jewish riots in Rumania, Mr. Titulescu had already left for his protracted stay abroad. He has not yet returned. However, my relations with Mr. Duca, acting Secretary for Foreign Affairs, are no less personal and frank than are my relations with Mr. Titulescu and I have therefore conveyed to him the substance of your letter. Mr. Duca is also Minister of Interior, and in this capacity is directly responsible for the internal peace and order of the country. He received my communication with good grace and said that he and his government were more anxious than anyone else to see the students punished for the riots at Oradea Mare and Cluj and to avoid such disorders in the future. He offered to send me a memorandum giving the number of students who had been punished or expelled from the university as a result of the action taken by his government. In the spirit of your letter I have also spoken to several other prominent leaders, including the Prime Minister, Mr. Vintila Bratiano, concerning the bad impression the anti-Semitic riots have made in America. I believe that these informal conversations have done a very substantial amount of good. You have shown your usual wisdom and diplomacy in this matter; the procedure which you indicated in your letter has not offended in any way, and it has accomplished more, I am sure, with this highly sensitive people than a formal protest could have done.

With personal regards [etc.] W. S. CULBERTSON

711.71/20 : Telegram

The Secretary of State to the Minister in Rumania (Culbertson)

[Paraphrase]

WASHINGTON, *April 13, 1928—2 p. m.*

15. Mr. Cretziano, the Rumanian Minister, has expressed orally to the Department his concern caused by several speeches recently delivered in Congress of an anti-Rumanian character. A suggestion was made to the Minister that his taking any cognizance of these speeches would be unwise, particularly since, under the American system of government, the Executive has no way of controlling any member of the Government's legislative branch in the expressions of opinion.

This information should be brought to the attention of the Rumanian Ministry for Foreign Affairs by you orally and informally.

KELLOGG

871.4016/169

The Minister in Rumania (Wilson) to the Secretary of State

No. 54 BUCHAREST, *December 12, 1928.*

[Received January 11, 1929.]

SIR: Referring to my despatch No. 49 of December 7, 1928,[25] reporting that the Under Secretary of the Interior had granted permission to the Union of the Rumanian Christian Students to hold celebrations on December 10 under guarantees that there would be no disorders, I have the honor to report that these celebrations were duly held and that no disorders whatsoever occurred. The Government press congratulates the Government on having taken appropriate measures to maintain the peace and contrasts this year's celebrations with the disorders that occurred last year at Oradea Mare.

I have [etc.] CHARLES S. WILSON

[25] Not printed.

RUSSIA

POLICY OF THE UNITED STATES TOWARD THE SOVIET REGIME

111/309

The Secretary of State to the Chairman of the Republican National Committee (Butler)

WASHINGTON, *February 23, 1928.*

MY DEAR SENATOR BUTLER: In compliance with your request for a statement covering the activities of the Department of State for the past four years,[1] I take pleasure in sending such a statement herewith, which I hope will meet your requirements.

Very sincerely yours,

FRANK B. KELLOGG

[Enclosure—Extract]

Statement Covering the Activities of the Department of State[2]

RUSSIA

During the past four years the Government of the United States has maintained the position that it would be both futile and unwise to enter into relations with the Soviet Government so long as the Bolshevik leaders persist in aims and practices in the field of international relations which preclude the possibility of establishing relations on the basis of accepted principles governing intercourse between nations. It is the conviction of the Government of the United States that relations on a basis usual between friendly nations can not be established with a governmental entity which is the agency of a group who hold it as their mission to bring about the overthrow of the existing political, economic and social order throughout the world and who regulate their conduct towards other nations accordingly.

The experiences of various European Governments which have recognized and entered into relations with the Soviet regime have demonstrated conclusively the wisdom of the policy to which the Government of the United States has consistently adhered. Rec-

[1] Butler's letter containing the request, dated November 16, 1927, not printed.

[2] A copy of the complete text of the statement is filed under file No. 111/309. The extract concerning Russia, however, which is here printed, is filed separately under file No. 861.01/1310½ with the caption: "Excerpt From a Statement by the Honorable Frank B. Kellogg, Secretary of State, Entitled 'Foreign Relations,' Published in 1928."

ognition of the Soviet regime has not brought about any cessation of interference by the Bolshevik leaders in the internal affairs of any recognizing country, nor has it led to the acceptance by them of other fundamental obligations of international intercourse. Certain European states have endeavored, by entering into discussions with representatives of the Soviet regime, to reach a settlement of outstanding differences on the basis of accepted international practices. Such conferences and discussions have been entirely fruitless. No state has been able to obtain the payment of debts contracted by Russia under preceding governments or the indemnification of its citizens for confiscated property. Indeed, there is every reason to believe that the granting of recognition and the holding of discussions have served only to encourage the present rulers of Russia in their policy of repudiation and confiscation, as well as in their hope that it is possible to establish a working basis, accepted by other nations, whereby they can continue their war on the existing political and social order in other countries.

Current developments demonstrate the continued persistence at Moscow of a dominating world revolutionary purpose and the practical manifestation of this purpose in such ways as render impossible the establishment of normal relations with the Soviet government. The present rulers of Russia, while seeking to direct the evolution of Russia along political, economic and social lines in such manner as to make it an effective "base of the world revolution", continue to carry on, through the Communist International and other organizations with headquarters at Moscow, within the borders of other nations, including the United States, extensive and carefully planned operations for the purpose of ultimately bringing about the overthrow of the existing order in such nations.

A mass of data with respect to the activities carried on in the United States by various Bolshevik organizations, under the direction and control of Moscow, was presented by the Department of State to a subcommittee of the Senate Committee on Foreign Relations in January 1924.[3] Since that time these activities have been developed and extended to include, for example, the stirring up of resentment against the Government and the people of the United States in the countries of Latin America and in the Far East; and the supervision by Moscow of the organizations through which these activities are carried on has become even more comprehensive and more pronounced. The Government of the United States feels

[3] See letter dated Jan. 21, 1924, from the Secretary of State to Senator William E. Borah, *Recognition of Russia:* Hearings before a subcommittee of the Committee on Foreign Relations, United States Senate, 68th Cong., 1st sess., pursuant to S. Res. 50, declaring that the Senate of the United States favors the recognition of the present Soviet Government in Russia (Washington, Government Printing Office, 1924), pp. 159, 227 ff.

416955—43——59

no concern lest this systematic interference in our affairs lead in the end to a consummation of the Bolshevik plan to bring about the overthrow of our Government and institutions. The Government of the United States, however, does not propose to acquiesce in such interference by entering into relations with the Soviet Government. Nor can the Government of the United States overlook the significance of the activities carried on in our midst under the direction of Moscow as evidence of the continuation of the fundamental hostile purpose of the present rulers of Russia, which makes vain any hope of establishing relations on a basis usual between friendly nations.

In the view of the Government of the United States, a desire and disposition on the part of the present rulers of Russia to comply with accepted principles governing international relations is an essential prerequisite to the establishment of a sound basis of intercourse between the two countries. A clear and unequivocal recognition of the sanctity of international obligations is of vital importance, not only as concerns the development of relations between the United States and Russia, but also as regards the peaceful and harmonious development of relations between nations. No result beneficial to the people of the United States, or, indeed, to the people of Russia, would be attained by entering into relations with the present regime in Russia so long as the present rulers of Russia have not abandoned those avowed aims and known practices which are inconsistent with international friendship.

While the international aims and practices of the present rulers of Russia preclude the recognition of the so-called Soviet Government by the United States, the Government and the people of the United States are now, as in the past, animated by a sincere friendship for the Russian people. As President Coolidge stated in his annual message to the Congress of December 6, 1923: "We have every desire to see that great people, who are our traditional friends, restored to their position among the nations of the earth."

As concerns commercial relations between the United States and Russia, it is the policy of the Government of the United States to place no obstacles in the way of the development of trade and commerce between the two countries, it being understood that individuals and corporations availing themselves of the opportunity to engage in such trade, do so upon their own responsibility and at their own risk. The Department of State has endeavored to reduce to a minimum difficulties affecting commercial relations. Visas are readily granted by American consular officers to Russian nationals, even if associated with the Soviet regime, provided that the real purpose of their visit to the United States is in the interest of trade and commerce and provided that they have not been associated with the international revolu-

tionary activities of the Bolshevik regime. The American Government has interposed no objection to the financing incidental to ordinary current commercial intercourse between the two countries, and does not object to banking arrangements necessary to finance contracts for the sale of American goods on long term credits, provided the financing does not involve the sale of securities to the public. The American Government, however, views with disfavor the flotation of a loan in the United States or the employment of American credit for the purpose of making an advance to a regime which has repudiated the obligations of Russia to the United States and its citizens and confiscated the property of American citizens in Russia. Various Soviet commercial organizations have established branches in this country, and, as may be observed from the following table, a substantial trade has developed.

AMERICAN-RUSSIAN TRADE

(In dollars)

	Imports from Russia	*Exports to Russia*
1912	28,346,870	27,315,137
1923	1,481,699	7,308,389
1924	8,030,465	41,948,578
1925	13,001,731	68,873,019
1926	14,121,992	49,735,269
1927 *	8,885,366	58,812,435

* Ten months.

Not only has a substantial trade developed between the United States and Russia, but an examination of Russian trade statistics during the past three years shows that the total value of American exports to Russia in that period exceeds the total value of the exports to Russia from either Great Britain or Germany during the same period. (See Appendix A.) It is to be noted in this connection that Great Britain concluded a trade agreement with the Soviet regime in 1921 and accorded recognition in 1924, and Germany reestablished diplomatic relations in 1922 and concluded a comprehensive commercial treaty in 1925.

[Subenclosure—Appendix A]

RUSSIAN IMPORTS

(In Rubles; 1 Ruble equals $.5146.)

	From United States	*From Great Britain*	*From Germany*
1909–13*	80,261,337	150,448,418	497,078,481
1924–25	201,163,000	110,698,000	102,651,000
1925–26	122,127,000	129,536,000	176,057,000
1926–27**	143,400,000	97,100,000	157,700,000

* Average annual trade.
** European frontier only.

The Soviet fiscal year begins October 1 and ends September 30.

REITERATION BY THE UNITED STATES OF ITS POLICY NOT TO COUNTENANCE INFRINGEMENTS BY AMERICANS UPON FOREIGN RIGHTS IN RUSSIA

861.602 Farquhar, Percival/23

The French Ambassador (Claudel) to the Secretary of State

[Translation [4]]

WASHINGTON, *March 15, 1928.*

MR. SECRETARY OF STATE: My Government's attention has been called to a contract concluded between the Soviet Government and Mr. Percival Farquhar calling for an advance of $40,000,000 by the last-named party in consideration of a right to work, or share in, the steel works of Makieuka, and also the coal and iron mines of the same region. As there is a very large French capital interested in those concerns, the news of the contract naturally caused considerable concern in France.

From information given me orally by Mr. Castle,[5] it appears that the opinion of the Department of State is that the clauses in the contract do not call for any transfer of real estate rights.

My Government, to which I did not fail to forward that opinion, instructs me to express its thanks to Your Excellency. It believes, however, that the possibility of a foreign group being granted a right to operate, or a share in the operation of, a business that belongs to Frenchmen, cannot be considered otherwise than an infringement of the rights of the former owners.

Under those circumstances, and taking particular note of the address of the Honorable Charles E. Hughes on May 18, 1922, before the Chamber of Commerce of the United States, and the press release of the Department of State of July 20, 1922,[6] concerning instructions sent to the Chargé d'Affaires of the United States at The Hague,[7] my Government understands that the assurances given by the Federal Government that it will not favor any arrangements entered into by its citizens with the Soviets in which the rights of citizens of other countries are infringed, applies to all cases of this kind, whether the rights resulting from the said contracts be of a real or personal character.

Accept [etc.] P. CLAUDEL

---

[4] File translation revised.
[5] William R. Castle, Jr., Assistant Secretary of State.
[6] See *Foreign Relations*, 1922, vol. II, p. 823, footnote 44.
[7] Telegram No. 49, July 15, 1922, to the Chargé in the Netherlands, *ibid.*, p. 821.

861.602 Farquhar, Percival/27

The Secretary of State to the French Ambassador (Claudel)

WASHINGTON, *April 16, 1928.*

EXCELLENCY: I have the honor to acknowledge the receipt of your note of March 15, 1928, with reference to a contract recently concluded between the Soviet régime and Mr. Percival Farquhar, which, you state, has caused considerable concern in France in view of the extensive investments of French capital in the steel works of Makeevka and in the adjoining coal and iron mines.

You state that your Government considers that the contingent grant to a foreign group of the right to exploit, or to participate in the management of, an enterprise belonging to French nationals cannot be regarded otherwise than as prejudicial to the rights of the former owners and, referring to the press announcement of the Department of State of July 20, 1922, you declare that it is the understanding of your Government that the assurance given by the Government of the United States that it will not favor any arrangements entered into by its citizens with the Soviets prejudicing the rights of citizens of other countries covers all cases, irrespective of the personal or real character of the rights resulting from such arrangements.

With respect to the contract concluded by Mr. Farquhar with the Soviet authorities, I have the honor to advise you that Mr. Farquhar has been informed that the Department of State could not view with favor the project in question, which involved, among other things, the flotation in the United States of a loan for the purpose of making an advance to the Soviet régime.

As concerns the attitude of the Government of the United States towards arrangements concluded by American citizens with the Soviet authorities jeopardizing or prejudicing the vested rights of citizens of other countries in Russia, I may assure you that the position of this Government remains the same as that set forth in the Department's press announcement of July 20, 1922.[8]

Accept [etc.] FRANK B. KELLOGG

CONTINUED REFUSAL OF THE UNITED STATES MINTS AND ASSAY OFFICES TO ACCEPT GOLD OF SOVIET ORIGIN

861.51/2190

The Under Secretary of the Treasury (Mills) to the Secretary of State

WASHINGTON, *February 14, 1928.*

MY DEAR MR. SECRETARY: Since 1920 it has been the policy of the Treasury Department to reject all gold known to be of Soviet origin

[8] In despatch No. 3864, Aug. 29, 1928 (not printed), the Ambassador in Germany reported that the Farquhar project had been rejected by the Leningrad commission on technical grounds (file No. 861.602 Farquhar, Percival/35).

when tendered at United States Mints and Assay Offices.[9] No warranties of title or of non-Soviet origin are held to be sufficient to justify the acceptance of such gold. Gold which is suspected to be of Soviet origin, or involved in transactions for Soviet account, if tendered to the United States Mints or Assay Offices will be received only subject to investigation. Gold bearing the official coinage or mint stamp of friendly governments will be considered as free from suspicion or possibility of Soviet origin.

These rules were adopted for the reason that in purchasing gold at United States Mints and Assay Offices under sections 3519 and 3545 of the Revised Statutes, the transaction is not a mere minting operation, but a purchase, and the Treasury is only authorized to accept deposits made by "owners" of gold. The Treasury is, therefore, concerned with the question of title, and in ordinary course receives an implied warranty of title from the person presenting the gold. At that time the Treasury Department inquired of the State Department whether the latter would have any objection to the purchase of Soviet gold by the Treasury and as to whether it would be prepared to give assurance that title to Soviet gold would not be subject to attack internationally if purchased by the Treasury. The State Department advised the Treasury under date of November 8, 1920,[10] that it would be inadvisable in the circumstances for any branch or agency of the Government to assume the responsibility involved in the possession of gold of Soviet origin, and that it could not give assurance that the title to such gold would not be subject to attack internationally.

The situation is fully outlined in the letter of Mr. S. P. Gilbert, Jr., then Assistant Secretary of the Treasury, addressed to Mr. Dearing under date of March 25, 1921,[11] and in Mr. Dearing's reply dated April 9, 1921.[12]

The Treasury Department will appreciate it if the State Department will inform us whether in view of changed circumstances it still adheres to the following opinion: "The State Department cannot give any assurance that the title to Soviet gold will not be subject to attack internationally or otherwise".

Sincerely yours,

OGDEN L. MILLS

---

[9] See letter of December 23, 1920, from the Assistant Secretary of the Treasury to the Director of the Mint, *Foreign Relations*, 1920, vol. III, p. 725.

[10] *Ibid.*, p. 722.

[11] *Ibid.*, 1921, vol. II, p. 764.

[12] *Ibid.*, p. 774.

861.51/2190

The Assistant Secretary of State (Castle) to the Under Secretary of the Treasury (Mills)

WASHINGTON, *February 17, 1928.*

MY DEAR MR. MILLS: I beg to acknowledge the receipt of your letter of February 14, 1928, referring to previous correspondence between the Treasury Department and this Department with respect to the purchase of Soviet gold at United States Mints and Assay Offices, and inquiring whether the Department of State still adheres to the opinion that it cannot give any assurance that the title to Soviet gold will not be subject to attack internationally or otherwise.

In reply, I may say that the attitude of this Department remains the same as set forth in the letter of November 8, 1920, from Mr. Van S. Merle-Smith to Mr. S. Parker Gilbert, Junior, Assistant Secretary of the Treasury.[13]

I am [etc.] W. R. CASTLE, Jr.

861.51/2190

The Under Secretary of State (Olds) to the Under Secretary of the Treasury (Mills)

WASHINGTON, *February 24, 1928.*

MY DEAR MR. MILLS: Adverting to the Department's letter to you of February 17, 1928, and my conversation with you by telephone today in regard to the proposed purchase of Soviet gold at the United States Mints and Assay Offices, I beg to state that while, as indicated in the Department's letter of February 17, the Department can give no assurances that the title to Soviet gold will not be subject to attack, internationally or otherwise, it is felt that the likelihood that the question of the title to the gold will be raised is a remote one.

The Department does not consider that the purchase of Soviet gold could be regarded as a recognition of the Soviet régime as the Government of Russia.

I am [etc.] ROBERT E. OLDS

861.51/2194

The French Ambassador (Claudel) to the Secretary of State

[Translation]

According to certain press statements, the Government of the U. S. S. R. is said to have shipped to New York, with a view to

[13] *Foreign Relations*, 1920, vol. III, p. 722.

negotiation there, gold bars of a value in excess of five millions of dollars which, it is alleged, have been received on consignment in that city by the "Chase National Bank" and the "Equitable Trust Company."

In this connection the Bank of France asserts that it remains the proprietor of a contingent of gold of 52 millions 246,998 frs. 77 par of exchange, divided as follows: 49 millions 446,998.77 in ingots and 2 millions 800,000 in gold coin. This property, of which up to now it has not succeeded in obtaining restitution, was on deposit in its account in the office of the Imperial Bank of Russia in Petrograd. It (the Bank of France) is therefore, as a result, entitled to exercise, either as proprietor or at least as creditor, special rights on the gold held by the Soviet Government.

In view of this situation and of the incontestable title of the Bank of France which it proposes to affirm by judicial action, the French Government relies on the prohibition placed on the acceptance by the Assay Office of imports of gold emanating from Russia, as to which various financial institutions were notified by the American Government in 1921.

The French Ambassador in Washington would be obliged if the Secretary of State would be so good as to inform him if he can count upon the maintenance of the measures taken by the American Government in regard to the importation of Russian gold.

Mr. Claudel is happy to avail himself of this occasion to renew to the Honorable Frank B. Kellogg the assurances of his high consideration.

WASHINGTON, *March 5, 1928.*

861.51/2194

The Secretary of State to the French Ambassador (Claudel)

The Secretary of State presents his compliments to His Excellency, the Ambassador of the French Republic, and has the honor to acknowledge the receipt of his note of March 5, 1928, concerning the rights of the Bank of France with respect to gold held by the Soviet régime. The Ambassador refers to the prohibition placed in 1921 on the acceptance by Assay Offices of gold emanating from Russia, and inquires whether he can rely upon the maintenance of the measures which have been taken by the American Government with regard to imports of Russian gold.

In reply, the Secretary of State has the honor to state that he has been advised by the Treasury Department that there is no present intention on the part of that Department to change the position, maintained by it since 1920, with respect to the acceptance of gold

of Soviet origin, when tendered at United States Mints and Assay Offices. In this connection there is enclosed a copy of a statement issued to the press by the Secretary of the Treasury on March 6, 1928, setting forth the attitude of the Treasury Department with regard to the purchase of the Soviet gold referred to in the Ambassador's note.

WASHINGTON, *March 10, 1928.*

[Enclosure]

Press Release Issued by the Treasury Department, March 6, 1928

Statement by Secretary of the Treasury Mellon:

Some days ago there arrived in New York from the National Bank of Soviet Russia some $5,000,000 of gold, half of which was consigned to the Chase National Bank and the other half to the Equitable Trust Company as agents. Since 1920 the Treasury Department has refused to accept at the United States mints and assay offices gold coming from Soviet Russia, the State Department having declined to give assurances that the title to Soviet gold will not be subject to attack internationally or otherwise.

In this particular instance the Treasury Department asked the Equitable Trust Company and the Chase National Bank whether they were ready to purchase the gold from the National Bank of Soviet Russia and present it to the assay office at New York as owners. The two banks have just informed this Department that they are unwilling to purchase Soviet gold before presenting the same at the assay office and that the presentation, if made, would be solely as agent for the Russian Bank.

The provisions of law under which the Treasury acts in purchasing gold or bullion through the United States mints and assay offices are as follows:

Section 3519, Revised Statutes: "Any owner of gold bullion may deposit the same at any mint to be formed into coin or bars for his benefit . . ."

Inasmuch as provision is made by law only for deposits by owners of gold, and since the Equitable Trust Company and the Chase National Bank are unwilling to present the gold as owners, the New York assay office will decline to receive this $5,000,000 of gold.

SPAIN

REPRESENTATIONS TO THE SPANISH GOVERNMENT FOR FAIR COMPENSATION TO AMERICAN INTERESTS FOR PROPERTY TAKEN BY THE SPANISH PETROLEUM MONOPOLY [1]

352.1153 St 2/20

The Chargé in Spain (Blair) to the Secretary of State

[Extract]

No. 719 MADRID, *January 4, 1928.*

[Received January 19.]

SIR: I have the honor to refer to the Embassy's despatch No. 713 of December 26th, 1927,[2] and to submit a further report on the Petroleum Monopoly. At the beginning of the week, a reply was received to the Embassy's *Note Verbale* of December 23rd, 1927,[3] a copy of which was transmitted with the above mentioned despatch, and I am transmitting herewith copies of the Spanish text of this note together with the Embassy's translation. . . .

I have [etc.] PERCY BLAIR

[Enclosure—Translation]

The Spanish Ministry of State to the American Embassy

No. 304 NOTE VERBALE

With reference to the *Note Verbale* No. 407 of December 23rd, from the Embassy of the United States of America, the Ministry of State has the honor to inform the Embassy, as a first impression and without prejudice to a more detailed answer, reiterating what was stated in its note of the 21st of December,[3] in regard to the seizure by the Petroleum Monopoly of a part of the installations of the Babel and Nervion Company in Alicante, that the seizures of properties belonging to American citizens, and, in general, to citizens of other countries who have interests in the business of petroleum importation into Spain, are being carried out in accordance with the Royal Decree-Law of October 17th last [4] and with the reserve, as

[1] Continued from *Foreign Relations*, 1927, vol. III, pp. 655–729.
[2] *Ibid.*, p. 717.
[3] *Ibid.*, p. 723.
[4] *Ibid.*, p. 677.

provided for in Article 2 of this Decree, of making pertinent indemnification.

It has not been possible previously to determine the amount of the indemnification both with respect to the seizures already made as well as to those which have not yet taken place, because it is necessary to make the proper valuation in accordance with Article 10 of the Royal Decree-Law of June 28th last,[5] which fixes an as yet unexpired period for these valuations which are being made by a jury designated for this purpose. This appraisal cannot therefore be completed before the first of January, 1928, upon which date the Monopoly must become effective.

Under these circumstances, the Ministry of State does not, therefore, consider justified either the alarm or the unfavorable impression, which, as it has been informed by the United States Embassy, the abovementioned seizures have occasioned in the United States, the more so as His Majesty's Government has decided that expropriated companies will receive legal interest on the finally determined valuation from the date of seizure to the time when final payment is made, and the Spanish Government will not in any way depart from legal rules and equitable methods either in this matter or in any other, as it is safeguarding its right to organize within legal limits the services of the country.

The Ministry of State is, however, forwarding to the Ministry of Finance the above referred to note of the United States Embassy in order that the latter Ministry may take account thereof and may recommend that the valuations in question may be carried forward with the greatest activity possible.

MADRID, *December 28, 1927.*

352.1153 St 2/14 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

MADRID, *January 5, 1928—11 a. m.*
[Received 6 : 53 p. m.]

1. The Embassy's telegram 144, December 27, 11 a. m.[6] *Note verbale*, dated December 28th received from Spanish Government contains no satisfactory assurances that promises made by Ministers reported in above-mentioned telegram will be made effective, copies of the note forwarded to the Department yesterday's pouch. The note pretends that seizures of property are being carried out legally in accordance with Royal Decree of June 28th and October 17th and

[5] *Ibid.*, p. 659.
[6] Not printed.

that delay in payment of compensation is not illegal as interest is to be paid on the amount of valuation not yet determined. The note further states that alarm in the United States in regard to the protection of property rights in Spain is unjustified in view of "that legal procedure followed by the Spanish Government." As neither decree above mentioned states that previously existing law contrary thereto is thereby revoked and as seizures have been carried out in direct violation of previously existing law, the alleged legal position of the Spanish Government is clearly untenable.

[Paraphrase.] Our representations have, I believe, greatly worried the Spanish Government regarding alarm felt in the United States, and accordingly it would be worthwhile to press on by refuting the Spanish note's arguments as suggested below, stating also that the Department desires, not generosity, but strict justice in conformity with previously existing law [end paraphrase]:

(1) Because this procedure has been in direct opposition to article 349 of the civil code, article 3 of the law of enforced expropriation, and article 10 of the constitution.

(2) Because these precepts were not expressly derogated by the Royal Decree law of June 28 last nor by that of October 17, thereby tacitly admitting the binding force thereof, nevertheless these legal provisions have not been applied and the monopoly has infringed on them.

(3) In spite of the Spanish Government's explanations it recognizes the arbitrary procedure followed by the monopoly company since it forces the company in a recent Royal Decree to grant the expropriated company the legal interest on the eventual indemnification for the period of delay. Such interest payments can only be justified in the case of failure to meet a legal obligation.

I respectfully request authority to reply to the Spanish note along these lines.

BLAIR

352.1153 St 2/14 : Telegram

The Secretary of State to the Chargé in Spain (Blair)

[Paraphrase]

WASHINGTON, *January 6, 1928—6 p. m.*

3. Your 1, January 5, 11 a. m. The Department is giving consideration to your suggestions regarding a further protest but prefers awaiting receipt of the January 4 pouch before definitely instructing you.

There is, however, no objection if you intimate to the Spanish Government that its course as to the oil monopoly is being observed by the United States with growing concern and that this Government will be obliged to conclude from failure to give prompt and fair

compensation that the Government of Spain does not intend, under recognized principles of international law, to extend the customary measure of protection to American property and property rights in Spain.

KELLOGG

352.1153 St 2/16 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

[Paraphrase]

MADRID, *January 10, 1928—3 p. m.*
[Received 4 : 13 p. m.]

4. Reference Department's 3, January 6, 6 p. m. Yesterday I interviewed Primo de Rivera and informed him of the substance of the above-mentioned instruction. He was obviously disturbed and more conciliatory than at any previous time. Avoiding the chief issue, constitutional protection of property rights, he stated that the Spanish oil monopoly was an exceptional measure and reiterated his former view that property is not in danger in Spain. Again promising to hasten valuations and hoping they would be finished in a week, Primo assured me that his Government intends paying fair and generous compensation. Although general assurances appear satisfactory, Primo's verbal undertakings often do not materialize into acts. Nevertheless, the Department's representations have, I believe, made an improvement, and there is a prospect of fair compensation ultimately as a result of the past few weeks.

BLAIR

352.1153 St 2/25

The Chargé in Spain (Blair) to the Secretary of State

No. 737 MADRID, *January 11, 1928.*
[Received January 30.]

SIR: I have the honor to refer to the Embassy's despatch No. 719 of January 4th, 1928, and to submit a further report on recent developments in connection with the establishment of the Petroleum Monopoly in Spain.

As mentioned in this despatch, I telegraphed to the Department in the Embassy's No. 1 of January 5th, 11 a. m., the summary of the Note from the Spanish Foreign Office of December 28th 1927, and in this telegram, I requested authority to answer the Spanish Note along the lines indicated in the telegram, as I feared that failing a refutation of the statements contained in the Note, the Spanish Government might believe that the Department considered its explanations of the present abnormal situation as satisfactory.

On January 7th, I received the Department's confidential telegraphic instruction No. 3 of January 6th, 6 p. m., and as I well realise the importance of the principles at stake in regard to the protection of property, I heartily concur in the Department's decision to await the receipt of the definite text of the Spanish Note before making a definite reply. In the meantime, however, in view of the fact that the Spanish Government had up to this time taken no action to give effect to its promises in regard to valuation and compensation of seized properties, I was very appreciative of the Department's authorization to let the Spanish Government know that the Department was following the situation very closely, and that notwithstanding the Spanish Note above mentioned, the Department's point of view in regard to the procedure followed by the Petroleum Monopoly was unchanged.

Fortunately, an occasion presented itself to convey this information to General Primo without having to make a formal request, as he asked me to see him in regard to another matter which is referred to in the Embassy's telegram No. 3 of January 10th, 10 a. m.[8] The interview took place on Monday afternoon, January 9th, and after discussing the matter above referred to, I communicated to General Primo de Rivera the substance of the second part of the Department's telegram above referred to (No. 3, January 6th, 6 p. m.). General Primo de Rivera seemed to be in a conciliatory frame of mind, and a long discussion of the whole question of the procedure of the Petroleum Monopoly followed. As a rule, it is very difficult to discuss technical subjects with the President, because as often reported before, he is never familiar with the technical points involved. But on this occasion, I was able to bring to his attention informally a number of points which I do not believe had been brought to his attention before. As I informed the Department telegraphically on January 10th, I believe that the interview has been extremely useful from the point of view of obtaining fair compensation for the interests involved, and also from the point of view of making him realize more accurately the viewpoint of the American Government in regard to seizures of property without due process of law.

I believe it will be of interest to the Department to have a brief summary of the conversation which took place, which is as follows:

After referring to the Spanish Note of December 28th, 1927, which I said was being considered by the Department, I stated that the Note made no specific reference to the principal point at issue, namely, when and how compensation was to be paid. I said that the Spanish Civil Code, which was in force when the Companies entered Spain, provided for valuation and compensation before seizure, and that for this reason, as I had pointed out before, the American Government

[8] Not printed.

was increasingly concerned in regard to the arbitrary seizures which had recently taken place. Primo avoided the issue as to whether the Royal Decrees of June 28th and October 17th, 1927 annul previously existing constitutional and Civil Code dispositions, but seemed to be uneasy, realizing that he was on rather dangerous ground. He made the general statement, which he never fails to use in any conversation, that the State had the right of Eminent Domain over private property, and that all states exercised this. I said that there was no question of disputing this latter point, but that, in the particular case under discussion, property rights had been over-ridden and that American interests which had established themselves in Spain under previously existing law were now being driven out of business suddenly and without previous valuation or compensation, which, according to the recognized principles of law, they had every right to expect.

Primo then made the somewhat irrelevant and disingenuous statement that in this case the valuations could not have been made before the seizures, as it was necessary, in the interest of the State, to make the Monopoly effective as soon as possible. I said that I could not understand why this was true, and that it seemed to me that the normal way to proceed would have been for the State to acquire the properties, either by purchase or by condemnation proceedings, in accordance with the law, and that the properties expropriated could have then been turned over to the Monopoly. At this time, he was obviously worried, and being either unwilling or unable to make a definite reply, he made several notes, and said that he would take this phase of the matter up with the Finance Minister.

When I referred to the increasing concern with which my Government viewed the disregard of property rights by the Spanish Government, Primo denied that this was the case, and stated categorically that property rights in Spain would be protected, but that in this particular instance the matter was of supreme importance to protect the national interests, and that exceptional measures were justified. Almost in the same sentence, he observed that the Prohibition Law in the United States had forcibly driven many foreigners out of business, but I at once countered this argument by saying that I could not see the connection between the two cases. I said that the Prohibition Law had used the police power of the State on a moral issue, that there had been no question of the United States taking over and running the liquor business for profit, in the way that the Spanish Government was now taking over and expected to run the petroleum business, and, moreover, that the interests involved had had very long warning that the Prohibition Law might be enacted, and that this had certainly not been the case with the Spanish petroleum regulations. I pointed out that, in the present

case, the companies engaged in the petroleum business were being driven out of Spain with hardly any warning, that they had come to Spain in good faith, and that it certainly did not seem fair to ruin their business without adequate compensation.

Primo then said that certain foreign companies, notably Babel and Nervion, had always maintained that they had made very small profits in Spain, and that, apart from their actual installations, the value of these businesses as going concerns would be small. I then pointed out that Babel and Nervion was bought out after the war by the Standard Oil Company of New Jersey, the latter acquiring the majority of the shares which had formerly been held by French and Spanish citizens. The Standard Oil Company bought into this business, knowing that it had a ninety-nine year charter granted in 1918, and when the Standard Oil Company paid for it, it paid not only the book value of the company's property, but a very substantial amount for the value of the business as a going concern. I said that the fact that the industry had not made money for the first few years had no bearing, because no industry invested money without the hope of profit and that they had every reason to believe that sooner or later fair profit would be obtained on their investment. I said that the Company had spent an enormous amount of money in advertising and building up the business in Spain and that it seemed unfair not to recognize this. Primo replied and said that assets of the latter kind would be paid for by the Monopoly.

It seemed inadvisable to press him on this point, but I had the distinct impression that he has retreated from his original stand in regard to only making payment for tangible property. All through the interview he made notes in pencil on the various points raised, and I have a distinct impression that the conversation briefly summarized above has been the most useful which has taken place in regard to making Primo realize the necessity and indeed the advisability from the Spanish point of view of granting fair compensation. He said that he would give instructions to have the valuations speeded up, that he would see that great generosity in regard to interpretation of value would be given, and that it was his desire to bring the whole matter to a satisfactory conclusion as soon as possible. I said that his assurances were gratifying and that I would immediately report them to my Government.

As we got up to go, Primo reiterated a former statement to the effect that he feared that the companies would never be satisfied, no matter what treatment was given to them, as they were opposed to the Spanish Government's Monopoly policy. I said that I thought it would be very unfortunate from every point of view if industries were expelled from Spain feeling that they had been unjustly dealt with, and that, as far as American interests were concerned, the companies were perfectly

willing to accept reasonable compensation. He said that injustice was very far from his desire, and once again promised that when the final question of valuation came before the Council of Ministers, he would insist on generous treatment. I thanked him and said that, as I understood it, the companies involved asked for strict justice and the fair application of Spanish law as it existed and was interpreted when they came to Spain, and they did not ask for generosity as an act of grace.

The above conversation was conducted in a very friendly spirit, and indeed, the surprising feature of it was the fact that the President seemed quite willing to discuss very controversial matters which formerly he had always avoided. The points regarding the good faith of the companies in coming into Spain under pre-existing law and the desirability of giving them fair treatment seemed to have made a decided impression on the President, and I believe, moreover, that the interview has been successful in regard to the probability of the recognition by the Spanish Government of the value of the expropriated enterprises taken as going concerns.

Since the definite expropriation of all the property of the companies on January 1st, there has been no change in the general situation. In Madrid, supplies of petroleum products seem to be normal. Reports from the provinces would seem to indicate that there is an acute shortage in certain parts of Spain. Government communiqués continue to make light of all technical difficulties of organization and supplies, but current report is to the effect that things are not running smoothly in the Monopoly, and that acute difference[s] of opinion in regard to the policy have already arisen.

General Primo de Rivera stated recently that several American Companies had already taken contracts from the Monopoly. As far as I have been able to find out here, he refers to the fact that the Vacuum Oil Company and the Atlantic Refining Company have already expressed their willingness to supply lubricating oil in Spain under the Monopoly regulations. A rumor is afloat to the effect that the Atlantic Refining Company has already made an offer to the Monopoly to supply it with gasoline and crude oil, but so far it is impossible to obtain confirmation of this information.

I have [etc.] PERCY BLAIR

352.1153 St 2/21 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

MADRID, *January 19, 1928—noon.*

[Received 3:40 p. m.]

7. Embassy's telegram 1, January 5, 11 a. m. French Embassy has finally received note from Spanish Government replying to its protests. Text forwarded yesterday's pouch.[9] Note avoids issue of viola-

[9] Not printed.

tion of constitutional law, pretends that there was no time to make valuations at the time of seizure as monopoly had to be effective by January 1st, and finally promises generous and equitable treatment as a kind of an act of grace. According to decree of October 17, adjudicating the monopoly valuation and compensation should have taken place before January 17.

[Paraphrase.] The Spanish Government, despite its fair promises, has violated its own royal decree; no immediate prospect of valuation or compensation is apparent. I beg respectfully to suggest that, in view of this violation of both constitutional law and royal decrees, the Department of State consider whether to place the issue squarely before the Government of Spain, as suggested in the telegram mentioned above. Continued protest is, I believe, the one method to avoid an endless delay and to obtain for the interests with arbitrarily and evasively expropriated property what is fair treatment.

Information has just reached me . . . that the Soviet Government demands in return for oil supplies by a long-term contract to the Spanish monopoly that Spain grant *de jure* recognition. A tentative arrangement with the Soviet has so far supplied the monopoly with a majority of its oil. A report was current a month ago that Primo de Rivera was flirting with the plan to recognize the Soviet, but the certain opposition of King Alfonso and the Roman Catholic Church did not allow serious notice being taken. The present régime, I am reliably informed, will not grant recognition. See Berlin's No. 3050 of January 3 in this general connection.[9a] [End paraphrase.]

BLAIR

352.1153 St 2/22 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

MADRID, *January 26, 1928—11 a. m.*

[Received 5:40 p. m.]

10. Embassy's 7, January 19, 12 noon. In the first valuation proceeding, certain installations at Santander with book value of three million pesetas owned by Deutsch, French citizen, have been valued by Government and monopoly representatives at nine hundred thousand pesetas. Method employed by Government representatives is intentionally to undervalue specific properties and will effectually preclude consideration of the value of the business as a going concern. When the French representative objected to this method he was informed that the monopoly company would only take the property at a low and even nominal value because much of the property was not necessary for the monopoly's operation and that the lower the valuation the higher would be the monopoly profits. The Treasury delegate stated that his function was to defend the interest of the treasury and

[9a] Not printed.

not to administer justice. In the second meeting when the valuations were objected to he said that he was only obeying formal instructions of the Finance Minister. Above-referred-to valuations are tentative as the Spanish cabinet can review them on company's appeal but they show the spirit guiding the monopoly and substantially deny Primo's promises of fair and generous treatment. [Paraphrase.] As the French Ambassador is greatly concerned, he has today requested immediate authorization from the French Foreign Office to present a further note which would threaten reprisals against Spanish interests in France if French petroleum interests in Spain do not receive immediate and fair compensation.

The most opportune moment has now arrived, I believe, to refute categorically the arguments in the Spanish note dated December 28 and to place squarely before the Spanish Government a definite query of the United States Government that it desires to know whether the constitution and the civil code in fact no longer protect property in Spain, so that it is at the mercy of the Spanish Government's latest decree. I refer to this Embassy's telegram No. 1, January 5, 11 a. m. Further, the Embassy might opportunely state that it is informed as to the evaluation commission's methods which are entirely contrary to assurances by Primo de Rivera and Finance Minister Sotelo. Without further energetic protest, I fear the Spanish Government will regard the American attitude as acquiescing in the present procedure, and this will prove to be a dangerous precedent in the future for American interests in Spain. I refer to this Embassy's telegram No. 9, January 26, 10 a. m.[10] [End paraphrase.]

BLAIR

352.1153 St 2/23 : Telegram

The Secretary of State to the Chargé in Spain (Blair)

[Paraphrase]

WASHINGTON, *January 27, 1928—7 p. m.*

10. Reference your 10, January 26, 11 a. m.

(1) Before further instructing you as to a protest, the Department deems it essential to ascertain the British Government's position toward the Spanish oil monopoly and the form of action contemplated by the British. As the Department is expecting to talk over this matter on January 30 with the British Embassy, it wishes you meanwhile to cable a report concerning the British Embassy's attitude in Madrid and any cooperation by it with the American and French Embassies there.

(2) Any further action which the French Embassy in Madrid

[10] Not printed.

may take in regard to the valuation proceedings at Santander should, of course, also be reported.

(3) This Government's desire to cooperate as closely as possible with the French and British Governments, both here and in Madrid, may be stressed by you to your two colleagues. If you see fit, you may emphasize to them the importance of having the three Governments show themselves in accord, fundamentally, concerning the Spanish monopoly's expropriation and valuation proceedings.

KELLOGG

352.1153 St 2/24 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

[Paraphrase]

MADRID, *January 28, 1928—2 p. m.*

[Received 3:55 p. m.]

11. Reference to Department's 10, January 27, 7 p. m. The attitude of the British is ambiguous and negative. . . . The British Government is inclined to wait for the final valuations without more protesting and, moreover, is guided by the fact of Spanish companies representing British interests. As I pointed out to the British Ambassador, the Government of Spain has never denied and has accepted implicitly the right of intervention by the American and French Governments for the protection of their interests, which are majority stockholders in Spanish oil companies, because Spanish companies which are owned by foreigners are considered by the Spanish Government to be virtually foreign in the sense of their not enjoying privileges with Spanish-owned companies of equality of treatment in Spain (thus the French Government is maintaining that this violates their treaty of 1862[11] and in fact our treaty providing for most-favored-nation treatment[12]). This point of view is taken by the French Government which deems the British Foreign Office's attitude to be ill-advised and unfortunate under the circumstances.

As to protests after the Spanish oil monopoly became effective from the British, French and United States Embassies, the right of protecting interests of foreign-owned companies in Spain has never been denied by the Spanish Government. In the whole matter the British Embassy has given practically no assistance to the American and French Embassies. Pending further instructions, the British Ambassador says he can at present do nothing, despite the fact that damaging precedents are being established, a fact he admits. With-

[11] Consular convention, signed Jan. 7, 1862, *British and Foreign State Papers*, vol. LII, p. 139.

[12] Treaty of friendship and general relations, signed July 3, 1902, *Foreign Relations*, 1903, p. 721. Cf. art. II of the treaty, *ibid.*, p. 722; also notes exchanged October 26 and November 7, 1927, *ibid.*, 1927, vol. III, pp. 731–732.

out any apparent connection, he vaguely remarked that British-Spanish relations now are very friendly; he hopes, I believe, to obtain future commercial treaty concessions. In all important matters, principally as to a bank taxation treaty and commercial treaties, I am told by . . . the British have been consistently surrendering. . . .

Full cooperation with the American Embassy is desired by the French Ambassador. The only way to get fair treatment without British support, I believe, is united action by the French and Americans.

As to the valuation proceedings at Santander, the French Ambassador proposes to wait until the French company's last objections have been over-ruled definitely and until an official award. Then he intends to lodge a strong protest. He is now waiting for telegraphic instructions from his Government and hopes reprisals against Spanish interests in France may be threatened. The only chance of fair treatment, he believes, lies in the foreign governments concerned assuming a very firm attitude. The Spanish Finance Minister has recently announced in the National Assembly that, following the successful putting into effect of the petroleum monopoly, the Spanish Government contemplated the nationalizing, which presumably means monopolizing, of insurance, copper and lead industries and further stated that plans were afoot to establish Spanish banks in Latin America under authority of the Bank of Spain.

BLAIR

352.1153 St 2/29 : Telegram

The Secretary of State to the Chargé in Spain (Blair)

[Paraphrase—Extracts]

WASHINGTON, *February 1, 1928—2 p. m.*

14. Reference your 12, January 31, 3 p. m.[13] Instructions are hereby given you to leave for Paris and London to confer on the oil question and to remain absent from Madrid, where Grummon[14] will take charge, not more than a week. . . .

Your French colleague may be confidentially informed of this mission. If the American Embassy in Paris so desires, you may, at your discretion and in conjunction with it, informally discuss the situation with the Foreign Office there. In view of the British attitude, however, the Department entertains doubts as to the wisdom of reporting the reason of your London visit either to your British colleague or to the British Foreign Office. You may cable from Paris or London for any further desired instructions.

KELLOGG

---

[13] Not printed.

[14] Stuart E. Grummon, third secretary of Embassy.

352.1153 St 2/30 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

MADRID, *February 2, 1928—10 a. m.*

[Received 3:35 p. m.]

16. Embassy's telegram 15, February 1, noon.[15] In accordance with instructions from Paris Foreign Office, French Embassy sent to Spanish Government strong note, dated January 30, reiterating demand for protection and fair treatment of French property seized by the petroleum monopoly. Note states that Valuation Commissions have flagrantly violated Primo's promises in regard to fair and equitable compensation for seized property and demands that immediate orders be given to the Finance Ministry authorities on the Evaluation Commission in accordance with written undertakings given by Primo in the last note to the French Embassy.

The Note observes that the Spanish Government has never replied satisfactorily to the French request for explanations regarding measures of protection which property should enjoy in Spain, and further states that it does not wish to conclude that the silence of the Spanish Government means that the latter's intention is to acquiesce in a systematic despoliation of French interests, although the present procedure of the Treasury gives every ground to suppose this. Babel and Nervion appeared before the Valuation Commission on January 30th which considered physical valuation of certain plants carried on company's books at 3,700,000 pesetas. Government engineer in preliminary survey had placed valuation of 3,200,000 pesetas on these installations. Valuation Commission representing Treasury offered only 2,000,000 for the property and refused to explain arbitrary method of reaching this figure.

[Paraphrase.] The French Ambassador feels that the new company created to run the monopoly in the Spanish Government's interest is obviously profiting by these proceedings which are simply a systematic despoilment and that at this time another American protest in line with the French note already mentioned (a copy is being sent by pouch)[15] would be most useful. I agree.

The French Cabinet, I am told, yesterday examined reprisal methods and as a first step contemplated most strictly interpreting French regulations in regard to imports of Spanish fruit. Shipments of Spanish products would be automatically held up for two weeks by such an interpretation and would likely be spoiled thereby. Unless the Spanish Government alters its attitude, other French reprisals also are under consideration. [End paraphrase.]

BLAIR

[15] Not printed.

352.1153 St 2/36 : Telegram

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

[Paraphrase]

WASHINGTON, *February 4, 1928—8 p. m.*

26. In connection with possible representations by the Department to the Spanish Government regarding valuation of American property now in the hands of the Spanish petroleum monopoly, ascertaining the British Government's attitude thereto is important.

