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United States Department of State

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FOREIGN RELATIONS

OF

THE UNITED STATES,

WITH

THE ANNUAL MESSAGE OF THE PRESIDENT

TRANSMITTED TO CONGRESS

DECEMBER 6, 1904.



WASHINGTON:
GOVERNMENT PRINTING OFFICE.

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MESSAGE.

To the Senate and House of Representatives:

The Nation continues to enjoy noteworthy prosperity. Such prosperity is of course primarily due to the high individual average of our citizenship, taken together with our great natural resources; but an important factor therein is the working of our long-continued governmental policies. The people have emphatically expressed their approval of the principles underlying these policies, and their desire that these principles be kept substantially unchanged, although of course applied in a progressive spirit to meet changing conditions.

The enlargement of scope of the functions of the National Government required by our development as a nation involves, of course, increase of expense; and the period of prosperity through which the country is passing justifies expenditures for permanent improvements far greater than would be wise in hard times. Battle ships and forts, public buildings, and improved waterways are investments which should be made when we have the money; but abundant revenues and a large surplus always invite extravagance, and constant care should be taken to guard against unnecessary increase of the ordinary expenses of government. The cost of doing Government business should be regulated with the same rigid scrutiny as the cost of doing a private business.

In the vast and complicated mechanism of our modern civilized life the dominant note is the note of industrialism; and the relations of capital and labor, and especially of organized capital and organized labor, to each other and to the public at large come second in importance only to the intimate questions of family life. Our peculiar form of government, with its sharp division of authority between the Nation and the several States, has been on the whole far more

advantageous to our development than a more strongly centralized government. But it is undoubtedly responsible for much of the difficulty of meeting with adequate legislation the new problems presented by the total change in industrial conditions on this continent during the last half century. In actual practice it has proved exceedingly difficult, and in many cases impossible, to get unanimity of wise action among the various States on these subjects. From the very nature of the case this is especially true of the laws affecting the employment of capital in huge masses.

With regard to labor the problem is no less important, but it is simpler. As long as the States retain the primary control of the police power the circumstances must be altogether extreme which require interference by the Federal authorities, whether in the way of safeguarding the rights of labor or in the way of seeing that wrong is not done by unruly persons who shield themselves behind the name of labor. If there is resistance to the Federal courts, interference with the mails, or interstate commerce, or molestation of Federal property, or if the State authorities in some crisis which they are unable to face call for help, then the Federal Government may interfere; but though such interference may be caused by a condition of things arising out of trouble connected with some question of labor, the interference itself simply takes the form of restoring order without regard to the questions which have caused the breach of order—for to keep order is a primary duty and in a time of disorder and violence all other questions sink into abeyance until order has been restored. In the District of Columbia and in the Territories the Federal law covers the entire field of government; but the labor question is only acute in populous centers of commerce, manufactures, or mining. Nevertheless, both in the enactment and in the enforcement of law the Federal Government within its restricted sphere should set an example to the State governments, especially in a matter so vital as this affecting labor. I believe that under modern industrial conditions it is often necessary, and even where not necessary it is yet often wise, that there should be organization of labor in order better to secure the rights of the individual wage-worker. All encouragement should be given to any such organization, so long as it is conducted with a due and decent regard for the rights of others. There are in this country some labor unions which have habitually, and other labor unions which have often, been among the most effective agents in working for good citizenship and for uplifting the condition of those whose welfare should be closest to our hearts. But when any labor union

seeks improper ends, or seeks to achieve proper ends by improper means, all good citizens and more especially all honorable public servants must oppose the wrongdoing as resolutely as they would oppose the wrongdoing of any great corporation. Of course any violence, brutality, or corruption, should not for one moment be tolerated. Wage-workers have an entire right to organize and by all peaceful and honorable means to endeavor to persuade their fellows to join with them in organizations. They have a legal right, which, according to circumstances, may or may not be a moral right, to refuse to work in company with men who decline to join their organizations. They have under no circumstances the right to commit violence upon those, whether capitalists or wage-workers, who refuse to support their organizations, or who side with those with whom they are at odds; for mob rule is intolerable in any form.

The wage-workers are peculiarly entitled to the protection and the encouragement of the law. From the very nature of their occupation railroad men, for instance, are liable to be maimed in doing the legitimate work of their profession, unless the railroad

companies are required by law to make ample provision for their safety. The Administration has been zealous in enforcing the existing law for this purpose. That law should be amended and strengthened. Wherever the National Government has power there should be a stringent employer's liability law, which should apply to the Government itself where the Government is an employer of labor.