The Department is informed by Sir John Broderick of the British Embassy, which has no specific instructions, that he believes the seriousness of the situation which may develop is realized by the British Government, but that the latter will proceed as usual without protest unless specific cases affect adversely British interests which are clearly defined. Broderick points out that, since these British interests are chiefly connected with the Royal Dutch Shell, it is more difficult for the British to protest insufficient valuation which amounts to partial confiscation than were purely British interests involved. From outside sources the Department also learns that disapproval of Sir Henry Deterding's behavior on his recent Madrid visit to the Spanish Government partly explains the British Embassy's hesitation to protest concerning expropriation and valuation.

Mr. Blair is proceeding to London during the coming week to talk over with the Embassy this oil situation. Without further instructions you are not desired to make any inquiries at the British Foreign Office, but any suggestions which you care to make when you have discussed matters with Mr. Blair will be appreciated by the Department.

KELLOGG

352.1153 St 2/38 : Telegram

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

[Paraphrase]

LONDON, *February 8, 1928—1 p. m.*

[Received February 8—11 : 50 a. m.]

28. Reference your 26, February 4, 8 p. m. Mr. Blair and I have discussed the Spanish oil situation. No matter what the legal rights under the Spanish Constitution prove to be ultimately, clearly there have occured the annulment of a charter of a company with substan-

tial American ownership, the taking over of its property without adequate compensation, and the handing over to a Spanish company, bodily, of its business.

The only remedy immediately available would seem to be a protest by the American, British, and French Governments. Such representations have already been made by the French Government whose Ambassador assures me informally that this pressure will go on. He believes, however, that the British Government will refuse to act because British subjects are interested in a company which is a Spanish corporation in fact. This attitude, we now feel from certain private information, possibly may be altered. The most effective means of speeding such a result, I suggest, would be for the Secretary and the British Ambassador to discuss the matter. If the American press were given the facts, this also would probably help.

HOUGHTON

352.1153 St 2/39 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

MADRID, *February 13, 1928—3 p. m.*
[Received February 13—2:50 p. m.]

25. Embassy's telegram 16, February 2, 10 a. m. American, British, and French owned petroleum companies have filed protest with Minister of Finance against methods of central Valuation Commission and have refused to attend further valuation meetings because the Government officials on Commission refuse to act in judicial capacity provided for in decree of June 28th and simply assess an arbitrary valuation without taking account of figures submitted by local Valuation Commissions and refusing to allow the companies to justify their claims. Finance Minister's reply to companies cites them to appear before each session of the Commission stating that final recourse to the Council of Ministers always remains. He states that failing companies' participation Government representatives will decide on valuation without further reference to companies, which procedure in fact now obtains as Government representatives refuse to discuss companies' claims. [Paraphrase.] The French Ambassador approves of the companies' decision to withdraw their representatives from the central Valuation Commission and has the intention of protesting further. He has despatched the commercial attaché to Paris to urge the French Government to take reprisals.

It is my belief that the position of the companies is justified and that it would be opportune to enter a vigorous protest against the treatment accorded to American interests. [End paraphrase.]

BLAIR

352.1153 St 2/50

The Chargé in Spain (Blair) to the Secretary of State

No. 790 MADRID, *February 14, 1928.*
[Received February 29.]

SIR: I have the honor to refer to the Department's telegram No. 14, of February first, 2 p. m., in which I was instructed to proceed to Paris and London for consultation with the respective Embassies in regard to the expropriation of American owned property by the Spanish Oil Monopoly.

In accordance with this instruction, I left Madrid Friday morning February 3rd, reaching Paris on Saturday, and took the matter up immediately with the Ambassador. Mr. Herrick, after familiarizing himself with the general lines of the controversy, placed the matter in the hands of Mr. George Gordon,[17] and I then went over with him very carefully the Department's instructions and the Embassy's despatches.

As reported in the Embassy's telegraphic despatch No. 20 of February 3rd last, 2 p. m.,[18] I took with me the complete files of the correspondence relating to the Petroleum Monopoly, and I also left with the Paris and London Embassies a complete file of the Department's and Embassy's telegrams in regard to the Petroleum Monopoly, and a copy of the French Embassy's Note of January 30th, 1928 to the Spanish Minister of State, copies of which were forwarded to the Department with the Embassy's despatch No. 770 of February 3rd last.[18]

On Sunday, February 5th, I went to London and on Monday discussed the whole matter at considerable length with the Ambassador. Mr. Houghton considered it advisable for me to postpone my departure for Paris until Tuesday in order to endeavor to obtain unofficially if possible, certain information in regard to the attitude of the British Foreign Office. In view of the Department's instructions, no reference to my mission was made either to the British Embassy in Madrid or to the Foreign Office in London. The Ambassador, however, was able to discuss the matter informally with the French Ambassador in London before my departure and during the course of Monday and Tuesday, I was able to obtain confidential information to the effect that the Shell Petroleum interests were bringing strong pressure to bear on the Foreign Office in order to obtain a firmer attitude in regard to the protection of British interests in Spain.

Before leaving London on Tuesday, February 7th, the Ambassador showed me the draft of a telegram which he was sending to the

[17] First secretary of the Embassy at Paris.
[18] Not printed.

Department in which he requested instructions in regard to any representations which the Department might desire to make to the British Foreign Office.[19]

In Paris, I again discussed the matter with Mr. Gordon and later we both went over the various points involved with Mr. Henry Bedford, the European representative, and Mr. Chester Swayne, the General Counsel of the Standard Oil Company of New Jersey. Mr. Swayne is returning to the United States on February 15th, and told me that he would discuss the matter with the Department when he goes to Washington towards the end of this month.

Apart from the general question of principle involved by the expropriation of property in Spain on behalf of the Petroleum Monopoly, we discussed at considerable length the latest developments in the situation which are reported briefly in the Embassy's telegram No. 25 of February 13th, 3 p. m. Before I left Madrid on February 3rd, the various interests involved, representing American, British and French capital, had about decided to withdraw their representatives from the Central Valuation Board, which has been constituted in Madrid in accordance with the Royal Decree of June 28th, 1927 because this Board (referred to currently here as a Jury or *Jurado*) had arbitrarily assumed the functions of both judge and jury and had definitely refused to act in the arbitral capacity provided for in the above mentioned Royal Decree.

As the Department will doubtless recall, this Central Valuation Board or Commission is composed of three Government representatives, one representative of the expropriating Monopoly and one of the interests to be expropriated.

The Local Valuation Boards, seven in number, had already turned in their recommendation of valuation for their respective districts, and these awards in many cases placed a valuation on the property which to a certain extent approximated the Companies book values, although all question of the business taken as a going concern, trade marks, and other intangible values were ignored. As previously reported, when these awards were placed before the Central Commission, the Government representatives refused to discuss any technical details, and simply stated in substance that they were there to protect the interests of the Treasury and not to administer justice. Under the circumstances, the interests involved considered that they could only compromise their position by taking part in such arbitrary procedures, and the Babel and Nervion Company (the Standard Oil Company of New Jersey subsidiary) made a formal communication to the Minister of Finance dated February 4th, 1928 (copies and translation of which were forwarded with the Embassy's despatch No. 770 of

[19] See telegram No. 28, Feb. 8, 1 p. m., p. 845.

February 3rd last)[20] setting forth the reasons which guided the Company in its decision to withdraw its representative from the Central Board.

As stated in the Embassy's telegram No. 25 of February 13th, 3 p. m., the Minister of Finance has replied to the Company's letter of protest above referred to under date of February 10th, 1928, informing the Companies that should they fail to be represented in the Central Commission in accordance with the Royal Decree-Laws establishing the Monopoly, that [*sic*] the valuation would simply be determined without their presence. I am enclosing herewith copies of the Spanish original together with an English translation of the letter of the Minister of Finance[20] and this letter well illustrates the arbitrary and high-handed procedure which is being followed by the Spanish Government. As a further illustration of the procedure, I am enclosing herewith the Spanish text and English translation thereof of the Procès-Verbal[20] affecting the interests of the Shell subsidiary, the Petrolifera Española, which appeared before the Valuation Commission on February 10th. As above stated the Shell interests have decided to withdraw from further participation in the proceedings.

I discussed the position yesterday with the French Ambassador before telegraphing the Department, and he entirely concurs in the decision of the companies to withdraw their representatives under the circumstances. He has, however, sent Mr. Juge, his Commercial Attaché, to Paris to review the whole position and particularly the latest developments above referred to, with the Foreign Office there. I shall promptly advise the Department by telegram of any further action that the French Government may take.

The British Embassy here has not communicated with this Embassy during my absence, but I hope that in view of the latest attack which has now been made on British interests, the British Government may at last decide to move in the matter, and I shall promptly advise the Department of any developments.

I have been informed by Mr. Westcott, the managing director of the Shell interests (the Petrolifera Española), that he now has reason to believe that the British Foreign Office, urged on by the representations of the Shell directors in London, is likely to take a stronger attitude as it is now confronted with a definite case which deprives British interests of obtaining justice. In the course of a conversation yesterday, Mr. Westcott remarked that he thought that the Foreign Office had not moved before more strongly because it was well aware of the absence of any real justice in Spain under the present regime, and that it had waited for an overt act showing the bad faith of the Government before applying strong diplomatic

[20] Not printed.

pressure, as this was the only method which might possibly obtain justice in the end.

. . . . . .

The Shell interests are the newest and most modern in Spain as the Shell organized its Spanish subsidiary about 1920 and almost all of their plants are new. The total value claimed by the Shell for both physical and intangible assets is about fifty million pesetas. This is the only important British interest in the petroleum industry represented in Spain, although several other smaller British companies sell lubricating oil.

Babel and Nervion and the Sociedad de Compras y Fletamentos are the Standard Oil of New Jersey subsidiaries. Babel and Nervion considers the value of its tangible and intangible assets to be thirty five million pesetas, and the Sociedad de Compras y Fletamentos considers its value to be eighteen million pesetas. The former company is 80% owned by the Standard Oil Company of New Jersey, and the latter some 49%. The other shareholders in these companies are largely French.

Two other French interests, Deutsch and Desmarais Frères, have a book value of approximately twenty five and thirty five million pesetas respectively. The Porto Pi Company which has been distributing Soviet oil in Spain (and doing about 10% of the gasoline trade) is owned in about equal shares by French and Spanish interests. This company intended to claim a valuation of about twenty five million pesetas but I have been informed that no such amount of capital has ever really been invested in its business.

From the above, the Department will observe that the British interests are far from being predominant in Spain and as a matter of fact, up to very recently the Standard Oil of New Jersey, through its directly owned subsidiaries, and several allied French and Spanish small organizations did almost 60% of the gasoline and kerosene business in Spain.

I have [etc.] PERCY BLAIR

352.1153 St 2/40 : Telegram

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

[Paraphrase]

PARIS, *February 14, 1928—11 a. m.*

[Received February 14—9:25 a. m.]

41. Reference to the Department's 14, February 1, and 15, February 2, both to Madrid.[22] Following consultations with Mr. Blair en route from Madrid to London and back from there, where he was encouraged by developments, the Spanish oil situation has been in-

[22] Latter not printed.

formally discussed by this Embassy with the French Foreign Office. The desirability of the French Embassy in London aiding in bringing the British Government to favor concerted action was especially suggested. I refer to the Department's No. 2607 of February 2.[23]

HERRICK

352.1153 St 2/42 : Telegram

The Secretary of State to the Chargé in Spain (Blair)

[Paraphrase]

WASHINGTON, *February 14, 1928—6 p. m.*

17. Reference your 25, February 13, 3 p. m.

(1) Is any change in the attitude of the British Embassy in Madrid and of the British Foreign Office indicated by the fact that, in withdrawing their representatives from the central Valuation Commission in Spain, the British oil companies are acting with the American and French companies?

(2) The reluctance of the oil companies to continue maintaining representatives on this Commission is fully appreciated by the Department; but a question has arisen here in conversing with the Standard Oil Company of New Jersey. It is whether withdrawing these representatives jeopardizes somewhat their position as to entering protests against the Commission's methods on its record of the proceedings and thus weakens their position in any appeal proceedings hereafter, because the Spanish Government may later argue that remedies open to the companies under the decree were not used by them. Further information as to this point is desired by the Department before forming an opinion regarding the action of the companies.

(3) A conversation with the Standard Oil Company introduced an informal suggestion that one of the companies might sue in the Spanish courts in order to test the decree's constitutionality and the constitutional authority for the issuance of the decree. In such a contingency the Spanish Government, it was thought, might perceive the wisdom of changing its present position. The Standard Oil Company is consulting its representatives in Spain regarding the foregoing, which has also been discussed here with the French Embassy. The latter is communicating the suggestion to its Government. After you informally consult your French colleague and the American oil companies, your comments on the suggestion will be welcome, especially as to whether any diplomatic representations by the United States Government would be embarrassed by the filing of such a suit.

KELLOGG

[23] Not printed.

352.1153 St 2/43 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

[Paraphrase]

MADRID, *February 18, 1928—5 p. m.*

[Received 7: 55 p. m.]

27. Reference Department's 17, February 14, 6 p. m.

(1) The official British attitude remains unchanged, but I am told by the Shell representative that in the near future stronger support is very probable. In retiring from the Valuation Commission, the Shell representative made the strongest protest to Primo de Rivera, so far recorded, against unjust and arbitrary treatment.

(2) In considering the Valuation Commission's attitude to the present, according to Spanish legal advisers of all the oil interests, the companies by refusing to participate in proceedings unless the Commission changes its attitude will strengthen instead of weaken their position. On this point I agree with the French Ambassador. The British company, moreover, assures me that it will not alter its attitude if it fails to receive positive assurances as to the Valuation Commission acting in an impartial and judicial capacity and at the same time interpreting the contracts for industrial value (mentioned in the tenth article of the June 28, 1927, royal decree) to mean both the value of physical property and of the earning capacity of going concerns which cannot be ignored. Ample precedents under Spanish law concerning forced expropriation exist to support this attitude, according to competent legal authorities.

A united front is now presented by the attitude of the companies; and the acceptance of the Spanish Finance Minister's ultimatum (mentioned in 25, February 13, from this Embassy) will, I believe, weaken it.

(3) Eminent legal authorities argue that, under existing conditions here, testing the royal decree's legality by bringing any suit in Spanish courts would be impractical. The terms of the decree deprive the interests involved of legal recourse save to the Council of Ministers of Spain; and it is probable that Spanish courts would refuse receiving an application for suit owing to their subservience to political pressure. While agreeing with this view, the French Ambassador acknowledges that further diplomatic representations would not be weakened if such suit were possible. My belief is that such suit is impractical, although it would strengthen diplomatic efforts.

. . . . . .

BLAIR

352.1153 St 2/44 : Telegram

The Chargé in Spain (Blair) to the Secretary of State

[Paraphrase]

MADRID, *February 21, 1928—5 p. m.*
[Received 8:23 p. m.]

28. At the German Embassy last night King Alfonso talked over the petroleum monopoly question with the French Ambassador and said he thought the Government's taking over property without valuation and compensation was a mistake, wherefore he was instructing the Government to reconsider the central Valuation Commission's procedure which the French Ambassador had fully discussed and characterized to the King as very unjust. His Majesty mentioned recent adverse comment in the British and French press and appeared worried by it. The French Ambassador later saw General Primo de Rivera about the entire matter, on the basis of the telegram sent by this Embassy on February 18 (No. 27, 5 p. m.). Allegations of the Spanish Finance Minister, as summarized in this telegram, were denied by the French Ambassador; and Primo promised to instruct the Valuation Commission to act in its judicial capacity, to give the point of view of the oil companies a full hearing, and to incorporate in the minutes of the Commission's meeting all pertinent valuation data which the companies furnished and any subsequent protests. Both the King and the President of the Council assured the Ambassador of their desire to secure a fair settlement. Diplomatic representations and adverse comments in the foreign press have evidently and finally impressed both of them. Today the French Ambassador is sending Primo a memorandum of the conversation last night and asking for confirmation in writing. In view of the above, the French Ambassador and I informally advised the oil companies to present themselves again in due course before the Valuation Commission, provided the Ambassador's understanding of the situation is confirmed by Primo. The British resident director of the Shell interests is disposed to cooperate. He will fully reserve the question of industrial value and will demand that the protest to Primo (mentioned in this Embassy's telegram 27, paragraph 1) be incorporated in the Valuation Commission's minutes. These conversations are being telegraphically reported to the French Foreign Office. The situation at present appears to be slightly improved. If Primo's undertakings are carried out, the oil companies apparently will be able to return to the Valuation Commission without losing prestige, will have a chance of protesting step by step, and, finally, will be enabled to state that the so-called legal procedure provided by the royal decrees has been duly conformed to. A reply before Saturday, February 25, must be made by the companies

to the Finance Minister with regard to reappearance before the Valuation Commission. The Department will be advised by cable when a final decision is reached. This telegram is being sent to Paris and London.

BLAIR

352.1153 St 2/45 : Telegram

The Secretary of State to the Chargé in Spain (Blair)

[Paraphrase]

WASHINGTON, *February 21, 1928—6 p. m.*

18. Reference your 27, February 18, 5 p. m. Since the oil companies appear to have ceased definitely taking part in the Valuation Commission's proceedings, the Department's assumption now is that their next step will be preparing appeals to be submitted to the Spanish Council of Ministers regarding the Valuation Commission's decisions in cases which have been actually passed upon. This would be in accordance with the June 28, 1927, decree's provisions.

The only American company up to the present to have its case passed upon by the Valuation Commission, so the Department understands, is Babel and Nervion.

In conversations here with representatives of Standard Oil it has been informally suggested that, if you could communicate the substance of the terms of Babel and Nervion's appeal before it is actually filed, then the Department would presumably be able to send you instructions very specifically stating this Government's position which you would present as soon as Babel and Nervion files its appeal and before the Council of Ministers can formulate their decision on it. By following such a course, the Council of Ministers might be able to give this Government's point of view its full consideration, without derogation to the Council's judicial capacity (established by the June 28, 1927, decree) and also without exposing the Council to being charged with yielding to foreign pressure. You are invited to make comments and suggestions on this point.

(2) Reference to your 27's subhead (3). The advisability at this time of suing in the Spanish courts is questioned by attorneys of Standard Oil, but they see a chance of such action later if the Council of Ministers renders an unfavorable decision.

(3) The substance of your 27 has been given the French Embassy which reports a better chance of English support and says instructions are being sent the French Ambassador in Spain to demand from the Spanish Government an unequivocal and definite reply. This French protest, the Embassy explains, will be based principally on Spain's alleged violation of the 1862 Franco-Spanish treaty, article 7.[24]

KELLOGG

---

[24] *British and Foreign State Papers*, vol. LII, p. 142.

352.1153 St 2/46 : Telegram

The Secretary of State to the Chargé in Spain (Blair)

[Paraphrase]

WASHINGTON, *February 23, 1928—2 p. m.*

19. The Department's 18, February 21, 6 p. m., crossed your 28, February 21, 5 p. m.

(1) Standard Oil has been informed of the encouraging assurances regarding instructions for the Valuation Commission as received from King Alfonso and Primo de Rivera. The company will probably wait for confirmation of the French Ambassador's understanding with Primo de Rivera before again appearing before the central Valuation Commission, in spite of the ultimatum of the Finance Minister.

(2) These assurances, the Department assumes, will equally apply to American oil interests. If you are at all uncertain on this point, authorization is given you to ask the Spanish Government for appropriate assurances.

(3) Whether the promised instructions contemplate the Valuation Commission reexamining valuations already made or whether the Council of Ministers alone will review them has not been made clear. If the second is so, the Department might find it advisable to give Babel and Nervion's appeal the support indicated in its 18, February 21.

You are requested to cable reply.

KELLOGG

352.1153 St 2/52 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, *February 29, 1928—11 a. m.*

[Received 3 : 45 p. m.]

31. Embassy telegram 28, February 21st, 1928, 5 p. m. On February 25th French Ambassador received a letter from Primo confirming French Ambassador's understanding of conversation of February 21. Primo reiterates Valuations Commission will act judicially in the future and will incorporate all protests and pertinent documents in the minutes. Gives, however, no assurances regarding Commission's instructions to interpret "industrial value" of expropriated companies as set forth in royal decree, June 28, last. Interpretation these words is now crux of the situation. After long discussion between legal representatives of American, French and British interests, the two former communicated to the Minister of Finance yesterday that they would return to the Valuations Commission in view of recent assurances given by Government and on the understanding that such

assurances covered fair interpretation of "industrial value" to mean the value of expropriated businesses taken as a whole, including property, trade marks, value of going concern now being used as such by monopoly and expenses winding up business. Leading lawyers in Spain and recently obtained legal opinions from Fromageot of French Foreign Office and Fourcade all sustain this interpretation of wording of royal decree. . . . British interests have sent Minister of Finance bitter protest again refusing to take part in the proceedings of Valuations Commission unless Government gives categorical assurances that industrial value will be given above referred to interpretation. Spanish Government obviously worried by violent French press campaign and has issued two long semiofficial communiqués which avoid the main issue, reiterating Government's intention to act fairly, which is of course absurd if judged by past procedure, and stress fact that Spain will do nothing to injure the interests of the country (France) so closely allied to Spain by ties of friendship. Will report by telegraph further.

HAMMOND

352.1153 St 2/59 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, *March 9, 1928— 5 p. m.*
[Received March 9—3 : 46 p. m.]

37. American, British and French Embassies have received identical letter from Primo dated March 6 promising that Valuation Commission will in the future act judicially and will be instructed to deal reasonably and generously with all interests affected. Letter encloses new rules governing procedure of Valuation Commission which make great concessions. Companies' representatives now allowed to bring legal and technical advisers before Commission and Commission is moreover instructed to consider proper valuation for entire going concern taking into account value of intangible assets. Wording regarding this point tricky but general principle of entire going concern value of expropriated interests is admitted for the first time.

[Paraphrase.] An appreciable advance has thus resulted. Representations by the American and French Embassies have been aided by the British and French press on Spanish policy, while the Spanish Government has been worried thereby. Since the letter's wording is rather vague, I suggest the advisability of letting the Spanish Government know that the United States Government is not wholly satisfied. [End paraphrase.]

The three Embassies are now considering reply and expect propose a short letter simply taking note of Primo's assurances and expressing the hope that new rule governing Commission will in practice assure all companies fair treatment which they were formerly denied. Instructions requested. Text of above serial number despatch in the pouch of today.[25] Copies of this telegram mailed London and Paris.

HAMMOND

352.1153 St 2/63

The Ambassador in Spain (Hammond) to the Secretary of State

No. 835 MADRID, *March 9, 1928.*

[Received March 21.]

SIR: I have the honor to refer to the Embassy's despatch No. 824 of March 7th last,[26] concerning the latest developments in regard to the expropriation of property on behalf of the Spanish Petroleum Monopoly.

Since this despatch was written, I have received a letter from General Primo de Rivera which is in identic form to letters received by the British and French Embassies informing me that in the future the Valuation Commission, or Jury, is to receive new instructions in regard to the treatment of the expropriated interests.

In order to be able to transmit this communication to the Department as soon as possible, I have held up the pouch for one day, and I am enclosing herewith the Spanish text and English translation thereof of General Primo de Rivera's letter together with the new rules prescribing the procedure to be followed by the Valuation Commission.

I am today telegraphing a summary of the concessions made, Embassy's telegram No. 37, March 9, 5 p. m.,[27] as it seems important that the Department should know the latest developments in the matter, and I will analyse more carefully in a future despatch the text of the rules in question.

I am, however, enclosing herewith a legal opinion of Mr. Gonzalez, the lawyer of Babel and Nervion,[26] which throws considerable light on the wording of the rules and while I believe that a considerable advance has been made in regard to the satisfaction of the legitimate claims of the companies in question, I nevertheless concur in Mr. Gonzalez's opinion that the wording of the rules is ambiguous and may well cause considerable difficulty in the future.

I have [etc.] OGDEN H. HAMMOND

---

[25] *Infra.*
[26] Not printed.
[27] *Supra.*

352.1153 St 2/63

[Enclosure—Translation]

The President of the Spanish Council of Ministers (Estella) to the American Ambassador (Hammond)

MADRID, *March 6, 1928.*

MY DEAR MR. AMBASSADOR AND FRIEND: I take pleasure in sending you, herewith enclosed, a copy of the modifications which have been made in the rules for the valuation of petroleum property, such rules to cover equally both Spanish subjects and foreigners. As you will observe, the best guarantees are provided in these rules in accordance with the desires that have been expressed, and I hope that for this reason the interested companies of your nationality, as well as the government which you so worthily represent, will understand and appreciate the spirit of conciliation and the desire to reach satisfactory results which animate us.

I take [etc.] MARQUÉS DE ESTELLA

[Subenclosure—Translation]

Spanish Rules for the Valuation of Petroleum Plants

The procedure of the Petroleum "Valuation" Jury will be governed by the following rules, when the representatives of foreign companies again appear before it:

A. The interested parties may present to the Jury all documents which they consider pertinent, it being also understood that they will be obliged to present all other documents which the Jury may consider necessary for the proper documentation of its decisions.

B. Every vote will be preceded by a discussion of all the elements in the case, if so desired by the interested parties, in order to fix the terms and bases of each matter. The representatives of the expropriated interests may be accompanied by judicial and technical experts.

C. The minutes of the meetings shall report the discussions in full, although this does not mean literally, as long as the substance of the allegations and arguments, which each member of the Jury may consider it expedient to make appear therein, is stated. For this purpose, the minutes will be revised before they are definitely approved.

D. In further valuations the Jury will proceed to make the appraisals covering, as heretofore, the actual value of the plants and physical property, taking into consideration their industrial efficiency and state of preservation, the Jury's policy to be inspired by a spirit of the greatest impartiality, cordiality, and reasonable compromise. In case of disagreement in regard to the value of lands, the appropriate municipality will be requested to furnish an official valuation.

E. Upon the conclusion of the valuation of plants and physical property, the Jury, using its discretion in the appreciation of the statements made and the data produced in support of the same, will fix, if there are just grounds therefor, a total indemnity for each enterprise or entity expropriated, taking into account such other factors which it may consider computable for inclusion in the indemnity, independently of the intrinsic value of the plant and the physical property; in regard to this latter amount an appeal may be made to the Council of Ministers, in the same way as for the other valuations above-mentioned.

F. The expropriated interests may collect immediately under full reserve of all of their future legal rights, and on account of the quantity which may finally be definitely assigned to them, a sum equal to the amount of the valuation which may have been made by the Jury.

352.1153 St 2/60 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, *March 10, 1928—5 p. m.*

25. Your 37, March 9, 5 p. m. You should inform the Spanish Government in writing that this Government has taken due note of the contents of the Spanish note of March 6 regarding the nature of the instructions which have just been given to the Valuation Commission and that it hopes that these instructions will now enable the Commission to proceed to a prompt and satisfactory determination of the full and fair compensation for property losses to which the expropriated American companies have been subjected.

[Paraphrase.] In the opinion of the Department, useful effect would be had from delivering similar, though not identic, notes at about the same time by the American, British, and French Embassies. Accordingly, you may inform your British and French colleagues as to the nature of your reply to the Spanish note and you may use your discretion in timing submission of your reply in order to coincide with the British and French replies. [End paraphrase.]

KELLOGG

352.1153 St 2/65

The Ambassador in Spain (Hammond) to the Secretary of State

No. 839 MADRID, *March 14, 1928.*

[Received March 28.]

SIR: I have the honor to refer to the Embassy's telegram No. 37 of March 9th, 5 p. m., and the Department's telegraphic instruction No. 25 of March 10th, 5 p. m., having to do with the new rules laid down by General Primo de Rivera for the governance of the Valua-

tion Commission, in regard to the determination of the value of the expropriated petroleum companies in Spain.

Upon receipt of the Department's telegraphic instruction above referred to, I wrote a letter of acknowledgement to General Primo de Rivera, and I am enclosing herewith copies of the text of this letter.

It was not possible for me to arrange to send in the replies of the American, British and French Embassies at one time, in accordance with the Department's suggestion, as the French Ambassador left for Morocco on Friday, March 9th, and had already replied before I received the Department's instruction. I am enclosing herewith the Spanish text and the Embassy's translation thereof of the French Ambassador's reply,[29] which is entirely non-committal. I am advised that the French reply is based on the idea that it is now necessary to see how the Valuation Commission will interpret its new instructions, and that it is not opportune to go into further details at this time.

The British Ambassador has simply acknowledged General Primo de Rivera's letter of March 6th, and has made no comment whatsoever on the amended rules.

In the last two weeks, there has been a kind of a lull in the developments, and apparently the Government hopes to let the storm of adverse foreign press comment subside before proceeding further in the matter. A current rumor, which seems to be fairly well founded is to the effect that no serious work by the Valuation Commission is to be anticipated before the Easter Holidays, and in view of the fact that none of the companies have been summoned to appear before the Commission, it seems probable that the Government wishes to gain time, and let the public believe that all is now proceeding satisfactorily. Naturally the Spanish Government has no interest in expediting the valuations as its Monopoly is now enjoying full possession and use of the expropriated companies, and the legal interest which has been promised on any amounts finally awarded will be more than compensated for by the profits realized from the expropriated business.

I have [etc.] OGDEN H. HAMMOND

[Enclosure]

The American Ambassador (Hammond) to the President of the Spanish Council of Ministers (Estella)

MADRID, *March 13, 1928.*

MY DEAR MR. PRESIDENT AND FRIEND: I take pleasure in acknowledging your letter of March 6th,[30] in which you refer to the new instructions which have been given to the Valuation Jury, and with

[29] Not printed.
[30] *Ante*, p. 858.

which you enclosed me a copy of these instructions. I have brought the information which you have given me to the attention of my Government, and I have now been requested to inform you that due note has been taken of the nature of the instructions which have been given to the Valuation Commission.

In taking note of these instructions, together with the assurances which you have given me in your letter above referred to, my Government requests me to express the hope that a prompt and satisfactory valuation of the properties will now be made, with the understanding that such a valuation will be on a basis which will entail full and fair compensation for the losses to which the expropriated companies, largely owned by American interests, have been subjected.

I avail myself [etc.] OGDEN H. HAMMOND

852.1153 St 2/71

The Ambassador in Spain (Hammond) to the Secretary of State

No. 915 MADRID, *May 23, 1928.*
[Received June 12.]

SIR: I have the honor to refer to the Embassy's despatch No. 875 of April 17th last,[81] and to previous correspondence in regard to the Spanish Petroleum Monopoly, and to submit a further report in regard to recent developments.

As stated in the despatch above mentioned, the Valuation Commission reassembled about the middle of April and hearings of the claims of the various companies involved have been taking place.

The policy and the procedure of the Commission have been described at such length in previous despatches that it hardly seems necessary to go into all the complications of recent events, and I believe that a brief statement of the position as it exists at present will be more helpful to the Department.

Acting in accordance with the new rules laid down in February to govern its procedure, rules which were entirely the result of the energetic protests of the French and American Embassies, the Commission has allowed practically in full the claims for physical property of the respective companies, but has been very wary about admitting claims for going concern or good will value, as provided for in paragraph E of the rules, transmitted with the Embassy's despatch No. 835 of March 9th, 1928. The difficulties of the situation at present are as follows:

1. So far, the Commission has refused to review its awards made before the new rules were in vigor, and in several cases, notably in the case of the Standard Oil subsidiary, Babel and Nervion, this refusal makes a difference of several million pesetas.

[81] Not printed.

2. While no definite offer has been made in regard to good will value, an unofficial suggestion has been made on behalf of the Commission that the companies accept 8% of the value of their physical property as full compensation for good will and going concern value.

In regard to point one, the action of the Commission seems so arbitrary and unjust, that in the course of a recent interview with General Primo de Rivera in regard to several other matters, I drew his attention to this procedure of the Commission, and asked him to see that the Commission acted in accordance with his instructions mentioned in the Embassy's despatch No. 835 of March 9th last. General Primo said that he would discuss the matter with the Finance Minister (always hostile to foreign interests) and remarked that he saw no reason why the awards of the Commission for physical property should not be on a uniform basis.

In regard to point two, a considerable discussion took place, and the President, obviously ill informed about the details of the matter, was very unsatisfactory and brought up a number of irrelevant matters. He repeated his contention that he thought the companies were being fairly treated in accordance with his recently given instructions, that the matter of good will was very difficult to assess in a precise form, and said that he did not think the Government was liable to indemnify the various companies on a basis which would compensate them for lost earning power. I replied that the Spanish Railway Statutes and other previously existing legislation in Spain provided for a capitalization of earning power in the event of expropriation by the State. He then replied that he was willing to consider some method of indemnity along these lines, but that he refused to take into consideration the 1927 earnings of the companies, which were considerably larger than in past years. He said that he believed the companies had exaggerated their 1927 earnings in the hope that they might be included as a basis for indemnity. I replied stating that I could see no reason for refusing to give the companies the benefit of the one profitable year they had had recently, particularly as they had paid taxes on the earnings in question, and that their books were subject to inspection by the Spanish financial authorities. A considerable amount of discussion followed, the substance of which was that the President admitted that something was due to the companies for good will, but that he was not willing to admit that the liability was as high as the companies claimed.

To give the Department a concrete idea of what this means in regard to the Babel and Nervion Company, the following figures are of interest: the Company claims 21,000,000 pesetas for fixed property, and some fourteen or fifteen million pesetas for good will, trade marks, etc. As against this, granting that the original awards of the Commission are corrected and brought into line with its more recent awards

for physical value, the Company would receive about 19,000,000 pesetas for physical property, and on the basis of the tentative and arbitrary offer of the Commission to pay some 8% of the value of the physical property as compensation for good will, the Company would receive about 21,000,000 pesetas. The Company claims that this is practically confiscation of half of its assets, and in view of the fact that the Monopoly has taken over the whole organization of the Company as a going concern, and is profiting thereby (I brought this out strongly to General Primo de Rivera), I think the Company's claim is justified.

If the Company's earnings for the last five years, including 1927 were capitalized at a 4¼% basis, as provided for in the above mentioned Railway Statutes, its total compensation would work out at about the sum claimed, some 36,000,000 pesetas. If, on the other hand, the earnings of the profitable year, 1927, were left out of account, and the earnings for the previous five years calculated on a 4¼% basis, the amount in question would approximate the sum of money the Spanish Government seems willing to give, namely some 21,000,000 pesetas.

I discussed the above referred to interview with my French colleague, who considers that the offers of the Spanish Government are entirely inadequate, and in view of the unsatisfactory state of affairs, the French Ambassador wrote to General Primo de Rivera under date of May 12th 1928, requesting, first, assurances in regard to the reviewing of the earlier valuations of the Commission above referred to, and second, a fair consideration of the companies claims for good will. I am enclosing herewith the Spanish text together with the Embassy's English translation of the letter above referred to.[32]

The French Ambassador tells me that he intends to take this matter up personally with General Primo de Rivera in the course of the next few days, and we both hope that by constant pressure the Spanish Government will finally decide to make more reasonable and adequate compensation to the companies in question.

The British Embassy here has preserved its rather negative attitude in regard to the British interests affected, but the Shell subsidiary is in practically the same position as the other companies, and its representative here has already refused the Commission's tentative offer for good will, apparently hoping to profit by French and American representations.

The Department will recall that General Primo de Rivera has already promised me in writing to accord equal treatment to foreign and Spanish interests affected by the Petroleum Monopoly, and in this connection it is of interest to know that Spanish interests are being paid in all cases in shares of the new Monopoly Company, which are already selling at a 45% premium, thus giving these interests not only

[32] Not printed.

this amount in good will value, but also a chance to profit by the stranglehold on the Spanish public which the Monopoly will certainly use to its advantage in the future. I think this fact alone should allow us to claim at least equal treatment for American interests affected, as they are not allowed to receive Monopoly shares and must be paid in money. I have already mentioned this fact to General Primo de Rivera and have pointed out that foreign interests forcibly expropriated almost without warning had an even greater claim for consideration than Spanish interests which will be able to profit from the Monopoly in the future.

As of general interest to the Department in this connection, I am enclosing herewith an English translation of the memorandum by Mr. Gonzalez, the lawyer of Babel and Nervion Company,[34] which strongly supports the Company's claims.

I have [etc.] OGDEN H. HAMMOND

352.1153 St 2/68 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, *May 31, 1928—5 p. m.*
[Received June 1—9:05 a. m.]

56. Reference Embassy's despatch No. 875, April 17,[34] and 917 [*915*], of May 23, last. On May 29th the French Ambassador communicated to Primo the direct text of instruction from Briand which is the strongest communication yet sent, summary of which is as follows:

(1) Spanish Government has replied to French communications stating that procedure of monopoly directly violates French treaty of 1862 and international law.

(2) Commission has wilfully undervalued physical property and refused to give adequate compensation for good will resulting thereby in actual confiscation of investment. The seizures have taken place without previous indemnity in accordance with treaty, the trade have been deprived of any ordinary judicial course, and appeal to Council of Ministers, which means in effect Finance Minister, is worthless.

(3) French Government instructs Ambassador to bring this directly to Primo's attention "feeling sure that when he understands the facts that he will take disciplinary measures regarding officials who have violated French rights; that all the earlier inadequate awards be annulled and that total indemnity be paid not only for the physical property but for the prejudice caused by the arbitrary stoppage of an industry."

I understand that the French Government thinks that an indemnity of at least fifty per cent of the value of the physical property is the least that could be accepted as total compensation.

---

[34] Not printed.

The Spanish Government has refused to take the net earnings of the companies capitalized at four and one-quarter per cent over a five-years' period as the basis for a total indemnity in accordance with existing Spanish railway legislation in case of expropriation by the state. Valuation Commission has likewise so far refused to review awards made before new rules transmitted with Embassy despatch 835, March 9, were effective. This occasions serious loss in appraisal of part of physical property of American interests. Shell Company has been offered about 10 per cent less than the physical value of its entire property, plus 8 per cent for good will and liquidation, which it has refused. On this basis Standard Oil Company subsidiaries claim that they would not even receive the capital value of their investment.

Under the circumstances I am sending another note to the Spanish Government [35] along the lines of the Department's past instructions and renewing general claim for prompt and adequate compensation.

HAMMOND

352.1153 St 2/72

The American Ambassador in Spain (Hammond) to the President of the Spanish Council of Ministers (Estella) [36]

MADRID, *May 31, 1928.*

DEAR MR. PRESIDENT AND FRIEND: I have received a memorandum from the Section of Commerce of the Ministry of State, dated May 18th last, which refers to our conversation on May 11th and to the brief suggestion in the form of a memorandum which I left with you, all having to do with the valuation of one of the petroleum enterprises which have been forcibly seized by the Spanish Petroleum Monopoly before January 1, 1928. The point of view set forth in this memorandum hardly seems to me to accord either with the spirit of the new rules laid down by you in February for the guidance of the Valuation Commission, or with the assurances which you have given me in the past in regard to fair and equitable treatment of the interests involved.

Leaving aside for the moment the technical details of a possible method of valuation which I referred to in my conversation with you, as a basis of a fair settlement, and which is referred to in the above mentioned memorandum of May 18th, I must recall to your attention our conversations of last autumn and of last winter, when we first discussed the question of the forcible seizures on behalf of the Petroleum Monopoly of enterprises largely owned by American interests.

At that time, in accordance with my Government's instructions, I informed you that a very unfavorable effect on public opinion had

---

[35] *Infra.*

[36] Copy transmitted to the Department by the Ambassador as an enclosure to his despatch No. 929, June 6, 1928; received June 18.

been created in the United States by the sudden and arbitrary seizures of lawfully constituted enterprises—seizures which were illegal in accordance with previously existing Spanish constitutional and civil law. You then assured me that full and fair compensation would be given to all the interests affected.

The fact remains, however, that although the companies have been for five months deprived of all their property and their privileges of doing business in Spain, no compensation has as yet been paid, and the expectation of my Government that fair, full and prompt compensation should be received by the interests involved, has not been fulfilled.

Since the coming into force of the new rules which you prescribed for the guidance of the Commission last February, I understand that the valuation of the physical property of American owned companies has been made on a more satisfactory basis, although even these physical valuations are materially below the book values of the companies. The Commission has, however, refused to review its earlier awards made before the coming into force of these new rules, and as these earlier awards often only gave fifty percent of the real value of the seized property a serious loss necessarily results.

I must therefore request you to set aside the earlier awards, which would seem to be against both the letter and the spirit of the rules of February, and grant compensation for physical property on a uniform basis.

Further, I had hoped that paragraph E of the regulations above referred to would provide a fair basis of compensation for the business of the companies, the operations of which were forcibly arrested by the various Royal Decrees and Ordinances of 1927; but I understand that the Commission refuses to interpret this paragraph on any broad basis.

In view of your past assurances that you intended to give just and "equitable" treatment to the interests involved—assurances which I have naturally communicated to my Government—I should be greatly obliged if you would inform me that the Valuation Commission will review its earlier unfair awards, in accordance with the spirit of the rules above referred to, and that prompt payment will be made for the losses resulting to American interests.

I am [etc.] OGDEN H. HAMMOND

352.1153 St 2/69 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, *June 1, 1928—6 p. m.*

38. Your 56, May 31, 5 p. m. The attitude of the Spanish Government and of the Valuation Commission in failing to formulate

a definition of the criteria (including "industrial value") on which compensation to the expropriated companies should be based, as well as its failure to review the awards made previous to the issuance of the new rules transmitted with the Embassy's despatch of March 9, is most disappointing and this Government doubts whether any satisfactory solution can be attained until such a definition has been framed and has been recognized by the companies as affording a substantially just basis for compensation. This Government shares the apprehensions of the French Government and will, of course, expect equal treatment. You may therefore second the French protest along similar lines if in your judgment it seems expedient.

[Paraphrase.] Standard Oil representatives here, with whom the question has been informally discussed, are of the opinion (the Department being inclined to concur therewith) that an agreement among the affected foreign companies regarding the nature of such a definition and in order to act together to urge the Spanish Government to adopt it would seem by the logic of the situation to be suggested as in the best interest of said companies. Playing one off against another by dealing with each company individually and separately would otherwise be to the advantage, obviously, of the Spanish Government; while, also obviously, if the companies take a united, common stand, their Governments will be enabled to coordinate better and to make more effective whatever diplomatic support from time to time may seem required by the situation.

The Paris representative is being instructed by Standard Oil to start conversations toward such an agreement with representatives of the British and French oil companies. You may informally discuss matters with your British and French colleagues and with representatives of the oil companies in Madrid. [End paraphrase.]

Please keep Department informed of developments.

Please mail cipher copies of your 56 and of this telegram to Paris and London for their information and guidance.

KELLOGG

352.1153 St 2/88

The Ambassador in Spain (Hammond) to the Secretary of State

No. 933 MADRID, *June 12, 1928.*

[Received June 25.]

SIR: Referring to my Despatch No. 929 of June 6th, last,[37] reporting recent developments in regard to the Spanish Petroleum Monopoly, I have the honor to transmit herewith for the Department's information copy and translation of a Note from the President of the

[37] Not printed.

Council of Ministers under date of June 6th (only received, however, this morning) in reply to my note, copy of which is transmitted with the Embassy's Despatch No. 929 of June 6th last.[38]

While the President's reply is couched in the friendliest of terms, and skillfully worded particularly in the handwritten postscript to make it appear that I am only urging a prompt and adequate settlement of the companies' claims because of being "prodded" by the American interests concerned, I consider the Note entirely unsatisfactory and an obvious, though friendly attempt to dodge the issue.

Inasmuch as Mr. William Brewster, Managing Director of the Standard Oil Company of Madrid, has not yet returned from Paris, I shall await his arrival before making detailed comment upon the particular statements made in the Spanish note regarding the specific case of the Babel and Nervion Company.

I have [etc.] ODGEN H. HAMMOND

[Enclosure—Translation]

The President of the Spanish Council of Ministers (Estella) to the American Ambassador (Hammond)

MADRID, *June 6, 1928.*

MR. AMBASSADOR AND DEAR FRIEND: I have not yet replied to your courteous letter of the 31st of May regarding the evaluation of petroleum installations on account of the necessity of obtaining certain data from the competent department regarding the matter to which you specifically refer. Although you do not specify in your letter to which American company you refer, I am able to inform you that the revision of the evaluations of the above mentioned petroleum installations made by the jury prior to the month of February has been subsequently completed, the jury making a new study based on the broadest principles in order that the possible errors committed may be remitted in the final evaluation. Specifically, my information relates to the Babel and Nervion Company, and it appears that in attempting to evaluate certain properties belonging to it, as the value attributed to the property of the Company did not coincide with that proposed by the official commission, the jury decided to ask the official evaluation of the municipal authorities within whose limits the properties were situated. The municipal authorities assigned to the properties a very much smaller figure, not only than the one requested by the company, but also than the one proposed by the official state commission, and in view of this, the Government, in harmony with its spirit of benevolence, has ordered the jury to disregard the official evaluation given by the municipality, and to adhere to the proposal made by the official commission.

[38] Despatch not printed. For the Ambassador's note of May 31, 1928, see p. 865.

According to my information, it would seem untrue that the official commission refuses to take into account indemnifications of a commercial character in evaluating the petroleum businesses. The Jury which has received indications from the Government in this particular has taken into consideration the profits which the petroleum companies made within a given period of time, capitalizing them at an average of 10%, which is the profit usually made by petroleum companies, and rejecting a capitalization at extremely low rates suggested by the petroleum companies, which have no legal precedent in Spain or in any other country.

The fact that up to the present writing no indemnification to American companies has been made is occasioned by the fact that evaluation has been very slow due in many instances, as I am informed, to the wishes of the interested parties themselves. At the present time, the evaluation of the most important foreign companies has been definitely accorded, and one of these days that of the totality of the companies will be decided upon, for which reason I can assure you that the payment will only be delayed during the time that the companies take to present their titles and other documents for the purpose of legalizing the pertinent deeds (*escritura*). At any rate the delay referred to does not harm the interested companies since, as you already know, the indemnification which is ultimately granted will be supplemented by the legal interest from the date of the seizure.

As you see, Mr. Ambassador, the desire to accord fair and just treatment to which we have referred in our past correspondence on this subject has not been discontinued, and the legitimate American interests which are under your protection are not to be disregarded.

Believe me [etc.] MARQUÉS DE ESTELLA

(in handwriting)

I understand, Mr. Ambassador, the not always justified requests that hang over you, but my good will, and that of the Finance Minister, is taking care of all of them, although without going to the extremes which have been attempted to be demanded in this matter.

352.1153 St 2/90

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

No. 942 MADRID, *June 20, 1928.*

[Received July 3.]

SIR: I have the honor to refer to the Embassy's despatch No. 932 of June 12th,[39] having to do with the Petroleum Monopoly, and to

[39] Not printed.

submit a further report on recent developments. In this despatch reference was made to the attitude of Mr. Westcott, the British Director of the Shell interests, who, having been to London recently, had advised Sir Henri Deterding that it would be better to accept some 25,000,000 pesetas on account of the Shell claims, reserving all rights to any future claims for the value of going concern and good will.

The French Embassy and the various French and American interests affected by the Monopoly considered that the acceptance of any sum on account at the present time would weaken the diplomatic position and would at the same time play into the hands of the Spanish Government, which would be able to announce that it was meeting fairly the claims of the foreign companies driven out of business in Spain. The Standard Oil Company therefore decided to send Mr. Brewster, the Managing Director in Madrid, to London, to put the issues involved more clearly before Sir Henri Deterding, and Mr. Brewster accordingly had two interviews with Sir Henri in London on June 12th and 13th. The net result of these interviews was that the Shell Company telegraphically instructed its Madrid representative to hold his hand until the middle of July pending the results of the French negotiations referred to in the Embassy's confidential despatch No. 932 of June 12th last. In this connection I think it is only fair to state that the Standard Oil officials have made every effort to co-operate with both the French and British interests involved, in order to obtain as far as possible a united front, and the more broadminded and less selfish attitude of these officials has been extremely helpful in the course of these long drawn out negotiations.

The French Ambassador was gratified at this result, and I understand that the French Foreign Office was pleased at the effort made by the Standard Oil Company to obtain a united front of all the interests involved, thus preventing the Spanish Government from dealing piece-meal with the companies.

. . . . . .

In the meantime, the position of the principal American industries concerned is as follows: in accordance with repeated requests which the Embassy has made, both verbally and in formal notes, the Valuation Commission has been instructed to reconsider its earlier unfair awards, and at the end of last week, representatives of the Babel and Nervion Company came to a tentative agreement with the Valuation Commission to accept some 19,300,000 pesetas for the whole of its physical property. This is of course exclusive of the 3% already offered to the Shell Company (a sum payable arbitrarily under Spanish law on any transaction involving expropria-

tion by the State) plus 5% for general indemnity, and presumably the same offer will be made to this Company. As against this sum, the Company considers that its total assets, including trade marks, good will and value of going concern, are 36,000,000 pesetas, and it is accordingly addressing a protest to the Council of Ministers asking that reasonable indemnity be given on the basis of its total claims.

In regard to the figure of 19,300,000 pesetas tentatively agreed upon, the Company considers that this is less than the cost of reproducing the property in question and is therefore unfair, but it is nevertheless disposed to settle on this basis on condition that some substantial concession above the supplementary offer of 8% above referred to is obtained.

. . . . . .

In view of the developments of the last two weeks and in accordance with the Department's telegraphic instruction No. 38 of June 1st, 6 p. m., authorizing me to second the protests of the French Embassy if it seemed expedient, I believe the moment is now opportune to give more tangible support to the latest French negotiations. I shall therefore endeavor to see General Primo or the Finance Minister in the near future and try to impress upon them the desirability of making some fair, definite and immediate settlement.

I have [etc.] SHELDON WHITEHOUSE

352.1153 St 2/96

The Ambassador in Spain (Hammond) to the Secretary of State

No. 954 SAN SEBASTIAN, *July 3, 1928.*
[Received July 19.]

SIR: I have the honor to refer to my despatch No. 942 of June 20, 1928, having to do with the Petroleum Monopoly.

In this despatch I stated that I hoped to discuss the latest phases of the expropriation proceedings with General Primo de Rivera in order, if possible, to reach a practical settlement of the matter, and accordingly I saw him on Wednesday, June 27th. After a brief review of the situation during which I informed the President that I was familiar with the various conversations which he and his Finance Minister had had with the French Ambassador, and that my Government was substantially in accord with the French attitude in regard to the expropriations and the payment therefor, General Primo de Rivera reiterated his usual formula that the Spanish Government was dealing generously with the interests involved, that the claims of the companies for compensation were exaggerated, but that nevertheless he would go into the matter again in order to see

if a satisfactory settlement could be reached. I accordingly suggested that I take up the practical details of the matter with the Finance Minister, and an interview with Señor Calvo Sotelo was at once arranged by telephone, and took place immediately after I left the President. Señor Calvo Sotelo on the whole maintained his ostensibly friendly but firm attitude, and on broad lines what he said corresponded with his interview with the French Ambassador as reported in the memorandum transmitted with the Embassy's despatch of June 27th [*26th*] last.[40] I finally suggested that it might be better for the moment to pass over all the legal technicalities and endeavor to reach a practical settlement on business lines. To this end I suggested that in view of the fact that certain Spanish interests had been offered, in payment for their physical assets, Monopoly shares now selling at a premium of 45%, such shares to be taken at par, these interests would receive a substantial compensation for the businesses taken over, whereas the offers so far made to foreign interests only provided for a supplementary payment of 8% over and above their physical assets. I said that I felt sure that the Minister did not wish to discriminate against the foreign interests in favor of Spaniards, that the sum involved to reach a substantial equality of payment was relatively small, and that I hoped that the Minister, in consideration of this, would arrange to meet the foreign interests half way. Señor Calvo Sotelo replied to this saying that he was quite willing to consider some additional compensation to the foreign interests in order to settle the matter, but maintained that the price of the Monopoly shares was somewhat artificial at the moment and he went into this matter at great length. He admitted finally, however, that the shares would always sell at a substantial premium in view of the profitable nature of the business, and in principle he agreed to consider the allotment of additional compensation to foreign interests.

A few days before, in an interview with the French Commercial Attaché, the Minister also agreed to additional compensation and, in reply to a remark of the French Commercial Attaché to the effect that it was a pity to compromise the good name of Spain for the relatively small sum of around 20 million pesetas, stated that he would be willing to consider an increase of the Spanish offer by that amount if it meant the settlement of the claims of all the foreign companies.

In the course of the interview I obtained the general impression that the Minister is weakening and that as a result of the very strong American and French representations the question of compensation is no longer a matter of hard and fast principle but is purely one of expediency and that the Spanish Government is now disposed to

[40] Not printed.

meet the foreign interests more fairly. My French colleague agrees with this impression and informs me that he thinks that the vague menace of a possible appeal to an international tribunal for French interests has worried the Spanish Government considerably and may well result in some practical settlement in the near future.

. . . . . .

In the Embassy's despatch No. 942 of June 20, 1928, reference was made to a formal appeal of the Babel and Nervion Company to the Council of Ministers in view of the fact that the Valuation Commission has only allotted the company the sum of 19,000,000 pesetas as compensation, a sum which the company maintains is wholly inadequate. This petition is long and of a technical character and considered on its merits seems to establish the company's claim for larger compensation. I am forwarding herewith, for the Department's information, the Spanish text together with an English translation thereof.[41]

The Council of Ministers has not yet acted on the petition of this important American interest, but I believe that the representations made have caused a decided weakening in the attitude of the Spanish Government and I am hopeful that a final settlement may yet be reached which will be reasonably acceptable to all the foreign interests. Such a settlement would be the more satisfactory in view of the obdurate attitude that the Spanish Government has maintained for months past, and I believe that only the constant pressure which has been brought to bear by the American and French Embassies has brought about the possibility of a fairly satisfactory outcome of these lengthy negotiations.

I have [etc.] OGDEN H. HAMMOND

352.1153 St 2/104 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

SAN SEBASTIAN, *August 24, 1928—3 p. m.*
[Received August 24—2:39 p. m.]

78. Referring to my telegram number 59, June 9, 11 a. m.[41] I am informed by Wescott, Shell representative, that he has been instructed to accept a settlement of company's claims for expropriations on the basis of actual physical valuation, plus eight per cent, plus legal interest from date of seizure. The Shell group has renounced its endeavors to obtain compensation for good will and settlement on more favorable exchange basis.

HAMMOND

---

[41] Not printed.

352.1153 St 2/105 : Telegram

The Acting Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, *August 30, 1928—1 p. m.*

54. Your 78, August 24, 3 p. m. The Department is distinctly disappointed by the failure of the British Government and the Shell group to stand with the French and American Governments and oil companies. The Department is constrained to believe that a secret agreement of some sort has been reached (see Marriner's letter to Whitehouse)[43] and in this connection would be interested to know whether Shell still considers itself bound by its agreement with the Standard Oil a year ago not to sell oil directly or indirectly to the monopoly.

Please discuss situation with your French colleague and endeavor to ascertain what line the French Government proposes to take under the present circumstances. The French Government, thanks to its treaty relations with Spain, appears to have a strong case irrespective of Shell's action, and should it continue to press its claims in the manner it has in the past this Government would be disposed to follow with it assuming, of course, that the American oil companies continue to decline to make terms on the basis of the Shell settlement. If France should decide to follow the example of the British this Government would probably find it difficult to maintain its present stand unless the attorneys for the American oil companies can present a very solid legal claim based on well recognized precedents of Spanish law and practice.

Standard Oil is consulting with the French companies to ascertain their views, and as soon as definite information has been received as to their attitude and that of the French Government it is expected that the Department and Standard Oil will confer upon the course of action to be followed regarding which instructions will be sent to you.

Mail cipher copies to London and Paris.

CASTLE

352.1153 St 2/106 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

SAN SEBASTIAN, *September 5, 1928—noon.*

[Received 10:55 a. m.]

82. Department's 54, August 30, 1 p. m. French Embassy intends to continue pressing for increased compensation for good will, with

[43] Not printed.

the hint that unless some increase is forthcoming they will invoke arbitration under their treaty. The question is now dormant and French Embassy does not expect to take any action before end of October.

HAMMOND

852.6363/139

The Secretary of State to the Ambassador in Spain (Hammond)

No. 462 WASHINGTON, *September 18, 1928.*

SIR: At the dinner given at the American Embassy in Paris on the night of August 26 I discussed the question of the Spanish oil monopoly with M. Briand [44] and said that we were absolutely in accord with the French on this question. M. Briand said that he had appreciated our consistent attitude of energetic cooperation, but also he was glad to have this categorical assurance of its continuation. I suggested that the French had more available means of pressure on the Spanish than have we. M. Briand was not directly responsive, but confined himself to saying that the moment the Spanish knew that the American and French Governments were firmly resolved on a common line of action they (the Spanish) would see the necessity of abandoning their present indefensible attitude. M. Briand concluded by saying that he had already had indications of this.

I have informed the Embassies at London and Paris of this conversation.

I am [etc.] FRANK B. KELLOGG

852.6363/141 : Telegram

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

[Paraphrase]

PARIS, *October 25, 1928—5 p. m.*

[Received 6:50 p. m.]

329. With reference to the Department's No. 2900 of September 18.[45] The French Government, I have learned, believes that the best chance to obtain more adequate compensation from Spain for the oil companies lies now in recourse to arbitration. Whether France can insist successfully upon arbitration under the existing Franco-Spanish convention is being studied by the French Foreign Office. An affirmative decision at present seems likely. If so, the French Government would naturally welcome support for their position from the Department of State.

[44] Aristide Briand, French Minister for Foreign Affairs.
[45] Same as instruction No. 462 to the Ambassador in Spain, *supra*.

Such a course is favored by the American oil representatives who inform me that American interests would be covered by French arbitration as a result of a minority of French stockholders in Babel and Nervion.[46]

The foregoing is being mailed to Madrid.

ARMOUR

852.6363/142 : Telegram

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

[Paraphrase]

PARIS, *November 1, 1928—2 p. m.*

[Received 3:15 p. m.]

338. Referring to my telegram 329 of October 25. I am informed by the French Foreign Office that instructions have been given the French Ambassador, Peretti, who is returning to Madrid, to consult his American and British colleagues there and to report regarding the advisability of recourse to arbitration. The French Government apparently is ready to adopt this course unless Peretti offers an objection to it. The foregoing is being mailed to the Madrid Embassy.

ARMOUR

852.6363/159a : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, *December 4, 1928—9 p. m.*

67. Paris's 338, November 1, 2 p. m., to the Department. Counselor of the French Embassy called at this Department December 4 and left a memorandum [47] stating that French Ambassador at Madrid had been instructed to ask the Spanish Government to submit to an arbitration the questions arising out of the application of the oil monopoly in Spain and among them: (1) Indemnity for the goodwill of three French companies, (2) indemnity for the assets of one Company, (3) indemnity for French employees deprived of their situation, (4) payment of indemnity on a gold basis, (5) exoneration of taxes on the liquidation of oil companies.

The memorandum added that the French Government would attach the greatest importance to the American Ambassador in Madrid receiving similar instructions from the Department of State. The Department is in consultation with the Standard Oil on this matter which is instructing its Madrid representative to discuss the situation with you. The Department would appreciate your comments and recommendations in the matter before further defining its position

[46] Standard Oil Co. of New Jersey subsidiary.

[47] Not printed.

with regard to arbitration and would be particularly interested to have the text of the French note asking for arbitration or at least to be advised as to the basis upon which the French Government is making its request.

Please mail cipher copies to London and Paris.

KELLOGG

852.6363/145 : Telegram

The Ambassador in Spain (Hammond) to the Secretary of State

MADRID, *December 6, 1928—10 a. m.*

[Received 2:55 p. m.]

100. Department's 67, December 4, 9 p. m. On November 30th, French Ambassador sent note to Foreign Office reiterating former complaints in regard to treatment of French interests by oil monopoly and stating that failing an adequate and satisfactory settlement by mutual consent the French Government would have to demand arbitration under the Franco-Spanish treaty of 1904. [Paraphrase.] I am told by the French Ambassador that he attaches the highest importance to some support from the American Embassy to this French note because the concrete threat of international arbitration may well induce the Spanish Government, now obviously worried, to make a satisfactory offer of settlement. [End paraphrase.]

Accordingly, on December 4th I sent a note to General Primo de Rivera, basing my action upon your strictly confidential instruction number 462 of September 18th when you informed Monsieur Briand that we were in absolute accord with the French Government in regard to obtaining adequate compensation for the expropriated companies and on the assurance of the Standard Oil Company's representative here that failing a satisfactory settlement he was willing to abide by an eventual arbitral decision. Text of my note is as follows:

"My French colleague informs me that he has written Your Excellency to the effect that, failing to secure an adequate and prompt settlement of the claims of the French petroleum companies by the Spanish Government, he has been instructed to demand international arbitration in accordance with the Franco-Spanish convention of 1904.

My government is in complete accord with the French Government regarding the obtaining of adequate and prompt compensation for the expropriated companies and I, therefore, take this occasion to inform you that failing a fair settlement by mutual agreement the arbitration proceedings about to be demanded by French Ambassador seem to offer the only satisfactory solution of this problem which has been so long under discussion.

I must, moreover, inform Your Excellency that the American interests involved include a substantial French participation and that these interests will abide by whatever decision may be rendered by arbitral tribunal."

I believe that we could not demand arbitration as a right but, in view of French minority interests in Standard Oil Company here and in view of Primo de Rivera's assurance to me that all interests would receive equal treatment, we will profit by French initiative. For this reason it seemed necessary to give immediate support to preliminary move of French Ambassador on November 30, the more so as British Company, tired of fighting without Foreign Office support, has accepted Spanish Government's offer of some thirty million pesetas with a guarantee exchange of 29.28 to the pound sterling under protest. British company's attitude is that it prefers to take ready money and that it will profit should arbitral tribunal award higher valuation to other companies. [Paraphrase.] Although negotiating over arbitration and terms of reference will be protracted, I believe the Spanish Government may well be influenced by the solidarity of France and the United States at this time to settle satisfactorily, thus avoiding being unwillingly dragged before an international tribunal. [End paraphrase.]

Text of French note of November 30 follows by pouch.[48]

HAMMOND

852.6363/145 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

[Paraphrase]

WASHINGTON, *December 8, 1928—3 p. m.*

68. Your 100, December 6, 10 a. m. Your failure to inform the Department of the French Ambassador's action on November 30 at Madrid and also to consult the Department before sending your note dated December 4 to the Spanish Government is surprising.

The Department and oil companies are in consultation. The situation created by your note will be dealt with in further instructions early next week.

KELLOGG

852.6363/147 : Telegram

The Acting Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, *December 18, 1928—7 p. m.*

69. Department's 68, December 8, 3 p. m. Department will await receipt of text of French note of November 30 which it wishes to consider and discuss with oil companies before sending further instructions.

CLARK

[48] Not printed.

PROPOSED TREATY OF ARBITRATION BETWEEN THE UNITED STATES AND SPAIN

711.5212A/5

The Secretary of State to the Chargé in Spain (Blair)

No. 335 WASHINGTON, *February 20, 1928.*

SIR: The Spanish Ambassador called to see me January 26, 1928. He brought with him the original of the Department's note of October 20, 1925 [49] (which, however, bore no date) regarding the renewal of the Root Arbitration Convention of 1908.[50] He said that an examination of the Embassy's files did not indicate that any reply had ever been made by his Government to the proposal which was outlined in the note, and inquired as to the present views of the Department on the subject.

I told him that I was prepared to negotiate a new arbitration convention with Spain either on the basis of the original Root Convention of 1908, or on the basis of the draft arbitration treaty which the United States has submitted to France and which is the subject of current negotiation with that Government.[51] The Spanish Ambassador said that he would be glad to have a note or memorandum from the Department confirming my statement so that he might communicate it to his Government. He also indicated a desire to have available for consideration the text of the proposed arbitration treaty with France. I explained that the terms of the treaty with France were now under discussion and that some modifications in phraseology might result from the negotiations now in progress, and that the Spanish Government should not, therefore, regard the draft treaty as final or as a definite proposition from which there would be no deviation. The Ambassador said that he understood this.

In view of the progress which was being made in the negotiations with France I delayed, however, communicating further with the Spanish Ambassador in the hope that it might be possible to send him the text of the definitive treaty instead of merely the preliminary draft. The treaty with France was signed February 6, 1928 [52] and I have since despatched a suitable note to the Spanish Ambassador [49] confirming the statement made by me to him, and transmitting the text of the treaty signed with France.

I am [etc.] FRANK B. KELLOGG

[49] Not printed.
[50] *Foreign Relations*, 1908, p. 721.
[51] See vol. II, pp. 810 ff.
[52] Vol. II, p. 816.

711.5212A/7 : Telegram

The Secretary of State to the Ambassador in Spain (Hammond)

WASHINGTON, *March 12, 1928—6 p. m.*

26. The Department handed the Spanish Ambassador on March 12, a draft of a proposed Treaty of Arbitration between the United States and Spain. The provisions of the draft operate to extend the policy of arbitration enunciated in the Root Treaty of April 20, 1908, which expired June 2, 1923. The language of the draft is identical in effect with that of the arbitration treaty recently signed with France and with the draft arbitration treaties already submitted to the Norwegian, British, Japanese, Italian and German Governments.[54] The text of the proposed treaty will be forwarded in the next pouch.[55]

KELLOGG

711.5212A/9

The Spanish Ambassador (Padilla) to the Secretary of State [56]

[Translation]

No. 76–22 WASHINGTON, *July 11, 1928.*

MR. SECRETARY: In reply to Your Excellency's kind note dated the 10th of March last,[57] in which were enclosed for the consideration of His Majesty's Government a draft of an arbitration treaty between the United States and Spain along the lines which were distinctive in that signed between North America and the French Republic on the 6th of February of this year, I have the honor to inform Your Excellency that under instructions just received, the Government of His Majesty directs me to say that inasmuch as it has adopted for sometime past as a standard for a treaty of arbitration one that embraces all the disputes and conflicts, without any exception whatsoever, it finds itself, much to its regret, unable to sign the pact proposed by the Government of which Your Excellency forms such a worthy part, as it cannot make any exception to the rule it is following in those international questions by signing a treaty of arbitration which, in the opinion of His Majesty's Government, does not respond to the breadth of judgment that has always inspired its international attitude.

All the more so, says His Excellency the President of the Council of Ministers of Spain, also Minister of State, as the conciliation

[54] For negotiations with Germany and Great Britain, see vol. II, pp. 862 ff., and pp. 943 ff.; with Italy and Japan, see *ante*, pp. 102 ff. and pp. 135 ff. Although negotiations with Norway were instituted in 1928, the treaty was not signed until 1929 (Department of State Treaty Series No. 788).

[55] Draft treaty not printed.

[56] No reply appears to have been made to this note.

[57] Not printed.

treaty of 1914 between North America and Spain,[58] which is still in force, is sufficiently broad and modern, even without accepting the principle of compulsory arbitration, to save the friendly relations, happily existing between our nations, from any danger of any possible surprise with unpleasant consequences, although such a thing is not to be feared in view of the cordiality of the relations between the United States and Spain.

As an enclosure to this note, and by way of information for Your Excellency, I have the honor to append a copy in French of the form of an arbitration, conciliation and judicial settlement treaty recently signed by Spain with many countries,[59] and I must say to Your Excellency that His Majesty's Government will always be ready to conclude one like it with the United States if your Government so desires.

That form of a treaty merely represents a further step with respect to the stipulations in that which was signed on September 15, 1914, that is still in force, which also reflects the spirit of North America by concluding an absolute compulsory general convention which are the characteristics shown in the *projet* which I have the honor to submit to Your Excellency for examination by enclosing it in this note.

The Government of His Majesty wishes to renew its fundamental adhesion to the principles which appear in the preamble at the head of the draft of a pact which Your Excellency submitted in a note dated the 10th of March last, and which principles Spain has no hesitation whatsoever in sponsoring. It is the purpose of my nation to show, by our example, that we not only outlaw war as an instrument of international policy, but also that we wish to hasten the arrival of the moment when the stipulation of international conventions for the peaceful settlement of conflicts among peoples will forever eliminate any possibility of war.

Lastly, I take pleasure in informing Your Excellency that His Excellency Señor Don Pablo Soler y Guardiola, Ambassador of His Majesty, has been named to take the place of His Excellency Señor Don Pio Gullón, who died sometime ago, on the Permanent International Commission provided for by Article 1 and in conformity with the provision in Article 2 of the Treaty for the settlement of differences between Spain and United States signed at Washington on September 15, 1914.

The International Commission being thus completed, the said treaty of conciliation will be fully operative for the good of the mutual friendly and cordial relations that bind the United States of America of the North and Spain.

I avail myself [etc.] ALEJANDRO PADILLA

[58] *Foreign Relations*, 1914, p. 1082.
[59] Not printed.

SWEDEN

TREATY OF ARBITRATION BETWEEN THE UNITED STATES AND SWEDEN, SIGNED OCTOBER 27, 1928

711.5812A/2 : Telegram

The Secretary of State to the Minister in Sweden (Harrison)

WASHINGTON, *April 28, 1928—5 p. m.*

5. The Department handed the Swedish Minister today a draft of a proposed treaty of arbitration between the United States and Sweden. The provisions of the draft operate to extend the policy of arbitration enunciated in the Convention signed at Washington on June 24, 1924,[1] which expires on March 18, 1929. The language of the draft is identical in effect with that of the Arbitration Treaty recently signed with France[2] and with the draft arbitration treaties already submitted to other governments in the general program for the extension of these principles. The text of the proposed treaty will be forwarded in the next pouch.[3]

KELLOGG

711.5812A/7

The Swedish Minister (Boström) to the Secretary of State

WASHINGTON, *October 4, 1928.*

SIR: Referring to previous correspondence regarding the proposed treaty of arbitration between Sweden and the United States of America, latest my note of April 26, 1928,[4] I have the honour to inform Your Excellency that my Government have now approved the draft of the Treaty submitted to me by Your note of the same date and that I have been authorized to sign the Treaty on behalf of Sweden.

My Government should appreciate, however, in case there is no objection on the part of the United States Government, if the text of Article 3, first paragraph, could be changed from "by Sweden in accordance with its constitutional laws" to "by His Majesty the King of Sweden with the consent of the Swedish Riksdag". The Swedish text is enclosed.[4]

I wish to add that I am prepared to sign the Treaty at any time convenient to you.

With renewed assurances [etc.] M. BOSTRÖM

---

[1] *Foreign Relations*, 1924, vol. II, p. 702.
[2] See vol. II, pp. 810 ff.
[3] Draft not printed.
[4] Not printed.

Treaty Series No. 783

Treaty Between the United States of America and Sweden, Signed at Washington, October 27, 1928 [5]

The President of the United States of America and His Majesty the King of Sweden

Determined to prevent so far as in their power lies any interruption in the peaceful relations that have always existed between the two nations;

Desirous of reaffirming their adherence to the policy of submitting to impartial decision all justiciable controversies that may arise between them; and

Eager by their example not only to demonstrate their condemnation of war as an instrument of national policy in their mutual relations, but also to hasten the time when the perfection of international arrangements for the pacific settlement of international disputes shall have eliminated forever the possibility of war among any of the Powers of the world;

Have decided to conclude a new treaty of arbitration enlarging the scope and obligations of the arbitration convention signed at Washington on June 24, 1924, and for that purpose they have appointed as their respective Plenipotentiaries;

The President of the United States of America,

Frank B. Kellogg, Secretary of State of the United States of America; and

His Majesty the King of Sweden,

W. Boström, Envcy Extraordinary and Minister Plenipotentiary at Washington;

Who, having communicated to one another their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I

All differences relating to international matters in which the High Contracting Parties are concerned by virtue of a claim of right made by one against the other under treaty or otherwise, which it has not been possible to adjust by diplomacy, which have not been adjusted as a result of reference to the Permanent International Commission constituted pursuant to the treaty signed at Washington, October 13, 1914,[5a] and which are justiciable in their nature by reason of being susceptible of decision by the application of the principles of law or

[5] In English and Swedish; Swedish text not printed. Ratification advised by the Senate, Dec. 18 (legislative day of Dec. 17), 1928; ratified by the President, Jan. 4, 1929; ratified by Sweden, Mar. 7, 1929; ratifications exchanged at Washington, Apr. 15, 1929; proclaimed by the President, Apr. 15, 1929.

[5a] *Foreign Relations*, 1915, p. 1290.

equity, shall be submitted to the Permanent Court of Arbitration established at The Hague by the Convention of October 18, 1907,[5b] or to some other competent tribunal, as shall be decided in each case by special agreement, which special agreement shall provide for the organization of such tribunal if necessary, define its powers, state the question or questions at issue, and settle the terms of reference.

The special agreement in each case shall be made on the part of the United States of America by the President of the United States of America by and with the advice and consent of the Senate thereof, and on the part of Sweden in accordance with its constitutional laws.

ARTICLE II

The provisions of this treaty shall not be invoked in respect of any dispute the subject matter of which

(*a*) is within the domestic jurisdiction of either of the High Contracting Parties,

(*b*) involves the interests of third Parties,

(*c*) depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe Doctrine,

(*d*) depends upon or involves the observance of the obligations of Sweden in accordance with the Covenant of the League of Nations.

ARTICLE III

The present treaty shall be ratified by the President of the United States of America by and with the advice and consent of the Senate thereof and by His Majesty the King of Sweden with the consent of the Swedish Riksdag.

The ratifications shall be exchanged at Washington as soon as possible, and the treaty shall take effect on the date of the exchange of the ratifications, from which date the arbitration convention signed June 24, 1924, shall cease to have any force or effect. It shall thereafter remain in force continuously unless and until terminated by one year's written notice given by either High Contracting Party to the other.

In faith whereof the respective Plenipotentiaries have signed this treaty in duplicate in the English and Swedish languages, both texts having equal force, and hereunto affixed their seals.

Done at Washington the twenty-seventh day of October, in the year of our Lord one thousand nine hundred and twenty-eight.

FRANK B. KELLOGG [SEAL]
W. BOSTRÖM [SEAL]

[5b] *Foreign Relations*, 1907, pt. 2, p. 1181.

PROPOSED RECIPROCAL TREATMENT REGARDING TAXATION OF RESIDENT ALIENS IN THE UNITED STATES AND SWEDEN

858.5123 P 34/3

The Secretary of State to the Minister in Sweden (Harrison)

No. 38 WASHINGTON, *February 9, 1928.*

SIR: Reference is made to your despatch No. 153, dated December 7, 1927,[6] with regard to discrimination in taxation against Americans in Sweden, as reported by Consul General Osborne's despatch No. 163 of November 28, 1927.[6]

The above despatches were brought separately to the attention of the Treasury Department with requests for its comments on the information contained therein.

The Department has now received two letters from the Treasury Department, dated January 11 and 13, 1928, commenting on your despatch No. 153 and the Consul General's despatch No. 163, respectively, copies of which are transmitted herewith for your information.[6]

You are instructed to communicate again with the Minister for Foreign Affairs and to state that under American law, aliens—including Swedish nationals—are entitled to deduct from their gross income in computing their net income for the purpose of Federal income tax, the same deductions which are allowed to citizens of the United States residing therein. The only exception to this rule is found in Section 216 (*e*) of the Revenue Act of 1926 [7] which provides that no alien who is a nonresident of the United States is entitled to the credit of $400 allowed for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer (unless such alien is a resident of Canada or Mexico).

You should also draw the Minister's attention to the provisions of Section 222 of the Revenue Act which provides that a citizen of the United States is entitled to credit his Federal income tax with the amount of income, war-profits or excess-profits taxes paid or accrued during the taxable year to any foreign country. The benefit of this credit is extended to an alien residing in the United States providing his native country grants a similar credit to citizens of the United States residing in such foreign country. The Treasury Department having found that Sweden does not satisfy the similar credits requirement of Section 222, Swedish nationals residing in the United States are not entitled at the present time to the credit for foreign taxes allowed to citizens of the United States residing therein. You will, of course, point out to the Minister that this last exception to the general rule that resident aliens in the United

[6] Not printed.
[7] Approved Feb. 26, 1926; 44 Stat. 9, 29.

States are for the purposes of income taxation treated in the same manner as resident citizens is merely due to the fact that the Treasury Department does not consider that Sweden satisfies the reciprocal requirements of the law.

You will express the hope, in view of the Minister's assurances to which you refer to in your despatch under acknowledgment, and of the statements of the Treasury Department, that he will find it possible to arrange for the extension to American citizens residing in Sweden of the same deductions which are now granted to Swedish nationals. You will add that this Government of course will be pleased to consider extending to Swedish nationals the benefits of the provisions of Section 222 of the Revenue Act as soon as assurances are received from the Swedish Government that the deductions provided for in that section of the law are also available to American citizens residing in Sweden under the pertinent Swedish tax laws.

It is requested that you advise the Department of the result of your representations in the matter and that you inform the American Consul General at Stockholm of the general purport of this instruction.

I am [etc.]

For the Secretary of State:
W. R. Castle, Jr.

858.5123 P 34/4

The Minister in Sweden (Harrison) to the Secretary of State

No. 249 Stockholm, *April 10, 1928.*
[Received May 3.]

Sir: With reference to my despatch No. 153, of December 7, 1927,[8] regarding the possibility of obtaining for American citizens resident in Sweden, pending the conclusion of a most-favored-nation treaty between the United States and Sweden, the benefit of the same deductions enjoyed by Swedish nationals in computing their net income for income tax purposes, I have the honor to report that upon receipt of the Department's instruction No. 38, of February 9, 1928, I took the first opportunity to discuss the matter with the Minister for Foreign Affairs. After confirming my understanding that under Swedish law non-resident Swedes and non-resident aliens are treated alike, I left with the Minister, on March 7th, a memorandum of the statement which I was authorized to make in response to his inquiry respecting the treatment accorded Swedish residents in the United States, together with an explanation of the provisions of Section 222 of the Revenue Act, in accordance with the directions contained in the De-

[8] Not printed.

partment's instructions mentioned above. Mr. Löfgren was good enough to say that he would lose no time in communicating with the Ministry of Finance and that he would not fail to advise me of the result as soon as possible. A copy of my memorandum of March 7th is enclosed herewith.[9]

After repeated inquiries at the Ministry for Foreign Affairs respecting the status of the matter, Mr. Winter, Chief of Bureau, informed me by direction of the Minister that upon the receipt of a note confirming my statement respecting the treatment accorded Swedes in the United States, arrangements would be made for the issuance, on or about May 1st next, of a Royal Decree extending to resident citizens of the United States and of Finland (the latter by virtue of the Commercial Treaty recently concluded between Sweden and Finland [10]) the same benefits respecting deductions in the taxable amount of their income now enjoyed by Swedish nationals. Subsequently, on handing the note in question to Mr. Winter on April 4th, he assured me that as soon as the Royal Decree had been signed I would receive a note in reply informing me of the action taken by the Swedish Government in the matter. A copy of my note of April 4th to Mr. Löfgren is enclosed herewith.[9]

I have [etc.] LELAND HARRISON

858.5123 P 34/5

The Minister in Sweden (Harrison) to the Secretary of State

No. 283 STOCKHOLM, *May 21, 1928.*

[Received June 14.]

SIR: With reference to my despatch No. 249, of April 10, 1928, and to previous correspondence regarding the possibility of obtaining for American citizens domiciled in Sweden, pending the conclusion of a most-favored-nation treaty, the benefit enjoyed by Swedish nationals in respect of deductions from their gross income in computing their net income for income tax purposes, I have the honor to enclose herewith a note from the Swedish Ministry for Foreign Affairs, dated May 18, 1928, together with a copy and translation of the enclosure thereto.

The Department will note that, as a result of the representations made by the Legation in the premises, the Swedish Government has extended to citizens of the United States domiciled in Sweden treatment in respect of income tax similar to that enjoyed by Swedish subjects.

I have [etc.] LELAND HARRISON

---

[9] Not printed.

[10] Commercial agreement, with final protocol and declaration, signed Dec. 14, 1927, at Stockholm; League of Nations Treaty Series, vol. LXXII, p. 29.

[Enclosure—Translation]

The Swedish Minister for Foreign Affairs (Löfgren) to the American Minister (Harrison)

STOCKHOLM, *May 18, 1928.*

MR. MINISTER: In a letter dated April 4 last, you were good enough to inform me that—except for one exception pointed out in the same letter—the laws of the United States made no distinction between its nationals and the Swedish citizens domiciled in the United States in respect of the deductions from gross revenue allowed in computing the federal income tax.

With reference to this communication, I have the honor to inform you that, on its part, the Government of the King has decided to extend national treatment in this respect to the citizens of the United States domiciled in Sweden and that a royal decree to this effect has been promulgated (see: His Royal Majesty's decree of May 4, 1928, No. 105, hereto appended), in conformity with the provisions of the royal order of May 22, 1925, (No. 155), modified by the order of May 28, 1926, (No. 132). The said decree entered into force on the thirteenth of the current month.

Accept [etc.]

For the Minister:
ERIK C: SON BOHEMAN
Acting Chief of the Political Division

[Subenclosure—Translation [11]]

Swedish Royal Decree No. 105 of May 4, 1928, Regarding Extended Application of the Decree No. 380 of July 13, 1926, Concerning the Granting to Citizens of Certain Foreign States of Facilities in Respect of Taxation, etc.[12]

His Majesty's Government—by virtue of section 1, subsection 2, of the decree of May 22, 1925 (No. 155), setting forth regulations relative to granting in certain cases exemptions from the existing provisions regarding income and capital tax, etc., in the manner the aforesaid portion of the decree conforms with the decree of May 28, 1926 (No. 132)—has found fit to decree that the provisions regarding facilities in respect of taxation and regarding limitations in respect of the obligation to furnish information for guidance in one's own assessment, which are contained in the decree of July 13, 1926, regarding the extension to citizens of certain foreign states of facilities in respect of taxation, et cetera, shall also apply in their

[11] File translation revised.
[12] Compare 1926: 489, 1927: 406 and 1928: 27. [Footnote in the original.]

pertinent parts to the assessment of taxes on the income and capital of a citizen of the United States of America or of Finland, who is or should be registered here in the Kingdom, as well as to the assessment of taxes on the income and capital of an undivided estate left by a citizen of either of the aforesaid states, who at the time of his death was or should have been registered here in the Kingdom.

This decree shall enter into force on the day following the day it is printed in the Swedish Statutes, in accordance with the announcement thereon.

Let all concerned duly comply herewith. In faith whereof, We have signed this with Our own hand and have caused it to be confirmed by Our Royal Seal.

The Palace of Stockholm, May 4, 1928.

In the absence of His Majesty
My Most Gracious King and Master:
GUSTAF ADOLF
[SEAL]

(Department of Finance.) ERNST LYBERG

858.5123 P 34/6

The Secretary of State to the Minister in Sweden (Harrison)

No. 72 WASHINGTON, *July 16, 1928.*

SIR: Reference is made to your despatch No. 283, of May 21, 1928, reporting the promulgation of the Royal Decree of May 4, 1928, granting to citizens of the United States domiciled in Sweden treatment in respect of their income tax similar to that enjoyed by Swedish subjects.

There is transmitted herewith a copy of a self-explanatory letter from the Treasury Department, dated June 28,[13] requesting specific information as to the effect of this Royal Decree of May 4 upon the subject matter covered by Section 222 of the United States Revenue Act of 1926. In other words, is the benefit granted to American citizens by this Royal Decree of May 4 limited to the allowance of deductions from their gross income formerly denied them, or may they now credit their Swedish income tax with the amount of any income, war-profits or excess-profits taxes paid to another country?

You are requested to endeavor to obtain the information desired by the Treasury Department on this subject and report.

I am [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.

---

[13] Not printed.

858.5123 P 34/7

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

No. 370 STOCKHOLM, *September 8, 1928.*
[Received October 4.]

SIR: In reply to the Department's instruction No. 72, of July 16, 1928, directing the Legation to endeavor to ascertain whether the benefit extended to Americans under the terms of the Royal Decree of May 4, 1928, (No. 105), is limited to the allowance of deductions from their gross income formerly denied them, or whether they may now credit their Swedish income tax with the amount of any income, war-profits or excess-profits taxes paid to another country, I have the honor to report that I am in receipt of a note from the Swedish Ministry for Foreign Affairs replying to this inquiry in the negative, as will be seen from the enclosed copy and translation of the Ministry's note in question, dated September 3, 1928.

I have [etc.] ALEXANDER R. MAGRUDER

[Enclosure—Translation]

The Swedish Minister for Foreign Affairs (Löfgren) to the American Minister (Harrison)

STOCKHOLM, *September 3, 1928.*

MR. MINISTER: In a letter, dated August 2, 1928, Mr. Magruder was good enough, by order of his Government, to ask me whether the benefit extended to citizens of the United States domiciled in Sweden, under the terms of Royal Decree of May 4, 1928, (No. 105), is limited to the permission, formerly denied to Americans, to deduct from gross revenue certain sums, or whether it now includes a deduction affecting the taxes payable in Sweden, a deduction corresponding to the sums already expended abroad in payment of certain taxes.

With reference to this letter, I have the honor to inform you that the national treatment extended by the said decree to citizens of the United States domiciled in Sweden does not imply this last right, that which in the event of an affirmative reply would confer a benefit not enjoyed by nationals.

I have the honor to transmit to you, herewith enclosed, a copy of the Royal Decree of July 13, 1926, (No. 380), to which the above-mentioned decree refers.

Accept [etc.]

For the Minister:
ERIK C:SON BOHEMAN
The Director of Political Affairs

[Subenclosure—Translation]

Swedish Royal Decree No. 380 of July 13, 1926, Regarding the Granting to Citizens of Certain Foreign States of Facilities in Respect of Taxation, etc.

His Majesty's Government—by virtue of section 1, subsection 2, of the decree of May 22, 1925, (No. 155), setting forth regulations relative to granting in certain cases exemptions from the existing provisions regarding income and capital taxes, etc., in the manner the aforesaid portion of the decree conforms with the decree of May 28, 1926, (No. 132)—has found fit to decree as follows:

In assessing taxes on the income and capital of a citizen of Norway or of the German Reich, who is or should be registered here in the Kingdom, there shall likewise apply that which applies to a Swedish citizen registered here in the Kingdom in respect of:

The right to deduct insurance premiums and other charges, as set forth in section 10 of the order dealing with income and capital taxes and in section 11, subsection 2, 4 (*d*) of the order dealing with the levying of municipal taxation on real estate and on income;

The computation of the amount taxable through income and capital taxes, as well as the determination of the amount subject to municipal income tax and the minimum subject to taxation under section 18 of the order dealing with income and capital taxes and section 12, subsections 1, 2 and 3 of the order dealing with the levying of municipal taxation on real estate and on income, or under similar special regulations;

Exemption from paying taxes in cases such as are set forth in section 24, subsection 1, of the order dealing with income and capital taxes, in the last paragraph of section 5 and in section 12, subsection 6, of the order dealing with the fixing of tax rates on real estate and on income, as well as in section 7, subsection 1, of the order dealing with the progressive municipal tax; as well as

The obligation to furnish, without a special reminder, information to serve as a guide for one's assessment (declaration), as set forth in section 2, subsection 1 (*b*), of the order dealing with tax authorities and taxation procedure.

Insofar as the above-mentioned regulations are applicable to the levying of taxation on an undivided estate of a Swedish citizen registered here in the Kingdom, they shall likewise apply to the levying of taxation on an undivided estate of a person, who, at the time of his death, was a citizen of one of the above-mentioned foreign states and was then or should have been registered here in the Kingdom.

His Majesty's Government has likewise found fit to decree that the provisions hereinabove set forth in respect of a citizen of Norway or of

the German Reich, who is or should be registered here in the Kingdom, shall likewise apply to the levying of taxes on income and capital of a person, who is or should be registered here in the Kingdom and who is a citizen of one of the following states, namely: Esthonia, Japan, China, Latvia, Liberia, Lithuania, the Netherlands, Persia, Poland and Danzig, the Union of Socialistic Soviet Republics, Spain, Great Britain and Northern Ireland, as well as Czechoslovakia.

This Decree shall enter into force on the day following the day it is printed in the Swedish Statutes, in accordance with the announcement thereon, and shall likewise apply to the levying of taxes* for the year 1926, in respect of which levying of taxes the following shall be observed:

1. The Board of Tax Return Examiners, in conformity with the documents at hand, shall make the necessary modifications in the decisions of the Board of Assessors, as far as the provisions of this Decree give rise therefor.
2. Whenever, under the provisions of this Decree, a person has been entitled to facilities in respect of taxation but has not been granted such facilities by the Board of Tax Return Examiners, he may appeal within the time and in the manner set forth in section 50 of the order dealing with tax authorities and taxation procedure and in such a case the appellant shall submit the evidence necessary in support of his appeal.

Let all concerned duly comply herewith. In faith whereof, We have signed this with Our own hand and have caused it to be confirmed by Our Royal Seal.

Särö, July 13, 1926.

GUSTAF
[SEAL]

(Ministry of Finance) N. GÄRDE

858.5123 P 34/8

The Secretary of State to the Minister in Sweden (Harrison)

No. 82 WASHINGTON, *November 10, 1928.*

SIR: The Department refers to the Legation's despatch No. 370 of September 8, 1928, in further relation to the subject of taxation of American citizens residing in Sweden and encloses for your information a copy of a letter of October 26, 1928, received from the Treasury Department which is believed to be self-explanatory.

I am [etc.] For the Secretary of State:
NELSON TRUSLER JOHNSON

---

* See Riksdag Report 1926: 265. [Footnote in the original.]

[Enclosure]

The Assistant Secretary of the Treasury (Bond) to the Secretary of State

WASHINGTON, *October 26, 1928.*

SIR: I have the honor to acknowledge receipt of your letter dated October 18, 1928, transmitting a copy of a despatch of September 8, 1928, from the American Legation at Stockholm and a copy of a *note verbale* from the Swedish Foreign Office, relative to the benefit extended to American citizens residing in Sweden under the terms of the Royal Decree of May 4, 1928.

It appears that the benefit extended to American citizens residing in Sweden under the Royal Decree is limited to the allowance of deductions from their gross incomes, which was formerly denied them, but that they may not credit their Swedish income tax with the amount of any income, war-profits or excess-profits taxes paid to another country.

I have the honor to advise that in view of the limitation of the benefit extended to American citizens by the Royal Decree of May 4, 1928, the situation from the standpoint of Federal income taxation of Swedish nationals residing in the United States remains unchanged. Therefore, the statement made in Departmental letter dated January 11, 1928 is adhered to, which is to the effect that for the purpose of Federal income tax Swedish nationals residing in the United States are treated as citizens of the United States residing therein, with the exception that Swedish nationals are not entitled to take as a credit against their Federal tax the amount of any income, war-profits or excess-profits taxes paid to a foreign country.

By direction of the Secretary.

Respectfully,

HENRY HERRICK BOND

SWITZERLAND

PROPOSED TREATY OF FRIENDSHIP, COMMERCE AND CONSULAR RIGHTS BETWEEN THE UNITED STATES AND SWITZERLAND[1]

711.542/14: Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

[Paraphrase]

WASHINGTON, *December 27, 1927—6 p. m.*

106. Referring to your despatch No. 88, September 12, 1927.[2] During the course of negotiating treaties of friendship, commerce and consular rights with other nations, the Department has found it wise to make certain alterations in the drafts which were used as a basis for the negotiations. The following changes are proposed for the draft which you submitted November 2, 1926, to the Swiss Foreign Office:[3]

(1) Instead of articles XI and XII concerning commercial travelers, substitute the following article:

"Commercial travelers representing manufacturers, merchants and traders domiciled in the territories of either High Contracting Party shall on their entry into and sojourn in the territories of the other Party and on their departure therefrom be accorded the most- favored-nation treatment in respect of customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

"If either High Contracting Party require the presentation of an authentic document establishing the identity and authority of a commercial traveler, a signed statement by the concern or concerns represented, certified by a consular officer of the country of destination shall be accepted as satisfactory."

Treatment accorded commercial travelers of the most favored nation must be acceptable to the two contracting parties in order that this proposed article shall be accepted.

(2) At the end of article IX, add the following sentence:

"If such consent be given on the condition of reciprocity the condition shall be deemed to relate to the provisions of the laws, National,

[1] For previous correspondence, see *Foreign Relations*, 1926, vol. II, pp. 967 ff.

[2] Not printed.

[3] Draft not printed; but see telegrams No. 83, July 23, 1926, to the Chargé in Switzerland, and No. 119, Nov. 4, 1926, from the Minister in Switzerland, *Foreign Relations*, 1926, vol. II, p. 968.

State or Provincial under which the foreign corporation or association desiring to exercise such rights is organized."

(3) In line eleven of article XIII, substitute for "coming from or going through" the following, "coming from, going to or passing through".

(4) In article VII, particularly as to licenses and rations or quotas, a number of changes will be suggested and sent you with explanations of the suggested changes above by an early pouch.

KELLOGG

711.542/16

The Minister in Switzerland (Wilson) to the Secretary of State

No. 335 BERNE, *March 8, 1928.*
[Received March 31.]