In my Message to the Fifty-seventh Congress, at its second session, I urged the passage of an employer's liability law for the District of Columbia. I now renew that recommendation, and further recommend that the Congress appoint a commission to make a comprehensive study of employer's liability with the view of extending the provisions of a great and constitutional law to all employments within the scope of Federal power.

The Government has recognized heroism upon the water, and bestows medals of honor upon those persons who by extreme and heroic daring have endangered their lives in saving, or endeavoring to save, lives from the perils of the sea in the waters over which the United States has jurisdiction, or upon an American vessel. This recognition should be extended to cover cases of conspicuous bravery and self-sacrifice in the saving of life in private employments under the jurisdiction of the United States, and particularly in the land commerce of the Nation.

The ever-increasing casualty list upon our railroads is a matter of grave public concern, and urgently calls for action by the Congress. In the matter of speed and comfort of railway travel our railroads give at least as good service as those of any other nation, and there is no reason why this service should not also be as safe as human ingenuity can make it. Many of our leading roads have been foremost in the adoption of the most approved safeguards for the protection of travelers and employees, yet the list of clearly avoidable accidents continues unduly large. The passage of a law requiring the adoption of a block-signal system has been proposed to the Congress. I earnestly concur in that recommendation, and would also point out to the Congress the urgent need of legislation in the interest of the public safety limiting the hours of labor for railroad employees in train service upon railroads engaged in interstate commerce, and providing that only trained and experienced persons be employed in positions of responsibility connected with the operation of trains. Of course nothing can ever prevent accidents caused by human weakness or misconduct; and there should be drastic punishment for any railroad employee, whether officer or man, who by issuance of wrong orders or by disobedience of orders causes disaster. The law of 1901, requiring interstate railroads to make monthly reports of all accidents to passengers and employees on duty, should also be amended so as to empower the Government to make a personal investigation, through proper officers, of all accidents involving loss of life which seem to require investigation, with a requirement that the results of such investigation be made public.

The safety-appliance law, as amended by the act of March 2, 1903, has proved beneficial to railway employees, and in order that its provisions may be properly carried out, the force of inspectors provided for by appropriation should be largely increased. This service is analogous to the Steamboat-Inspection Service, and deals with even more important interests. It has passed the experimental stage and demonstrated its utility, and should receive generous recognition by the Congress.

There is no objection to employees of the Government forming or belonging to unions; but the Government can neither discriminate for nor discriminate against nonunion men who are in its employment, or who seek to be employed under it. Moreover, it is a very grave impropriety for Government employees to band themselves together for the purpose of extorting improperly high salaries from the Government. Especially is this true of those

within the classified service. The letter carriers, both municipal and rural, are as a whole an excellent body of public servants. They should be amply paid. But their payment must be obtained

**Unions of
Government
employees.**

by arguing their claims fairly and honorably before the Congress, and not by banding together for the defeat of those Congressmen who refuse to give promises which they can not in conscience give.

The Administration has already taken steps to prevent and punish abuses of this nature; but it will be wise for the Congress to supplement this action by legislation.

Much can be done by the Government in labor matters merely by giving publicity to certain conditions. The Bureau of Labor has done excellent work of this kind in many different directions.

Bureau of Labor. I shall shortly lay before you in a special message the full report of the investigation of the Bureau of Labor into the Colorado mining strike, as this is a strike in which certain very evil forces, which are more or less at work everywhere under the conditions of modern industrialism, became startlingly prominent. It is greatly to be wished that the Department of Commerce and Labor, through the Labor Bureau, should compile and arrange for the Congress a list of the labor laws of the various States, and should be given the means to investigate and report to the Congress upon the labor conditions in the manufacturing and mining regions throughout the country, both as to wages, as to hours of labor, as to the labor of women and children, and as to the effect in the various labor centers of immigration from abroad. In this investigation especial attention should be paid to the conditions of child labor and child-labor legislation in the several States. Such an investigation must necessarily take into account many of the problems with which this question of child labor is connected. These problems can be actually met, in most cases, only by the States themselves; but the lack of proper legislation in one State in such a matter as child labor often renders it excessively difficult to establish protective restriction upon the work in another State having the same industries, so that the worst tends to drag down the better. For this reason, it would be well for the Nation at least to endeavor to secure comprehensive information as to the conditions of labor of children in the different States. Such investigation and publication by the National Government would tend toward the securing of approximately uniform legislation of the proper character among the several States.

When we come to deal with great corporations the need for the Government to act directly is far greater than in the case of labor, because great corporations can become such only by engaging in interstate commerce, and interstate commerce is peculiarly the field of the General Government.

Corporations.