SIR: I have the honor to refer to the Department's instruction No. 518 of September 29, 1926,[4] and to other correspondence relative to the negotiation of a Treaty of Friendship and Commerce between the United States and Switzerland, and to report that Mr. Motta, Federal Councillor and Chief of the Political Department, took occasion a few days ago to bring up this matter in informal discussion.

Mr. Motta stated that he was about to bring before the Federal Council a projected answer to the American proposal which would take the form of a counter-proposal that we should negotiate separately a Treaty of Friendship and a Treaty of Commerce; this for the sake of clarity and to make it feasible for either Government if it felt so inclined in the future to denounce one or the other as altered conditions might necessitate, without the need for denouncing both. The morning papers today state that his project was accepted by the Council but give no further details.

He then added that he should like to discuss this with me in more detail at some future time and that he had another idea in which he was much interested which he would like to examine with me. He then sketched that idea briefly. The recent arbitration treaty between France and the United States [5] is very much to his liking and he would welcome the opportunity to enter into similar negotiations with us but would greatly like to see the addition of some declaration by which the United States would undertake to respect the neutrality of Switzerland. Practically all other great powers have given such an undertaking in accepting the Theory of Versailles particularly with respect to Art. 435.[6] He recognized that this was not

[4] Instruction not printed.
[5] Vol. II, p. 816.
[6] Malloy, *Treaties*, 1910–1923, vol. III, p. 3516.

of great practical importance to us, but to Switzerland it might, in some international cataclysm, be of enormous value to have the moral force of an American declaration in favor of Swiss neutrality.

Mr. Motta suggested that since he was extremely busy at the present time, and since I was shortly leaving for the conference of the Preparatory Commission, we postpone the more detailed discussion until I returned from that conference, whereupon he would explain the counter proposals of the Federal Council and his idea of the neutrality declaration.

The following morning I sent Mr. Motta a letter dated February 25th, of which a copy and translation is enclosed,[7] asking for certain elucidation regarding the undertakings of the states signatory to the Versailles Treaty and to the treaties of 1815 relative to Swiss neutrality.[8] I append herewith a copy and translation of Mr. Motta's reply dated March 5th, as well as certain documents listed at the end of this despatch which were transmitted with Mr. Motta's letter.[7]

Subsequently Mr. Dinichert, Chief of the Division of Foreign Affairs of the Political Department, raised the question with me and I then inquired of him what he considered the extent of the undertakings of the contracting states in the event that a third state threatened or violated the neutrality of Switzerland. Mr. Dinichert replied that a great deal had been written and said on this question, that the extent of their obligations was not entirely clear. However, it was probable that in a multilateral agreement a state which had undertaken to respect the neutrality of Switzerland and failed to respect that neutrality was thereby violating its treaty obligations not only with Switzerland but with the other contracting states. It appears to me that their obligation is even more specific and I refer to enclosed document No. 1143 (Message of the Federal Council to the Federal Assembly, October 14, 1919, page 51),[7] which transcribes "the act recognizing and guaranteeing the perpetual neutrality of Switzerland and the inviolability of its territory, November 20, 1815". The word "guarantee" is used in the text of the document.

However, we continued the discussion as to the situation of the United States if it undertook in a bilateral treaty the obligation to respect the neutrality of Switzerland. It would appear that such an undertaking might be phrased in such a way that it would carry no

[7] Not printed.

[8] See declaration in the protocol of the Congress of Vienna, March 19, 1815, signed March 20, 1815, by the eight signatories of the Treaty of Paris, May 30, 1814, namely, Austria, Spain, France, Great Britain, Portugal, Prussia, Russia, and Sweden, Annex XI.A. of the Act of June 9, 1815, of the Congress of Vienna, *British and Foreign State Papers*, vol. II, pp. 3, 142; act of accession to this declaration by Switzerland on May 27, 1815, Annex XI.B., *ibid.*, p. 147; act of November 20, 1815, signed by Austria, France, Great Britain, Prussia, and Russia, *ibid.*, vol. III, p. 359.

obligation on our part to maintain the neutrality and inviolability of Switzerland.

Since Mr. Motta is desirous of postponing further conversations for some weeks it seemed well to apprise the Department in some detail of the course of these conversations and to request guidance from the Department as to what my attitude should be at the time of their renewal. Clearly, in regard to the division of our proposed treaty into two integral parts, I should withhold all comment until I am able to put before the Department the exact nature of this offer. It would, however, be useful I believe to have an indication of the Department's views as to the neutrality idea. If the Department is of the opinion that such an undertaking might under certain conditions be acceptable to us, it might be well to negotiate all treaties at the same time and thus to utilize our acceptance of a neutrality undertaking as a bargaining measure to counteract the objections which I am given informally to understand are going to be raised by the Swiss Government to certain sections of our draft.

I have [etc.] HUGH R. WILSON

711.542/17

The Minister in Switzerland (Wilson) to the Secretary of State

No. 358 BERNE, *March 18, 1928.*

[Received March 29.]

SIR: I have the honor to refer to the Department's instruction No. 518 of September 29, 1926,[9] in which was enclosed the draft of a Treaty of Friendship, Commerce and Consular Rights for submission to the Government of Switzerland, through the Legation. This draft was promptly delivered to M. Motta, Chief of the Federal Political Department, by Mr. Gibson.

I am now in receipt of a note from M. Motta, dated March 14, 1928, of which a copy and translation are enclosed, referring to this draft and submitting a counterdraft. As indicated in my despatch No. 335 of March 8, 1928, the Swiss Government desires to conclude, in lieu of a Treaty of Friendship, Commerce and Consular Rights, two treaties, one a treaty of Friendship, Juridical Protection and Consular Rights, the other a Treaty of Commerce.

To this end M. Motta enclosed the Swiss draft of a Treaty of Friendship, Juridical Protection and Consular Rights, containing some 17 articles and a final protocol. This is likewise transmitted herewith, together with a translation thereof made by Mr. Moffat, Secretary of this Legation, which, although carefully prepared by

[9] Not printed.

him, may be found too literal and in places not sufficiently technical in its terminology. While in brief the Swiss Government states that this draft is largely inspired by the American draft, a cursory examination will show that it is less liberal in its scope.

Until my return from my present assignment at Geneva I fear that it will be impossible for me to give this draft as thorough an examination as I should like. As soon as I return, however, I shall promptly forward to the Department a despatch containing my comments and criticisms thereon.

With regard to the Swiss draft of the second Treaty they desire to conclude, namely, the Treaty of Commerce, I learn confidentially that this is being delayed by a difference of opinion between the Political Department and the Department of Public Economy on certain of its provisions. This will likewise be forwarded as soon as received.

I have [etc.] HUGH R. WILSON

[Enclosure 1—Translation [11]]

The Chief of the Swiss Federal Political Department (Motta) to the American Minister (Wilson)

B 14.2.Am.1.Rd
ad No. 247 BERNE, *March 14, 1928.*

Mr. MINISTER: In his note of October 26, 1926,[12] His Excellency Mr. Gibson was good enough to hand to me the draft of a treaty of friendship, commerce and consular rights between Switzerland and the United States of America, with a view to replacing therewith the treaty concluded between the two countries on November 25, 1850,[13] certain stipulations of which have become somewhat antiquated. Together with the other interested departments we have examined this draft with deep attention.

First of all we have reached the conclusion that the American-Swiss treaty of 1850, which in this respect is like a great many other agreements of a similar nature concluded at about the same time, possesses a drawback which it would be advantageous to remove while we are engaged in its revision. For it combines in an arbitrary manner stipulations dealing with two entirely different subjects. Inasmuch as the reasons which might cause two states to modify their reciprocal undertakings as regards their commercial relations, or as regards the status of their nationals residing on the territory of the other, are the outgrowth of situations which are not necessarily related, it seems more reasonable to draw up a separate agreement covering each

[11] File translation revised.
[12] Not printed.
[13] Miller, *Treaties*, vol. 5, p. 845.

of these two subjects; this custom incidentally is growing more and more widespread.

We, therefore, believe that we should propose the replacement of the treaty of friendship, commerce and consular rights of November 25, 1850, by two separate treaties, namely: a treaty of friendship, juridical protection and consular rights and a treaty of commerce.

Believing that in this intermediate question the United States Government will readily accept the viewpoint of the Federal Council, we have, synchronously with the Federal Department of Public Economy which is preparing on its own a draft of a treaty of commerce, drawn up a draft of a treaty of friendship, juridical protection, and consular rights, based upon the most-favored-nation clause, which we have the honor to transmit to Your Excellency herewith.

The enclosed document is to a large degree inspired by the draft of the treaty of friendship, commerce and consular rights which was drawn up by the Department of State, although for reasons of technical convenience it seemed desirable to modify in a small degree the arrangement among articles of the provisions dealt with in the draft.

The first article, which deals with the conditions of emigration, of sojourn, and of residence of the nationals of one of the states upon the territory of the other, results from a combination of the first sentence and the fifth paragraph of the first article of the American draft.

Article 2 is devoted to provisions regarding freedom of conscience and of worship and professional activity and corresponds to the first paragraph of the first article and to the fifth article of the American draft.

Article 3 deals with taxation and reproduces almost word for word the second paragraph of the first article of the American draft.

Article 4 defines the rights which the nationals of each party shall enjoy on the territory of the other and the protection to which they are entitled on the part of the authorities. It is based upon the same principles as those contained in article 1, paragraphs 3 and 4, and in article 3 of the American draft.

Article 5 covers exemption from military service, as does article 6 of the American draft; but it treats this subject in a more liberal way, and one which seems more in conformity with the practice hitherto observed in the relations between Switzerland and the United States.

Article 6 may be seen to correspond to article 4 of the American draft, dealing with the rights of inheritance of the nationals of one of the two states on the territory of the other. We have provisionally reserved approval of the wording of this article inasmuch as it should

take into account, in order fully to attain its purpose, the legislation of the two states, and inasmuch as the study of American laws which the Federal authorities have undertaken with this in view has not yet been finished.

The provisions dealing with the regulation of companies, with the recognition in one of the states of corporations organized on the territory of the other, and with the rights of nationals of one of the states to form a company on the territory of the other, which are treated in articles 9 and 10 of the American draft, envisage only such types of corporations as are recognized in American legislation—types which do not correspond to those recognized in Swiss legislation—with the result that their application within the framework of Swiss law would give rise to ambiguities. In drawing up articles 7 and 8 of our counter draft, we were guided by the same general principles as were contained in the American draft, but have striven to express them in a more general fashion, taking into account the divergent conceptions to be found under Swiss laws and under American laws.

Articles 9 to 15 of our counter draft deal with consular prerogatives. These have been examined particularly carefully, inasmuch as Switzerland has not yet concluded a convention containing detailed provisions on this subject. The clauses contained in the counter draft take into account the general tendency which has been manifest for some time toward a reduction of those exemptions from the common law which have been accorded to government agents who do not possess, as do diplomatic agents, a truly representative character. It is thus that the so-called personal immunity of consuls, which consists of the immunity of a consular agent from arrest before trial except for misdemeanors of a certain gravity, would only be accorded to such principal consular officers as are citizens of the appointing state. Thus consuls general, consuls, vice consuls, and consular agents would be required, although without threat of reprisal, to appear, when the case arose, as witnesses before the law courts of the country of their residence, although they may have the privilege of asking for the postponement of their testimony to a later date for reasons connected with the urgent need of their office. This principle has been sanctioned in recent consular conventions concluded between foreign states. It would of course be understood—and our counter draft contains in this respect a clause, which is not to be found in the American draft—that the principal officers and officials of the consular service would be, irrespective of rank or nationality, immune from the jurisdiction of

the law courts of the state of their residence for all acts carried out in their official capacity and within the limit of their functions. They could likewise refuse to deposit or to produce documents which might be in their possession, on the ground of professional or state secrecy.

With regard to the principles to be applied in the matter of immunity from taxation, it would be difficult for the Federal Council, in view of the sovereignty of the Cantons in the matter of taxes, to agree to as broad a formula as is to be found in article 16 of the American draft. At the utmost it could attempt to sanction in a treaty the régime generally enforced in Switzerland at the present moment.

In conformity with the practice constantly observed by Switzerland during these past few years, the draft treaty of friendship, juridical protection, and consular rights between Switzerland and the United States of America contains an arbitration clause in article 16 of the counter draft.

Inasmuch as this treaty is intended to remain in force for a minimum duration of ten years, it has seemed necessary to define the interpretation which the contracting parties mean to give to the most-favored-nation clause in its relation to the juridical protection of their nationals by means of a final protocol bearing upon two points which, while admittedly secondary, might give rise to divergency of opinion.

We would be grateful to Your Excellency to submit the enclosed draft to the Government of the United States and to inform us when possible if it appears susceptible of serving as a basis for an agreement.

Accept [etc.] MOTTA

[Enclosure 2—Translation]

Swiss Draft Counter Proposal of a Treaty of Friendship, Juridical Protection and Consular Rights

The Swiss Federal Council
and
The President of the United States
of America

desirous of strengthening the bonds which happily prevail between Switzerland and the United States of America and of promoting friendly intercourse between the two countries, have resolved to conclude a Treaty of Friendship, Juridical Protection and Consular

Rights, and for that purpose have appointed as their plenipotentiaries to wit:

The Swiss Federal Council:

. . . . . .

The President of the United States of America:

. . . . . .

who, having exchanged their respective full powers, found to be in good and due form, have agreed upon the following articles:

ARTICLE I

The nationals of each of the Contracting Parties shall be permitted to enter, travel, sojourn and reside in the territory of the other. Nothing contained in this treaty, however, shall be construed to affect existing statutes and regulations of either of the Contracting Parties in relation to the immigration, sojourn, or residence of aliens, or to prejudice the right of either of the Contracting Parties to enact such statutes or issue such regulations.

ARTICLE II

The nationals of either Contracting Party within the territory of the other shall enjoy liberty of conscience and freedom of worship, and may, upon conforming to the laws and regulations in force, engage in any kind of scientific, religious, philanthropic, professional, manufacturing or commercial work, in short in any legitimate occupation with the exception of holding public office, engaging in the notarial or legal professions, of peddling and hawking. The conditions imposed by law, however, on admission to the scientific professions, as well as the laws and regulations in relation to immigration, sojourn, and residence, are excepted. Insofar as the foregoing rights and privileges are concerned, the nationals of each Contracting Party shall be treated upon the same terms as nationals of the state of residence or as nationals of the most favored nation.

ARTICLE III

The nationals of either Contracting Party within the territory of the other, upon conforming to the laws and regulations in force, shall not be subjected to the payment of any internal charges or taxes, of whatsoever nature, other or higher than those that are or may be exacted of its nationals. The provisions of law relating to peddling and hawking, and the taxes imposed for sojourn or residence permits, however, are excepted.

ARTICLE IV

The nationals of each Contracting Party shall receive within the territory of the other, upon submitting to conditions imposed upon its nationals, constant protection and security for their persons and property.

The nationals of each of the Contracting Parties, upon conforming to the local laws, shall enjoy freedom of access to the courts of justice in all degrees of jurisdiction and to other competent authorities, as well for the prosecution as for the defense of their rights.

Upon conforming to the laws and regulations in force, the nationals of either Contracting Party within the territory of the other shall enjoy the right to own, erect, lease, and occupy appropriate buildings, and to purchase or lease lands for residential, manufacturing, commercial, scientific, religious, philanthropic or mortuary purposes, upon the same terms as nationals of the state of residence or as nationals of the most favored nation. It shall not be allowable to make a domiciliary visit to, or search of any such premises, provided they are being subjected to legitimate usage, except under the conditions and in conformity with the forms prescribed by the laws and regulations for nationals.

The nationals of either Contracting Party may not, within the territory of the other, be deprived of their property or, even temporarily, of the use of their property without due process of law, and without advance payment of just compensation. They shall be treated in this respect upon the same terms as nationals.

ARTICLE V

The nationals of either Contracting Party shall be exempted, within the territory of the other, from all forms of military service, and from all contributions, whether in money or in kind, imposed in lieu of personal service. They shall be released from participation in all forced loans.

The nationals of either Contracting Party shall only be liable to such military prestation and requisitions, alike in times of peace and war, as are levied on the nationals of the most favored nation, in the same degree and on the same basis as the latter, and shall in all cases receive therefor just compensation.

The nationals of either Contracting Party shall likewise be exempted from any judicial, administrative, or municipal employment or duties.

ARTICLE VI

(The wording of this article, which should correspond to article IV of the American proposed treaty, is for the moment withheld.)

416955—43——64

ARTICLE VII

Commercial, manufacturing, agricultural, or financial companies, including transportation and insurance companies, which have been duly organized in accordance with and under the laws of either Contracting Party, and maintain a central office within the territory thereof, shall have their juridical status recognized in the other country, provided that they pursue no aims contrary to its laws or to public morals, and they may, subject to observing the formalities required of them by the laws and regulations in force, establish themselves within its territory, acquire and make use of rights, and fulfill their economic functions. They shall enjoy free and easy access to the courts of law and equity, on conforming to the laws and regulations in force, as well for the prosecution as for the defence of their rights, in all the degrees of jurisdiction established by law.

Such companies shall enjoy in all respects the treatment granted to companies organized upon the territory of the most favored nation; in particular, they shall not be liable to any internal charges or taxes, irrespective of size or nature, other or higher than those which are or may be exacted of the latter.

Subsidiaries, branch establishments, agencies and other offices on the territory of either one of the Parties, of companies and associations duly organized within the territory of the other Party shall only be taxed on the capital actually invested in the said subsidiaries, branch establishments, agencies and other offices or on the profits or income earned by them in the country, and the said profits and income may be used to determine the taxable capital, if the latter cannot be proved.

ARTICLE VIII

The nationals of either of the Contracting Parties shall enjoy, within the territory of the other Party, upon the same terms as the nationals of the most favored nation, and upon conforming to the laws and regulations in force, the right of organizing commercial, manufacturing, agricultural or financial companies, and of participating in such companies as are already in being, and of holding executive or official positions therein.

ARTICLE IX

Each of the Contracting Parties shall have the right to appoint consuls general, consuls, vice-consuls, and consular agents, who may reside in those of its cities and places which are open to consular representatives of other countries.

Consuls general, consuls, vice-consuls, and consular agents shall, upon the presentation of their commissions, be received and recognized according to the rules and formalities existing in the country

of their residence. The requisite exequatur for the free exercise of their functions shall be furnished them free of charge, and, on the exhibition of the said exequatur, the competent authorities of their consular district shall at once take the necessary steps to enable them to enter upon their duties and to enjoy the rights, privileges, and immunities to which they are entitled.

Consuls general, consuls and vice-consuls may, subject to the approbation of the government they serve, appoint consular agents in cities and places of their respective consular districts. These consular agents shall be furnished with a document by the Consul who shall have appointed them and under whose orders they shall be placed. From the moment of the delivery of an exequatur, or other document issued in lieu thereof, they shall enjoy the same privileges and immunities as principal consular officers. Principal consular officers and members of the consular service shall enjoy reciprocally all the rights, immunities, and exemptions which are enjoyed by principal consular officers and members of the consular service of the same grade of the most favored nation.

Article X

Principal consular officers and members of the consular service shall not be amenable to the tribunals of the state of their residence by reason of acts committed in their official capacity and within the limits of their functions.

In the event that such exemption is invoked before an authority of the state of their residence, the latter shall refrain from handing down a ruling, inasmuch as all difficulties of this nature should be settled through diplomatic channels.

Principal consular officers, nationals of the state by which they are appointed, shall be exempt from provisional arrest except when charged with the commission of serious misdemeanors. In the event of arrest or charges, the Government of the state of residence shall inform the diplomatic agent who is the superior of the principal consular officer.

Consuls General, consuls, vice-consuls, and consular agents, not nationals of the state of their residence shall comply with invitations that may be addressed to them by the tribunals of the state of their residence without threat of penal action in case of non-appearance, to appear as witnesses; they may, nevertheless, if the case arises, claim as a legitimate reason for the postponement to a later, but not distant, date, obstacles arising from the urgent needs of their office.

Consuls General, consuls, vice-consuls and consular agents may likewise refuse to hand over or to produce documents in their possession alleging professional or state secrecy; in the event that the judicial authority opposes this excuse or this refusal as unjustified,

it must refrain from all coercive measures against the official, inasmuch as all difficulties of this nature should be settled through diplomatic channels.

With the exception of the above-mentioned privileges and immunities, principal consular officers and members of the consular service shall be amenable to the jurisdiction of the tribunals of the state of their residence, alike in civil and criminal matters, under the same terms as nationals.

ARTICLE XI

Consular officers of career, including chief clerks, nationals of the state by which they are appointed, shall reciprocally be exempt from all military requisitions, affecting their personal or real property, and from all direct taxes, except taxes levied on account of the ownership of immovable property and assessments.

The above mentioned officials may not, however, claim any exemption from taxation for income derived from personal property invested in manufacturing or commercial enterprise of the state of their residence.

Honorary consuls shall be exempt from the payment of all taxes on income derived from the exercise of their functions.

ARTICLE XII

There may be placed over the outer door of a consular office the arms of the state with this inscription: Consulate General, Consulate, Vice-Consulate or Consular Agency of . . . The national flag may be hoisted on consular offices on public holidays, and under other customary circumstances, on the understanding that these external insignia shall never be construed as constituting a right of asylum.

ARTICLE XIII

Consular archives shall be inviolable, and the authorities of the country where they are located shall not under any pretext make any examination or seizure of papers, documents, or registers belonging to the archives.

Such papers, documents, and registers shall always be kept entirely distinct from the books, papers, and personal documents which belong to the consular officials or which bear upon the business or manufacture in which they might be engaged.

If a principal consular officer summoned by a judicial or administrative authority to divest himself of or to produce papers, documents, or registers classified in his archives refuses to comply, the judicial or administrative authority may not use any coercive measure against him, inasmuch as all difficulties of this nature should be settled through diplomatic channels.

ARTICLE XIV

Upon the incapacity, absence or death of a principal consular officer, consular employees whose official character may have previously been made known to the government of the state of their residence, may be legally permitted, in so far as is envisaged by the regulations of each of the Contracting Parties, to exercise temporarily consular functions.

While so acting, interim agents shall enjoy all the privileges, immunities and exemptions granted to the incumbent whom they are replacing.

ARTICLE XV

Consuls general, consuls, vice-consuls, and consular agents may protect the nationals of the state which has appointed them and, by virtue of international law and usage, defend the rights and interests of such nationals. To this end they may address the authorities of their district to object to any violation of treaties existing between the two countries and to any abuse of which their nationals may have ground for complaint. Failure upon the part of these authorities to grant redress shall only justify a direct application to the government of the country of their residence in the absence of a diplomatic representative.

ARTICLE XVI

Any differences that might arise as to the interpretation or the application of this treaty and which have not been settled through diplomatic channels within a reasonable period, shall be submitted at the instance of either Party, to a court of arbitration, composed, unless otherwise agreed upon, of five members, each of the Contracting Parties appointing one arbitrator of their own choice, and selecting by common agreement the other three, and the Presiding Judge from among the latter.

In the event that the Court of Arbitration has not been organized within four months following the notice of a claim for arbitration, the procedure envisaged in article IV of The Hague Convention of October 18, 1907 for the Pacific Settlement of International Disputes,[14] becomes obligatory.

In the event of disagreement on the question of whether the dispute relates to the interpretation or the application of the Treaty, this preliminary question shall be submitted to arbitration under the same conditions as disputes envisaged in paragraphs 1 and 2 of this Article.

[14] *Foreign Relations*, 1907, pt. 2, pp. 1181, 1183.

ARTICLE XVII

The present Treaty shall be ratified as soon as possible and the ratifications thereof shall be exchanged at . . . . .

The treaty is concluded for a period of ten years from the date of the exchange of ratifications. If it has not been denounced one year before the expiration of the aforesaid period, it shall remain in force until one year from such a time as either of the Contracting Parties shall have notified to the other an intention of terminating it.

In witness whereof, the above named Plenipotentiaries have signed the present Treaty.

Done in duplicate, in the French and English languages, at . . . . . this . . . . . day of . . . . . 192 . .

FINAL PROTOCOL

At the moment of signing the Treaty of Friendship, Juridical Protection and Consular Rights, concluded this day between Switzerland and the United States of America, the undersigned, duly authorized thereto, declare that it is understood that neither Contracting Party shall invoke the most favored nation clause contained in the said Treaty to claim, either the benefit of special considerations that a third state shall have obtained by virtue of an award in arbitration or international judicial settlement, or special treatment in the domain of taxation that shall have been prescribed in favor of the nationals of a third state by virtue of an agreement to avoid double taxation.

711.542/18

The Minister in Switzerland (Wilson) to the Secretary of State[15]

No. 387 BERNE, *April 4, 1928.*

SIR: I have the honor to refer to my Strictly Confidential despatch No. 335 of March 8th and other correspondence relative to the negotiation of a new treaty with Switzerland and to state that, in accordance with Mr. Motta's suggestion, I called upon him after my return from Geneva where I attended the session of the Preparatory Commission for Disarmament. I had previously given careful consideration to the Swiss counterdraft of a treaty, transmitted in my despatch No. 358 of March 18th.

At the beginning of the interview, we arranged that I should have a more detailed discussion with other members of the Foreign Office subsequently, in order to be enabled to give to the Department such elucidation as is possible of the Swiss viewpoint on such clauses of

[15] Date of receipt in the Department not indicated.

the draft as contained views divergent from those entertained by the American Government. I will, of course, report subsequently after having made such a detailed examination of the draft with the Swiss authorities.

Mr. Motta asked me whether in general I felt that the Swiss draft offered a basis on which we could reach an accord. I stated that until I had heard from my Government I could not of course speak authoritatively in this connection but that it seemed to me that my Government might feel reluctant to sign an agreement which so radically curtailed the privileges of consular officers. Such an undertaking on our part might, as he could well understand, form a precedent which we would be very reluctant to see especially since we had always maintained a very generous attitude towards foreign consular officers in the United States and had endeavored to obtain the same treatment for our officers abroad. Mr. Motta stated that the divergence of views between the two governments was probably explained by the fact that whereas we had a consular service of career, the Swiss depended almost entirely upon honorary vice consuls who were Swiss citizens earning their livelihood in a foreign country. He further added that whereas in a big country such immunities and privileges as consular officers enjoyed would not be remarked by the public, in small places such as the Swiss cities such immunities were at once remarked and caused adverse criticism in the Swiss public. However, he added that of course the Swiss Government was not wedded to any particular form of phraseology, they had endeavored to set forth their viewpoint in the draft and would welcome any counter suggestion or further endeavor to harmonize our views. It was suggested in the conversation that if there were certain points on which we could not come to an agreement, the debatable questions might be left out of the treaty and the treaty could at least indicate those points on which our two governments were in harmony.

Since I have been at this post I have been struck by the fact that nearly all the difficulties which we have with the Swiss Government arise from two causes, first, from the difference of interpretation of nationality which brings about cases where persons who are American citizens under our law are Swiss citizens under Swiss law and therefore claimed for military service. The second category of cases are those of taxation of American citizens residing for greater or less periods within Switzerland. The various cantons subject our citizens to taxation, both income tax and inheritance dues, in accordance with their own, and diversified, interpretation of whether such citizens are or are not "domiciled" in Switzerland.

With the foregoing thoughts in mind I told Mr. Motta that I wished to consult him quite unofficially regarding two matters which

were not definitely covered by the treaty but which gave rise to practically the only cases of dispute between this Legation and the Federal Government. I had not consulted my own Government as to whether they thought such matters might be covered but I would appreciate an expression of his views as to whether such a draft of treaty as was now in discussion might not be enlarged in such a way as to take care of these two debatable points.

Relative to nationality, Mr. Motta was inclined to think that the divergent conceptions of "jus sanguis" and "jus solis" were so deep between us that it might be difficult to reach a formula mutually satisfactory. However, since the draft of treaty was the first that had been undertaken since 1850 and offered an opportunitv for "general housecleaning" he would willingly go into this matter with us if we so desired and endeavor with us to see whether the point could be regulated.

Regarding the question of domicile, Mr. Motta was more optimistic. He understood thoroughly the hardship to American citizens of not having a single criterion of what constituted domicile. He stated that the Federal Government had recently carefully investigated its competence in matters of this kind and had decided that it was competent to make a treaty governing domicile and taxation matters which would be binding upon the individual cantons. He asked me whether I had drafted my suggestion. I told him that I had not since I did not know how my Government would view it but that something might perhaps be considered along the line of domicile in accordance with the intent of the person there to remain or eventually to return to his home land.

Should the Department look with favor upon these two suggestions, I should appreciate instructions to this effect and also a suggested phraseology to cover either or both of the two points as the Department may desire. Both my own experience and that of the consular officers in Switzerland indicates that a solution of these two matters would be of high value to our citizens and do away with these contentious points between our two governments.

We did not discuss further the question of an acceptance of the obligation to respect Swiss neutrality raised in my despatch 335 of March 8th. I consider it advisable that we should not go further into this until I have some indication of the Department's attitude toward the general principle. In any case as I suggested in my No. 335 if the Department is willing to consider this principle such acquiescence on our part should, I believe, be withheld as a bargaining asset on the other treaties.

I have [etc.] HUGH R. WILSON

711.542/14

The Secretary of State to the Minister in Switzerland (Wilson)

No. 194 WASHINGTON, *April 9, 1928.*

SIR: In amplification of the Department's telegram No. 106 of December 27, 1927, 6 p. m., regarding the Treaty of Friendship, Commerce and Consular Rights under negotiation between the United States and Switzerland, I have to inform you that in the course of the negotiation of similar treaties with other countries it has been found advisable to make a number of changes in the drafts which this Government proposed as the bases for the negotiations. These changes relate to the subject matter and language of articles like Articles VII, IX, XI, XII and XIII of the draft which Mr. Gibson submitted to the Swiss Government, November 2, 1926. The Department would be glad, therefore, to have those articles modified as hereinafter set forth, substituted for the corresponding articles of the original draft.

ARTICLE VII. Importations, Exportations, Most Favored Nation Clause, etc. It is desired that the second, fourth, seventh and eighth paragraphs of Article VII be amended by the inclusion of certain additional phrases or clauses shown by the underlining [16] in those paragraphs as herein after quoted:

(Second paragraph)

"Each of the High Contracting Parties binds itself unconditionally to impose no higher or other duties, *charges*, or conditions and no prohibition on the importation of any article, the growth, produce or manufacture, of the territories of the other *Party, from whatever place arriving*, than are or shall be imposed on the importation of any like article, the growth, produce or manufacture of any other foreign country; *nor shall any duties, charges, conditions or prohibitions on importations be made effective retroactively on imports already cleared through the customs, or on goods declared for entry into consumption in the country.*"

With reference to the second change noted above it may be stated that difficulties have been encountered by American merchants in obtaining most favored nation treatment in countries which import largely from warehouses in third countries. To remove or to prevent such difficulties, and to protect indirect trade against discrimination, this Government desires that the treaties hereafter concluded by it shall specifically stipulate that American products shall enjoy equality of treatment from whatever place arriving.

An observation similar to that made in explanation of the words "from whatever place arriving" may be made in regard to the third change in the same paragraph, namely, that providing that duties, charges, et cetera, shall not be made effective retroactively. At times

[16] Printed in italics.

American merchandise has been subjected to retroactive application of import duties; and it is to remove the possibility of similar treatment in the future that this Government desires to have the provision here proposed inserted in treaties which it may hereafter conclude.

(Fourth paragraph)

"Any advantage of whatsoever kind which either High Contracting Party may extend, *by treaty, law, decree, regulation, practice or otherwise*, to any article, the growth, produce, or manufacture of any other foreign country shall simultaneously and unconditionally, without request and without compensation, be extended to the like article, the growth, produce or manufacture of the other High Contracting Party."

It has developed that in certain customs districts of some countries there is a practice of affording to some favored nation privileges not accorded to American commerce. It appears that as such practice is not the result of any express provision of treaty, laws, or regulations, it may be claimed that it is not within the most favored nation provisions of the fourth paragraph of the draft as originally written. While this Government has not concurred in such an interpretation of that paragraph, it proposes, in order to avoid misunderstandings in regard to such practices, to insert in the paragraph the phrase "by treaty, law, decree, regulation, practice or otherwise." As the proposed phrase only clarifies and does not alter the meaning of the paragraph, it is hoped that the Swiss Government will have no objection to accepting it.

The second and fourth paragraphs of Article VII as herein amended have been adopted by this Government as the standard form of these paragraphs for use in its treaties. The proposal of them to Switzerland does not imply that the inequalities against which they are designed to be a safeguard have been practiced by Switzerland against the commerce of the United States. It is only a step toward the establishment of uniformity in the treaties of the United States as the same proposals for modifications in this Government's draft are being made to other countries with which the United States already has begun the negotiation of commercial treaties as well as to countries to which drafts are now being submitted. With the exception of the word "charges" and the last provision of the second paragraph the additions to the second and fourth paragraphs are merely interpretive and Governments accepting them do not, in the view of this Government, assume any greater burden than Governments which have accepted the paragraphs in the form in which they were included in the draft as originally proposed by the United States to Switzerland. The possibility of dispute as to the meaning of the paragraphs in respect of the subjects mentioned in the additional phrases is, however, removed.

(Seventh paragraph)

"With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels or goods of a third State, whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third State shall simultaneously and unconditionally, without request and without compensation, be extended to the other High Contracting Party, for the benefit of itself, its nationals, (and) vessels *or goods.*"

It is believed that the effect and advantage of the addition of the word "goods" at the end of this paragraph is obvious.

(Eighth paragraph)

"The stipulations of this Article do not extend to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902,[17] or any other commercial convention which hereafter may be concluded by the United States with Cuba. *Such stipulations, moreover, do not extend to the treatment accorded* to the commerce (of) between the United States (with) and the Panama Canal Zone or (with) any of the dependencies of the United States *or to the commerce of the dependencies of the United States with one another, under existing or future laws.*"

The provision added to the eighth paragraph is the exception of commerce of the dependencies of the United States with one another from the most favored nation clause. That this is a reasonable exception will be obvious. The other changes in the paragraph result merely from the division of it into two sentences.

ARTICLE IX. Corporations. By telegram No. 106 of December 27, 1927, you were instructed to propose the insertion at the end of Article IX of the sentence "If such consent be given on the condition of reciprocity, the condition shall be deemed to relate to the provisions of the laws, National, State, or Provincial under which the foreign corporation or association desiring to exercise such rights is organized." This provision is designed for use in treaties with countries in which the right of a corporation organized under the laws of the United States to engage in business is conditioned on reciprocity. The provision would have the effect of obtaining for American corporations in Switzerland, in the event that the laws of Switzerland relating to the right of a foreign corporation

[17] *Foreign Relations*, 1903, p. 375.

to engage in business contain a condition of reciprocity, the right to engage in business according to whether the laws of the State of the United States under which such corporation is organized extend the right to engage in business to foreign corporations. The provision was first drafted for inclusion in treaties with countries which would exclude all American corporations from engaging in business in their territories or restrict them, if any State of the United States excluded from or placed restrictions on the corporations of such country engaging in business in its territories. The Department would be glad to receive a report from you in regard to the treatment of alien corporations under Swiss laws. It does not intend to urge the inclusion of the provision, if it has no application to conditions in Switzerland.

ARTICLES XI AND XII. Commercial Travelers. An officer of the Department was informed by an officer of the Department of Commerce that in a conversation between him and a member of the staff of the Swiss Legation the latter had stated that the Swiss negotiators had some difficulty in accepting the provisions of Articles XI and XII relating to commercial travelers. Since the submission of the draft to the Swiss Foreign Office the Department has drafted an article providing most favored nation treatment for commercial travelers, which it desires to include in treaties which it may hereafter conclude, instead of detailed provisions such as those contained in Articles XI and XII, which it is the purpose of this Government to discontinue. The new Article is as follows:

Commercial travelers representing manufacturers, merchants and traders domiciled in the territories of either High Contracting Party shall on their entry into and sojourn in the territories of the other Party and on their departure therefrom be accorded the most favored nation treatment in respect of customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

If either High Contracting Party require the presentation of an authentic document establishing the identity and authority of a commercial traveler, a signed statement by the concern or concerns represented, certified by a consular officer of the country of destination shall be accepted as satisfactory.

The first paragraph is identical with Article XIV of the Treaty of Friendship, Commerce and Consular Rights between the United States and Estonia, signed December 23, 1925, (Treaty Series No. 736) and the second paragraph is a development of paragraph 2 of the protocol to that Treaty.[18] The Article in its present form is included in a Treaty of Friendship, Commerce and Consular Rights signed by the United States and Honduras, December 7, 1927,[19] now

[18] *Foreign Relations*, 1925, vol. II, pp. 70, 84.
[19] *Ibid*, 1927, vol, III, pp. 101, 106.

before the Senate of the United States and in drafts of such treaties under negotiation with a number of countries.

You will observe that the first paragraph provides for the most favored nation treatment of commercial travelers representing manufacturers, merchants, or traders, domiciled in the territories of one of the Contracting Parties upon their entrance into, sojourn within and departure from the territories of the other. The second paragraph covers the cases where a certificate of identity of the commercial traveler is required.

The Department would be glad to receive from you a report on the treatment which American commercial travelers in Switzerland would be entitled to receive under the most favored nation Article.

If this Article is accepted by Switzerland Articles XI and XII of the draft should be dropped out. The new Article should be numbered Article XI and Articles XIII and following should be renumbered Articles XII and following.

ARTICLE XIII (ARTICLE XII). Freedom of Transit. By telegram No. 106 of December 27, 1927, you were instructed to substitute "coming from, going to or passing through" for "coming from or going through" in line 11 of Article XIII. The Department desires that you also propose that at the end of the first paragraph of the Article the words "or to any discrimination as regards charges, facilities or any other matter" be substituted in place of "and shall be given national treatment as regards charges, facilities and all other matters." The Article as thus revised will read as follows:

"There shall be complete freedom of transit through the territories including territorial waters of each High Contracting Party on the routes most convenient for international transit, by rail, navigable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries, to persons and goods coming from, *going to or passing through* the territories of the other High Contracting Party, except such persons as may be forbidden admission into those territories or goods of which the importation may be prohibited by law. Persons and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, *or to any discrimination* as regards charges, facilities, or any other matter.

"Goods in transit must be entered at the proper custom house, but they shall be exempt from all customs or other similar duties.

"All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic."

The purpose of the first change is to cover expressly all the situations in which the question of freedom of transit might arise. It is believed that the advantage of that modification as well as the effect and advantage of the modification at the end of the paragraph as clarifying the original draft of the Article is obvious. This Article

as thus revised is included in drafts of treaties which the United States has under negotiation with other countries.

Two copies of Articles VII, XI and XIII as hereinabove revised are enclosed, Article XIII being renumbered Article XII on the assumption that the new Article XI will be accepted by Switzerland in place of Articles XI and XII of the first draft.

I am [etc.] FRANK B. KELLOGG

[Enclosure 1]

ARTICLE VII

Between the territories of the High Contracting Parties there shall be freedom of commerce and navigation. The nationals of each of the High Contracting Parties equally with those of the most favored nation, shall have liberty freely to come with their vessels and cargoes to all places, ports and waters of every kind within the territorial limits of the other which are or may be open to foreign commerce and navigation. Nothing in this Treaty shall be construed to restrict the right of either High Contracting Party to impose, on such terms as it may see fit, prohibitions or restrictions of a sanitary character designed to protect human, animal or plant life, or regulations for the enforcement of police or revenue laws.

Each of the High Contracting Parties binds itself unconditionally to impose no higher or other duties, charges, or conditions and no prohibition on the importation of any article, the growth, produce or manufacture of the territories of the other Party, from whatever place arriving, than are or shall be imposed on the importation of any like article, the growth, produce or manufacture of any other foreign country; nor shall any duties, charges, conditions or prohibitions on importations be made effective retroactively on imports already cleared through the customs, or on goods declared for entry into consumption in the country.

Each of the High Contracting Parties also binds itself unconditionally to impose no higher or other charges or other restrictions or prohibitions on goods exported to the territories of the other High Contracting Party than are imposed on goods exported to any other foreign country.

Any advantage of whatsoever kind which either High Contracting Party may extend, by treaty, law, decree, regulation, practice or otherwise, to any article, the growth, produce or manufacture of any other foreign country shall simultaneously and unconditionally, without request and without compensation, be extended to the like article the growth, produce or manufacture of the other High Contracting Party.

All articles which are or may be legally imported from foreign countries into ports of the United States or are or may be legally exported therefrom in vessels of the United States may likewise be imported into those ports or exported therefrom in Swiss vessels without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in vessels of the United States; and, reciprocally, all articles which are or may be legally imported from foreign countries into the ports of Switzerland or are or may be legally exported therefrom in Swiss vessels may likewise be imported into these ports or exported therefrom in vessels of the United States without being liable to any other or higher duties or charges whatsoever than if such articles were imported or exported in Swiss vessels.

In the same manner there shall be perfect reciprocal equality in relation to the flags of the two countries with regard to bounties, drawbacks and other privileges of this nature of whatever denomination which may be allowed in the territories of each of the Contracting Parties, on goods imported or exported in national vessels so that such bounties, drawbacks and other privileges shall also and in like manner be allowed on goods imported or exported in vessels of the other country.

With respect to the amount and collection of duties on imports and exports of every kind, each of the two High Contracting Parties binds itself to give to the nationals, vessels and goods of the other the advantage of every favor, privilege or immunity which it shall have accorded to the nationals, vessels or goods of a third State, whether such favored State shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege or immunity which shall hereafter be granted the nationals, vessels or goods of a third State shall simultaneously and unconditionally, without request and without compensation, be extended to the other High Contracting Party, for the benefit of itself, its nationals, vessels or goods.

The stipulations of this Article do not extend to the treatment which is accorded by the United States to the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902, or any other commercial convention which hereafter may be concluded by the United States with Cuba. Such stipulations, moreover, do not extend to the treatment accorded to the commerce between the United States and the Panama Canal Zone or any of the dependencies of the United States or to the commerce of the dependencies of the United States with one another under existing or future laws.

[Enclosure 2]

ARTICLE XI

Commercial travelers representing manufacturers, merchants and traders domiciled in the territories of either High Contracting Party shall on their entry into and sojourn in the territories of the other Party and on their departure therefrom be accorded the most favored nation treatment in respect of customs and other privileges and of all charges and taxes of whatever denomination applicable to them or to their samples.

If either High Contracting Party require the presentation of an authentic document establishing the identity and authority of a commercial traveler, a signed statement by the concern or concerns represented, certified by a consular officer of the country of destination shall be accepted as satisfactory.

[Enclosure 3]

ARTICLE XII

There shall be complete freedom of transit through the territories including territorial waters of each High Contracting Party on the routes most convenient for international transit, by rail, navigable waterway, and canal, other than the Panama Canal and waterways and canals which constitute international boundaries, to persons and goods coming from, going to or passing through the territories of the other High Contracting Party, except such persons as may be forbidden admission into those territories or goods of which the importation may be prohibited by law. Persons and goods in transit shall not be subjected to any transit duty, or to any unnecessary delays or restrictions, or to any discrimination as regards charges, facilities, or any other matter.

Goods in transit must be entered at the proper custom house, but they shall be exempt from all customs or other similar duties.

All charges imposed on transport in transit shall be reasonable, having regard to the conditions of the traffic.

711.542/16 : Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

[Paraphrase]

WASHINGTON, *April 11, 1928—6 p. m.*

43. Referring to your despatch No. 335, March 8,[20] and to the Department's telegram 41, April 3, 6 p. m.[21] To add to the proposed

[20] *Ante*, p. 895.
[21] *Post*, p. 937.

treaty of friendship, commerce and consular rights any declaration concerning the American attitude toward the neutrality of Switzerland, as suggested by Mr. Motta, is, in my opinion, neither practicable nor desirable. If you deem it advisable, you may tell Mr. Motta that, should a multilateral treaty for the renunciation of war be successfully negotiated, the United States Government would, of course, be most happy for Switzerland to adhere thereto.

KELLOGG

711.542/19

The Minister in Switzerland (Wilson) to the Secretary of State

No. 415 BERNE, *April 24, 1928.*

[Received May 14.]

SIR: With reference to my despatch No. 387 of April 4, 1928, and previous correspondence relative to a treaty of Friendship, Commerce and Consular Rights between the United States and Switzerland, and to the draft of a treaty proposed by the Swiss Government, I have the honor to report that with a view to elucidating the Swiss viewpoint on a number of articles, I arranged with M. Dinichert, Chief of the Division of Foreign Affairs of the Federal Political Department, to hold a conference yesterday between himself and his legal advisers on the one hand, and myself, Mr. Moffat and Mr. Heath, Consul in Berne, on the other, in which he would explain any points on which I felt his draft was not clear. I took care to explain, and M. Dinichert understood, that this conference should be regarded by neither as in the nature of a negotiation or as prejudicing in any way any stand which the American Government might take in relation to the Swiss draft. The points I raised and M. Dinichert's explanations follow seriatim.

(1) I inquired the reason for the change made in article 1 of the Swiss draft, to read "nothing contained in the treaty shall be construed to affect existing statutes or regulations in relation to the immigration, sojourn and residence of aliens" [22] whereas the American draft only specified existing statutes in relation to the immigration of aliens.

M. Dinichert explained that from the Swiss point of view the inclusion of these extra words was necessary. He maintained that both America and Switzerland desired to accord such facilities of entrance and residence to citizens of the other state as did not prejudice a legitimate desire to control the presence of foreigners. In America this was done by means of the immigration law which severely restricts the number of Swiss who may enter the United States. In Switzerland the situation was taken care of by cantonal legislation

[22] Not exact quotation of Swiss draft (translation); cf. p. 902.

and regulations affecting the residence of foreigners. Americans may enter Switzerland freely but may only obtain residence permits at the discretion of the cantonal authorities. He concluded that this provision was not an affair of reciprocity but an affair of necessity; and that the control of residence was entirely a cantonal matter and that the Federal Government was not in a position to modify it.

(For the Department's information I would point out that the Swiss reservation has the effect of vitiating the freedom of residence in Switzerland. I am informed by the Consul-General at Zurich, for instance, that in his jurisdiction only one case is known of an American who was granted a permanent "niederlassung". Thus the Swiss are in the position of denying reciprocal rights of residence, particularly permanent residence. An American visa granted to a Swiss enables him to make definite plans and to count definitely on certain privileges; the Swiss right of entry, on the other hand, accords only temporary rights of problematical duration.)

(2) I inquired of M. Dinichert whether the general provision in the Swiss draft (article 2) covering freedom of worship embraced our conception of its details as found in our article 5. M. Dinichert replied that the Swiss draft aimed at covering essentially the same points. Individual freedom of conscience was clearly guaranteed by the Swiss draft and Americans enjoyed the same rights as their own citizens. For both Swiss and foreigners religious meetings and activities must conform to laws or regulations governing public gatherings, preservation of public morals, etc. He said that of course proselyting was less clearly covered. This again is subject to the rulings of the cantonal authorities but, basically, an American would be allowed to carry on the same missionary work as would be allowed to a Swiss in any given canton. In any event an American, if his missionary activities were objected to under the interpretation of cantonal regulations by the local authorities, was assured of the right to benefit by Swiss law and in this particular province the rights of the individual are strongly protected.

(3) I inquired of M. Dinichert whether the provisions against peddling and hawking contained in the Swiss draft, article 2, could be construed to curtail the rights of commercial travelers. He replied emphatically not. The reservation against peddling and hawking is found in virtually all Swiss treaties concluded during the past 50 years and aims at forbidding any attempt of a foreigner to sell his wares at a residence. Commercial travelers, on the other hand, attempt to sell their wares to business men at their places of business, and their activities will be dealt with in the draft commercial treaty which will be handed to us later.

(4) I inquired whether the prohibition found in the Swiss draft, article 2, against foreigners exercising the professions of notary or

lawyer would prevent the association of American with Swiss lawyers provided that the latter did all court work and apposed the necessary seals. (This system, for instance, is followed in Japan.) M. Dinichert answered that the regulations regarding lawyers were cantonal and varied in severity from the Canton of Schwyz, which had practically no regulations on the subject, to the Canton of Geneva, in which they were the most severe. In nearly all cases foreign lawyers are forbidden to enter the courts except when accorded permission in an exceptional instance to argue a case with which they are thoroughly familiar. He believed that American lawyers could be partners of Swiss lawyers under the circumstances I mentioned and agreed to examine this point further.

(5) I pointed out to M. Dinichert that the Swiss phrase found in article 2 and elsewhere throughout his draft reads "shall be treated upon the same terms as nationals of the most favored nation" and omits the American phrase 'or which may be granted.' M. Dinichert insisted that this was merely a difference in phraseology, that we had the same thought in view and indicated that there would be no objection to including the words in question.

(6) I inquired of M. Dinichert whether the permission granted in the Swiss draft, article 2, to Americans to engage in any kind of . . . "professional, manufacturing, or commercial activity" [23] was not in fact vitiated by the cantonal control of sojourn and residence. He replied that their draft does not accord aliens the juridical right to engage in any legitimate occupation, except in such cases as permanent residence has been granted by a canton. For instance, widespread unemployment, a lack of adequate housing facilities, or similar serious reasons would amply justify the cantonal authorities in refusing residence permits to an American. Many cantons now refuse residence permits to those desiring to work as domestic servants. However, he wished to assure me that as a practical matter this prerogative of the cantonal authorities would not be abused.

(For the Department's information, I am informed that, according to usage in certain cantons, particularly Zurich, the police possess and exercise unlimited discretionary powers regarding the establishment by a foreigner of business, and regarding the employment of help, the governing principle being that no foreigner can operate if a Swiss is capable of doing similar work. In practice therefore the Swiss draft deprives an American in one line of what is granted in another).

(7) I inquired of M. Dinichert just what was meant by the word "taxe" found in article 3, Swiss draft. He replied that the word "taxe" conveyed the thought of a remuneration to the state for a specified service. It can unquestionably be translated by the English word "fee".

[23] Cf. p. 902.

(8) I inquired of M. Dinichert the purpose of including the reservation "provided they are being subject to legitimate usage" [24] in regard to the prohibition of domiciliary visits found in Swiss draft, article 4 (American draft article 3). He explained that the police in Switzerland were empowered, on serious suspicion of the illicit use of a building, to enter the premises; if the suspicion were found to be justified nothing could be said, but if the police were mistaken some recourse was in order. However, he volunteered the statement that the inclusion of this reservation in its present form was of dubious wisdom and might be erased. He explained that what the Swiss were after was to give to foreigners in this respect the same rights and privileges as were granted to their own nationals.

(9) I inquired of M. Dinichert why the Swiss had included the words "in advance" [24] in their draft in regard to compensation for the seizure or use of property. He explained that there were special provisions of Swiss legal procedure to enable the swift determination of the value of property seized or used. He added, however, that as he recognized that this condition might not hold in all countries he would withdraw this phrase providing that no other nation could, under the most favored nation clause, obtain privileges the Swiss did not wish to accord. This point would be given careful study.

(10) Relative to article 5 of the Swiss draft (American draft article 6) I did not ask M. Dinichert for any illumination since our drafts were so widely divergent that it would not appear that the Swiss text offered a satisfactory basis on which to begin negotiation. M. Dinichert took occasion to state that on the question of dual nationality they had found little difficulty with other countries since a clear principle had been followed; namely—in cases of dual nationality each country recognized that when such of its citizens as possessed dual nationality were within the territory of the other country they were subject to that other country's jurisdiction, and were, for the duration of their sojourn, regarded as its nationals. Here I offered the suggestion that apart from the legal principle involved such an arrangement would work serious hardship to certain American citizens who were born in the United States of Swiss naturalized parents or were grandsons of such parents, who returned to Switzerland in complete ignorance of the fact that they were there regarded as Swiss citizens. This idea appeared to be entirely new to M. Dinichert and his advisers and he stated that it was one to which they would have to give careful consideration as it was certainly not their intention to work undue hardship by their application of law.

[24] Cf. p. 903.

(These two articles, the Swiss and ours, appear to raise five important questions as follows:

1–dual nationality
2–military service in time of peace
3–military service in time of war
4–military taxation in time of peace
5–military taxation in time of war.

It would appear advisable if we take up this question at all that all phases of it should be covered.

(In this connection I invite the Department's attention to my despatch No. 387 of April 4, page 3, relative to the conversation which I had with Mr. Motta. In the light of this conversation the Department may feel it advisable to draft another text. I shall refer again to this matter in a summary which I shall append to this despatch.)

(11) I inquired of M. Dinichert why the Swiss draft, article 7, (American draft article 9) did not accord juridical status to corporations not for pecuniary profit. He replied that he wished to give this question further study, that he did not wish to refuse such corporations certain rights but that such rights should be carefully limited.

(12) I inquired of M. Dinichert why the American phraseology regarding corporations which have been or may hereafter be organized was omitted and the text "which have been duly organized" substituted. He explained that this was a question of phraseology that in this respect the intentions of the two drafts were identical.

(13) I inquired of M. Dinichert the general reasons why the Swiss draft was so much less liberal than the American draft in the treatment of consular officers. He replied that several conditions of fact must be recognized: (1) the jealousy of the cantons in maintaining their prerogatives and the inadvisability of the Federal Government opposing their wishes; (2) the desire of the Swiss government to see a general treaty negotiated regarding diplomatic and consular privileges and immunities. (The Swiss Government, for instance has submitted its views to the League of Nations which is studying the advisability of submitting such a project to the Powers). They therefore felt disinclined to commit themselves in any save a very restricted way on this point for as long a period as would be covered by the present treaty; (3) a desire to conform to the Swiss view of what is the recognized "modern practice in limiting privileges and immunities of consular officers"; (4) a fear that a more liberal treatment granted consular officers would promptly be followed by demands for more liberal treatment by the 600 or more exterritorial officials of the League of Nations in Geneva.

(14) I inquired of M. Dinichert as to the reasons why the Swiss would not grant exemption from taxation for real property owned by the United States Government and used for government purposes.

He answered that this would be absolutely impossible; that the cantons were sovereign in fiscal matters and that as a practical measure it would not be possible for the Federal Government to obligate the cantons by concluding a treaty granting this immunity. For instance, in the canton of Berne special authorization must be obtained from the canton for a foreign power to purchase land. He went on to explain that the federal government would not hesitate to intervene and tell a canton that its sovereignty was limited by international law, but that in the matter of government owned land and buildings international practice was much divided and no rule of international law could be quoted to cover the situation. (I should appreciate information as to the accuracy of this statement). He did explain, however, that such property would be exempt from federal taxation (the war tax for instance), even while remaining subject to cantonal taxation.

(15) I inquired of M. Dinichert why they did not include in the text of their draft even the free entry to consular officers for their first installation, a privilege which they grant in practice. He replied that after a great deal of negotiation and many preliminary difficulties the Federal Council had issued an *arrêté* dated September 26, 1927, explanatory of the recent customs law, and that this marked the ultimate limit to which the federal government could go. There was an informal understanding that the Political Department would not ask Parliament to grant further concessions in return for parliamentary approval of this *arrêté*. Experience has proved that the Political Department can get more favorable treatment for consular officers by a certain elasticity in the interpretation of the law, than by too hard and fast a ruling by means of a treaty. He explained that Switzerland could not grant free entry for consular furniture or supplies nor could it obtain exemption from income tax for any non-commissioned personnel excepting the "chief clerk." In case that title did not exist in a foreign service each consul was authorized to select one employee who would be regarded by the Swiss Government as possessing the privileges of a "chief clerk."

(16) I inquired why the Swiss draft made no distinction between procedure to be observed by consular officers as between civil and criminal cases. He replied that such a distinction was not logical. If a Consul can be imprisoned, why should he be exempt from testifying? If he is not entitled to the greater exemption, why should he be for the smaller? On the other hand, M. Dinichert went on to explain that while a consul would always have to appear, subject to a postponement of his hearing, he could not be required to testify regarding official or political matters. He claimed that this viewpoint was in accord with more modern consular treaties, more particularly

the recent treaties concluded between France and Czechoslovakia [25] and France and Poland.[26]

(For the Department's information I understand that Switzerland now has treaties with Portugal and Italy, exempting their Consuls from the necessity of testifying by which under our treaty of 1851 [*1850*] we may benefit by virtue of the most favored nation provisions.)

(17) I asked M. Dinichert whether the denial of the right of Consuls to take depositions was general in practice. He replied that Switzerland refuses such a privilege to the representatives of all nations.

(I gained the impression that his objection to depositions was based on the fear that they might be used in Swiss courts and that he had a less rooted objection to depositions taken for foreign use exclusively.)

(18) I inquired of M. Dinichert just what was meant in the final protocol of the Swiss draft by the expression "privileges to be obtained by virtue of an award in arbitration or international judicial settlement." [27] M. Dinichert explained that the Swiss Government had of late been much preoccupied by a possible repugnance between the principle of obligatory arbitration and the general use of the most favored nation clause, both of which individually meet with the strongest approval of the Swiss Government. For instance, Switzerland has a treaty with country A on a certain point giving privileges to which twenty other countries are entitled by virtue of the most favored nation clause. Supposing that a dispute should arise as to the interpretation of this privilege and an arbiter should decide against the Swiss thesis. If a provision such as that contained in the final protocol of the Swiss draft were not included, Switzerland would then be obligated to give to 20 nations a privilege she did not intend to accord even to one. It is too great a risk, and unless some such clause can be concluded in future treaties it will be necessary for Switzerland to abandon either its policy of concluding treaties of obligatory arbitration, or of concluding treaties containing a wide use of the most favored nation clause.

There are certain important points which are not mentioned in the Swiss draft, namely, the rights of our Consuls in relation to estates of deceased American citizens including rights provided under our articles 20 and 21. Also the questions of dual nationality and the interpretation of domicile raised in my No. 387, above referred to.

Until we are clear as to the Swiss views on these points I do not feel in a position to give a definite recommendation as to this Swiss

[25] Consular convention, signed June 3, 1927; League of Nations Treaty Series, vol. CXXXI, p. 177.

[26] Consular convention, signed Dec. 30, 1925; *ibid.*, vol. LXXIII, p. 265.

[27] Cf. p. 908.

project. However, I venture to suggest for the Department's consideration, that at present writing the Swiss are offering us no more, and perhaps somewhat less, than we are obtaining under the Treaty of 1851 [*1850*] and the most favored nation clause included therein. (I have pointed out above that their practice as to consular privileges is more liberal than their draft proposes to accord us). The conversation with M. Dinichert and his advisers strengthened a doubt which was already latent in my mind as to the advisability of going further in negotiation of this treaty. As I stated above, however, I believe that we must reserve judgment until we find just what is in their minds on the points which we consider important.

I have [etc.] HUGH R. WILSON

711.542/20

The Minister in Switzerland (Wilson) to the Secretary of State

No. 423 BERNE, *May 5, 1928.*
[Received May 28.]

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 194 of April 9, 1928 directing me to suggest to the Swiss Government certain changes in the draft Treaty of Friendship, Commerce, and Consular Rights which my predecessor submitted for the consideration of the Swiss Government in November 1926.

There is enclosed herewith copy of a note which I addressed yesterday to Mr. Motta, head of the Federal Political Department of the Swiss Government,[28] submitting all the changes but one, that dealing with article 9 of the American draft. Inasmuch as that article has formed the basis of the Swiss counter-proposal, transmitted with my despatch No. 358 of March 18, 1928, I have not deemed it advisable to submit this pending the Department's observations on the Swiss counter-draft.

I have [etc.] HUGH R. WILSON

711.542/22

The Minister in Switzerland (Wilson) to the Secretary of State

No. 518 BERNE, *July 18, 1928.*
[Received August 6.]

SIR: I have the honor to transmit herewith a French text and translation of a project handed to me by the Department of Public Economy of the Swiss Government for a commercial treaty between the United States and Switzerland. It will be noted that in general

[28] Enclosure not printed.

it follows the commercial clauses of the draft treaty of commerce, amity, and consular rights which we submitted to the Swiss Government in 1926.

Following the procedure which I had adopted in connection with the Swiss draft for the treaty of establishment, I called on Dr. Walter Stücki, Director of Public Economy, and explained to him that I was not authorized to negotiate on the draft which he had submitted but that I desired to ask him for certain elucidation on his draft.

It will be noted that the Swiss draft omits completely Article 13 of the original draft submitted to them relative to right of transit; a similar article, however, is included in Swiss Commercial Treaties with neighboring countries. Mr. Stücki explained, when this was brought to his attention, that of course the Swiss Government had no objection to the idea expressed in the article; they had merely considered it superfluous in view of the phraseology of their Article 1, paragraph 1, (our Article 7, paragraph 1) which states that commerce will be free between territories of the contracting parties. He added that they would certainly construe this as giving all benefits which are provided under our Article 13 above-mentioned.

I asked Mr. Stücki what had motivated the Swiss Government in its insertion of paragraph 1 of "the additional stipulations", relative to most-favored-nation treatment for Swiss merchandise regardless of the nationality of the vessel importing the goods. Dr. Stücki explained in entire frankness that they had been encountering difficulties with the Canadian Government on this very question; that the Canadian Government had been subjecting merchandise imported in German bottoms to three times the charges to which merchandise was subjected imported in British or French bottoms. But certain of the Swiss merchants had old established agreements with German shipping companies for carrying their goods and it was inconvenient to alter this. No question of discrimination had ever arisen as concerned the United States of America. It was Dr. Stücki's desire merely to select from the various shipping clauses (which of course have no application to Switzerland) the single matter which was of interest to them.

Paragraph 2 of the "additional stipulations" raises a point of exceeding interest now that the nations of the world are beginning to negotiate multilateral economic treaties. I had noticed that Dr. Stücki, who represented Switzerland at the Export and Import Conference,[29] had been peculiarly insistent on the fact that a bilateral most-favored nation obligation did not necessarily give to the contracting parties all the privileges which one of the contracting parties might have conceded to the other signatories under a multilateral treaty. Dr. Stücki explained that in the last meeting of the Economic Committee of the

[29] See vol. I, pp. 366 ff.

League of Nations he had been named *Rapporteur*, charged with making a report to the Committee on this very question. He had not desired to make this additional stipulation too lengthy an article and too complex but had wished primarily to raise the question so that some sort of a formula might be evolved. He explained that in his report to the Economic Committee (which by the way has not yet been acted on) he had proposed that in the event that a state which was not signatory to a multilateral agreement and which, however, did not maintain those forms of restrictions or customs or whatever restraint the multilateral treaty was designed to eliminate, should enjoy the benefits of the most-favored nation. It was only in the case where a non-signatory state refused to accept the obligations of a multilateral treaty that it could not claim the benefits thereof under the most-favored nation bilateral agreement.

Relative to the Protocol, I again emphasized the fact that I was not negotiating and had no authorization to do so. I pointed out, however, that by this paragraph and particularly the last sentence thereof the Swiss Government was proposing to us to submit to our Senate something which was in direct conflict with our existing law. I then asked him whether he really considered that this was of high importance to Switzerland. Dr. Stücki replied that my question was almost as delicate as the one which they raised by inserting the Protocol. Certainly as evidenced by the Swiss press a great deal of hostility in Chambers of Commerce and business circles has been shown against any idea of examination into costs on Swiss territory by American agents, and the Federal Council and the legislative bodies of Switzerland would certainly want to know very definitely why mention of this had been omitted by Mr. Stücki and would certainly be extremely desirous of seeing some method adopted which could eliminate the possibility of such examination. Naturally, Mr. Stücki did not consider this as *sine qua non* for acceptance of a commercial convention with ourselves. Nevertheless, he did regard it as of high importance and added that he understood that we were now engaged in some sort of arrangement with the French Government relative to this matter and stated that he would have to insist upon most-favored nation treatment in this particular application of law. I am not entirely familiar with the procedure which we have adopted toward the French Government in this connection. It may be that some unofficial arrangement has been reached which, if we accorded it to Switzerland, would eliminate the necessity for the Protocol in the Convention.

Article 2, paragraph 1. I pointed out that the meaning was somewhat obscure and there appeared to be a *non-sequitur* of thought. Mr. Stücki agreed that the French text was not entirely clear and stated that his office would work over this text and try to improve it. He explained that what they were trying to reach was exactly the meaning

conveyed by Article 4, paragraph 7, of the Export and Import Convention of November 8, 1927.[30]

Article 3, paragraph 1. I call special attention to the question of translation of this paragraph. It is of considerable difficulty and should be examined with some care. In the last line I have translated "les industriels (voyageurs de commerce)" as "wholesale commercial travelers", basing this translation on Dr. Stücki's explanation of his meaning.

Relative to the formal certificate (Annexe A),[31] I asked Dr. Stücki whether this was intended to be an official document. He stated that it was official; that under the treaty of Customs Formalities to which Switzerland was a party, facilities for commercial travelers had been made as broad as possible and a certificate such as proposed to us was now accepted by all states signatory to this Convention. In Switzerland such documents were issued by special cantonal bureaus or by the Department of Public Economy. The document bore the name and seal of the authority issuing it. No visa or other further formality was required for the user of this certificate.

The Department will note that very decided restrictions are put on retail commercial travelers, as well as on peddlers and hawkers. Inasmuch as I know of only one American commercial traveler who obtained a license to visit Switzerland during the past year, as against some 250 German commercial travelers, it would seem to be to our advantage that the activities of commercial travelers should be rigidly confined to those in the wholesale market.

Dr. Lyon, the Commercial Attaché, has in preparation a comparative analysis of Switzerland's contractual commercial relations. As soon as this document is completed, I shall forward a copy to the Department, inasmuch as I believe it will be found of value, in consideration of this general question, to understand the practice and broad principles which Swiss public economy is endeavoring to follow.

This Swiss draft is the final step in the preparation of the Swiss counter-project, and I venture for your convenience to cite the references to the various reports which I have made and which it may be found advantageous to consider as a whole. The list follows:

335 of March 8, 1928;
358 of March 18, 1928;
387 of April 4, 1928;
415 of April 24, 1928;
423 of May 5, 1928.

[30] Vol. I, pp. 336, 339.
[31] Not printed.

I shall take no further steps in this matter until the Department has had the opportunity to reflect upon what has been submitted and instruct me in the premises.

I have [etc.] HUGH R. WILSON

[Enclosure—Translation]

Swiss Draft of a Treaty of Commerce

The Federal Council of the Swiss Confederation and the President of the United States, desirous of promoting the commercial relations between Switzerland and the United States, have resolved to conclude a treaty and have designated for this purpose as their plenipotentiaries, to-wit:

who, after having communicated to each other their full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I

P. 1. Between the territories of the contracting parties there shall be freedom of commerce; the nationals of each of the contracting parties shall enjoy the treatment granted the nationals of the most favored nation respecting the free access of their goods to all places which are or may be open to foreign commerce. Nothing in this treaty shall be construed to restrict the right of either contracting party to decree, on such terms as it may see fit, prohibitions or restrictions of a sanitary character designed to protect human, animal, or plant life, or regulations for the enforcement of police or revenue laws.

P. 2. Each of the contracting parties binds itself unconditionally to impose no higher, more onerous, or other duties, charges, and conditions, and no prohibition on the importation of any article, the growth, produce or manufacture of the territory of the other party, arriving directly or indirectly, other than are or shall be imposed on the importation of any like article, the growth, produce or manufacture of any other foreign country; nor shall any duties, charges, conditions, or prohibitions on importations be made effective retroactively on imports already cleared through the customs or on goods declared for entry into consumption in the country.

P. 3. Each of the contracting parties also binds itself unconditionally to impose no other, higher, or more onerous, charges or other restrictions or prohibitions on goods exported to the territory of the other party than are imposed on goods exported to any other foreign country.

P. 4. Any advantage of whatsoever kind which either contracting party may extend, now or in the future, by treaty, law, decree, regu-

lation, practice or otherwise, to any article, the growth, produce, or manufacture of any other foreign country, shall immediately, without request, unconditionally, and without compensation be extended to the like article, the growth, produce or manufacture of the other contracting party.

P. 5. With respect to the amount and collection of duties of every kind on imports and exports, each of the contracting parties binds itself to give to the nationals and goods of the other party the advantage of every favor, privilege, or immunity which it shall have accorded to the nationals and goods of a third state, whether such favored state shall have been accorded such treatment gratuitously or in return for reciprocal compensatory treatment. Every such favor, privilege, or immunity which shall hereafter be granted the nationals or goods of a third state shall simultaneously, without request, unconditionally and without compensation be extended to the other contracting party for the benefit of itself, its nationals, or its goods.

P. 6. The stipulations of the present Article do not extend:

insofar as the United States is concerned to the treatment which is accorded the commerce of Cuba under the provisions of the Commercial Convention concluded by the United States and Cuba on December 11, 1902, or any other commercial convention which hereafter may be concluded between the United States and Cuba. Such stipulations moreover do not extend to the treatment accorded to the commerce between the United States and the Panama Canal Zone or any of the dependencies of the United States or to the commerce of the dependencies of the United States with one another, under existing or future federal laws. Insofar as Switzerland is concerned such stipulations do not extend to the privileges which have been or may be accorded to a bordering state with a view to facilitating frontier trade in a zone, not to exceed 15 kilometers beyond the frontier, nor to the obligations resulting from any customs union which the Confederation has concluded or may hereafter conclude.

ADDITIONAL STIPULATIONS

P. 1. It is agreed that the most-favored nation treatment to be accorded Swiss goods imported into the United States shall apply, without any restriction, irrespective of the nationality of the vessel by which they are carried.

P. 2. It is agreed that the most-favored nation treatment stipulated in the present article does not entitle either of the contracting parties to the benefits of the stipulations granted in multilateral international conventions to which the other party is not also an adherent.

PROTOCOL

P. 1. Whenever doubts may arise regarding the valuation or the proof of value of merchandise for importation, the injured contracting party will call the fact to the attention of the other contracting party. The Government of the party thus complained to will at once institute a special inquiry and communicate the result thereof to the complaining party. In no event will one of the contracting parties proceed to institute an investigation on the territory of the other contracting party through its own agencies.

ARTICLE II

The nationals and merchandise of each contracting party within the territory of the other shall receive the same treatment as nationals and merchandise of the country with regard to internal taxes, transit dues, charges in respect to warehousing, and other facilities and the amount of bounties and drawbacks.

This stipulation does not extend to merchandise, which is or may become, in the territory of one of the contracting parties, a state monopoly, as well as to the intention of applying to foreign merchandise all the prohibitions and restrictions which have or may be the result of national legislation relative to the production, transportation, sale, or consumption within the country of similar native merchandise.

ARTICLE III

P. 1. Without prejudicing the possibility of their receiving greater advantages as the result of the most-favored nation treatment, merchants, and other manufacturers of one of the contracting parties, as well as their commercial travellers, shall have the right, upon presenting a certificate delivered by the authorities of their country, and conforming to the laws and regulations in force, to purchase goods within the territory of the other contracting party, whether from dealers, in places of public sale, or at the residence of persons producing the said goods. They may also take orders from dealers or other persons engaged in business in which are used those types of merchandise they are offering. They may bring with them samples or models and, insofar as concerns their activity as described in the present paragraph, they shall not be subject either to taxes or special fees. Wholesale commercial travellers who are provided with a certificate have, however, the right to bring with them merchandise to the same extent as is authorized to wholesale commercial travellers within the country.

P. 2. Samples or models imported by the above-mentioned persons shall be admitted free of import and export dues, in conformity with the customs regulations and formalities drawn up to enforce their re-exportation, or the payment of customs duties in the event of their not being re-exported within the period fixed by law.

P. 3. Re-exportation of samples or models belonging to commercial travellers may be effected through another customs house than the one of their import. The re-exporting office will be authorized to reimburse on its own authority the duties or taxes which have been provisionally paid, or deposited, or if the sum has been merely guaranteed to take the necessary steps to cancel the guarantee furnished.

P. 4. The contracting parties further agree that samples of objects in precious metals (jewelry, goldsmith work, clockwork) shall be exempted from the requirements of marking or stamping in the country of importation, provided that they are re-exported within the customary period.

P. 5. The certificate must be drawn up in conformity with the model of annex A. The contracting parties will reciprocally inform each other of the authorities competent to issue such certificates.

P. 6. The stipulations of the present article shall not be applicable to peddling, hawking, or retail travelling salesmen seeking orders from persons without business or trade, and the contracting parties in this matter reserve full legislative liberty.

Article IV

P. 1. Subject to any limitation or restriction hereinabove set forth or hereinafter agreed upon, the territories of the contracting parties to which the provisions of this treaty extend shall be understood to comprise all areas of land, water, and air over which the parties respectively claim and exercise dominion as sovereign thereof, except the Panama Canal Zone.

P. 2. The present treaty shall likewise comprise the principality of Liechtenstein so long as the latter is bound to Switzerland by a treaty of customs union.

Article V

P. 1. Differences which may arise regarding the interpretation or application of the present treaty and which shall not have been settled through diplomatic channels within a reasonable period shall be submitted at the request of one of the contracting parties to an arbitral

tribunal which, unless otherwise agreed upon, shall contain three members, each of the contracting parties naming one arbitrator and appointing by common accord the presiding arbitrator.

P. 2. If the Arbitral Tribunal has not been constituted within two months following notification of a request for arbitration, the procedure set forth in part 4 of the Convention of the Hague of October 18, 1907, for the pacific settlement of international disputes, shall obligatorily apply.

P. 3. In case doubt arises as to whether the difference of opinion bears upon the interpretation or the application of the treaty, this preliminary question will be submitted to arbitration under the same conditions as those stipulated in paragraph[s] 1 and 2 of the present article.

ARTICLE VI

The present treaty will be ratified as soon as possible and the ratifications thereof shall be exchanged at . . . . .

The treaty is concluded for a period of ten years from the date of exchange of ratifications. If within one year before the expiration of the aforesaid period neither contracting party denounces the treaty, it shall remain in force until one year from such time as either of the contracting parties shall have notified to the other an intention of terminating it.

IN WITNESS WHEREOF, the above mentioned plenipotentiaries have signed the present treaty in duplicate in the French and English languages.

711.542/24

The Minister in Switzerland (Wilson) to the Secretary of State

No. 582 BERNE, *September 10, 1928.*
[Received October 1.]

SIR: Referring to my despatch No. 415, of April 24, 1928, and other correspondence relating to the Swiss draft of a treaty of friendship, commerce, and consular rights between the United States and Switzerland, I have the honor to transmit herewith copy and translation of a letter dated August 22, 1928, addressed to me by Mr. Dinichert, Chief of the Division of Foreign Affairs in the Federal Political Department, in which he informs me, in a purely personal manner, of certain modifications which the Swiss Government would be prepared to make to its draft treaty if judged advisable by the American Government.

I have [etc.] HUGH R. WILSON

[Enclosure—Translation]

The Chief of the Division of Foreign Affairs, Swiss Federal Political Department (Dinichert) to the American Minister (Wilson)

BERNE, *August 22, 1928.*

MR. MINISTER: Following our meeting of the end of April, during which we reviewed together the various clauses of the Swiss draft treaty of friendship, juridical protection, and consular rights between Switzerland and the United States, we promptly examined, together with the other interested Federal Departments, in what way it would be possible to take into consideration the various observations which Your Excellency was good enough to suggest to us personally and unofficially.

This examination, which lasted longer than I foresaw, has led to the following result, and I think it is useful to communicate to you, in a personal way, and as an indication, the amendments which, if judged favorably by the American Government, we should be disposed to make to the draft enclosed with the Political Department's note of March 14.

1. Concerning Article 2, you raised the question as to whether the reservation against the practice of the professions of notary or lawyer should be interpreted to exclude American citizens from the practice of these professions. We told you already—and I am in a position to confirm it to you today—that the intention of the Federal authorities was merely to confirm on this point the right of the Cantons to reserve the practice of these professions to Swiss nationals. Various Cantons do not make use of their right in this respect. At the present moment the practice at the bar is free in the Cantons of Glaris, Zoug, Schaffhouse, Appenzell-Rhodes Extérieures, Grisons, and, to a certain extent, Soleure, as it is before the Federal Tribunals. The question, of knowing whether in those Cantons which reserve pleading before the Courts for nationals the same holds true for the profession of consulting lawyer, is not clearly defined and depends upon the Cantonal Courts. In order to make clear that the reservation which appears in Article 2 of the draft treaty of friendship, juridical protection, and consular rights in no way prejudices the solution which is or may be adopted by Cantonal laws, there would be no objection to adding after the words "professions of notary or of lawyer" [32] the words "which are not covered by the present treaty".

2. You pointed out that in Article 4, paragraph 2, the formula "The nationals of each of the contracting parties shall have, in conformity with local laws, free access to the Courts . . . . ." [33] presented

[32] Cf. p. 902.
[33] Cf. p. 903.

a certain ambiguity. This formula could well be replaced by "The nationals of each of the contracting parties shall enjoy in the territory of the other party, in circumstances prescribed by law, free access to the Courts . . . .".

3. You pointed out that the second sentence of paragraph 3, of Article 4, would seem to mean that each of the parties reserves the right to make domiciliary visits in houses occupied by nationals of the other party, without observing the forms which the laws and regulations in force specify in similar cases for nationals, if the buildings are not being used for licit purposes. We should be ready to suppress the words "provided that they are not used for licit purposes".[34]

4. With regard to Article 7, you pointed out that there would be considerable interest in permitting a corporation not organized for profit on the territory of one of the contracting parties the possibility of acquiring rights on the territory of the other party. In this respect Swiss practice is exceedingly liberal. Accordingly there would be no difficulty in replacing the first paragraph of Article 7 by the two following paragraphs:

"Provided that they pursue no aims contrary to its laws or to public morals, corporations of any nature, which have been duly organised according to the laws of either contracting party and maintain a central office within the territory thereof, shall have their juridical status recognised in the other country, and they may, in circumstances prescribed by laws in force, acquire and make use of rights therein. They shall, on conforming to the laws and regulations in force, enjoy free and easy access to the Courts of law and equity, as well for the prosecution as for the defense of their rights.

"Commercial, manufacturing, agricultural and financial companies, including transportation and insurance companies, having their central office in the territory of either contracting party and having had their juridical status recognised in the other country, may, subject to observing the formalities required of them for this purpose by the laws and regulations in force, expand their operations on the territory of the other party and fulfill their economic functions."

I avail myself [etc.] PAUL DINICHERT

[Apparently no further progress was made in these treaty negotiations. In instruction No. 773 of January 18, 1930, the Minister in Switzerland was informed that "this Government has temporarily suspended all negotiations for treaties of friendship, commerce and consular rights, except in cases where there is a pressing need for the conclusion of such treaties." (File No. 711.542/26a.)]

---

[34] Cf. p. 903.

PROPOSED TREATY OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND SWITZERLAND

711.5412A/7 : Telegram

The Secretary of State to the Minister in Switzerland (Wilson)

WASHINGTON, *April 3, 1928—6 p. m.*

41. I, yesterday, handed the Swiss Chargé d'Affaires a draft of a proposed treaty of arbitration between the United States and Switzerland. The provisions of the draft operate to extend the policy of arbitration enunciated in the Convention signed at Washington, February 29, 1908,[35] which expired by limitation December 23, 1918, and are identical in effect with the provisions of the Arbitration Treaty signed between the United States and France on February 6, 1928,[36] and with the draft arbitration treaties submitted to the Spanish, British, Japanese, Italian, Norwegian, German, Portuguese, Danish, Austrian, Dutch and Hungarian Governments.[37] In a covering note handed the Chargé d'Affaires at the same time I explained certain differences in the text of the draft treaty from the language of the French Treaty which were necessitated by the fact that no treaty of conciliation is in force between the United States and Switzerland as it is in the case of France and the United States. I added the suggestion that the Swiss Government might care to consider again the ratification of the so-called Bryan Treaty, signed by the two Governments on February 13, 1914,[38] and said that this Government would be pleased if such a treaty could come into force between Switzerland and the United States.

The text of the proposed Treaty and my covering note will be forwarded in the next pouch.[39]

KELLOGG

711.5412A/11

The Minister in Switzerland (Wilson) to the Secretary of State

No. 472 BERNE, *June 14, 1928.*

[Received July 10.]

SIR: With reference to the Department's telegram No. 41 of April 3, 6 p. m., 1928, relative to the treaty of arbitration submitted to the Swiss Government, I have the honor to transmit herewith a copy and translation of a communication dated June 12, 1928, which I have

[35] *Foreign Relations*, 1908, p. 734.
[36] Vol. II, p. 816.
[37] For correspondence, see under individual countries, except Norway, in volumes I and II, and in the present volume. The treaty with Norway is printed in Department of State Treaty Series No. 788.
[38] Not printed.
[39] Draft not printed.

received from Mr. Motta, Federal Councillor and Chief of the Political Department, with which Mr. Motta transmitted to me a copy of their counter project, which he has instructed the Swiss Legation to present to you, and explains the reasons therefor.

I have [etc.] HUGH R. WILSON

[Enclosure—Translation]

The Chief of the Swiss Federal Political Department (Motta) to the American Minister (Wilson)

B14/4 Am.–RZ BERNE, *June 12, 1928.*

MR. MINISTER: You are doubtless aware that the Government of the United States, through the Swiss Legation at Washington, has approached the Federal Council with a view to the conclusion of a treaty of arbitration between the two countries. It has, furthermore, expressed the desire that the Bryan Treaty, concluded on February 13, 1914, between the United States and Switzerland, should, if possible, be put into force.

The Federal Council has studied with the greatest interest the proposals of the Government of the United States and is gladly disposed to negotiate an agreement for the pacific settlement of disputes which might arise between the two countries. However, it has not overlooked the difficulties which might be encountered in submitting to the Federal Chambers at this time a treaty signed nearly fifteen years ago. It appears much preferable to the Federal Council that the treaty to be concluded should cover both the procedure of conciliation and the procedure of arbitration. Such a solution should be all the more acceptable to the Government of the United States since the Federal Council would be prepared to negotiate the agreement in question within the very limits of the Bryan Treaty of 1914 and on the basis of the draft arbitration treaty which Mr. Kellogg transmitted to the Swiss Minister at Washington.

With a view to facilitating the negotiation, the Federal Council has prepared a counter-draft of the treaty which it would be happy to see concluded between the two countries and has instructed the Swiss Legation in the United States to communicate the tenor thereof to the Department of State at Washington.

We hasten to enclose a copy of this draft for your information.[40]

As you will note, the draft of the Federal Council does not depart extensively from the American draft. It contains, in particular, the specific reservations on arbitration which appear in the Arbitration Treaty between France and the United States of February 6, 1928 (Article 5 of the draft), as well as a provision which would enable

[40] Not printed.

the American Senate to reserve its powers as regards approval of special arbitration agreements (Article 4, last paragraph).

As regards the procedure of conciliation, the first three articles of the Swiss counter-draft resume almost in their entirety the provisions of the Bryan Treaty signed on February 13, 1914. The Federal Council has nevertheless deemed it expedient to complete them by the following three points:

1. In case of disagreement on the choice of the president of the conciliation commission, the nomination will be made in conformity with Article 45 of The Hague Convention for the pacific settlement of international disputes, of October 18, 1907.[41] The absence of an agreement between the parties on the choice of the president should not result in an indefinite postponement of the constitution of the commission.
2. The Bryan Treaties provide neither the manner in which a dispute is to be submitted to the commission, nor the place where it is to hold its meetings. Article 3, paragraph 1, of our counter-draft would fill these gaps.
3. As regards the procedure before the commission, paragraph 2 of the same article contains substantially the provisions of Chapter III of the first Hague Convention of October 18, 1907, whereas the Bryan Treaties are silent on the procedure proper.

In preparing its counter-draft, the Federal Council might clearly have followed more closely the numerous treaties concluded up to this time by the Confederation in matters of conciliation and arbitration, but it has endeavored to adhere as nearly as possible to the general lines of the American draft in order to facilitate an understanding on the terms of an agreement which will serve to strengthen even more the excellent relations existing between our two countries.

Please accept [etc.] MOTTA

[For text of the treaty signed February 16, 1931, see Department of State Treaty Series No. 844 or 47 Stat. 1983.]

---

[41] *Foreign Relations*, 1907, pt. 2, pp. 1181, 1189.

TURKEY

PROPOSED TREATIES OF ARBITRATION AND CONCILIATION BETWEEN THE UNITED STATES AND TURKEY

711.6712A/1 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

[Paraphrase]

WASHINGTON, *March 23, 1928—11 a. m.*

25. The Department is undertaking to negotiate with most, if not all, countries outside Latin America treaties of arbitration identical in effect with the treaty with France of February 6, 1928,[1] and, where there are no conciliation treaties (the so-called Bryan treaties), treaties of this sort also, based on the treaty with Great Britain of September 15, 1914.[2] The negotiations for these treaties are taking place in Washington.

The negotiation of a treaty of arbitration and a treaty of conciliation between the United States and Turkey might furnish an effective commencement of treaty relations between the two Governments. These two treaties would be, presumably, more acceptable to the Senate than any other kind of a treaty, and they would give Turkish Government the satisfaction of having formal treaty relations with the United States.

Department would be glad to have you telegraph your personal views for its guidance, particularly with reference to the following points:

1. In your opinion, would proposal to negotiate above-mentioned treaties be well received at present time by Government of Turkey?
2. Would proposal of this sort tend to be of assistance to you in any negotiations which you may have to undertake in the near future for renewal of the *modus vivendi* of February 17, 1927?[3]
3. In order to obtain maximum good effect, when and how should proposal be made?

KELLOGG

[1] Vol. II, p. 816.
[2] *Foreign Relations*, 1914, p. 304.
[3] For texts of notes exchanged on February 17, see *ibid.*, 1927, vol. III, pp. 794–797.

711.6712A/2 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *March 26, 1928—11 a. m.*
[Received 12:25 p. m.]

33. Department's 25, March 23, 11 a. m. From the general attitude of the Minister for Foreign Affairs, I am of the opinion that Turkey would welcome proposal to negotiate with the United States treaties of types mentioned; I can not predict, however, whether or not difficulties over their form might arise.

Such a proposal would materially assist, I believe, the negotiations for the renewal of the commercial *modus vivendi.*

The maximum moral effect on the sentiment of national prestige would be obtained by including Turkey among first countries to which the United States is offering these treaties. I believe that we should make our proposal to prolong the commercial *modus vivendi* beyond May 20, 1928, soon after the return of the Minister for Foreign Affairs from Geneva. That moment would likewise be the best to offer arbitration and conciliation treaties. Although not according to the procedure heretofore followed by the Department, I have no doubt that my position here would be strengthened if proposal could be made here instead of at Washington.

GREW

711.6712A/3 : Telegram

The Acting Secretary of State to the Ambassador in Turkey (Grew)

[Paraphrase]

WASHINGTON, *March 27, 1928—6 p. m.*

27. In view of the favorable opinion which you express in your No. 33, March 26, 11 a. m., the Department proposes to sound out Senate leaders next week. If they agree, the texts of the two treaties would be handed to the Turkish Ambassador by the Secretary of State at a time to be agreed between the Department and yourself. This is the procedure for initiating negotiations which is being followed with all other countries, and to make Turkey the only exception might be embarrassing to the Turkish Ambassador. The handing of the texts to Mouhtar Bey, however, could be timed so as to permit you to announce at the same moment this Government's intentions to the Minister for Foreign Affairs. The proposed treaty drafts are being submitted as rapidly as the texts can be prepared. There have already been submitted 13 arbitration and 6 conciliation treaties. The Department will

delay making its proposals to representatives of the Balkan countries so that Turkey, although not among the first, will not be the last of the Governments to receive our proposal.

OLDS

711.6712A/4 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *April 11, 1928—1 p. m.*

[Received 7 : 10 p. m.]

50. Department's 27, March 27, 6 p. m. In interview last night with Minister for Foreign Affairs on his return from Geneva and Milan he inquired on his own initiative and without my broaching the subject whether the United States did not intend to extend its "outlawry of war" treaties[4] to nations other than the great powers. He had apparently not yet heard that the proposal had already been made to certain of the smaller powers and he implied quite openly that Turkey would welcome such a proposal and asked me to consider the matter. He added that if I thought it desirable, he, himself, after discussing the question with the Ghazi, would propose such a treaty with the United States. He said that in his opinion such international pacts should include a neutrality clause in order to obviate any possibility of combinations of powers and that if arbitration treaties were included the circle would be complete. He said that in addition to the neutrality nonaggression pacts which Turkey had already concluded, he had begun similar negotiations with a number of other powers including the [apparent omission].

Of course I was not in a position to discuss the matter with the Minister in any way. This development leaves the situation such that I fear the full moral effect of offering such treaties to Turkey will be lost unless the offer can be made shortly. I must proceed to Angora before long when the Minister will no doubt broach the subject again. If at that time the offer could be made to Moukhtar Bey and confirmed by me it would make an effective impression. While fully appreciating the situation in the Senate I hope that the Department will earnestly consider the foregoing facts in deciding when it can properly proceed with the suggestion contained in its telegram 27, March 27, 6 p. m.

This telegram is necessarily sent in . . . code as wires from Constantinople are temporarily broken so that radio must be used.

GREW

[4] See vol. I, pp. 1 ff.

711.6712A/5 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

WASHINGTON, *April 12, 1928—6 p. m.*

36. Your 50, April 11, 1 p. m. For your information. Treaty of arbitration with France of February 6, 1928, referred to in first paragraph Department's 25, March 23, 11 a. m., should not be confused with negotiations which have been in progress with France since last December on the subject of a multilateral treaty for the renunciation of war. It is the arbitration treaty which is being proposed to countries outside of Latin-America and which it is planned to propose to Turkey shortly.

Notes transmitting correspondence with France regarding renunciation of war treaty are being delivered tomorrow in London, Berlin, Rome and Tokyo, together with preliminary draft of a treaty representing in a general way the form of renunciation of war treaty which the United States is prepared to sign with the French, British, German, Italian and Japanese governments and any other governments similarly disposed.

The texts of the notes and draft treaty will be made public here tomorrow afternoon and in Europe and Japan Saturday morning.

The United States would of course be glad to have Turkey become a party to the renunciation of war treaty if one is successfully negotiated.

See Monthly Political Reports for December, January and February.[5]

Instructions regarding (1) the Department's intention to hand to the Turkish Ambassador the texts of an arbitration treaty and a conciliation treaty and (2) the renewal of our commercial *modus vivendi* with Turkey will be sent to you in the course of the next two days.

KELLOGG

711.6712A/6 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

[Paraphrase]

WASHINGTON, *April 13, 1928—6 p. m.*

37. Department's No. 27, March 27, 6 p. m., and your No. 33, March 26, 11 a. m.

1. As Turkey is only one among a number of countries with which this Government proposes to negotiate arbitration and conciliation treaties, the Department has decided that consultation with Senate leaders is not necessary.

[5] Not printed.

2. In the latter part of next week, therefore, I intend to hand the proposed texts of the two treaties to the Turkish Ambassador. Exact date will be fixed when you telegraph me the day upon which you will see Minister for Foreign Affairs at Angora.

3. Please inform Minister for Foreign Affairs that the Secretary of State is handing the Turkish Ambassador proposed texts of the arbitration and conciliation treaties. You may explain to him the general nature of these treaties. In this connection possibly you will think worth while to refer to the Minister's well-known idealistic approach to problems of international relations.

4. You may also inform the Minister of the action this Government is taking on the multilateral treaty for the renunciation of war as outlined in Department's No. 36, April 12, 6 p. m.

5. In your interview with the Minister you should also broach subject of renewal of the commercial *modus vivendi* set forth in second of the two notes exchanged on February 17, 1927,[6] for further term from May 20, 1928, to April 10, 1929, at least. Unless you have already done so, you will verify carefully your interpretation of words "for a period not exceeding two years", which are found in article I of the law of April 10, 1927. Also you should bear in mind in this connection that the Allied commercial convention terminates on August 6, 1929.[7] *Modus vivendi* set forth in paragraph 3 of first note exchanged on February 17, 1927, between Admiral Bristol and Tewfik Roushdy Bey[8] would not appear to require any specific renewal.

6. In regard to manner of presenting matters referred to in paragraph immediately preceding, Department reposes entire confidence in your discretion; it does not wish to hamper your freedom of action by attempting to give you instructions in detail.

7. The following considerations are set forth, however, to assist you:

(*a*) Adjournment of Congress will take place in less than two months' time, and legislative program is already very crowded.

(*b*) With the presidential election coming in November, interest of both general public and Government officials is concentrating rapidly upon questions of domestic politics.

(*c*) It follows that resubmission of treaty of August 6, 1923,[9] to Senate would seem to be distinctly inadvisable.

(*d*) The relations between this country and Turkey which were established by the notes of February 17, 1927, have been entirely satisfactory to both countries.

[6] *Foreign Relations*, 1927, vol. III, pp. 797–798.
[7] For text of commercial convention, see League of Nations Treaty Series, vol. XXXVIII, p. 171.
[8] *Foreign Relations*, 1927, vol. III, pp. 794–796.
[9] *Ibid.*, 1923, vol. II, p. 1153.

(*e*) The diplomatic relations which exist between the United States and Turkey are instrument of great potentiality in bringing them more closely together and in effecting a thorough understanding between them.