It is an absurdity to expect to eliminate the abuses in great corporations by State action. It is difficult to be patient with an argument that such matters should be left to the States, because more than one State pursues the policy of creating on easy terms corporations which are never operated within that State at all, but in other States whose laws they ignore. The National Government alone can deal adequately with these great corporations. To try to deal with them in an intemperate, destructive, or demagogic spirit would, in all probability, mean that nothing whatever would be accomplished, and, with absolute certainty, that if anything were accomplished it would be of a harmful nature. The American people need to continue to show the very qualities that they have shown—that is, moderation, good sense, the earnest desire to avoid doing any damage, and yet the quiet determination to proceed, step by step, without halt and without hurry, in eliminating or at least in minimizing whatever of mischief or of evil there is to interstate commerce in the conduct of great corporations. They are acting in no spirit of hostility to wealth, either individual or corporate. They are not against the rich man any more than against the poor man. On the contrary, they are friendly alike toward rich man and toward poor man, provided only that each acts in a spirit of justice and decency toward his fellows. Great corporations are necessary, and only men of great and singular mental power can manage such corporations successfully, and such men must have great rewards. But these corporations should be managed with due regard to the interest of the public as a whole. Where this can be done under the present laws it must be done. Where these laws come short others should be enacted to supplement them.

Yet we must never forget the determining factor in every kind of work, of head or hand, must be the man's own good sense, courage, and kindness. More important than any legislation is the gradual growth of a feeling of responsibility and forbearance among capitalists and wage-workers alike; a feeling of respect on the part of each man for the rights of others; a feeling of broad community of interest, not merely of capitalists among themselves, and of wage-workers among themselves, but of capitalists and wage-workers in their relations to each other, and of both in their relations to their

fellows who with them make up the body politic. There are many captains of industry, many labor leaders, who realize this. A recent speech by the president of one of our great railroad systems to the employees of that system contains sound common sense. It runs in part as follows:

“It is my belief we can better serve each other, better understand the man as well as his business, when meeting face to face, exchanging views, and realizing from personal contact we serve but one interest, that of our mutual prosperity.

“Serious misunderstandings can not occur where personal good will exists and opportunity for personal explanation is present.

“In my early business life I had experience with men of affairs of a character to make me desire to avoid creating a like feeling of resentment to myself and the interests in my charge, should fortune ever place me in authority, and I am solicitous of a measure of confidence on the part of the public and our employees that I shall hope may be warranted by the fairness and good fellowship I intend shall prevail in our relationship.

“But do not feel I am disposed to grant unreasonable requests, spend the money of our company unnecessarily or without value received, nor expect the days of mistakes are disappearing, or that cause for complaint will not continually occur; simply to correct such abuses as may be discovered, to better conditions as fast as reasonably may be expected, constantly striving, with varying success, for that improvement we all desire, to convince you there is a force at work in the right direction, all the time making progress—is the disposition with which I have come among you, asking your good will and encouragement.

“The day has gone by when a corporation can be handled successfully in defiance of the public will, even though that will be unreasonable and wrong. A public may be led, but not driven, and I prefer to go with it and shape or modify, in a measure, its opinion, rather than be swept from my bearings, with loss to myself and the interests in my charge.

“Violent prejudice exists towards corporate activity and capital to-day, much of it founded in reason, more in apprehension, and a large measure is due to the personal traits of arbitrary, unreasonable, incompetent, and offensive men in positions of authority. The accomplishment of results by indirection, the endeavor to thwart the intention, if not the expressed letter of the law (the will of the people), a disregard of the rights of others, a disposition to withhold what is due, to force by main strength or inactivity a result not

justified, depending upon the weakness of the claimant and his indisposition to become involved in litigation, has created a sentiment harmful in the extreme and a disposition to consider anything fair that gives gain to the individual at the expense of the company.

“If corporations are to continue to do the world’s work, as they are best fitted to, these qualities in their representatives that have resulted in the present prejudice against them must be relegated to the background. The corporations must come out into the open and see and be seen. They must take the public into their confidence and ask for what they want, and no more, and be prepared to explain satisfactorily what advantage will accrue to the public if they are given their desires; for they are permitted to exist not that they may make money solely, but that they may effectively serve those from whom they derive their power.

“Publicity, and not secrecy, will win hereafter, and laws be construed by their intent and not by their letter, otherwise public utilities will be owned and operated by the public which created them, even though the service be less efficient and the result less satisfactory from a financial standpoint.”

The Bureau of Corporations has made careful preliminary investigation of many important corporations. It will make a special report on the beef industry.