(*f*) Good effects of Mouhtar Bey's presence in this country and of your presence in Turkey have already become evident and in time will become even more evident.

KELLOGG

711.6712A/10 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *April 16, 1928—1 p. m.*
[Received April 16—9 : 10 a. m.]

56. My 53, April 14, 1 p. m.[10] Appointment made with the Minister for Foreign Affairs at Angora, Thursday, April 19, 4 p. m.

GREW

711.6712A/13 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

WASHINGTON, *April 19, 1928—9 p. m.*

40. Department's 37, April 13, 6 p. m. The Department today handed Turkish Ambassador drafts of proposed treaties of arbitration and of conciliation. The texts of the proposed treaties will be forwarded in the next pouch.[11]

KELLOGG

711.6712A/15 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *April 20, 1928—2 p. m.*
[Received 8 : 50 p. m.]

61. Department's No. 37, April 13, 6 p. m., third paragraph. Minister for Foreign Affairs is fully familiar with the texts of our arbitration and conciliation treaties, and the Department's move was evidently no surprise to him. He said at once that Turkey would be glad to sign both treaties, making one stipulation; namely, they must both contain either some formula or some qualifying document, for

[10] Not printed.
[11] Draft treaties not printed.

example, a *procès-verbal* or an exchange of notes which would make it impossible for the United States to invoke at any time either treaty in connection with any question pertaining to the Armenians. The Minister said that this question had been finally discarded at Lausanne from Turkish-American relations and that it must remain permanently eliminated. He thought that it would be a simple matter to find some acceptable formula which would not give offense either to the American public or to the Senate.

I said that the Minister would no doubt wish to communicate his instruction to the Turkish Ambassador at Washington, with whom the Secretary of State would negotiate the treaties. Minister replied that after he had received the proposed texts from the American Government, he would wish to seek my friendly and unofficial advice in regard to finding a provisionally acceptable formula before he should instruct the Turkish Ambassador. I request instructions on the attitude which the Department wishes me to observe should Minister for Foreign Affairs send for me in this connection. It has been made entirely clear to him that the treaties are to be negotiated in Washington and not at Angora.

As far as arbitration treaty is concerned, paragraph (*a*), article III, treaty of arbitration with France, February 6, 1928, appears to cover fully Turkey's requirement.

GREW

711.6712A/17 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

[Paraphrase]

WASHINGTON, *April 25, 1928—6 p. m.*

41. Your No. 61, April 20, 2 p. m. At appropriate moment, but preferably not until commercial *modus vivendi* has been renewed, endeavor to dissuade Minister for Foreign Affairs from suggesting any such stipulation as you describe in your telegram under reference. Also carefully avoid giving impression that this Government is more anxious to negotiate treaties of arbitration and conciliation with Turkey than with other states. You should point out the following specific points:

1. Treaty of arbitration applies only to matters which are justiciable in their nature, expressly excluding matters which are within the domestic jurisdiction of either party.

2. Although scope of conciliation treaty is broader than that of treaty of arbitration, as its object is not in any sense arbitration but investigation, report, and recommendation, it is unthinkable that the Government of the United States should attempt to invoke the provisions of a conciliation treaty in behalf of citizens of a foreign country.

3. Modification of, or addition to, the texts of the treaties of arbitration and conciliation so as to meet the susceptibilities and apprehensions that are peculiar to one or more countries would render impossible execution of this Government's program for negotiating treaties of arbitration and conciliation which are substantially identical with all governments outside of Latin America.

4. On April 19 an arbitration treaty was signed with Italy;[12] an arbitration treaty with Denmark[13] and treaties of arbitration and conciliation with Germany[14] will be signed within a few days. The treaties proposed to Turkey are exactly the same as these.

To guide you and for intimation to the Minister for Foreign Affairs, if you think wise: This Government would not agree to any stipulation such as the one described in your telegram.

KELLOGG

711.6712A/19 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *June 24, 1928—noon.*

[Received 2:45 p. m.[15]]

83. 1. [Paraphrase.] In conversation with Minister for Foreign Affairs on May 19 I carried out Department's specific instructions contained in telegram No. 41, April 25, 6 p. m. The Minister now informs me, nevertheless, in a personal letter dated June 19[16] that although the Turkish Government after having studied texts submitted by Mouhtar Bey welcomes the proposals of the United States and finds that the objectives of the two Governments are identical, he deems it desirable that article 2 of proposed arbitration treaty be revised; obviously for the reasons set forth in my No. 61, April 20, 2 p. m. [End paraphrase.]

. . . . . .

4. Minister of Foreign Affairs states [that] in first convention of this character, recently concluded with Italy,[17] the Turkish Government insisted upon and obtained a formula designed for a like purpose.

5. He adds that since the American Government seems to desire the conclusion of two treaties rather than a single convention in spite of the single pact concluded with France, it will be necessary to insert the same reservations in the treaty of conciliation as in the arbitration treaty.

---

[12] *Ante*, p. 102.
[13] See vol. II, pp. 718 ff.
[14] See vol. II, pp. 862 ff.
[15] Telegram in two sections.
[16] Not printed.
[17] Treaty of neutrality, conciliation and judicial settlement, signed May 30, 1928, League of Nations Treaty Series, vol. xcv, p. 183.

6. Minister for Foreign Affairs states that Turkish Ambassador in Washington has been telegraphically instructed to submit this "little modification rather of form than of substance" together with an explanation of motives of Turkish Government and he requests me with the full knowledge of the situation to explain the necessity which circumstances impose on the Turkish Government to maintain this formula.

7. I propose, unless the Department has other wishes, to reply to the Minister in a personal letter in French, stating:

"While I did not fail to bring to the attention of my Government the views expressed to me by Your Excellency on April 19 last I have now again cabled to Washington explaining further the points contained in your letter under reference. Your Excellency will, however, recollect the considerations which I had the honor to advance in our conversation of May 19th, to the effect that while my Government would welcome the inclusion of [the] Turkish Government among those with which it has concluded and is negotiating arbitration and conciliation treaty [*treaties*], nevertheless, it is the desire of my Government to negotiate substantially identical treaties; so that if different procedures are adopted to satisfy each country's peculiar susceptibilities and apprehensions, it will be impossible to carry out the American program. I feel sure, however, that my Government, as a result of my explanations, will have a perfectly clear conception of Your Excellency's point of view."

8. Please instruct. GREW

711.6712A/20 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

WASHINGTON, *June 25, 1928—5 p. m.*

55. Your 83, June 24, noon. Suggest that last sentence of draft personal letter quoted in paragraph 7 be amended to read as follows:

"While I feel sure that, as a result of my explanations, my Government will have a perfectly clear conception of Your Excellency's point of view, I can hold out no hope that it will consent to the changes suggested in your personal letter of June 19, 1928."

With this change and provided you see no objection, I shall be glad to have you address the proposed personal letter to the Minister for Foreign Affairs.[18] KELLOGG

711.6712A/28 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

WASHINGTON, *August 16, 1928—midnight.*

68. Your confidential despatch No. 369, July 3.[19] In conversation with Turkish Ambassador today I told him that we could not accept

[18] The Ambassador's personal letter, embodying the proposed change, was communicated to the Turkish Minister for Foreign Affairs on June 26, 1928.

[19] Not printed.

modification of arbitration and conciliation treaty texts proposed by Turkey nor an exchange of notes interpreting text and forming part of treaties. I added, however, that if the Ambassador in the course of ordinary official correspondence should address a note to the Department asking whether the term "domestic jurisdiction" of Article 2 of arbitration treaty included (1) questions involving sovereignty and (2) questions which International Law leaves to the exclusive jurisdiction of States, I would reply in writing in the affirmative. This correspondence would not of course form part of the Treaty. The Ambassador is communicating with his Government by telegraph.

KELLOGG

711.6712A/29 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *October 1, 1928—noon.*

[Received 5 p. m.]

112. Minister for Foreign Affairs informs me that Turkish Ambassador in Washington has been instructed to discuss with the Department the exchange of notes mentioned in Department's 68, August 17 [*16*], noon [*midnight*], and that as soon as proposed texts of notes have been approved by Turkish Government, Moukhtar Bey will sign the arbitration treaty. Minister for Foreign Affairs understands that these notes will form no part of arbitration treaty and will have no reference whatsoever to conciliation treaty which will be signed at the same time without further explanation, having in mind the oral statement which I made to the Minister, as authorized by paragraph 2 of Department's telegram 41, April 25, 6 p. m.

GREW

711.6712A/30 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

[Paraphrase]

WASHINGTON, *October 9, 1928—7 p. m.*

77. Your 112, October 1, noon. The Turkish Ambassador discussed informally on October 2 the text of the note which his Government had instructed him to communicate to the Department with regard to the meaning of the term "domestic jurisdiction" as it is used in article II of the proposed treaty of arbitration. The Ambassador submitted for informal study and discussion a text of which the pertinent part, in free translation, reads as follows: [20]

"My Government informs me that in accordance with the explanations furnished by me concerning our conversation of August 16, it understands by the term 'domestic jurisdiction' all matters pertaining

[20] Quotation not paraphrased.

to the right of sovereignty, to the principles of fundamental laws, to differences the settlement of which is left by international law to the exclusive competence of each state, particularly matters concerning emigration, nationality and the customs régime, as well as all questions predicated upon national jurisdiction. It belongs, of course, to each of the contracting parties to decide in advance whether any particular difference arising between them comes within the category of matters excluded from the competence of the arbitrators."

Note was given careful consideration and it was pointed out to Mouhtar Bey that proposed text extended scope of assurances far beyond both what Tewfik Rushdi Bey himself had told the American Ambassador would be entirely sufficient from the Turkish point of view and what had been contemplated by the Secretary of State in his conversation with the Turkish Ambassador on August 16.

The following counter-text as a substitution for the objectionable portion of the proposed Turkish note was thereupon submitted to the Ambassador for his consideration and that of the Turkish Government:[21]

"My Government informs me that in accordance with the explanations furnished by me concerning our conversation of August 16, it understands by the term 'domestic jurisdiction' questions of sovereignty and all differences the settlement of which is left by international law to the exclusive competence of each state."

The foregoing may be informally and orally discussed with the Minister for Foreign Affairs, if and when an occasion presents itself.[22]

KELLOGG

PROLONGATION OF COMMERCIAL "MODUS VIVENDI" BETWEEN THE UNITED STATES AND TURKEY BY EXCHANGE OF NOTES, MAY 19, 1928[23]

611.6731/102 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *April 28[29?], 1928—11 a. m.*
[Received April 29—4:55 p. m.]

63. Am orally informed by Foreign Office that Council of Ministers has approved prolongation of commercial *modus vivendi* with the United States until April 10, 1929, according to existing provisions of law.

GREW

---

[21] Quotation not paraphrased.

[22] Further negotiations did not result in the signing of an arbitration or conciliation treaty.

[23] For previous correspondence, see *Foreign Relations*, 1927, vol. III, pp. 765 ff.

611.6731/103 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *May 7, 1928—5 p. m.*
[Received 11:30 p. m.]

67. Referring to the Department's telegram 37, April 13, 6 p. m., section 5,[24] and my telegram 63, April 29 [*28?*], 11 a. m.

The Foreign Office has informally submitted a draft text recommended for use in exchange of notes prolonging commercial *modus vivendi*. This text is identical with the note dated July 20, 1926, signed by Admiral Bristol,[25] enclosed with the Embassy's despatch 2008, July 30, 1926,[26] with the following exceptions:[27]

. . . . . .

Department may wish to consider whether the following clause from the second of the two notes exchanged on February 17, 1927,[28] should be inserted in line 2 in French: "Pending the coming into effect of the commercial convention referred to in subparagraph (*a*) of paragraph (2) of the notes exchanged today (on February 17, 1927) concerning the relations between the United States and Turkey or."

Please instruct.

GREW

611.6731/103 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

WASHINGTON, *May 10, 1928—2 p. m.*

47. Your 67, May 7, 5 p. m. The Department approves of the draft text with modifications suggested by the Foreign Office for use in the exchange of notes prolonging the commercial *modus vivendi*. It is considered desirable, however, that before proceeding to the signature of these notes there be substituted, in French, in lines two and three after "en attendant" and before "mon Gouvernement" the clause "the coming into effect of the commercial convention referred to in sub-paragraph A of paragraph two of the notes exchanged on February 17, 1927 concerning the relations between the United States and Turkey or the coming into effect of the treaty signed between the United States and Turkey on August 6, 1923."[29]

KELLOGG

---

[24] *Ante*, p. 943.
[25] Not printed; but see *Foreign Relations*, 1926, vol. II, p. 1000, footnote 39.
[26] *Ibid.*, p. 1000.
[27] For revised version as signed, see p. 953.
[28] *Foreign Relations*, 1927, vol. III, pp. 797 ff.
[29] For treaty signed August 6, 1923, see *Foreign Relations*, 1923, vol. II, p. 1153.

611.6731/105 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *May 14, 1928—11 a. m.*
[Received 1:30 p. m.]

71. Department's 47, May 10, 2 p. m. Foreign Office approves suggested substitution. Notes will be exchanged in Angora, May 19th.

GREW

611.6731/106 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *May 17,1928—9 p. m.*
[Received May 17—10:20 a. m.]

74. My 71, May 14, 11 a. m. Regret that Patriarchic [*Foreign Office?*] informs me that while Under Secretary of State had definitely approved draft of note submitted by Foreign Office and had also approved insertion desired by Department's 47, May 10, 2 p. m., the Minister for Foreign Affairs apparently had not been consulted and now objects to Department's insertion on the ground that since *modus vivendi* of February 17, 1927, expires May 20, 1928, reference thereto in notes to take effect after that date is superfluous. Minister for Foreign Affairs has submitted counterdraft, which Under Secretary informs Patterson [30] has already been signed by the Minister. I have an appointment with the Minister for Foreign Affairs at Angora at 5 o'clock, May 19th, so that Department's reply should if possible be sent by radio direct to Am[erican] Embassy, Angora. In the meantime I am informed by Foreign Office that customs officials in Constantinople have been telegraphically instructed regarding promised *modus vivendi.*

The Minister's counterdraft [and] also diplomatic note already approved in the following respects: Using Admiral Bristol's note, dated July 20, 1926, as reference, [on] line 2 eliminate "ratification du traité" and insert "mise vigueur du traité de commerce". Line 8 change "importes sur" to "importes dans".

. . . . . .

GREW

---

[30] Jefferson Patterson, second secretary of Embassy in Turkey.

611.6731/106 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

WASHINGTON, *May 18, 1928—4 p. m.*

51. Your 74, May 17, 9 p. m. There is no objection to the modifications proposed by the Minister of Foreign Affairs.

KELLOGG

611.6731/108

The Ambassador in Turkey (Grew) to the Secretary of State

No. 320 CONSTANTINOPLE, *May 22, 1928.*

[Received June 7.]

SIR: Referring to the Department's telegram No. 51 of May 18, 4 p. m. and the Embassy's telegrams Nos. 71 and 74 of May 14 and May 17 respectively, relative to the prolongation of the Turkish-American Commercial *Modus Vivendi*, I have the honor to enclose the original of the note signed by Tewfik Rushdi Bey together with a copy of the Embassy's note, providing for an extension of ten months and twenty days of the Commercial *Modus Vivendi* dating from May 20, 1928. These notes were exchanged at Angora on May 19.

I have [etc.]

For the Ambassador:
WM. H. TAYLOR
Second Secretary of Embassy

[Enclosure 1—Translation [31]]

The Turkish Minister for Foreign Affairs (Tewfik Rouschdy) to the American Ambassador (Grew)

ANGORA, *May 19, 1928.*

EXCELLENCY: I have the honor to inform Your Excellency that pending the coming into force of the Treaty of Commerce between Turkey and the United States of America, signed August 6, 1923, my Government, with the object of determining the régime which, for ten months and twenty days on and after May 20, 1928, shall apply to the commerce between Turkey and the United States of America, agrees that the products of the soil and industry of the United States of America and coming therefrom imported into Turkish territory and intended for consumption or reexportation or transit shall enjoy, during the time above stated, the treatment provided by the Commercial Convention signed at Lausanne on July 24, 1923,[32] for the

---

[31] Translation supplied by the editor.

[32] Between the British Empire, France, Italy, Japan, Greece, Roumania, the Serb-Croat-Slovene State, and Turkey; League of Nations Treaty Series, vol. XXVIII, p. 171.

products of the States that have signed it. The provisions of this arrangement do not apply to the treatment granted by Turkey to the commerce between it and the countries detached from the Ottoman Empire following the War of 1914, nor to the border traffic with limitrophe States.

It is understood that the application of this provisional régime is conditioned on the United States of America applying to the products of the soil and industry of Turkey and coming therefrom the treatment of the most favored nation. The provisions of this arrangement do not apply to the treatment granted by the United States of America to the commerce of its dependencies, Cuba or the Panama Canal Zone.

Be pleased [etc.] DR. ROUSCHDI

[Enclosure 2—Translation]

The American Ambassador (Grew) to the Turkish Minister for Foreign Affairs (Tewfik Rouschdy)

ANGORA, *May 19, 1928.*

EXCELLENCY: I have the honor to inform Your Excellency that pending the coming into force of the Treaty of Commerce between Turkey and the United States of America, signed August 6, 1923, my Government, with the object of determining the régime which, for ten months and twenty days on and after May 20, 1928, shall apply to the commerce between Turkey and the United States of America, agrees that the products of the soil and industry of Turkey and coming therefrom imported into the territory of the United States of America and intended for consumption or reexportation or transit shall enjoy, during the time above stated, the treatment of the most favored nation. The provisions of this arrangement do not apply to the treatment granted by the United States of America to the commerce of its dependencies, Cuba or the Panama Canal Zone.

It is understood that the application of this provisional régime is conditioned on Turkey applying to the products of the soil and industry of the United States of America and coming therefrom the treatment provided by the Commercial Convention signed at Lausanne on July 24, 1923, for the products of the States that have signed it. The provisions of this arrangement do not apply to the treatment granted by Turkey to the commerce between it and the countries detached from the Ottoman Empire following the War of 1914 nor to the border traffic with limitrophe States.

Be pleased [etc.] JOSEPH C. GREW

611.6731/106

The Chief of the Division of Near Eastern Affairs (Shaw) to the Ambassador in Turkey (Grew)

WASHINGTON, *May 22, 1928.*

MY DEAR MR. AMBASSADOR: In drafting the reply to your telegram No. 74, May 17, 9 p. m., there was some discussion in the Department as to whether or not we should bring to your attention an apparent fallacy in the reasoning of the Minister of Foreign Affairs as set forth in your telegram. You recall that in its telegram No. 47, May 10, 2 p. m., the Department had suggested that in the new notes to be exchanged a reference be made to the "Commercial Convention referred to in Sub-paragraph (*a*) of Paragraph Two of the Notes exchanged on February 17, 1927 concerning the relations between the United States and Turkey." The Minister objected to this reference "on the ground that since the *modus vivendi* of February 17, 1927 expires May 20, 1928, reference thereto in notes to take effect after that date is superfluous." The reference suggested by the Department, however, was to the first of the two notes exchanged by Admiral Bristol on February 17, 1927,[33] whereas the Minister has apparently in mind the second of these notes,[34] or the one dealing with commercial matters. Since the first of Admiral Bristol's notes deals with general relations between the United States and Turkey and has an indefinite duration, there would not appear to be any impropriety in referring to that note in the new notes.

After reading your telegram No. 74, we had at first thought that the Minister of Foreign Affairs might be endeavoring to bring into question the present validity of the exchange of notes on general relations. We therefore considered bringing the apparently fallacious reasoning of the Minister to your attention. However, in view of the statement made by the Minister to you during your conversation of April 19th as reported in lines 16 to 20, inclusive, of page 421 of your diary,[35] it was finally decided that it would be better to say nothing to you on this point in the reply to your telegram No. 74. We are the more confident of the soundness of our decision in this respect as the question is really a somewhat theoretical one without, so far as it is possible to foresee, practical consequences.

Do you think that when the Minister said to you that "as our

[33] *Foreign Relations*, 1927, vol. III, pp. 794–796.
[34] *Ibid.*, pp. 797–798.
[35] Not printed.

relations were already established, firmly, there was no need of re-establishing them" he had clearly in mind the provisions of Paragraph Three of the Notes? Personally I should be very much surprised if the Turks endeavored to bring into question the validity of Paragraph Three and I should, therefore, by no means favor bringing up the question either with the Minister or with any of his subordinates. It would be unwise, it seems to me, to give the Turks any idea that we are in the least degree worried over Paragraph Three. I think the matter is one to be tucked away in our minds but to be brought up only in the face of a very specific act contrary to the provisions of Paragraph Three. Treating theoretical questions with the Turks is almost always a mistake.

Faithfully yours,

G. HOWLAND SHAW

611.6731/109

The Ambassador in Turkey (Grew) to the Chief of the Division of Near Eastern Affairs (Shaw)

CONSTANTINOPLE, *June 6, 1928.*

[Received June 21.]

DEAR MR. SHAW: Replying to your letter of May 22 concerning the various exchanges of notes governing the relations between the United States and Turkey, I may answer in the affirmative the question contained in the last paragraph of your letter. When the Minister for Foreign Affairs said to me on April 19 that "as our relations were already established firmly, there was no need of re-establishing them", I have no doubt that he had clearly in mind the provisions of paragraph 3 of the first of the two notes exchanged on February 17, 1927. My impression, received from all my talks with Ismet Pasha [36] and Tewfik Rushdi Bey, is that the Turkish Government desires to preserve normal relations with the United States fully as much as we desire those relations with Turkey and that they intend to place no unnecessary obstacles in the way of the continuation of these relations. I do not therefore, for a moment, believe that the Turks will bring into question the validity of paragraph 3 and I agree with you that the matter need not be brought up except in the face of a specific act contrary to the provisions of that paragraph.

Faithfully yours,

JOSEPH C. GREW

---

[36] Turkish Prime Minister.

611.6731/111

The Ambassador in Turkey (Grew) to the Secretary of State

No. 397 CONSTANTINOPLE, *July 25, 1928.*
[Received August 15.]

SIR: I have the honor to inform the Department that Atif Riza Bey, until recently Chief of the Commercial Section of the Foreign Office, and now Turkish Consul General assigned to Jerusalem, called at the Embassy a few days ago to see Mr. Patterson and told him that he regarded his assignment to Jerusalem as more or less temporary and anticipates his reassignment to the Foreign Office some time during 1929, for the purpose of assisting in the negotiations of new commercial conventions necessitated by the termination of the Allied Lausanne Treaties at the end of August, 1929.

With regard to the Turco-American Commercial *modus vivendi*, Atif Bey suggested the advisability of approaching the Foreign Office after the Assembly reconvenes at the beginning of November of this year with regard to the desirability of the passage of legislation by that body to permit the extension of the *modus vivendi* from April 10, 1929 to the date on which the Lausanne Treaties expire, for otherwise, without the passage of legislation supplementary to that now existing, the Turco-American Commercial Agreement must by law come to an end on April 10, 1929. The pertinent provisions of Article I of the Law read as follows:

"The Executive Body (the Cabinet) is authorized to enact temporary Commercial Conventions for a period of not exceeding two years, with any foreign State, until a definite Commercial Treaty is enacted with that State.

"In case this period should expire during parliamentary vacation, it will be prolonged up to a maximum period of fifteen days from the date of the first meeting of the Grand Assembly."

In view of the suggestion of Atif Bey and the assurances given me by Ismet Pasha and Tewfik Rushdi Bey to the effect that "our relations could continue uninterruptedly on the basis of the exchange of notes of February 17, 1927 until it should be your desire to undertake new negotiations" (reported in my despatch No. 127 of January 16, 1928 [37]), I have the honor to inquire if the Department desires me to take up with the Turkish Government the question of amending the provisions of Article I of the Law of April 10, 1927 or of enacting other legislation which would permit of the continuation of the present arrangement until such time as an accord of a more permanent character shall have been entered into by the two Governments.

I have [etc.] JOSEPH C. GREW

[37] Not printed.

611.6731/112

The Ambassador in Turkey (Grew) to the Secretary of State

No. 488 CONSTANTINOPLE, *September 12, 1928.*

[Received September 28.]

SIR: I have the honor to refer to my despatch No. 397 of July 25, and to the Department's telegraphic reply No. 71 of August 21, 10 a. m.,[39] stating that the Department would be glad to receive by mail a detailed statement of my recommendations with regard to my taking up with the Turkish Government the question of amending the provisions of Article I of the law of April 10, 1927, or of enacting other legislation which would permit the continuation of the present commercial *modus vivendi* between the United States and Turkey beyond April 10, 1929, until such time as an accord of a more permanent character shall have been concluded by the two Governments.

This question depends, of course, upon the date chosen for commencing the negotiation of a new Turco-American commercial convention. As yet I do not know what is in the mind of Tewfik Rushdi Bey in this connection and I have purposely avoided sounding him out, not wishing to convey the impression that we ourselves are eager to press the matter. It seems improbable, in any case, that the question of commencing negotiations will be broached until the new Turkish tariff shall have been enacted by the Grand National Assembly. This may take place during the late autumn but, in view of the considerable work involved, it appears more likely that the law will not be completed until winter or even spring. This, therefore, is the first uncertain element in the situation.

The second uncertain element, and one to be carefully appraised, is whether Tewfik Rushdi Bey will take the initiative with regard either to the extension of the *modus vivendi* or to the commencement of negotiations for a convention. The arguments in favor of and against his taking the initiative may be roughly calculated as follows:

Pro:

(1) The Minister has said to me on previous occasions that Turkey is determined to preserve our commercial relations without interruption and that if the law should be found to stand in the way, the law could and would be altered.

(2) The Minister has stated to my Italian colleague that he, Tewfik Rushdi Bey, is more interested in the forthcoming commercial negotiations with the United States and Italy than with any other countries. The reasons for this interest are obvious, as the statistics of trade between these countries readily indicate. It therefore appears not unlikely that the Minister may desire to negotiate commercial conventions with the United States and with Italy before commencing negotiations with the other Lausanne signatories, in order that these

[39] Latter not printed.

two treaties may serve as patterns for the others. If this were the case, he would no doubt broach the matter on his own initiative and at his own good time.

(3) Since statistics show that the United States is the largest purchaser of Turkish commodities and also that the value of exports from Turkey to the United States is between three and four times as great as the value of imports from the United States into Turkey, it might be argued that an uninterrupted commercial agreement, whether on the basis of a *modus vivendi* or of a treaty, is of greater importance to Turkey than to the United States, and that this in itself might cause the Minister to take the initiative.

Con:

(1) If the Turco-American commercial *modus vivendi* should lapse before the conclusion of a commercial convention, higher duties would by existing law automatically and immediately be imposed on American imports into Turkey. Yet in such a situation it does not appear that the President could or would apply to Turkish imports into the United States the provisions of Article 317 of the United States Tariff Act,[40] first, because discrimination against American goods might not be involved and, second, because such a measure might not be found to be in accordance with the public interest. The American tobacco interests alone would doubtless have something to say on this subject. If the Turkish Government is aware of this situation, there might be no great incentive to induce Turkey to take the initiative in the matter under discussion. However, the importance of this point can better be appraised by the Department than by the Embassy.

(2) In Turkey's present chauvinistic frame of mind, she is not generally inclined to take the initiative in proposing such negotiations with western Powers. Hitherto she appears to have expected those Powers to take the first step. This might apply with even greater force to the United States on account of our failure to ratify the Treaty of Lausanne.

(3) Two members of the Foreign Office who are interested in the forthcoming commercial negotiations have remarked that the law of April 10, 1927, would be strictly interpreted and enforced, rendering impossible the extension of any provisional commercial agreement beyond April 10, 1929, and they have recommended that the representatives of the interested countries should bring the matter to the attention of the Minister for Foreign Affairs with a view to having the provisions of Article I of the law amended or of enacting other legislation which would permit the continuation of existing commercial *modi vivendi* beyond that date. The officials referred to were Atif Riza Bey, until recently Chief of the Commercial Section of the Foreign Office, who spoke to Mr. Patterson last July (see my despatch No. 397 of July 25), and Shevki Bey, formerly Undersecretary of State for Foreign Affairs who still takes a part in commercial negotiations and who made a similar recommendation to Count Hochepied of the Netherlands Legation in August.

I do not personally attach great importance to any of these arguments so far as Tewfik Rushdi Bey is concerned and I am inclined to

[40] Sec. 317 of act approved Sept. 21, 1922; 42 Stat. 858, 944.

doubt whether his procedure will be guided by any carefully calculated analysis of the situation. If he desires to negotiate a commercial convention with the United States before commencing negotiations with the signatories of the allied Treaty of Lausanne, he will in all probability say so frankly on his own initiative. Even if he has no such plans in view, I am inclined to believe that his eagerness for negotiation, which he has often told me is his primary interest in life, may lead him to broach the matter when the time is ripe, presumably soon after the new Turkish tariff Law shall have been enacted.

For the present, in any case, I see no reason why I should take steps with a view to obtaining legislation which would permit the continuation of our *modus vivendi* beyond April 10, 1929. The new tariff law may conceivably be completed at any time late this autumn and for that reason I believe that I should be at my post from December first. I have therefore applied for simple leave of absence for two months from October 4, which, if granted, would ensure my return to Turkey at latest on December 2. If the law of April 10, 1927, shall not have been amended on the recommendation of other Powers before the middle of the winter, or if Tewfik Rushdi up to that time shall have said nothing to me concerning the commencement of negotiations for a commercial convention, it will then be time enough, in my opinion, to consider broaching the matter ourselves. When the Government desires action by the Assembly, it can obtain it in short order.

In the meantime, permit me to suggest that the Department have in mind for eventual instructions the following points:

1. Is it desired that the commercial relations between the United States and Turkey be continued under the existing or a similar *modus vivendi*, or
2. Does the Department consider the regularization of our commercial relations with Turkey in a more permanent form desirable?
3. If the Department considers that the regularization of our commercial relations with Turkey in a more permanent form is desirable, does the Department prefer the negotiation of a Commercial Treaty, or merely the negotiation of an agreement effected by exchange of notes according Mutual Unconditional Most-Favored-Nation Treatment in Customs Matters?

The Commercial Attaché of the Embassy, Mr. Gillespie, and the Consul, Mr. Allen, inform me that they concur in all of the foregoing views.

Respectfully awaiting the Department's further instructions in this connection,

I have [etc.] JOSEPH C. GREW

611.6731/113 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *October 2, 1928—11 a. m.*

[Received October 2—8:55 a. m.]

113. My despatch No. 488, September 12, paragraph regarding the attitude of the Minister for Foreign Affairs.

He has, on his own initiative, broached the question of United States negotiations for a commercial treaty. It is his desire, he informs me, to conduct negotiations in the following order: 1st, United States; 2nd, Italy; 3rd, Great Britain; 4th, Germany; and then the others, with the first two treaties serving as models for the remainder. The new Turkish tariff law he believes will pass the Assembly next month. He states the probability of his being ready early in January to begin negotiations. He seems to have studied the United States position at the Geneva Economic Conference [41] and expresses his belief that, since there appears to be a similarity of tariff policies in the two States, an agreement will, therefore, be very easy to effect. In case the Department desires to have a commercial treaty eventually negotiated here, may I respectfully suggest that, if possible, full instructions be sent me before December. Preliminary conversations could then take place when the Minister for Foreign Affairs again broaches the matter following enactment of the new Turkish tariff. Should the Department intend sending a technical expert to take part in the actual negotiations, plenty of time will be available for this after a mutually satisfactory basis has been found for negotiations through the preliminary exchange of views. I anticipate no developments prior to the end of November.

GREW

667.003/274 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

ANGORA, *December 12, 1928—3 p. m.*

[Received December 12—1:30 p. m.]

10. It now appears improbable that the new Turkish tariff law will be passed before March or April at earliest.

GREW

---

[41] May 4–23, 1927; see *Foreign Relations*, 1927, vol. I, pp. 238 ff.

611.6731/112

The Secretary of State to the Ambassador in Turkey (Grew)

No. 109 WASHINGTON, *December 26, 1928.*

SIR: The Department has received and given careful consideration to the Embassy's strictly confidential despatch No. 488 of September 12, 1928, containing observations on the question of meeting the situation which will arise on April 10, 1929, when the commercial *modus vivendi* of February 17, 1927, between the United States and Turkey is due to expire.

With regard to the inquiry contained on page six of the despatch under reference, as to whether the Department desires that the commercial relations between the United States and Turkey should be continued under the existing or a similar *modus vivendi*, or whether the regularization of our commercial relations with Turkey in a more permanent form is desirable, the Department is of the opinion that the most feasible course is to conclude by exchange of notes a new commercial agreement, the term of which shall be indefinite.

While the commercial *modus vivendi* now in force has served its purpose in securing for American products imported into Turkey the advantages of most-favored-nation treatment, the limited term of this agreement makes its continuance in its present form undesirable. On the other hand, the negotiation at the present time of a commercial treaty between the United States and Turkey as is apparently envisaged by the Turkish Minister for Foreign Affairs, (see telegram No. 113, October 2, 11 a. m., 1928) is considered by the Department to be impracticable. While the opposition in this country to the American-Turkish Treaty of August 6, 1923, which led to its rejection by the Senate has doubtless decreased and will eventually disappear, it is believed that, with a view to avoiding any action that might encourage further anti-Turkish agitation in the United States and thus perhaps compromise the growing sentiments of friendliness toward Turkey, it would be preferable to postpone for the time being the negotiations of a further formal treaty with Turkey. In any event, it would probably not be possible to secure the consent of the Senate to the ratification of a treaty with Turkey until sometime after the expiration of our present commercial *modus vivendi.*

If you concur in this view, you may reflect it in your conversations on the subject with the Turkish authorities, adding, at the same time, such additional arguments as you believe may serve to reconcile those authorities to the Department's position.

The Department desires, accordingly, to negotiate an agreement by means of an exchange of notes according mutual unconditional most-favored-nation treatment in customs matters without a definite

time limit as to its duration. Such an agreement would, while safeguarding the commerce between the United States and Turkey from discrimination on either side, permit the two Governments to proceed at their leisure to the negotiation of a formal treaty of commerce and to sign such a treaty if and when to do so appears feasible.

As you are doubtless aware, the United States has, by exchange of notes, concluded with some thirteen countries similar agreements according mutual unconditional most-favored-nation treatment in customs matters. These countries are Brazil, Czechoslovakia, the Dominican Republic, Estonia, Finland, Greece, Guatemala, Haiti, Latvia, Lithuania, Nicaragua, Poland and Rumania. Arrangements designed to accomplish the same end are also in force with Albania, Persia and Spain.

Following precedents such as the foregoing, you are authorized, upon assurance of a reply in like terms, to address to the Minister of Foreign Affairs, a note in substantially the language of the draft enclosed [42] with the present instruction.

Should Turkey desire to make exceptions with reference to frontier traffic or to countries formerly parts of the Ottoman Empire, as in Article XI of the Treaty signed on behalf of the United States and Turkey August 6, 1923, this Government could not, of course, decline to accept them. The Department hopes, however, that the enclosed text, which is practically the same, *mutatis mutandis*, as the note addressed by the American Minister at Bucharest, to the Rumanian Foreign Minister on February 26, 1926, (Treaty Series No. 733)[43] will prove acceptable to the Government of Turkey. In the opinion of the Department, it amply meets the needs of the present situation in respect of a commercial agreement with Turkey.

In approaching the Turkish Government with a view to securing its approval of the above form of commercial agreement, you may, in your discretion, remark that the Department has noted with satisfaction the statement of the Minister for Foreign Affairs, as reported in your telegram, No. 113 of October 2, 11 a. m., to the effect that, in view of the similarity of respective tariff policies of the two countries, an agreement in the matter of commercial relations will be very easy to reach. You may also express the Department's appreciation of the Minister's desire to conclude with the United States the first of the new series of commercial treaties envisaged by Turkey and point out the reasons set forth above as to the infeasibility of such a procedure.

If, in your preliminary conversations with Tewfik Rushdi Bey, you receive a suggestion that the proposed agreement between the United States and Turkey should contain a system of mutual tariff rebates on

[42] Not printed.
[43] *Foreign Relations*, 1926, vol. II, p. 898.

certain imported commodities, you should make it clear that the tariff policy of the United States does not permit such an arrangement. You may then emphasize the fact that commerce between the United States and Turkey has prospered under the present provisional arrangement for mutual most-favored-nation treatment in customs matters and state that the American Government believes it would be mutually advantageous to provide, by a new exchange of notes, for continuance of that arrangement on a more permanent basis.

It is assumed that the Turkish authorities are appreciative of the importance to Turkey of her trade with the United States, as set forth in Mr. Gillespie's memorandum of August 20, 1928,[44] and that emphasis on this point may not be necessary. If, however, you have reason to believe that those authorities are not fully familiar with the powers vested in the President under Section 317 of the Tariff Act of 1922, by which he may cause retaliatory measures to be taken against the imports into the United States from any country practicing discrimination against American commerce, you may make such discreet reference to this fact as you may deem desirable under the circumstances. The Department is, however, appreciative of the cogency of the observations regarding the use of Section 317 set forth on pages 3 and 4 of despatch No. 488.

If you believe that further elucidation on any of the points set forth in the present instruction is necessary before you approach the Turkish Government in this matter, you should consult the Department by telegraph.

I am [etc.] FRANK B. KELLOGG

CLOSING OF AMERICAN SCHOOL AT BRUSA AND TRIAL OF AMERICAN TEACHERS ON CHARGE OF TEACHING CHRISTIANITY[45]

367.1164 Brusa School Trial/1 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *January 22, 1928—8 p. m.*

[Received January 22—6 p. m.]

5. In view of Turkish law prohibiting religious propaganda in schools, Turkish Government has sent representatives to investigate alleged conversion to Christianity of four girl students in American school at Brusa whose diaries were stolen and turned over to Turkish authorities. Goodsell[46] states American school has been conforming

[44] Not printed.

[45] For previous correspondence concerning efforts on behalf of American schools in Turkey, see *Foreign Relations*, 1927, vol. III, pp. 804 ff.

[46] Fred Field Goodsell, field secretary of the Turkish Mission of the American Board of Commissioners for Foreign Missions.

scrupulously antipropaganda law; therefore, American board welcomes investigation and believes incident will be settled satisfactorily. I shall report result.

GREW

367.1164 Brusa School Trial/3 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *January 31, 1928—3 p. m.*

[Received 7:07 p. m.]

8. Referring to my telegram number 5, January 22, 8 p. m. Press today publishes official communiqué from Ministry of Public Instruction, stating that active religious propaganda in the American school at Brusa has been definitely established and that, therefore, the school will be closed, and legal action will be taken against those responsible. Reliable Americans just returned from Brusa inform me that Miss Sanderson,[47] one of the teachers, frankly acknowledges having given informal instructions in Christianity and Bibles to certain girls in the school and accepts full responsibility for the charges. The press has been inflammatory and presages a possible boycott of American schools. Robert and Constantinople Colleges deplore situation owing to possible ultimate effects of the incident on all American educational institutions. Intervention by the Embassy at present would be useless and unwise, as Hussein Bey informs me Ismet Pasha [48] and Cabinet are determined to proceed with measures announced. School has not yet been closed, nor is it yet clear what form the legal action, if any, will take. Shall report further as situation develops.

GREW

367.1164 Brusa School Trial/4 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

[Paraphrase]

WASHINGTON, *February 1, 1928—5 p. m.*

9. Your 8, January 31, 3 p. m. With a view to the control and mitigation of Turkish action on the Brusa school question, the Department considers that at least there should be maintained with the appropriate Turkish authorities an official and friendly contact. As you are naturally in touch with Mr. Goodsell and other representatives of the American Board, it is suggested that you discuss

[47] Edith Sanderson, of Berkeley, Calif.

[48] Turkish Prime Minister.

with them the advisability of a representative at once being sent by them to Angora in order to see what can be done. An informal conversation by you with Prime Minister Ismet Pasha or Foreign Minister Tewfik Rushdy Bey or both might even be desirable. In today's press there are accounts of the Brusa school's closure because of alleged religious propaganda, and publicity now on this particular issue can only bring unfortunate results.

The handling of this matter is, of course, left by the Department to your discretion, you alone being able to judge the many elements involved in it. Accordingly, the preceding paragraph, in the nature of a suggestion, is not to be taken as in any way an instruction.

KELLOGG

367.1164 Brusa School Trial/5

The Ambassador in Turkey (Grew) to the Secretary of State

No. 153 CONSTANTINOPLE, *February 1, 1928.*

[Received February 17.]

SIR: With reference to my telegram No. 8 of January 31, 3 p. m., I have the honor to report the facts concerning the closing of the American Mission School at Brussa so far as it has been possible to gather them. My information comes from Mr. Goodsell, Field Secretary of the Turkish Mission for the American Board, Mr. Hare, Vice Consul,[49] and Miss Ring, correspondent of the Associated Press, Mr. Hare and Miss Ring having proceeded to Brussa and therefore having had an opportunity to investigate the situation on the spot.

The charge against the school by the Turkish educational authorities is that religious propaganda had been carried on which had resulted in the conversion of at least three of the Moslem girl students to Christianity. Whatever the method employed, there seems to be no doubt that the charge of proselytizing has been sustained. It appears that the happy nature and serenity of Miss Edith Saunderson [*Sanderson*], one of the teachers, had led these students to inquire of her how she came by these desirable qualities and that this had led to informal conferences in which Miss Saunderson had described the spiritual forces of Christianity so effectively that the girls had become actively interested in the subject. This much Miss Saunderson acknowledges freely and accepts full responsibility for her actions. It is difficult, however, to determine the actual extent to which this informal instruction was carried on. Mr. Goodsell is under the impression that Miss Saunderson confined herself merely to answering the girls' questions. Miss Ring informs me, however,

[49] Raymond A. Hare, vice consul at Constantinople.

that Bibles were given to them and that they were frequently found reading the Bibles in a small group. She reports the statement of an American who visited the school last year to whom Miss Saunderson pointed out a group of Moslem students reading under the trees and said to him: "What do you think they are doing? They are studying the Bible, but don't let anyone know about it." While these conversions do not appear to have led to actual baptism, nevertheless there seems to be no doubt that whatever the method employed and however informal the means, the charge of proselytizing cannot be denied.

The matter appears to have come to a head in the following way. The girls in question had been accustomed to record in their diaries their talks with Miss Saunderson. Some two months ago these diaries were stolen from under their pillows and were sent to the Turkish educational authorities who had the pertinent passages translated into Turkish and forwarded to the Ministry of Public Instruction in Angora. The theft of the diaries appears to have been carried out by certain students who are hostilely inclined either to the school or to the owners of the diaries, in possible co-operation with a Turkish teacher who had been dismissed on account of her undesirable influence in the school and who may have taken this method of giving effect to her resentment. Under instructions from the Ministry of Public Instruction, Bedjet Bey, Director of Public Instruction in Constantinople, proceeded to Brussa and made an investigation in co-operation with the local representative of the Ministry. It was on the basis of this report that the Ministry's decision to close the school and to institute legal action was taken.

The Turkish press, from which I enclose clippings with translations,[50] has been inflammatory and has called upon Turkish parents to take their children away from these mission schools lest they be contaminated by foreign influence. A resolution to this effect is reported also to have been passed by a group of students in Angora and I understand that a number of girls were withdrawn from the school at Brussa before the decision to close the school had been announced. There was anxiety at one time that the Ministry might proceed to close all of the American mission schools but this is today announced not to be the case. Certain newspapers have made it clear that the American Colleges are entirely separate from the missionary organization and should therefore not suffer as a result of the Brussa incident. Nevertheless, the authorities of Robert College and the Constantinople Woman's College deplore the incident owing to its possible ultimate effect on all American educational institutions in the eye of public opinion.

[50] Not printed.

Mr. Goodsell has not asked for intervention by the Embassy and up to the announcement of the closing of the school he was of the opinion that representations by the Embassy to the Turkish authorities would do more harm than good in that they would be resented in Angora, with which I agreed. Hussein Bey who has recently returned from Angora and who, as the Department is aware, is a friend of American educational activities in Turkey, tells me that Ismet Pasha and other members of the Cabinet are much stirred up over the incident and were determined from the first to close the school if the reports of religious propaganda should be confirmed. I therefore feel, and so reported to the Department in my telegram No. 8, January 31, 3 p. m., that intervention by the Embassy at present would be useless and unwise as such action would merely cause resentment without altering the decision of the authorities. I realize that American public opinion may expect action on the part of the Embassy but am hopeful that the nature of the press reports from Turkey will have made it abundantly clear that the school at Brussa has broken faith with the Turkish Government and that therefore while its closing is to be deplored, the action of the Turkish authorities cannot properly be resented.

In examining the legal basis for the Government's action, I can find no applicable provisions of law except possibly Articles 266 and 272 of the Turkish Civil Code providing that the parents shall dispose of the religious education of minor children and that if the parents themselves do not fulfill their duty in the matter, the judge shall take the necessary measures for the protection of the child. Mr. Goodsell tells me furthermore that while he knows of no law specifically forbidding religious propaganda in the schools, nevertheless the head mistress or director of each school has been obliged by the Ministry of Public Instruction to sign an undertaking to that effect and he presumes that Miss Jillson,[51] the head mistress of the school at Brussa, did sign such an undertaking on behalf of that institution, although he does not possess a copy. Although the Ministry of Public Instruction has announced that legal action would be taken against those responsible for the alleged proselytizing, it is not yet clear what form this action, if any, will take.

A slight complication has been interjected into the situation by the discovery by the Turkish authorities that Miss Jillson, head mistress of the school at Brussa, had an official American Consular Agency shield displayed on the wall of her house although not in a prominent place. On this fact appearing in the press, I immediately requested Mr. Allen[52] to send Mr. Hare, Vice Consul, to Brussa to take possession of the shield and to investigate the reasons for its possession by Miss Jillson. Mr. Hare, who has returned to Constantinople with the

[51] Jeanne L. Jillson.
[52] Charles E. Allen, consul at Constantinople.

shield, reports that when the Consular Agency was closed in 1917, Mr. Erwin F. Lange, then Consular Agent, turned over some of the consular effects, including the shield, to the American School for safekeeping. Miss Jillson states that while aware that she was not officially the Consular Agent, nevertheless she had from time to time undertaken work in Brussa for the American High Commission which had approved of her retaining the shield. She surrendered it with considerable reluctance.

I cannot avoid the feeling that the incident at Brussa is only one step in the ultimate closing of most of the American and other mission schools in this country, an opinion which I find is largely shared by Americans and foreigners in Constantinople. The Minister of Public Instruction is, I believe, opposed to their existence as they are continually under suspicion of conducting the very activities which have occurred at Brussa and which even under a secular Government are held to be opposed to Turkish nationalism. Information which has reached me from a number of sources, particularly from Mr. Belin,[53] Professor von der Osten and others, who have been in touch with the American schools in Anatolia, have indicated that however conscientious the American Board may be in complying scrupulously with the Turkish regulations, the atmosphere in these schools is inevitably a religious one and that the teachers cannot abstain from taking advantage of such opportunities for imparting instruction in Christianity as occurred in the case of Miss Saunderson at Brussa. I have discussed the subject frankly with Mr. Goodsell who sees the situation clearly and who is already taking steps to conform to suggestions from the Ministry of Public Instruction that more technical and fewer academic subjects be adopted in their curricula. I believe also that much would be gained if the older teachers who were here under the capitulations could gradually be replaced by younger teachers possessing a more modern attitude towards the whole question of American education in Turkey.

I have [etc.] JOSEPH C. GREW

367.1164 Brusa School Trial/7 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *February 3, 1928—1 p. m.*
[Received 2:20 p. m.]

12. Referring to Department's 9, February 1, 5 p. m. I appreciate the attitude of the Department. In the Brusa incident, Mr. Goodsell has recommended consistently against official representations by me

[53] F. Lammot Belin, first secretary of Embassy in Turkey.

and felt it would be wiser for me to reserve my influence for a better cause, since, on the basis of the facts, closing the school at Brusa was unavoidable. He knows I am ready to proceed to Angora whenever he and his lawyer deem contact there to be desirable. This will depend upon the possible plans of the Turkish authorities as to prosecuting the American teachers, and he is now investigating this at Brusa. With closing the school there, I trust the incident may blow over and enable us to see if anything can be accomplished in the way of reopening the school eventually. It might be helpful if the Turkish Ambassador at Washington sent a word to his Government.

GREW

367.1164 Brusa School Trial/9 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *February 8, 1928—3 p. m.*

[Received 6:40 p. m.]

14. My 12, February 3, 1 p. m. Returned today from Angora where I discussed Brusa school incident with Minister for Foreign Affairs. He authorizes me to inform Department that Brusa case is a sporadic incident which in no way compromises other American educational institutions and that after a reasonable lapse of time the Government will examine with good will the question of reopening of school at Brusa. He has already taken steps to control hostile attitude of Turkish press and has no objection to Department giving foregoing statements to American press if they will be helpful to Turkish-American relations.

[Paraphrase.] . . . Naturally, I advanced all possible arguments against any prosecution at all, apparently with no effect. Yet I am hopeful the result may be mitigated by my representations regarding a formidable reaction. I have the impression that the Government intends proceeding with a technical prosecution, thus fully satisfying public opinion, especially in Brusa. [End paraphrase.]

GREW

367.1164 Brusa School Trial/10 : Telegram

The Acting Secretary of State to the Ambassador in Turkey (Grew)

[Paraphrase]

WASHINGTON, *February 9, 1928—6 p. m.*

13. Reference your 14, February 8, 3 p. m. The Department is gratified at the results of your conversation with the Minister for Foreign Affairs.

The substance of your first paragraph is being given to the American Board of Commissioners for Foreign Missions, Boston, and to the Near East College Association, New York, and will be used, as circumstances permit, with the press.

You will please keep the Department fully informed by cable of the progress of the proceedings which begin February 13, according to a report by the Associated Press published in today's papers.

OLDS

867.1164 Brusa School Trial/14 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *February 12, 1928—3 p. m.*

[Received 4 p. m.]

18. Department's 13, February 9, 6 p. m. Minister for Foreign Affairs, in interview with Ives [54] and in personal letter to me after conferring with Minister of Public Instruction now modifies his statements made to me February 7th to the following effect:

1. Brusa school will not be reopened.
2. Government possesses documentary evidence against other American schools which will be exhibited to me but this evidence will be filed and Ministry of Public Instruction will continue to observe a benevolent attitude towards them.
3. Reopening of schools at Talas and Marash will be favorably considered and in event Minister of Public Instruction unable to authorize reopening of these two schools permission will probably be granted for reopening two others.

Ives reports Minister for Foreign Affairs genuinely disturbed at having exceeded his authority in interview with me. States he has cabled situation fully to Mouhtar Bey.[55]

Proceeding against Misses Jillson, Sanderson and Day [56] begin tomorrow at Brusa in Suhl Jeza, lowest court, which encourages Goodsell to believe charges not regarded as grave. Legal charge not yet clear but said to be for action contrary to the orders of the Government. Ali Haidar Bey, eminent lawyer, will defend. Goodsell does not desire consular officer present.

GREW

---

[54] Ernest L. Ives, first secretary of Embassy in Turkey.
[55] Ahmed Mouhtar Bey, Turkish Ambassador at Washington.
[56] Lucille Day, of El Paso, Tex.

367.1164 Brusa School Trial/15 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

[Paraphrase]

WASHINGTON, *February 14, 1928—5 p. m.*

15. Reference your 18, February 12, 3 p. m. You may use the following discreetly, in case of need:

"Although refraining carefully from making official representations concerning the Brusa school incident, the Department has brought to the attention of the Turkish Embassy the following considerations:

(1) This incident furnishes the best kind of ammunition to Turkey's opponents in this country.

(2) Trying in a Turkish court on a charge of carrying on Christian propaganda of three American women will do much to convince the American public of Turkey's still being fanatically Moslem.

(3) This incident possesses tremendous value as news and will deeply impress all church circles and women's organizations.

(4) Yesterday a Congressman, calling at the Department, showed three telegrams he had received about the trial of the three women missionaries. As these telegrams may well be the forerunner of many such messages, Congressional opinion cannot fail to be influenced by them."

KELLOGG

367.1164 Brusa School Trial/16 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *February 14, 1928—8 p. m.*

[Received February 14—5 : 45 p. m.]

19. Department's 13, February 9, 6 p. m. Four pupil witnesses heard today. Hearings postponed until March 5. Goodsell optimistic.

GREW

367.1164 Brusa School Trial/17

The Associate Secretary of the American Board of Commissioners for Foreign Missions (Riggs) to the Chief of the Division of Near Eastern Affairs (Shaw)

BOSTON, *February 14, 1928.*

DEAR MR. SHAW: I thank you for your letter of February 10 which reached me yesterday.[57] We are giving a short release to the press today with regard to the Brousa situation which I hope will set some of our friends at rest in regard to immediate dangers.

---

[57] Not printed.

I think we do not minimize the seriousness of the trial which was supposed to begin yesterday. If the Turkish authorities are able to make such a case as to make it illegal for American missionaries to answer legitimate questions of inquiring pupils in regard to fundamental issues of life and character it will be a serious question in my own mind whether the American Board can afford to continue its help along educational lines. We hold it to be fundamental that we are to lead our pupils into the fullest and freest knowledge of the truth, and while we are perfectly willing to limit our curriculum activities according to the requirements of the public law, I do not see how personal conversations leading to the formation of personal convictions can be prohibited in view of Article 75 of the Turkish constitution.

I did not return to report to you of my interviews with the Turkish Ambassador and the Greek and Bulgarian Ministers. The interviews were very pleasant, especially the one with the Bulgarian Minister. From the Turkish Ambassador I heard much the same report as comes from Ambassador Grew through you, namely that the Brousa incident is an isolated one and has no bearing upon the general standing of our schools in Turkey. Moukhtar Bey was affable and most polite. We conversed in Turkish as the easiest medium of conversation.

The following cable message was received from Constantinople on Saturday:[58]

"Brousa school closed January 31 [for] alleged religious propaganda[;] trial minor court [February] 13th [of Misses] Jillson[,] Sanderson[, and] Day[,] charged with violation school regulations[.] No cause for anxiety. Goodsell."

Yours sincerely,

ERNEST W. RIGGS

367.1164 Brusa School Trial/20 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *February 17, 1928—10 a. m.*
[Received February 17—9:40 a. m.]

21. For Shaw: No doubt you will have considered domestic editorial value of press statement from Lansing, Michigan, that Attorney General of Michigan has handed down opinion that religious instruction in public schools of that state is unconstitutional because separation of church and state is fundamental policy. Brusa incident appears analogous.

GREW

---

[58] February 11.

367.1164 Brusa School Trial/20½ : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

WASHINGTON, *February 17, 1928—4 p. m.*

17. For the Ambassador from Shaw: Your 21, February 17, 10 a. m.

Michigan Attorney General's opinion does not appear applicable, since Brusa school is not a public school supported by the State but a private institution which in American practice can teach any form of religion compatible with public law and good morals. Brusa school would seem to fall into same category, for instance, as Groton or numerous Catholic and Lutheran parochial schools.

KELLOGG

367.1164 Brusa School Trial/24 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

[Paraphrase]

CONSTANTINOPLE, *February 25, 1928—1 p. m.*

[Received February 25—11:35 a. m.]

24. My 22, February 17, 11 a. m.[59] I am hopeful of a more tolerant attitude in future from the Turkish Government toward American schools as a result of long interviews at Angora with the Minister for Foreign Affairs and the Prime Minister Ismet Pasha. I am promised that the recent provocative inspections and the continued hostile comment in the press will stop immediately and that in all probability one or more schools will be opened again in the near future. Without results, promises are of little use; yet, following my Angora visit, *Ikdam* has pointed out that, while conversion requires baptism, no baptisms occurred at Brusa. It seems to me that the American teachers at Brusa may be acquitted, though this is not certain. They are at liberty and were present here for the reception at the Embassy for Washington's birthday.

GREW

367.1164 Brusa School Trial/43

The Ambassador in Turkey (Grew) to the Secretary of State

No. 295 CONSTANTINOPLE, *May 8, 1928.*

[Received May 23.]

SIR: I have the honor regretfully to confirm my telegram No. 64 of April 30, 8 p. m.,[59] reporting that all three of the American teachers under trial at Brussa for conducting alleged religious propa-

[59] Not printed.

ganda in the American school in that city, Miss Jillson, Miss Sanderson and Miss Day, were, on April 30, convicted and sentenced to three days imprisonment and a fine of three lira each. The application for suspension of the sentence was denied, but in view of the fact that the accused were women and that this was their first offense, permission was given to serve their term of imprisonment in their own residence. I enclose herewith a translation of the verdict.[60]

The lawyer of the Turkey Mission promptly appealed the case to the Court of Appeals at Eski Shehir, this action of course delaying the serving of the sentences until the appeal shall have been heard. In the meantime Miss Sanderson, with the entire approval of her lawyers, has left Turkey for the United States where she expects to study nursing. Apparently, should the verdict be confirmed by the Court of Appeals, she would be expected to serve her sentence only if she should return to Turkey. An interesting sidelight on the case is that one of the Judges of the Court of Appeals who will probably deal with the case, had a daughter at the American school at Brussa and has expressed his earnest hope that the school will be reopened! I enclose herewith a summary of the document prepared by Ali Haidar Bey, the lawyer, presenting the case to the Court of Appeals, as well as certain other pertinent documents and press articles listed below.[60]

It seems to me quite clear that the teachers were not fairly convicted on the evidence and that the verdict was a foregone conclusion, due either to direct instructions from Angora or to the unwillingness of the Judge to place the Ministry of Public Instruction in an embarrassing position by an acquittal. I am not aware to what extent, if any, these considerations may influence the Court of Appeals.

Looking back at the closing of the Brussa school and the prosecution of the teachers, one may well ask why all this fuss by a Government which was then on the point of complete laicization. Primarily, no doubt Tewfik Rushdi Bey's frank explanation to me was sincere: the Government was obliged in self-defense to take drastic steps against alleged Christian propaganda in a locality which is well-known for its opposition to the Government on religious grounds—a fanatically Moslem community. Possibly if the incident had happened anywhere else than in Brussa, it might have been hushed up and passed over. But I doubt it. The incident represented to the Turks a matter of more far-reaching significance and importance than the mere interest of a few minor Turkish pupils in Christianity, with the possibility of ultimate conversion. The religious issue was subordinate and in itself of little consequence, but

[60] Not printed.

the interpretation of the religious issue as an anti-nationalistic tendency was of serious moment and called forth the Government's drastic action. The real explanation is perhaps best expressed in the three articles in the Turkish magazine *Hayat* of February 2, 9 and 16, translations of which were enclosed with my despatches No. 174 of February 15 and No. 191 of February 29,[62] lucidly and logically setting forth the Turkish point of view. Cultural-nationalism was the underlying cause and determining factor. Christianity in itself is of little consequence to an an irreligious Government; Christianity—even "unnamed Christianity"—as an educational influence held to be contrary to Turkish culture and Turkish nationalism, and therefore in effect essentially anti-Turkish, is quite a different matter. In the eyes of the Government and indeed of the Turkish people, the mere discussion of Christianity with minor Turkish pupils, even the application of so-called "unnamed Christianity", let alone attempted conversion, is the weaning-away of impressionable youth from spiritual allegiance to the Turkish State. "The influence of the foreign school upon the naturally more sensitive and more romantic-spirited young girls", says Mehmed Emin Bey, "is more penetrating. The Sister, looking and talking like a Madonna, and the Miss, acting like Mary and named Mary are attractive in such degree as easily to capture the soul of the young Turkish girl who is seeking an ideal and is made fancy-loving by her age." "The foreign school is a political influence over youth; it teaches history from foreign sources and from foreign view points."

"In a word these schools are institutions which by their lessons, by their training turn Turkish youth away from the society to which they belong to another society and carry them toward a foreign ideal." "Another evil of foreign schools not less important than others is the fact that because of high rates they are institutions exclusively for the children of wealthy and high families. There is nothing so harmful for a democracy as class education. The education of the children of the wealthy classes in a different way from the general public is a sociological error whose result is very dangerous." "The educational ideals of some of those who belong to the high class can be turned exactly to these three points: a foreign language, piano, social manners." "The outer splendor of the foreign school is also one of the factors which attract parents. Even think of the effect on rich but simple parents of a very immaculately dressed, very elegant man or woman teacher." "Look at the greatest leaders of the country. Has a single one studied a single hour in a foreign school?" "Character is very much a matter of nationality. It takes shape only in a national environment, and only with the good and bad actions and reactions of that environ-

[62] Neither printed.

ment. I stress the phrase both the good and the bad. Character cannot be brought in from outside, for it is not an external, a corporeal thing. The foreign school moulds a character only according to foreign ideals; as for this character be it in a religious form or in a political form, it is harmful for the national Turkish ideals." "Should not the families who are giving their children to foreign schools think that they are by their own hands doing away with the probability that their children may become great Turks in the future?"

In such an issue, according to the Turks, there can be no compromise. Cultural-nationalism. That is quite clearly the underlying basis of the whole matter, reduced to its simplest terms.

An opposite theory which I have heard expressed is that there is a pronounced inclination on the part of those now in power in Turkey to adopt to Turkish uses the methods of instruction and general education which are in vogue in America and Northern Europe. The proponents of this theory believe that the trend towards these forms of instruction has been emphasized by the realization of the importance of Anglo-Saxon and Teutonic commercial enterprise and of Turkey's need of adopting modern methods of commercial instruction for the sake of the economic well-being of the country. It is said that Falih Rifki Bey (whose position as Deputy and journalist enables him to give wide currency to his views), as a result of his visit to Rio de Janeiro last year, has been particularly impressed by the character of American and British commercial enterprise in Brazil, as contrasted with the easy-going methods in vogue among the Latin natives of the country. In short, Turkey, according to this view, is veering from its admiration of Latin culture to emulate the culture of North America and Northwest Europe. Examples are cited in the increased interest in the study of the English language latterly manifested by certain prominent deputies, such as Safvet and Rouschen Eshref Beys. Whether this theory is well founded (as seems not unreasonable in view of Turkey's need for economic development and of the predominance of Anglo-Saxon and Teutonic peoples in that field of expansion) and whether it will have any effect upon the future of Anglo-Saxon schools in Turkey remains to be seen and cannot yet be accurately determined.

While in my opinion Nedjati Bey, the Minister of Public Instruction . . . is fundamentally opposed to foreign institutions in Turkey, I do not now interpret the Brussa case as a calculated step towards the imminent progressive closing of the foreign schools as a whole. Even Nedjati Bey cannot blind himself to the patent fact that, for the present at least, these schools are needed in Turkey and will be needed

for some time to come. While progress is slowly being made in developing the educational system of the country, inadequate funds are available for the establishment of sufficient schools to care for all the nation's youth; trained teachers are inadequate to staff them.

With reference to the assurance given me by Tewfik Rushdi Bey on April 19 that he would arrange to fulfil his former promise to re-open an American school either by obtaining the surrender by the Ministry of Public Works of the lease of the school building at Sivas or else by authorizing the re-opening of a school at some other place, (see my telegram No. 60 of April 20, noon [63]) I suggested to Mr. Patterson,[64] when the adverse verdict was handed down in Brussa, that now was the psychological moment for the Minister to carry out his promise, because the announcement in the United States of the re-opening of another school might in some small measure offset the adverse impression caused by the sentencing of three American women to terms of imprisonment, and would indicate to the American people that the Turkish Government was not conducting a campaign against American institutions in Turkey as a whole. I however instructed Mr. Patterson that I did not wish him to make any formal representations and that should he mention the matter it should be done on his own initiative. Mr. Patterson accordingly has had two or three informal talks with Ennis Bey on this subject, pointing out that such a step at this particular moment would be in Turkey's own interest, but beyond a promise from Ennis Bey that he would discuss the matter with his Chief and with Nedjati Bey, no results have been forthcoming, and I am not optimistic that prompt action will be taken, although it is hoped that Tewfik Rushdi Bey will carry out his concrete promise eventually.

In a recent address to the girls of the American school at Scutari I included the following statement:

"The purpose of this school is to train you to go out into life as useful citizens of your own country; to be better able to contribute your share in the splendid progress which your country is making; to be patriotic and to be able to express your patriotism in the future in a practical way by contributing every ounce of energy and ability which you are developing here, through fundamental education and broadening culture, to your country's continued welfare and success."

Since writing the foregoing I have talked with Mr. Goodsell who is deeply discouraged at the Brussa verdict and is already turning over in his mind the question of the possible withdrawal of The Turkey Mission from this country. The matter will be discussed at the

[63] Not printed.
[64] Jefferson Patterson, second secretary of Embassy in Turkey.

annual meeting of the Mission at the end of June. In the meantime, the Mission is beset by various requirements and restrictions by the Turkish authorities, some of which are regarded as mere pin-pricks but others are considered to be major issues. Among the latter is the requirement that the school at Merzifoun shall conduct its classes on Sundays. This applies only to certain grades in which there are only Turkish teachers and is believed to be only a local regulation as it has not been applied to other schools. The situation will be tolerated for the time being but, in Mr. Goodsell's opinion, it cannot be permitted to continue indefinitely. Other points are the requirement in certain localities that Turkish teachers in the American schools shall be paid at the same rate as the American teachers themselves, in spite of the different standards of living to which they are accustomed, as well as the inclination of the authorities in certain localities to assign the Turkish teachers arbitrarily without permitting the schools to choose them themselves and submit their names for approval. I have advised Mr. Goodsell that the proper procedure is for him to go to Angora himself accompanied by his lawyer and to take up these various questions directly with the Ministry of Public Instruction. I have also told him that I see no present indications of a Government campaign against the schools as a whole which would justify the withdrawal of The Turkey Mission at this time.

Dr. Nilson of Talas reports that Djavid Bey, an official of the Ministry of Public Instruction in Angora, recently visited Talas and, after going over the American school building with Dr. Nilson, stated that, in his opinion, it ought to be reopened immediately and that he would so recommend to the Ministry of Public Instruction. He also advised Dr. Nilson to try to get the local Kaimakam to make a similar recommendation. It seems to me not impossible that Djavid Bey may have been sent to investigate the situation in Talas with a view to the possible reopening of that school as a result of my conference with Tewfik Rushdi Bey on April 19.

Mr. Goodsell further reports that the attitude of the public in Brussa towards the American teachers had completely altered since the beginning of the trial and that, as the date for the announcement for the verdict approached, every evidence was shown of friendship and sympathy, several of the Turkish friends of the teachers stating that they were praying for their acquittal.

I have [etc.] JOSEPH C. GREW

367.1164 Brusa School Trial/48 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *August 21, 1928—4 p. m.*
[Received August 22—6:32 a. m.]

100. My 89, July 3, 7 p. m.[66] Government has given permission to reopen American school at Talas. I am furthermore advised unofficially that American teachers at Brusa have won their appeal and will have a new trial. This latter information should not be announced to the press until officially confirmed.

GREW

367.1164 Brusa School Trial/50 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *August 30, 1928—5 p. m.*
[Received August 31—1:20 a. m.]

104. Press today announces that on account of questions of procedure Court of Appeals has annulled judgment against American teachers of Brusa School and that case will be heard again.

GREW

367.1164 Brusa School Trial/53 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *September 27, 1928—11 a. m.*
[Received 2:28 p. m.]

109. My 105, September 6, noon.[66] Brusa Court yesterday confirmed its original conviction and sentence of American teachers. Case has been again appealed.

GREW

367.1164 Brusa School Trial/56

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

No. 545 CONSTANTINOPLE, *October 22, 1928.*
[Received November 12.]

SIR: I have the honor to refer to the Embassy's despatch No. 520 of October 2, 1928,[66] and with further reference to the reopening of the Brusa school to inform the Department that, according to a letter dated October 20, 1928, a copy of which is enclosed, from Mr. Luther R.

[66] Not printed.

Fowle, Treasurer of the Turkey Mission of the American Board,[67] the petition of Miss Jillson to reopen the American School at Brusa has been refused by the Ministry of Public Instruction.

Mr. Fowle, in referring to the enclosed copy of a communication from the Director of Education at Brusa, dated October 14, 1928,[67] is of the opinion that if perchance the case should finally end in an acquittal of Miss Jillson the position taken by the Minister of Public Instruction "would logically seem to make necessary the reopening of the School".

I have [etc.]

For the Chargé d'Affaires at interim:
ERNEST L. IVES
First Secretary of Embassy

AMERICAN AID IN THE EVACUATION OF RUSSIAN REFUGEES IN TURKEY

861.48 Refugees 67/4 : Telegram

The Secretary of State to the Ambassador in Turkey (Grew)

WASHINGTON, *January 7, 1928—4 p. m.*

4. Ninety thousand dollars have been pledged in this country to assist in carrying out League of Nations plan for evacuation Russian refugees now in Constantinople. League representative in Turkey is understood to be in touch with competent Turkish authorities and will renew request for reasonable delay after February 6 to carry out evacuation as planned.

Since American citizens by giving money and through their personal efforts are in effect facilitating carrying out of Turkish Government's decision to evacuate Russian refugees, Department would not object to your informally and orally referring, while at Angora, to this American contribution and to your expressing hope that sufficient time after February 6 may be granted to permit carrying out of plan now formulated and about to be put into effect.

KELLOGG

861.48 Refugees 67/5 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

[Paraphrase]

ANGORA, *January 12, 1928—11 a. m.*
[Received 2:15 p. m.]

1. Department's 4, January 7, 4 p. m. The assistance of American citizens is appreciated by the Turkish Government, which will grant a delay of 12 months for the evacuation of Russian refugees, with

[67] Not printed.

the exception of 30 or 40 who have conducted political propaganda. The Turkish Minister for Foreign Affairs asks that this concession not be revealed prior to its official announcement here.

GREW

861.48 Refugees 67/11 : Telegram

The Ambassador in Turkey (Grew) to the Secretary of State

CONSTANTINOPLE, *January 29, 1928—3 p. m.*

[Received January 29—1:30 p. m.]

7. Turkish press today announced that one year's delay would be accorded by the Government for the stay of the Russian refugees in Turkey.

GREW

861.48 Refugees 67/24

The Ambassador in Turkey (Grew) to the Secretary of State

No. 253 CONSTANTINOPLE, *April 10, 1928.*

[Received April 28.]

SIR: With reference to my despatch No. 172, of February 15, 1928,[68] and previous correspondence concerning the evacuation of the Russian refugees in Constantinople, I have the honor to inform the Department that on March 27, last, in conversation with Mr. Réné Schlemmer, Representative of the International Labor Office, he said that he had received a letter from Mr. Albert Thomas, the Director of the International Labor Office, addressed to Shukri Kaya Bey, acting Minister for Foreign Affairs, stating that the International Labor Office had decided to withdraw at the end of May from all connection with the problem of evacuating the Russian refugees from Constantinople, because most or all of the contract laborers had now been evacuated and because the labor aspect of the problem had therefore now been eliminated. The letter also referred to the appointment of an American Advisory Committee of which Mr. Thomas believed I would be Chairman. I had already told Mr. Schlemmer that I could not sit on such a Committee myself but that, if Mr. Schlemmer so desired, I would appoint a member of my staff to sit on the Committee as a representative of the American Red Cross, which had contributed a part of the American funds, but not as representative of the Embassy. I said I believed that if my assistance should at any time be needed, I could be of more help if independent of the Committee. Mr. Schlemmer said that he had already written Mr. Thomas of my unwillingness to become a mem-

[68] Not printed.

ber of the Committee, although I was willing to designate a member of my staff to represent the American Red Cross.

In accordance with the Department's telegram No. 22, of February 29,[69] I designated Mr. Taylor, of the Embassy, to represent the Red Cross, and he has arranged to attend the weekly meetings of the Committee. There are enclosed copies of translations of the minutes of the first two meetings, which were held on March 31 and April 4, respectively.[69] It will be noted from the minutes that the principal business transacted in the meetings was the consideration of the cases of the Russian refugees who are desirous of leaving Constantinople and arranging for their evacuation. It would appear that the one year delay, granted by the Turkish Government, has given renewed hope to the White Russians that they will be allowed to remain indefinitely in Turkey and for this reason there is a scarcity of applications for evacuation. I have no reason to believe that there has been a change in the attitude of the Turkish Government towards the Russians, whose ultimate departure has been ordered. I shall keep in close touch, however, with the political aspect of the situation and will promptly inform the Department should there be any change in the attitude of the Turkish Government.

. . . . . .

I have [etc.] JOSEPH C. GREW

861.48 Refugees 67/63

The Ambassador in Turkey (Grew) to the Secretary of State

No. 489 CONSTANTINOPLE, *September 11, 1928.*
[Received September 26.]

SIR: I have the honor to enclose for the Department's information a copy of a report submitted to me by Mr. Taylor,[69] the representative of the American Red Cross on the American Advisory Committee for the Evacuation of Russian Refugees at Constantinople, pointing out the possibility of a change in the composition of the American Advisory Committee.

In this connection it may be of interest to report that in a recent conversation with the Minister for Foreign Affairs, I casually brought up the subject of the progress which had been made in the evacuation of the Russians by remarking that over 700 of the 3,000 refugees had been evacuated by means of American funds but that certain difficulties had lately arisen which had held up the progress of evacuation. Although Tewfik Rushdi Bey did not evince any great interest in the matter of the Russian refugees, he carelessly remarked that he was gratified at the course of the evacuation.

[69] Not printed.

Personally I feel that the Turkish Government in spite of its official expressions to the contrary might not be averse to having the relatively small number of refugees at present in Constantinople remain. Their presence occasionally answers a useful purpose in negotiations with the Soviet Government, and with the exception of a percentage of undesirables they are a valuable addition to the economic life of the city. I cannot conceive of the Turkish Government expelling the Russian refugees en masse unless very great outside pressure were brought to bear, and if such were the case it is possible that the Turkish Government would offer the bulk of the Russians Turkish citizenship. It must be remembered that the assumption of Turkish citizenship, with its obligations and implied renunciations, is the last thing the average Russian refugee wants and he will only consider it when there is no other relief. As far as I can ascertain, the White Russians have been fairly well absorbed into the economic and social life of the community. They mix freely with all racial elements and there is no real Russian colony which fosters political aims or social homogeneity. Many of them are undoubtedly better off here than they were in Russia, having left Russia not for political reasons but because, having nothing to lose, they thought they could better their economic position elsewhere. There is at present no more privation or suffering among the Russians than among the other elements of the population.

Obviously, since so many factors enter into the situation, it would be rash to predict at present what the attitude of the Turkish Government would be towards the White Russians not evacuated from Constantinople by February 6, 1929. From what I can learn the attitude of the Soviet Government towards the White Russians is still apparently hostile.

I have [etc.] JOSEPH C. GREW

861.48 Refugees 67/75

The Secretary of State to the Ambassador in Turkey (Grew)

No. 111 WASHINGTON, *January 2, 1929.*

SIR: Reference is made to the Embassy's despatch No. 140 of January 17, 1928 [71] reporting the decision of the Turkish Government to accord a twelve months' delay, as from February 6, 1928, for the execution of the plan of evacuating the Russian refugees now in Constantinople.

In order that the Department may be in a position to reply to inquiries addressed to it by persons in the United States interested in certain of the above refugees, it is desired that you report promptly by telegraph, as in the past, any extension of the present time limit set

[71] Not printed; but see telegram No. 1, Jan. 12, 1928, p. 981.

by the Turkish Government for the evacuation of the Russians in question.

It would also be helpful if you would meanwhile advise the Department by mail despatch of the present number of Russian refugees in Constantinople awaiting evacuation and of the likelihood, if any, that refugees who are awaiting quota numbers as emigrants to the United States would be permitted to remain in Turkey beyond February 6, 1929 and until visas are available for them.

I am [etc.]

For the Secretary of State:
W. R. CASTLE, Jr.

861.48 Refugees 67/78

The Ambassador in Turkey (Grew) to the Secretary of State

No. 639 CONSTANTINOPLE, *January 16, 1929.*
[Received January 31, 1929.]

SIR: With reference to my despatch No. 489 of September 11, 1928, I have the honor to inform the Department that in an interview with the Minister for Foreign Affairs on January 5, I took occasion to ask him if he would tell me in a personal way and, if he so desired, in strict confidence, what he intended to do with the Russian refugees who remained in Turkey after February 6, 1929, the last date given for their evacuation. I said that I was interested in the matter not only from the humanitarian point of view but that I also had a legitimate interest in it on account of the large donations given by American citizens to assist the evacuation; that the Committee in Constantinople had done its best to get these Russians out, but that lack of visaes and contracts had made the work very difficult and slow and that some eighteen hundred of these unfortunate people still remained in Turkey. I said that most of these Russians were engaged in useful occupations, were regularly paying their Turkish taxes, and although not actually citizens of the country, were nevertheless leading lives useful to the State, and I said that I made this statement from personal contacts and knowledge. It would be the greatest possible hardship to these people to uproot them. I reminded the Minister of our conversation last year, in which he had said that most of these Russians could obtain Turkish nationality if they so desired, and I said that I was aware of the fact that over a thousand petitions for Turkish nationality had been filed, but that only seven had been granted. The Minister immediately replied, "Fifteen", indicating that he was fully familiar with the situation. I added that any wholesale uprooting of these Russians could not fail to make a most unfortunate impression on the world at large, and I begged the Minister to consider this fact in connection with any plans that might be contemplated.

The Minister listened courteously to my presentation of the case, and then replied that he himself was between two fires. On the one hand, he fully appreciated the humanitarian aspect of the situation and was most anxious as a humanitarian himself to avoid inflicting unnecessary hardships. On the other hand he had definite information that many of these Russians were steadily engaged in propaganda against the Soviet régime; some being associated with the Anti-Communistic Committees of the Caucasus and others with the Committees in Paris and elsewhere. Turkey would not tolerate groups of Turkish communistic propagandists in Russia, and therefore Russia was in a perfectly sound position to demand that Turkey should not tolerate groups of Anti-Soviet propagandists in Turkey. He himself was not in a position to decline to listen to the representations of the Soviet Government in this matter, and this was the entire explanation of the attitude of the Turkish Government towards the White Russians within its borders. Those Russians who were found to be guilty of propaganda must be definitely disposed of.

I replied that I very much doubted if more than a small percentage of the remaining Russians were conducting any propaganda at all, and I hoped that the matter would be carefully sifted in order to avoid injustice to individuals. The Minister said that this was very difficult to do, but that every effort would nevertheless be made to dislodge the propagandists and to separate them from the others. He asked me how many Russians were left in Turkey. I replied about eighteen hundred. He said: "Why, there were eighteen hundred last year; that means there were none evacuated." I said that, on the contrary, there were nearly three thousand last year and a considerable number were evacuated, although I did not have the exact figures before me. He replied that the Committee in Constantinople was an appendage of "Nansen and Company" and acting under the instructions of the High Commission in Geneva. I said that, on the contrary, the Committee in Constantinople regarded itself as independent, and that it had agreed to continue to function only on the understanding that it would make all decisions as to evacuations itself, and not on instructions from Geneva. He asked me who had appointed the Committee. I replied that as a matter of fact I had appointed part of it myself, as it was composed largely of Americans representing American organizations, such as the Near East Relief, the Jewish Welfare, the American Red Cross, etc.

The matter was left with the understanding that the Minister would examine it sympathetically and would make every effort to separate the alleged propagandists from those who were innocent of such activities and to deal with them accordingly.

On January 10, having obtained the exact figures from the Committee in Constantinople, I informed the Minister that three hun-

dred and four Russian refugees were evacuated from Turkey in 1927 and one thousand and thirteen during 1928. I added that the Committee in Constantinople was sparing no effort to complete its task and that it hoped to be able to evacuate at least one hundred and fifty further refugees during the present month.

At this moment it is impossible to predict what action the Turkish Government will take with regard to the Russian refugees on February 6, 1929. Whatever is done, it may be said that I have left no proper step untaken in their interest.

I have [etc.] JOSEPH C. GREW

861.48 Refugees 67/85

The Ambassador in Turkey (Grew) to the Secretary of State

No. 684 CONSTANTINOPLE, *February 27, 1929.*
[Received March 13.]

SIR: I have the honor to refer to the Department's Instruction No. 111 of January 7 [*2*], 1929 concerning the evacuation of the Russian refugees now in Constantinople. The Department requests that I report promptly by telegram any extension of the time limit set by the Turkish Government for the evacuation of these refugees. In this connection reference is made to my despatch No. 639 of January 16, 1929, reporting my interview with the Minister for Foreign Affairs relative to the Russian refugees in Constantinople and to my telegram No. 9 of February 3, 1 p. m.,[72] in which it was stated:

"Press has reported that it learns from an authoritative source that period for evacuation for Russian refugees will again be prolonged beyond February 6 with the exception of certain individual cases. I have not been able to confirm this report in Angora but believe that it is probably authentic as it has not been denied."

It has not been possible to obtain definite information concerning the intentions of the Turkish Government with regard to the remaining Russian refugees in Constantinople. According to press rumors and information from other unofficial sources and in view of the fact that no action was taken on February 6, 1929, the date of the expiration of the delay granted, it is believed by those interested that no action will be taken by the Turkish Government concerning the Russian refugees as a whole, but that a small number of undesirable refugees will, from time to time, be asked to leave or will be expelled from Turkey.

With regard to the desire of the Department to be informed of the present number of Russian refugees in Constantinople awaiting evacuation and of the likelihood, if any, that refugees who are awaiting quota numbers as emigrants to the United States will be permitted to remain in Turkey after February 6, 1929, and until visas are avail-

[72] Not printed.

able for them, I beg to inform the Department that it seemed inadvisable to make further inquiries of the Turkish Government particularly in view of the fact that the Turkish Government took no action to enforce its decision upon the expiration of the time limit set for the evacuation of the Russian refugees and also owing to the general belief that no action will be taken, at least for the present.

The information obtained from the Consulate General at Constantinople relative to the demand against the Russian quota and the allotment of Russian quota numbers made by the Russian quota control office at Riga is as follows:

DEMAND ON THE RUSSIAN QUOTA AT CONSTANTINOPLE ON FEBRUARY 26, 1929

Preference Relatives of Citizens	*Preference* Skilled Agriculturists	*Preference* Relatives of Aliens	*Non-Preference*
11	11	61*	1343*

The total number of applicants on February 26, 1929 for the second half of the Russian quota year was 1404. Of this number 200 have not been interviewed and reclassified as second preference or non-preference applicants. When these persons comply with the Consulate General's invitation to call, the information that they submit concerning their relatives in the United States will automatically change the starred totals.

RUSSIAN QUOTA NUMBERS ALLOTTED TO CONSTANTINOPLE DURING THE PRESENT QUOTA YEAR

Preference Relatives of Citizens	*Preference* Skilled Agriculturists	*Preference* Relatives of Aliens	*Non-Preference*
4	5	1	0

As will be seen from the above tabulation, the Russian quota numbers allotted to the Constantinople Consulate General totals only 10. These numbers have already been granted to applicants.

The Advisory Committee for the Evacuation of Russian Refugees from Constantinople has sent Mr. Stokes a telegram informing him that the situation with regard to the remaining refugees is tranquil but that it is deemed necessary for the Committee to continue the work of evacuation.

The Committee furthermore informs me that due to some technical reasons the evacuation of 129 Jews to Palestine expected to take place in January has been temporarily delayed. During the month of January about 58 refugees were evacuated and in the course of the present month 50 more people have been likewise evacuated. The Committee hopes to be able to evacuate 200 refugees during the month of March, which number will include the 129 Jews to be sent to Palestine.

I have [etc.] JOSEPH C. GREW

INDEX

416955—43

INDEX

Agreements. *See* Treaties, conventions, etc.
Air mail service between United States and Mexico, establishment, 323–326
Aliens (*see also* Sweden: Taxation of resident aliens): Provisions of Immigration Act of *1924*, 644; U. S. classification of Persian subjects as nontreaty aliens, 736–737, 744–745; U. S. policy in regard to treaty provisions concerning, 160–161, 198, 644–646
American Red Cross, 982–983, 986
Arbitration treaties (*see also* Root treaties) between—
  Netherlands and—
    France, *1928*, cited, 415
    Germany, *1926*, cited, 414, 415
    United States. *See under* Netherlands: Treaties.
  United States and—
    France, *1928*, cited, 139, 140, 412, 751, 879, 880, 895, 937, 938, 940, 943, 946
    Italy, text signed *Apr. 19*, 102–104
    Japan. *See under* Japan: Treaties.
    Lithuania, text signed *Nov. 14*, 283–285
    Netherlands. *See under* Netherlands: Treaties.
    Persia, inconclusive negotiations, 746–749
    Poland. *See under* Poland.
    Spain, proposed, 879–881
    Sweden, negotiations and text signed *Oct. 27*, 882–884
    Switzerland, arbitration and conciliation, proposed, 937–939
    Turkey, inconclusive negotiations, 940–950
Arms embargo. *See under* Honduras.

Babel and Nervion Co. *See* Spain: Petroleum monopoly.
Belgium. *See* Persia: Capitulations.
Blair & Co., Inc., 814–815, 816, 818–819
Bolivia, boundary dispute with Paraguay, 681
Boundary dispute between—
  Bolivia and Paraguay, 681
  Chile and Peru (Tacna-Arica dispute), 750
  Colombia and Nicaragua, 592
  Dominican Republic and Haiti, 61
  Guatemala and Honduras, 54
Bryan treaties for the advancement of peace, cited, 136, 139, 140, 412–414, 746, 747, 751, 752, 880–881, 881, 937, 938, 939, 940

Canada, attitude in connection with proposed revision of fur seals convention of *1911*, 153, 156
Capitulations. *See under* Persia.
Catholic Church, good offices of U. S. Ambassador in Mexico in facilitating negotiations with Mexican Government, 326–335
Central American treaties of *1923*, cited, 568, 581–582, 583
Chase Securities Corp., 818–819
Chile, Tacna-Arica dispute, 750
Christianity, teaching of, trial of American teachers and closing of school at Brusa, Turkey, 964–981
Citizenship. *See under* Greece: Exchange of Greek and Turkish populations.
Claims of—
  British subjects: Claims rejected by Haitian Claims Commission, U. S. decision to recommend reconsideration of, 55–61; settlement of claims in Spanish Zone of Morocco (*1923*), cited, 360, 363–365
  U. S. citizens against—
    Greek Government for property confiscated by Turkey, 49–53
    Mexican Government, U. S. position concerning relative priority, 321–323
    Rumanian Government, question of payment, 815–816
    Spanish Government. *See under* Morocco; *see also* Spain: Petroleum monopoly.
Colombia, boundary dispute with Nicaragua, 592
Commercial treaties and agreements (*see also* Most-favored-nation treatment: U. S. policy):
  Barcelona convention on freedom of transit (*1921*), 168, 191, 193, 195, 200–201, 204, 607, 620
  Great Britain–Latvia, treaty of commerce and navigation (*1923*), 167, 191, 192, 194, 206
  U. S.–Denmark, convention of friendship, commerce and navigation (*1826*), cited, 601

Commercial treaties, etc.—Continued.
U. S.-Greece: Exchange of notes according mutual unconditional most-favored-nation treatment in customs matters (*1924*), cited, 709; inconclusive negotiations for treaty of friendship, commerce and consular rights, 18–25
U. S.-Italy. *See* Italy: Treaty rights.
U. S.-Latvia. *See* Latvia: Treaty of friendship, commerce and consular rights.
U. S.-Norway. *See* Norway.
U. S.-Persia. *See* Persia: Treaties: Friendship and commerce.
U. S.-Portugal. *See* Portugal: Treaties.
U. S.-Siam (*1920*), cited, 199
U. S.-Switzerland. *See* Switzerland: Treaties: Friendship, commerce and consular rights.
U. S.-Turkey. *See under* Turkey: Treaties.
Commissions and committees:
American Advisory Committee for the Evacuation of Russian Refugees at Constantinople, 982–983, 985, 986–987, 988
Claims Commissions:
Haitian, 55, 56, 57–59, 60
U. S.-Mexican. *See under* Mexico.
Federal Radio Commission (U. S.). *See under* Liberia: Radio communication.
International Financial Commission (Hellenic), 2, 5, 41
Irish Republic Bondholders' Committee. *See* Irish Free State, responsibility for so-called Republic of Ireland bonds sold in United States.
Mixed Commission for Exchange of Populations (Greece–Turkey), 48 51, 53
Refugee Settlement Commission (Hellenic), 4, 5, 8–9, 11, 12
Conciliation treaties between United States and—
Japan. *See* Japan: Treaties: Arbitration and conciliation.
Lithuania, text signed *Nov. 14*, 285–287
Persia, inconclusive negotiations, 746–749
Poland. *See under* Poland.
Switzerland, arbitration and conciliation treaty, proposed, 937–939
Turkey, inconclusive negotiations, 940–950
Conference concerning livestock (U. S.–Mexico). *See under* Mexico: Conventions: Livestock.
Consular officers. *See* Portugal: Regulations regarding jurisdiction on board foreign ships in Portuguese waters; *also under* Latvia: Treaty of friendship, commerce and consular rights.
Conventions. *See* Treaties, conventions, etc.
Coolidge, Calvin (President): Approval of designation of John Loomis as Financial Adviser to Liberia, 247–248; exchange of felicitations with President of Mexico upon inauguration of air mail service between United States and Mexico, 325–326; exchange of messages with President of Nicaragua upon satisfactory completion of Nicaraguan elections, 515–516; nomination of Gen. McCoy as president of National Board of Elections of Nicaragua, 485
Costa Rica:
Nicaraguan bandits, suppression of aid to, 579–580, 586–587, 589, 591–592
U. S. Minister in. *See* Honduras: Newspaper attack upon.
Cuba, consular convention with United States (*1926*), cited, 609
Cumberland, Dr. W. W. *See* Nicaragua: Finances: Survey by Dr. W. W. Cumberland.

Davis, Roy Tasco, U. S. Minister in Costa Rica. *See* Honduras: Newspaper attack upon.
Denmark, convention of friendship, commerce and navigation with United States (*1826*), cited, 601
Dominican Republic, boundary dispute with Haiti, 61
Dual nationality, question of, 29–30, 909–910, 922–923, 925

Eldorado Co., 801, 804
Estonia, treaty of friendship, commerce and consular rights with United States, *Dec. 23, 1925*, U. S. policy in negotiating similar treaties with other governments, 23, 158–169, 173–175, 182–183, 184, 186, 190, 197, 204, 205, 597, 598, 775, 914
Exchange of populations between Greece and Turkey, convention of *1923*. *See under* Greece.

Fascist organizations in United States. *See under* Italy.
Federal Radio Commission (U. S.). *See under* Liberia: Radio communication.
Firestone Plantations Co. *See under* Liberia: Radio communication.
Florida fish and game law, alleged infringement of Italian treaty rights. *See* Italy: Treaty rights.

Foundation Co., 33–38
France (*see also* Morocco; Persia: Capitulations; Spain: Petroleum monopoly):
Arbitration treaties with—
Netherlands, *1928*, cited, 415
United States, *1928*, cited, 139, 140, 412, 751, 879, 880, 895, 937, 938, 940, 943, 946
Infringement of French rights in Russia by Americans, U. S. policy concerning, 826–827
Soviet gold, inquiry as to U. S. policy concerning, 829–831
Fur seals convention of *1911* between United States, Japan, Great Britain, and Russia. *See under* Japan.

Germany (*see also* Persia: Capitulations): Arbitration treaty with Netherlands (*1926*), cited, 414, 415; treaty of friendship, commerce and consular rights with United States, *Dec. 8, 1923*, U. S. policy in negotiating similar treaties with other countries, 19, 20, 23, 158–169, 173, 174, 182–183, 224, 225, 596, 597, 598, 775, 791
Gold of Soviet origin, continued refusal of U. S. Mints and Assay Offices to accept, 827–831
Good offices of—
U. S. Ambassador in Mexico in facilitating negotiations between Roman Catholic Church and Mexican Government, 326–335
U. S. Department of State. *See under* Liberia: Radio communication.
Great Britain (*see also* Japan: Fur seals convention of *1911;* Morocco; Persia: Capitulations; Portugal: Shipping discriminations; Spain: Petroleum monopoly): Claims rejected by Haitian Claims Commission, U. S. decision to recommend reconsideration, 55–61; commercial loan to Greece by British interests, 38–41; treaty of commerce and navigation with Latvia (*1923*), 167, 191, 192, 194, 206
Greece, 1–53, 709
Agreements with United States:
Exchange of notes according mutual unconditional most-favored-nation treatment in customs matters (*1924*), cited, 709
Friendship, commerce and consular rights, inconclusive negotiations for treaty, 18–25
Loan agreement. *See* War debt to United States, agreement for funding of debt and for additional loan to Greece, *infra.*
Naturalization treaty, proposed, 19, 25–31

Greece—Continued.
Agreements with United States—Con.
Smuggling of intoxicating liquors, convention for prevention of, 14–18
Negotiations, 14–15
Text signed *Apr. 25*, 15–18
War debt, agreement for funding. *See* War debt, *infra.*
British commercial loan. *See* Struma Valley drainage project, *infra.*
Exchange of Greek and Turkish populations, questions arising out of convention of *1923:*
Citizenship upon entering Greece of former Ottoman subjects of Greek Orthodox religion naturalized in United States: Greek interpretation, 26, 45–46, 47–49, 50; Mixed Commission for Exchange of Populations, interpretation of, 48; provisions of convention, 44–45; U. S. attitude, 47
Claims of American citizens of Greek Orthodox religion for property confiscated by Turkey, Greek position and outline of procedure to be followed by claimants, 49–53
International Financial Commission, 2, 5, 41
Loan agreements:
Greek Loan Protocol of *1927*, 4–5, 5
Tripartite Loan Agreement of *1918*, 3, 4
U. S.–Greek agreement for additional loan to Greece and for funding of Greek war debt to United States. *See* War debt, *infra.*
Loans in American market: Negotiations for loan in connection with Struma Valley drainage project, reports concerning, 37–41; U. S. policy concerning opportunity for American firms to compete for work to be done from proceeds, 42–43; U. S. policy following agreement for settlement of war debt, 1–3, 7, 8, 13
Mixed Commission for Exchange of Populations, 48, 51, 53
Naturalization treaty with United States, proposed, 19, 25–31
Refugee Settlement Commission, 4, 5, 8–9, 11, 12
Smuggling of intoxicating liquors. *See under* Agreements, *supra.*
Struma Valley drainage project:
Contract, negotiations by American firms: Granting of contract to American combination, 37; reports and discussions concerning, 31–37; U. S. position concerning assistance to American firms, 31–32, 34, 36

Greece—Continued.
Struma Valley drainage project—Continued.
Loans by American and British firms, reports concerning negotiations, 37–41
Treaties with United States. *See* Agreements, *supra*.
War debt to United States, agreement for funding of debt and for additional loan to Greece, 1–13
Commercial loans in American market, U. S. policy following agreement for settlement of war debt, 1–3, 7, 8, 13
Terms of settlement:
Approval by Greek Government, 7; by U. S. Government, 13
Consideration by U. S. Congress, 8–13
Exchange of notes, 3–6
Guaranty Trust Co., 530
Guatemala (*see also* Honduras: Revolutionary activities): Boundary dispute with Honduras, 54; Nicaraguan bandits, suppression of aid to, 567, 568, 580

Hague convention of *1907* for pacific settlement of international disputes, cited, 338, 414, 761, 939
Haiti, 55–61
Boundary dispute with Dominican Republic, 61
British claims rejected by Haitian Claims Commission, U. S. decision to recommend reconsideration of, 55–61
Hejaz and Nejd, opposition of authorities to entry of American missionaries, 62–68
Honduras, 69–82, 559–560, 566, 576, 578, 581–582, 582–583, 914–915
Arms embargo, U. S. informal representations for Honduran cooperation to prevent contraband shipments, 77–79
Boundary dispute with Guatemala, 82
Newspaper attack upon Roy Tasco Davis, U. S. Minister in Costa Rica, 79–82
Statement by Costa Rican Foreign Minister, 80–81, 81–82
U. S. protest, 79–80; court action taken by Honduran Government, 80, 81
Nicaraguan bandits, suppression of aid to, 559–560, 566, 576, 578, 581–582, 582–583
Political situation, reports concerning, 69, 73, 74–77
Revolutionary activities against the Government, 69–77
Reports concerning political situation and revolutionary activities, 69–70, 72, 73, 74–77
Honduras—Continued.
Revolutionary activities—Continued.
U. S. efforts to discourage:
Informal representations to Guatemala concerning activities directed from Guatemalan territory, 70–71, 72; Guatemalan attitude, and measures to prevent subversive acts, 71–72, 73
U. S. naval vessels in Honduran waters, 73–74, 75, 75–76
Treaty of friendship, commerce and consular rights with United States (*1927*), cited, 914–915
Hungary, treaty of friendship, commerce and consular rights with United States, *June 24, 1925*, U. S. policy in negotiating similar treaties with other countries, 158–169, 173, 182–183, 597, 598, 775

Immigration Act of *1924*, cited, 644–645, 737*n*
Immigration laws, Italian policy concerning, 109
International Financial Commission (Hellenic), 2, 5, 41
Irish Free State, responsibility for so-called Republic of Ireland bonds sold in United States, 83–101
Irish Free State's recognition of obligation to reimburse U. S. subscribers: Attitude of Government officials, and discussion of difficulties involved, 83–86, 94–95, 96–97; Loans and Funds Act of *Feb. 18, 1924*, 91, 94, 96–97, 99–100, 100–101
Procedure for repayment of loan, question of, 96–97, 99–100, 100–101
Résumé of situation with respect to bonds, 89–92
U. S. efforts looking toward settlement of matter:
Discussions with officials of Irish Free State, 83–86
Negotiations with counsel for Irish Republic Bondholders' Committee, explanation of policy of informal good offices, 86–89, 92–93, 97–101
Note to Irish Free State, 93–95; reply, 96–97
Italy (*see also* Morocco: Tangier), 102–119
Arbitration treaty with United States, text signed *Apr. 19*, 102–104
Colonial policy, 109, 110
Exports to United States, Italian representations regarding activities of U. S. customs agents investigating valuation of, 104–105; U. S. position, 105–107

Italy—Continued.
Fascist organizations in United States, question of control from Italy, 107–112
Fascist League in United States: Dissolution by order of Mussolini, 111–112; nonapplicability of Statutes of Fascist Organizations abroad, 109–111
Statutes of Fascist Organizations abroad, published *Feb. 5:* Information concerning, 107–109, 111; nonapplicability to Fascist League in United States, 109–111
Immigration laws, policy regarding, 109
Treaties with United States:
Arbitration treaty, text signed *Apr. 19*, 102–104
Commerce and navigation (*1871*). *See* Treaty rights, *infra.*
Treaty rights under U. S.-Italian treaty of commerce and navigation of *1871*, alleged infringement by Florida fish and game law, 112–119
Florida officials, position taken by, 113–114, 114–115, 115–116
Italian representations concerning, 112–113, 114–115, 116–117
U. S. Federal Courts, recourse to, U. S. suggestion, 116, 117–118, 118–119; Italian attitude, 116–117, 118
U. S. customs agents, Italian representations regarding activities of, 104–105; U. S. position, 105–107

Japan, 120–156
Fur seals convention of *1911* between United States, Japan, Great Britain, and Russia, negotiations regarding proposed revision of, 147–156
Japanese desire for conference to revise convention, and U. S. attitude, 147, 148, 149, 151–152, 152, 154–156
Joint U. S.-Japanese investigation of migratory and feeding habits of seals, Japanese suggestion to invite participation of British and Russian experts, 147, 152
British and Canadian nonintention to participate, 150, 153, 156
U. S. maintenance of position in favor of U. S. and Japanese experts only, 147–148, 150–151, 153, 154; Japanese efforts to secure U. S. reconsideration, 148–149, 153
Review of U. S.-Japanese discussions, *1926–1928*, 152–153
Japan—Continued.
Fur seals convention—Continued.
U. S. suggestion of possible administrative regulations in lieu of treaty revision, 153–154, 156
Treaties with United States:
Arbitration and conciliation treaties, proposed, 135–146
Drafts submitted by United States, 136–139, 140–144
Inconclusive negotiations, 135–136, 139–140, 144–146
Smuggling of intoxicating liquors, convention for prevention of, 120–135
Negotiations, 120–131
Text signed *May 31*, 131–134; exchange of notes concerning interpretation, 134–135
Jews in Rumania. *See* Rumania: Anti-Semitic activity.

Latvia, 157–239
Tax, residence or sojourn, U. S. representations against application to U. S. citizens in Latvia, 235–239
Treaty of commerce and navigation with Great Britain (*1923*), 167, 191, 192, 194, 206
Treaty of friendship, commerce and consular rights with United States, and accompanying protocol, 157–230, 235, 236, 239
Aliens, U. S. policy in regard to provisions concerning, 160–161, 198
Citations, 235, 236, 239
Consular officers: Provisions concerning, 169–172, 175, 189, 204–205; U. S.-Latvian agreement as to interpretation of most-favored-nation provision of *art. 27*, 224, 225–230
Drafts, 175, 176–181, 195–196, 202–203
Most-favored-nation treatment, discussions concerning—
Commercial travelers, 166–167
Consular privileges and immunities, agreement as to interpretation of most-favored-nation provision of *art. 27*, 224, 225–230
Importations and exportations, provisions and exceptions, 163–164, 168–169, 181–183, 184–185, 187, 188, 190, 192, 193, 194–195, 198–199, 204, 206–207
Negotiations, 157–207
Ratifications: Exchange of ratifications, together with agreement as to interpretation of most-favored-nation clause with respect to consular privileges and immunities, 223–230; treaty provisions, 173–174

Latvia—Continued.
Treaty of friendship, etc.—Continued.
Ship measurement certificates, question of including agreement for mutual recognition, 164–165, 186, 188, 189, 191, 193
Signature, 208
Text signed *Apr. 20*, 208–223
U. S. representations regarding—
Application of residence or sojourn tax to U. S. citizens in Latvia, 235–239
Requirements affecting American indirect trade with Latvia, 230–234
Lausanne, Allied treaty of *July 24, 1923*, cited, 26, 45, 52, 53, 953, 957
League of Nations, loan to Portugal, possible influence on shipping question, 771, 772
Liberia, 240–282
Assistant Auditor of Liberia, inability of U. S. Department of State to act in replacement of, 241
Financial Adviser to Liberian Government, appointment of successor to Sidney de la Rue, 240–249
Acting Financial Adviser to assume duties during illness of De la Rue: Appointment of Conrad T. Bussell to act temporarily, 242, 243, 246–247; U. S. suggested procedure in event of De la Rue's inability to resume duties, and Liberian attitude, 241–245
Designation of John Loomis as Financial Adviser following resignation of De la Rue, 247–249
Firestone concession, denial by President King of certain allegations concerning, 249–253; text of President's statement, 251–253
Radio communication between United States and Liberia, establishment of, 254–282
Federal Radio Commission (U. S.), action in granting licenses to Firestone Plantations Co. and Radio Corporation of America, 263–264, 265–266, 269–270, 271–272, 273–274, 277, 278
Firestone Plantations Co.:
Radio agreement with Liberian Government signed *Jan. 22, 1929:* Good offices of U. S. Department of State in effecting agreement, 254–255, 257; negotiations, 254, 255, 257–260, 264–269, 270, 273, 274–279; text, 279–282
Liberia—Continued.
Radio communication, etc.—Contd.
Firestone Plantations Co.—Contd.
U. S. license, granting of, 263, 264, 265; good offices of U. S. Department of State in connection with, 267–268, 269, 271–272
Good offices of U. S. Department of State. *See* Firestone Plantations Co., *supra*, and Radio Corporation of America, *infra*.
Radio Act passed by Liberian Legislature *Feb. 17*, text, 260–263
Radio Corporation of America: Traffic agreement with Liberian Government (*1927*), 256, 263, 264, 265, 266–267, 278; U. S. license, good offices of U. S. Department of State in regard to securing of, 263, 267–268, 270, 271–272, 274
Lithuania, 283–291
Treaties with United States: Arbitration treaty, text signed *Nov. 14*, 283–285; conciliation treaty, text signed *Nov. 14*, 285–287
U. S. representations regarding certain requirements affecting American indirect trade with Lithuania, 287–288; Lithuanian attitude, 288–291
Livestock convention, U. S.–Mexico. *See under* Mexico: Conventions.
Loans (*see also* Irish Free State, responsibility for so-called Republic of Ireland bonds sold in United States):
Greece. *See* Loan agreements *and* Loans in American market *under* Greece.
Nicaragua. *See under* Nicaragua: Finances.
Portugal, League of Nations loan, possible influence on shipping question, 771, 772
Rumania. *See under* Rumania.

McCoy, Gen. Frank R. *See under* Nicaragua: Elections.
Mexico, 292–340, 367, 570–571, 572, 581
Agriculture and Fomento, Department of, conference with U. S. Department of Agriculture concerning livestock, 308–311
Air mail service between United States and Mexico, establishment, 323–326
Assassination of President-elect Obregon, 331, 333–334
Catholic Church, negotiations with Mexican Government, good offices of U. S. Ambassador in facilitating, 326–335

Mexico—Continued.
Claims Commissions, General and Special, designation of third member by President of Administrative Council of the Hague Tribunal, 337–340
Claims conventions with United States, *Sept. 8, 1923*, and *Sept. 10, 1923*, cited, 338
Claims of U. S. citizens, U. S. position concerning relative priority, 321–323
Conventions with United States:
Claims conventions, *Sept. 8, 1923*, and *Sept. 10, 1923*, cited, 338
Livestock, convention for safeguarding through the prevention of infectious and contagious diseases, 308–321
Conference with United States concerning livestock: Arrangements for, 308–311; recommendation for conclusion of a convention, 311
Negotiations, 312–317
Text signed *Mar. 16*, 317–321
Creditors of Mexican Government, U. S. opposition to undue preference for any group, 321–323
Good offices of U. S. Ambassador in facilitating negotiations between Mexican Government and Roman Catholic Church, 326–335
Livestock convention. *See under* Conventions, *supra*.
Nicaraguan bandits, suppression of aid to, 570–571, 572, 581
Obregon, President-elect, assassination of, 331, 333–334
Oil lands. *See* Protection of rights of American owners, *infra*.
Protection of American interests at Manzanillo from attacks by revolutionists, U. S. representations concerning, 336–337
Protection of rights of American owners of oil lands, 292–308
Court decisions: Federal District Court, *Jan. 7*, reported, 296–297; Supreme Court of Justice, *Nov. 17, 1927*, cited, 294, 299, 306–307, 307
Petroleum law and regulations, amended:
Amendment to law of *Dec. 26, 1925:* Discussions concerning, 293–295, 295–298; Mexican assurances as to operation of confirmatory concessions under law as amended, 294: passage of legislation, and promulgation *Jan. 10*, 292, 293–294, 295; text, 293
Amendment to regulations of *Apr. 8, 1926:* Acceptance by
Mexico—Continued.
Protection of rights, etc.—Contd.
Petroleum law, etc.—Continued.
Amendment to regulations—Con.
Huasteca Petroleum Co., 308; information concerning, 298–301; text of Executive decree of *Mar. 27*, 301–306
Huasteca Petroleum Co., acceptance of new law and regulations, following Mexican assurances regarding operation, 293–295, 308
Statements concerning new law and regulations by U. S. Ambassador, 306–307; by U. S. Department of State, 307–308
U. S. views as to termination of ten-year discussions, 306–308
Religious situation, good offices of U. S. Ambassador in facilitating negotiations between Mexican Government and Roman Catholic Church, 326–335
U. S. citizens (*see also* Protection of rights, *supra*), U. S. position concerning relative priority of claims, 321–323
U. S. representations concerning protection of American interests at Manzanillo from attacks by revolutionists, 336–337
Missionaries, American (*see also* Turkey: American school at Brusa):
Hejaz and Nejd, opposition of authorities to entry of missionaries, 62–68
Position in Persia. *See under* Persia: Capitulations: Negotiations.
Monks Contracting Co., 31–41
Morocco, 341–374
Act of Algeciras (*1906*), cited, 369, 371–372, 372, 373
Claims of British citizens in Spanish Zone, settlement of (*1923*), 360, 363–365
Claims of U. S. citizens against Spanish Government, negotiations for settlement as prerequisite to proposed U. S. recognition of Spanish Zone, 344–367
Joint examination of claims by U. S. and Spanish diplomatic agents at Tangier:
Arrangements for, 344–348, 349–351
Report of findings and recommendations: Comments of U. S. representative, 351–353; text signed *July 12*, 353–357; U. S. efforts for settlement on basis of, 348–349, 357–367
Summary of claims, 356–357

Morocco—Continued.
Claims of U. S. citizens, etc.—Contd.
Views of U. S. diplomatic agent at Tangier concerning U. S. recognition of Spanish Zone following settlement of claims, 348, 353, 366
French Zone, U. S. reservation of rights in application of taxes to U. S. citizens and protégés, 341–344
Recognition of Spanish Zone by United States, proposed. *See* Claims of U. S. citizens, *supra*.
Spanish Zone. *See* Claims of U. S. citizens, *supra*.
Tangier, proposed changes in status of, 367–374
Conference between French, Spanish, British, and Italian Governments regarding future administration of Tangier:
Agreement reached at conference, 373–374
Plans and reports concerning, 368, 369, 370, 371
U. S. reservation of position as to rights and interests in Morocco and Tangier, 368, 371, 371–372, 374; Spanish attitude, 372
French-Spanish agreement signed *Mar. 3*, reports concerning, 367–368, 369, 369–371
Taxation of U. S. citizens and protégés, U. S. policy and reservation of rights concerning, 341–344, 347–348
U. S. citizens. *See* Claims of U. S. citizens *and* Taxation, *supra*.
Most-favored-nation treatment:
Treaties and agreements (*see also* U. S. policy, *infra*):
U. S.–Greece: Exchange of notes according mutual unconditional most-favored-nation treatment in customs matters (*1924*), cited, 709; inconclusive negotiations for treaty of friendship, commerce and consular rights, 18–25
U. S.–Latvia. *See* Latvia: Treaty of friendship, commerce and consular rights.
U. S.–Norway. *See* Norway.
U. S.–Persia. *See* Most-favored-nation treatment *under* Persia: Capitulations: Negotiations.
U. S.–Portugal. *See under* Portugal.
U. S.–Switzerland. *See* Switzerland: Treaties: Friendship, commerce and consular rights.
U. S.–Turkey. *See* Turkey: Treaties: Commercial treaties.
Most-favored-nation treatment—Contd.
U. S. policy in negotiating treaties of friendship, commerce and consular rights, citations to treaties concluded with Estonia, Germany, Honduras, Hungary, and Salvador, 19, 20, 23, 158–169, 173–175, 182–183, 184, 186, 190, 197, 204, 205, 224, 225, 596, 597, 598, 775, 789, 914

Naturalization treaties between United States and—
Greece, proposed, 19, 25–31
Persia, suggestion of U. S. Minister, 733
Nederlandsche Koloniale Petroleum Maatschappij, concession in Netherlands East Indies, 376, 377, 379, 380, 381, 386–390, 402
Netherlands, 375–417
Arbitration treaty with—
France, *1928*, cited, 415
Germany, *1926*, cited, 414, 415
United States. *See under* Treaties, *infra*.
Petroleum resources, understanding with United States concerning reciprocal access to, 375–407
Exchange of communications comprising understanding, 398–402, 402–404; discussions as to certain contingencies, 401–402, 404–407
Negotiations:
Desire of Netherlands for recognition as reciprocating country under U. S. Mineral Leasing Act of *1920*, and U. S. position (*see also* Nederlandsche Koloniale Petroleum Maatschappij, *infra*), 375–377, 379–383, 384–385, 390–396
Nederlandsche Koloniale Petroleum Maatschappij (subsidiary of Standard Oil Co. of New Jersey), negotiations for concession in Netherlands East Indies, 376, 377, 379, 380, 381, 386–390, 402
Open-door policy in Netherlands East Indies, 376, 387, 392, 395–396, 396, 397
Shell Union Oil Corp., question of nationality, 386, 387, 389, 392–393, 394
U. S. naval oil reserves, question of, 378–379, 396–398
Standard Oil Co. of New Jersey. *See* Negotiations: Nederlandsche Koloniale Petroleum Maatschappij, *supra*.
U. S. note of *July 21* recognizing Netherlands as reciprocating country, 403

Netherlands—Continued.
Treaties with United States:
Arbitration treaty, proposed, 412–417
Agreement renewing convention of *1908* pending conclusion of treaty: Proposal, 416–417; signature, *Feb. 27, 1929*, 417*n*
Negotiations, 412–416
Peace, advancement of, treaty and interpretative protocol, 407–411
Exchange of notes relative to *art. 2*, 411
Protocol interpretative of *art. 1*: Netherlands desire for, 407–408; text signed *Feb. 13*, 410–411
Treaty signed *Dec. 18, 1913*, text, 408–410
Neutrality of Switzerland, question of U. S. declaration concerning, 895–897, 910, 918–919
Nicaragua, 418–592
Bandit activities, 508, 514, 559–592
Activities of Sandino and bandit followers, 564, 566–567, 570, 572, 573, 574–576, 576–577, 583–584, 590
Amnesty decrees by Nicaraguan Government, 582, 585–586
Declaration of state of war by Nicaraguan Government, question of, 560–561
Efforts to suppress aid to Sandino from—
Costa Rica, 579–580, 586–587, 589, 591–592
Guatemala, 567, 568, 580
Honduras, 559–560, 566, 576, 578, 581–582, 582–583
Mexico, 567, 570–571, 572, 581
Salvador, 580–581
United States, 567, 568, 570, 573–574, 578, 584
Efforts toward peaceful settlement by President Diaz, 582, 585–586; by U. S. naval commander, 561–563, 569
Guardia Nacional, assistance in suppressing, 508, 564, 565–566, 567, 577, 586, 589, 590
Political aspects of, 508, 565, 566–567, 577, 588–589, 590
U. S. marines, activities against bandit groups, 514, 559, 563–564, 565–566, 570, 571–572, 572, 573, 574, 576–577, 583–584, 585, 588, 589
Boundary dispute with Colombia, 592
Claims, question of payment, 527, 533, 545, 546, 547–548, 550, 551, 552
Cumberland, Dr. W. W. *See* Finances: Survey by Dr. W. W. Cumberland, *infra*.
Nicaragua—Continued.
Elections, 418–522, 534, 536, 537–539, 559
Candidates for Presidency (*see also 1932* elections, *infra*):
Benard, Adolfo, selection as Conservative candidate, 502
Difficulties of Conservative party in selecting a candidate: Attitude of Gen. McCoy, 498–499; information concerning, 468, 486–487, 488–491, 492, 494–497, 499–502; U. S. attitude, 469–470, 486, 487, 491–492, 492–493, 497–498
Moncada: Acceptance of nomination by National Board of Elections despite opposition of Conservative member, 503–505; election and inauguration, 519, 522; official nomination, 468
Electoral law (*see also* Revised electoral law, *infra*):
Attitude of Nicaraguan Foreign Minister, 421, 428–429, 434–435, 438, 446, 453; of President Diaz, 421, 428, 433, 442, 454, 459
Constitutionality, question of, 418–420, 422, 428, 434, 436, 452–453
Opposition by Chamber of Deputies, 421, 422, 436, 438, 440, 450; by Chamorro, 418, 422–423, 427, 428, 450, 455, 459
Senate approval, 418
Substitute project, proposed, 422, 425, 436–437, 440–442, 442; U. S. opposition, 422, 436–437, 440, 444–445
Text, 447–449
U. S. efforts to secure passage, 418–420, 422–423, 424–425, 425–435, 437–438, 439–440, 440–441, 442, 443–444, 451
Exchange of messages between President Coolidge and President Diaz upon satisfactory completion of elections, 515–516
Executive decree as basis for proceeding with elections under supervision of National Board of Elections:
Proposal, following defeat of revised electoral law, 476–477; U. S. approval, 478, 480
Provisions for placing Gen. McCoy in control of electoral machinery, 476–477, 478, 479–481, 485–486; for utilization of *Guardia Nacional* in connection with elections, 478, 481–482
Text, promulgated *Mar. 21*, 482–485

Nicaragua—Continued.
Elections—Continued.
Financial controls, relation to, 534, 536, 537–539, 559
Guardia Nacional, functions in connection with, 468, 478, 481–482, 507–508, 518
McCoy, Gen. Frank R., mission to Nicaragua:
Instructions to proceed to Nicaragua, 438; arrival, 447
Supervision of electoral machinery. *See* Executive decree, *supra, and* National Board of Elections, *infra.*
National Board of Elections (*see also* Executive decree, *supra*):
Decisions regarding nominations for Presidency, 502–503, 503–505
McCoy, Gen. Frank R.: Election as president of Board, and designation of alternate, 479–481, 485–486; resignation as president, *Dec. 15*, 520
Position in regard to factional disputes in Conservative party, question of, 489, 491–492, 493, 499–500
Reports and decisions relative to results of elections, 517–518, 519, 521, 522
1932 elections, agreement between Moncada and Benard concerning supervision by United States: Proposal of Moncada, and U. S. attitude, 505–507, 509; texts of letters exchanged between Moncada and Benard, 510–513
Reports on conduct of elections, 505, 507–509, 513–515, 517, 518
Resignation of President Diaz, question of, 432–433, 435, 438, 442
Results, 515, 517–518, 519–522
Revised electoral law proposed by Foreign Minister (*see also* Executive decree, *supra*): Attitude of President Diaz, 464, 470, 472, 474; efforts of Foreign Minister to secure passage, 455–456, 460–461, 462, 465–466, 475; opposition by Chamorro and certain Conservatives, 461, 462–463, 467–468, 470, 474–475, 475; rejection by Chamber of Deputies, *Mar. 13*, 476; suggestions and discussions in regard to, 439, 440, 440–441, 443–444, 446, 450, 451–452. 453, 454–455, 459; text, 456–458; U. S. approval and efforts to secure passage, 458, 465, 466–467, 470, 472–474, 475–476, 477
Tipitapa agreement: Obligations of Nicaraguan Government under, 427, 433, 433–434, 461, 465, 473; obstruction by Chamorro and followers, 418, 428, 444, 450, 455, 461, 463, 468, 471; U. S. determination to fulfill obligations under, 421, 424, 427, 433, 445, 450, 454, 455, 463–464, 465, 470, 471, 473
U. S. assistance in supervision of. *See* Electoral law; McCoy, Gen. Frank R.; Revised electoral law; *and* Tipitapa agreement, *supra; also* U. S. marines *and* U. S. policy, *infra.*
U. S. marines, functions in connection with, 432, 507, 508, 514, 518
U. S. policy in connection with, 420, 424–425, 429–430, 431, 445–446, 450, 453–454, 463–464, 464–465, 469–470, 471, 487, 492
U. S. position concerning eligibility of candidates, 420, 423
Finances, 523–559
Administrative practices, proposed revision of, 528, 529–533, 541, 546–547, 547, 548–549, 550
Bankers' plan for financial reorganization: Information and discussions concerning, 544–545, 546, 546–553; postponement of negotiations, decision of bankers, and attitude of Nicaraguan Government, 553–556
Claims, question of payment, 527, 528, 533, 545, 546, 547–548, 550, 551, 552
Cumberland, Dr. W. W., financial and economic survey. *See* Survey, *infra.*
Elections, relation of financial controls to, 534, 536, 537–539, 559
Guardia Nacional, proposals providing for support of, 528, 534, 535, 536, 540, 542, 547, 549–550, 554, 557, 558, 559
Loans: Flotation of new loan, question of, 528, 530, 535, 536–537, 539, 541, 543, 545, 546, 550, 554, 555, 556; $1,000,000 loan of *1927*, final payment, *Apr. 21*, 537
National Bank of Nicaragua, question of sale or hypothecation of controlling interest, 528, 532, 535, 536, 538, 539, 540, 542, 544, 548, 551
Nature of problem, 525–526, 527–528, 533–534
Plans for financial reorganization. *See* Bankers' plan, *supra, and* Survey by Dr. W. W. Cumberland, *infra.*

Nicaragua—Continued.
Finances—Continued.
Railways:
Atlantic, proposed construction of, 528, 544, 545, 545–546, 547, 550, 554, 556
Pacific: Declaration of dividend, 557–558, 559; proposed authorization to contract loan, 532–533, 536, 538, 541, 544
Revolutionary claims. *See* Claims, *supra.*
Survey by Dr. W. W. Cumberland of economic and financial needs:
Financial plan: Advisability of adoption, and arrangements for working out of plan, 533–542; American bankers, attitude, 542–544; description, 529–533; Nicaraguan political leaders, attitude, 545–546; preparation and presentation to U. S. Department of State, 523, 524–525, 526–529
Report on economic needs, information and discussions regarding, 523, 525, 526–529
U. S. cooperation in rearranging finances. *See* Bankers' plan *and* Survey by Dr. W. W. Cumberland: Financial plan, *supra.*
Guardia Nacional. See under Bandit activities. Elections, *and* Finances, *supra.*
Loans. *See under* Finances, *supra.*
McCoy, Gen. Frank R. *See under* Elections, *supra.*
Railways. *See under* Finances, *supra.*
Revolutionary claims. *See* Claims, *supra.*
Stimson agreement. *See* Elections: Tipitapa agreement, *supra.*
Supreme Court, election of Gen. McCoy as president of National Board of Elections, 479, 481
Tipitapa agreement. *See under* Elections, *supra.*
U. S. marines: Activities against bandit groups, 514, 559, 563–564, 565–566, 570, 571–572, 572–573, 574, 576–577, 583–584, 585, 588, 589; functions in connection with elections, 432, 507, 508, 514, 518
Norway, treaty of friendship, commerce and consular rights with United States, supplanting treaty of *July 4, 1827*, 593–662
Additional article: Proposal, 644–646; text signed *Feb. 25, 1929*, 661
Exceptions to most-favored-nation treatment, 606, 618–619, 635, 642
Exchange of notes concerning tariff treatment of Norwegian sardines: Negotiations, 615, 629–630, 641–642; texts signed *June 5*, 662
Norway, treaty of friendship, etc.—Con.
Negotiations, 593–643
Signature, 640, 643
Text of treaty signed *June 5, 1928*, 646–661; of additional article signed *Feb. 25, 1929*, 661; of exchange of notes signed *June 5, 1928*, 662

Oil properties and concessions. *See* Mexico: Protection of rights of American owners; Netherlands: Petroleum resources; Rumania: Subsoil rights in leased oil lands; Spain: Petroleum monopoly.
Open-door principle with respect to Greece, 36, 43; Netherlands East Indies, 376, 387, 392, 395–396, 396, 397; Tangier, 371–372, 372

Panama, 663–680
Belligerency. *See* War, *infra.*
Elections, U. S. intention not to supervise, 678
Representations respecting President Coolidge's statement classifying Canal Zone as U. S. possession, 679–680; U. S. position, 680
Treaties with United States: Treaty of *1903*, cited, 663, 664, 664–665, 666, 668, 672, 673, 674, 675, 676, 679; unperfected treaty of *July 28, 1926*, Panaman proposals for modification, 663–677
War, declaration of, Panaman interpretation of its obligations in the event of armed conflict to which United States is a party, 675–677
Panama Canal, attitude of Panama in regard to its obligations concerning the defense of, 675–677
Paraguay, boundary dispute with Bolivia, 681
Persia, 682–749
Capitulations, termination of, provisional agreements with capitulatory powers pending conclusion of new treaties, 682–745
Conclusion of agreements with Great Britain, France, Germany and Belgium, 718, 718*n*
Exchange of notes with United States following termination of treaty of *1856* (*see also* Negotiations and discussions, *infra*):
Negotiations, 709–710, 712–724, 734–736, 737–740, 741–742
Texts of notes:
Diplomatic, consular, tariff, and other relations, signed *May 14*, together with Persian declaration as to safeguards for U. S. citizens, 724–732; exchange of letters (*June 3* and *June 21*)

Persia—Continued.
Capitulations, termination of, etc.—Continued.
Exchange of notes with United States—Continued.
Texts of notes—Continued.
regarding competence of U. S. Consular Courts, 740–741
Personal status and family law jurisdiction, signed *July 11*, 742–744
Work of American missionaries, signed *May 14*, 732
Negotiations and discussions concerning—
Cooperation among the powers for establishment of agreements with Persia, 684, 686–687, 688–689, 690, 690–691, 692–693, 700–701, 704, 707, 710, 711, 712, 713
Missionaries and educational institutions, 690, 696, 703, 705–706, 706, 720–721
Most-favored-nation treatment in customs matters, 682, 683, 685–686, 687, 690, 691, 694, 697, 703, 705, 706, 709, 714, 717, 719, 719–720, 722
Personal status and family law jurisdiction, 695, 703, 704–705, 713, 714–715, 717–718, 718–719, 721, 722, 723, 734–736, 737–740, 741–742
Safeguards for foreign nationals, 683–685, 686–687, 688–690, 692–693, 694, 695, 696–697, 699, 699–700, 701–703, 703–704, 706, 707, 707–708, 709–714, 715, 720
Views of powers concerning negotiation of new treaties, 682, 683, 686–687, 690, 690–691, 693–694, 694, 695–696, 699–700, 701–702, 705, 709; Persian attitude, 697–699, 706
Treaties with United States:
Arbitration and conciliation treaties, inconclusive negotiations, 746–749
Friendship and commerce, *1856*, termination of:
Provisional agreement, signed *May 14* and *July 11*, following termination of treaty. *See* Capitulations, termination of: Exchange of notes, *supra*.
U. S. classification of Persian subjects as nontreaty aliens following Persian abrogation of treaty, 736–737, 744–745
U. S. submittal of draft for new commercial treaty, information concerning, 745
Persia—Continued.
Treaties with United States—Contd.
Naturalization agreement, suggestion of U. S. Minister, 733
Peru, Tacna-Arica dispute, 750
Petroleum. *See* Mexico: Protection of rights of American owners of oil lands; Netherlands: Petroleum resources; Rumania: Subsoil rights in leased oil lands; Spain: Petroleum monopoly.
Poland, treaties with United States, 751–767
Arbitration treaty: Draft text (Polish), 753–755; negotiations, 751–763; text signed *Aug. 16*, 763–765
Conciliation treaty: Draft text (Polish), 755–757; negotiations, 751–763; text signed *Aug. 16*, 765–767
Portugal, 768–797
Regulations regarding jurisdiction on board foreign ships in Portuguese waters, and request for U. S. reciprocal action, 790, 793, 794; U. S. position, 790–792, 793–794, 795–797
Shipping discriminations, 768–789
Decree of *Feb. 15* granting subsidies to Portuguese vessels, text, 782
League of Nations loan, possible influence on shipping question, 771, 772
Representations by United States and other powers:
Portuguese position: Acceptance in principle of equality of treatment, and explanation of delay in action, 770, 771, 773, 780; review and summary of position, 784–787, 788–789
Protests of Great Britain and other powers concerning customs rebates, port charges, and subsidies, 769–770, 771, 773, 774, 776, 777–780, 786–787; U. S. difference of opinion regarding subsidies, 774, 775–776, 776, 779, 783
U. S. protests concerning customs rebates and port charges, 768–769, 770–771, 776, 779–780, 781, 787, 788
Tobacco situation, résumé of, 768–769, 771–772
Treaties and agreements with United States: Commercial agreement of *1910*, interpretation in regard to most-favored-nation treatment in consular matters, 793–797; friendship, commerce and consular rights, U. S. interest in treaty of, 774–775, 776–777, 780, 783–784, 786, 788–789
Protocols. *See* Treaties, conventions, etc.

Radio communication. *See under* Liberia.
Radio Corporation of America. *See under* Liberia: Radio communication.
Recognition of Spanish Zone of Morocco by United States. *See* Morocco: Claims of U. S. citizens.
Refugee Settlement Commission (Hellenic), 4, 5, 8–9, 11, 12
Refugees in Turkey, Russian, American aid in evacuation of, 981–988
Revolutionists, doctrine of responsibility of governments for acts of successful revolutionists, 55, 58–59
Romano-Americana Co. *See under* Rumania: Subsoil rights in leased oil lands.
Root treaties of arbitration (*1908*), cited, 102, 103, 136, 145, 412, 414, 416, 751, 879, 880, 937
Rumania, 798–821
Anti-Semitic activity, protests by American Jewish groups, and U. S. attitude, 819–821
Claims, American, question of payment, 815–816
Commercial treaty with United States, U. S. interest in, 814, 815, 817, 818
Financial situation, 815–818
Loan in American market, refusal of U. S. Department of State to associate the flotation of a loan with questions pending between United States and Rumania, 814–819
Subsoil rights in leased oil lands, efforts to reach settlement concerning, 798–814
Eldorado Co., settlement with, 801, 804
Mining Law of *1924:*
Regulations of *June 8, 1928. See* Mining Law regulations, *infra.*
Text of certain articles, 806–807
Mining Law regulations of *June 8:* Information concerning, 808–810; informal action of U. S. Chargé on behalf of American interests, 810–811, 813; Rumanian promise to modify certain features, 811–812, 814
Romano-Americana Co., question of restoration of subsoil rights (*see also* Mining Law regulations of *June 8, supra*):
Draft convention for settlement: Text and comments, 803, 805, 812–813; articles of Rumanian Mining Law of *1924* not applicable to convention, 806–807
Historical summaries of case, 800–802, 803–805
Rumanian assurances concerning, 798–802, 813
Russia (*see also* Japan: Fur seals convention of *1911*), 822–831, 840, 981–988
Gold of Soviet origin, continued refusal of U. S. mints and assay offices to accept, 827–831
Refugees in Turkey, American aid in evacuation of, 981–988
Spain, recognition of Soviet regime in return for oil supplies, consideration of, 840
Trade with United States, statistics, 825
U. S. policy toward infringements by Americans upon foreign rights in Russia, 826–827; toward Soviet regime, 822–825

Salvador: Nicaraguan bandits, suppression of aid to, 580–581; treaty of friendship, commerce and consular rights, *Feb. 22, 1926*, U. S. policy in negotiating similar treaties with other countries, 158–169, 173, 596–597, 598
Seamen's Act of *1915*, cited, 172–173
Seligman & Co., 38–41, 530
Shell Union Oil Corp., 386, 387, 389, 392–393, 394
Shipping. *See* Portugal: Shipping discriminations.
Siam, commercial treaty with United States (*1920*), cited, 199
Smuggling of intoxicating liquors, conventions for prevention of. *See under* Greece: Agreements; *and under* Japan: Treaties.
Spain (*see also* Morocco), 832–881
Petroleum monopoly, question of compensation for expropriated properties, 832–878
Representations of U. S. and other governments for fair compensation to oil companies (*see also* Valuation Commission, *infra*):
Arbitration, French consideration of recourse to, 874–878
British attitude, 841, 842–843, 847, 849–850, 852, 873–874, 878
French attitude and representations, 839–840, 842, 844, 873; consideration of recourse to arbitration, 874–878
Joint action by British, French, and U. S. Governments, question of, 842, 843, 846, 850–851
U. S. attitude and representations for fair compensation to American companies, 832, 833–835, 835–839, 840, 841, 845–846, 871–873, 874, 875, 876–877, 877–878; Spanish attitude, 832–833, 833–834, 835, 835–839, 871–873

Spain—Continued.
Petroleum monopoly, etc.—Contd.
Valuation Commission, proceedings:
Claims of oil companies as to value of properties, 850
Protests of oil companies and of U. S., British, and French Governments against methods of Commission, 840–841, 843, 844, 845, 846, 848–849, 851, 852, 854; assurances of Spanish Government and establishment of new rules of procedure, 853–854, 855–861
Reports on activities of Commission under revised rules, and further representations of foreign governments, 861–871
Russia, desire for recognition of Soviet regime in return for oil supplies, 840
Treaty of arbitration with United States, proposed, 879–881
Standard Oil Co. (*see also* Rumania: Subsoil rights: Romano-Americana Co.; Spain: Petroleum monopoly): California Standard Oil Co. of Mexico, protection of interests at Manzanillo against revolutionists, 336–337; Netherlands subsidiary, concession in Netherlands East Indies, 376, 377, 379, 380, 381, 386–390, 402
Sweden, 882–893
Taxation of resident aliens in United States and Sweden, U. S. proposal of reciprocal treatment regarding, 885–893
Negotiations, 885–888, 889–892
Swedish Royal Decree of *May 4*, text, 888–889
U. S. Treasury statement, 893
Treaty of arbitration with United States, 882–884
Negotiations, 882
Text signed *Oct. 27*, 883–884
Switzerland, 894–939
Neutrality of, question of U. S. declaration concerning, 895–897, 910, 918–919
Treaties with United States:
Arbitration and conciliation, proposed, 937–939; signature, *Feb. 16, 1931*, 939
Friendship, commerce and consular rights, inconclusive negotiations based on U. S. proposal of *1926*, 894–936
Discussions concerning U. S. draft, 894–895, 911–916, 926
Swiss counterproposal for negotiation of two treaties:
Desire for separate treaties of friendship and of commerce, 895, 897
Switzerland, etc.—Continued.
Treaties with United States—Contd.
Friendship, etc.—Continued.
Swiss counterproposal, etc.—Con.
Drafts: Presentation and discussions, 897–901, 908–910, 919–926, 926–930, 934–936; texts, 901–908, 930–934
Tacna-Arica dispute, 750
Tangier. *See under* Morocco.
Tariff act of *1909*, 793–794, 795–797; of *1922*, 105–106, 107, 703, 959, 964
Taxation. *See under* Latvia, Morocco, *and* Sweden.
Treaties, conventions, etc.:
Arbitration. *See* Arbitration treaties.
Barcelona convention on freedom of transit (*1921*), 168, 191, 193, 195, 200–201, 204, 607, 620
Bryan treaties for the advancement of peace, cited, 136, 139, 140, 412–414, 746, 747, 751, 752, 880–881, 881, 937, 938, 939, 940
Central American treaties of *1923*, cited, 568, 581–582, 583
Claims conventions of *Sept. 8, 1923*, and *Sept. 10, 1923*, between United States and Mexico, cited, 338
Commercial agreements. *See* Commercial treaties and agreements.
Conciliation. *See* Conciliation treaties.
Consular convention between United States and Cuba (*1926*), cited, 609
Exchange of populations between Greece and Turkey, convention of *1923*. *See under* Greece.
Fur seals convention of *1911* between United States, Japan, Great Britain, and Russia. *See under* Japan.
Hague convention of *1907* for pacific settlement of international disputes, cited, 338, 414, 761, 939
Lausanne, Allied treaty of *July 24, 1923*, cited, 26, 45, 52, 53, 953, 957
Livestock convention between United States and Mexico. *See under* Mexico: Conventions.
Loan agreements. *See under* Greece.
Morocco, agreements concerning. *See* Morocco: Tangier.
Most-favored-nation treatment, treaties and agreements according. *See* Most-favored-nation treatment.
Naturalization treaties between United States and—
Greece, proposed, 19, 25–31
Persia, suggestion of U. S. Minister, 733
Peace (*see also* Bryan treaties, *supra*), treaty for the advancement of, U. S.–Netherlands. *See under* Netherlands: Treaties.

Treaties, conventions, etc.—Continued.
Root treaties of arbitration (*1908*), cited, 102, 103, 136, 148, 412, 414, 416, 751, 879, 880, 937
Smuggling of intoxicating liquors. *See under* Greece: Agreements; *and under* Japan: Treaties.
Tipitapa agreement. *See under* Nicaragua: Elections.
Treaty for the renunciation of war, 943, 944
U. S.–Cuba, consular convention of *1926*, cited, 609
U. S.–Estonia. *See* Estonia.
U. S.–France, arbitration treaty (*1928*), cited, 139, 140, 412, 751, 879, 880, 895, 937, 938, 940, 943, 946
U. S.–Germany. *See under* Germany.
U. S.–Greece. *See* Greece: Agreements.
U. S.–Italy. *See under* Italy.
U. S.–Japan. *See under* Japan.
U. S.–Latvia. *See* Latvia: Treaty of friendship, commerce and consular rights.
U. S.–Lithuania: Arbitration treaty, text signed *Nov. 14*, 283–285; conciliation treaty, text signed *Nov. 14*, 285–287
U. S.–Mexico. *See* Mexico: Conventions.
U. S.–Netherlands. *See under* Netherlands.
U. S.–Norway. *See* Norway.
U. S.–Panama. *See under* Panama.
U. S.–Persia. *See under* Persia.
U. S.–Poland. *See* Poland.
U. S.–Portugal. *See under* Portugal.
U. S.–Siam (*1920*), cited, 199
U. S.–Spain, arbitration treaty, proposed, 879–881
U. S.–Sweden, arbitration treaty, negotiations and text signed *Oct. 27*, 882–884
U. S.–Switzerland. *See under* Switzerland.
U. S.–Turkey. *See under* Turkey.
Treaty rights, alleged infringement. *See under* Italy.
Turkey (*see also* Greece: Exchange of Greek and Turkish populations), 940–988
American school at Brusa, closing of, and trial of American teachers on charge of teaching Christianity, 964–981
Russian refugees in Turkey, American aid in evacuation of, 981–988
Treaties and agreements with United States:
Arbitration and conciliation treaties, inconclusive negotiations, 940–950
Turkey—Continued.
Treaties and agreements with United States—Continued.
Commercial treaties and agreements, 940, 941, 944–945, 950–964
Formal commercial treaty, question of negotiation, 958–964
Modus vivendi of *Feb. 17, 1927*, extension to *Apr. 10, 1929*: Exchange of notes signed *May 19*, texts, 953–954; negotiations, 940, 941, 944–945, 950–953, 955–956; question of further extension pending possible conclusion of commercial treaty, 957–964
General treaty signed at Lausanne *Aug. 6, 1923*, 944, 951, 953, 954, 962, 963

Ulen & Co., 31–41
Union of Soviet Socialist Republics. *See* Russia.
U. S. citizens (*see also* Latvia: Tax; Mexico: Protection of rights of American owners of oil lands; Morocco: Taxation):
Claims against—
Greek Government for property confiscated by Turkey, 49–53
Mexican Government, U. S. position concerning relative priority, 321–323
Rumanian Government, question of payment, 815–816
Spanish Government. *See under* Morocco.
Foreign obligations purchased by, U. S. attitude regarding, 88, 93
Participation in revolutionary movements, attitude of U. S. Government, 72, 73
Safeguards for. *See under* Persia: Capitulations: Negotiations.
U. S. Congress, consideration and approval of terms of settlement of Greek war debt to United States, 8–13
U. S. Consular Courts, exchange of notes between United States and Persia in regard to competence of, 740–741
U. S. customs agents, activities in Italy, 104–107
U. S. Department of Agriculture: Conference with Mexican Department of Agriculture and Fomento with regard to livestock, 308–311; letter of Secretary of Agriculture concerning proposed U. S.-Mexican convention for safeguarding of livestock interests, 313–315
U. S. Federal Courts. *See under* Italy: Treaty rights.
U. S. marines. *See under* Nicaragua.

U. S. naval vessels, presence in Honduran waters, 73–74, 75, 75–76
U. S. Treasury Department:
Agents in Italy, activities, 104–107
Policy regarding gold of Soviet origin, 827–828, 830–831; regarding taxation of Swedish nationals in United States, 893
War: Obligation to declare, Panaman interpretation of its obligations in the event of armed conflict to which United States is a party, 675–677; treaty for the renunciation of war, 943, 944
War debts. *See under* Greece.

O