The policy of the Bureau is to accomplish the purposes of its creation by cooperation, not antagonism; by making constructive legislation, not destructive prosecution, the immediate object of its inquiries; by conservative investigation of law and fact, and by refusal to issue incomplete and hence necessarily inaccurate reports. Its policy being thus one of open inquiry into, and not attack upon, business, the Bureau has been able to gain not only the confidence, but, better still, the cooperation of men engaged in legitimate business.

The Bureau offers to the Congress the means of getting at the cost of production of our various great staples of commerce.

Of necessity the careful investigation of special corporations will afford the Commissioner knowledge of certain business facts, the publication of which might be an improper infringement of private rights. The method of making public the results of these investigations affords, under the law, a means for the protection of private rights. The Congress will have all facts except such as would give to another corporation information which would injure the legitimate business of a competitor and destroy the incentive for individual superiority and thrift.

Bureau of
Corporations.

The Bureau has also made exhaustive examinations into the legal condition under which corporate business is carried on in the various States; into all judicial decisions on the subject; and into the various systems of corporate taxation in use. I call special attention to the report of the chief of the Bureau; and I earnestly ask that the Congress carefully consider the report and recommendations of the Commissioner on this subject.

The business of insurance vitally affects the great mass of the people of the United States and is national and not local in its application. It involves a multitude of transactions among the people of the different States and between American companies and foreign governments. I urge that the Congress carefully consider whether the power of the Bureau of Corporations can not constitutionally be extended to cover interstate transactions in insurance.

Above all else, we must strive to keep the highways of commerce open to all on equal terms; and to do this it is necessary to put a complete stop to all rebates. Whether the shipper or the railroad is to blame makes no difference; the rebate must be stopped, the abuses of the private car and private terminal-track and side-track systems must be stopped, and the legislation of the Fifty-eighth Congress which declares it to be unlawful for any person or corporation to offer, grant, give, solicit, accept, or receive any rebate, concession, or discrimination in respect of the transportation of any property in interstate or foreign commerce whereby such property shall by any device whatever be transported at a less rate than that named in the tariffs published by the carrier must be enforced. For some time after the enactment of the Act to Regulate Commerce it remained a mooted question whether that act conferred upon the Interstate Commerce Commission the power, after it had found a challenged rate to be unreasonable, to declare what thereafter should, *prima facie*, be the reasonable maximum rate for the transportation in dispute. The Supreme Court finally resolved that question in the negative, so that as the law now stands the Commission simply possess the bare power to denounce a particular rate as unreasonable. While I am of the opinion that at present it would be undesirable, if it were not impracticable, finally to clothe the Commission with general authority to fix railroad rates, I do believe that, as a fair security to shippers, the Commission should be vested with the power, where a given rate has been challenged and after full hearing found to be unreasonable, to decide, subject to judicial review, what

shall be a reasonable rate to take its place; the ruling of the Commission to take effect immediately, and to obtain unless and until it is reversed by the court of review. The Government must in increasing degree supervise and regulate the workings of the railways engaged in interstate commerce; and such increased supervision is the only alternative to an increase of the present evils on the one hand or a still more radical policy on the other. In my judgment the most important legislative act now needed as regards the regulation of corporations is this act to confer on the Interstate Commerce Commission the power to revise rates and regulations, the revised rate to at once go into effect, and to stay in effect unless and until the court of review reverses it.

Steamship companies engaged in interstate commerce and protected in our coastwise trade, should be held to a strict observance of the interstate commerce act.

In pursuing the set plan to make the city of Washington an example to other American municipalities several points should be kept in mind by the legislators. In the first place, the people of this country should clearly understand that no amount of industrial prosperity, and above all no leadership in international industrial competition, can in any way atone for the sapping of the vitality of those who are usually spoken of as the working classes. The farmers, the mechanics, the skilled and unskilled laborers, the small shopkeepers, make up the bulk of the population of any country; and upon their well-being, generation after generation, the well-being of the country and the race depends. Rapid development in wealth and industrial leadership is a good thing, but only if it goes hand in hand with improvement, and not deterioration, physical and moral. The overcrowding of cities and the draining of country districts are unhealthy and even dangerous symptoms in our modern life. We should not permit overcrowding in cities. In certain European cities it is provided by law that the population of towns shall not be allowed to exceed a very limited density for a given area, so that the increase in density must be continually pushed back into a broad zone around the center of the town, this zone having great avenues or parks within it. The death-rate statistics show a terrible increase in mortality, and especially in infant mortality, in overcrowded tenements. The poorest families in tenement houses live in one room, and it appears that in these one-room tenements the average death rate for a number of given cities at home and abroad is about twice what it is in a two-room

tenement, four times what it is in a three-room tenement, and eight times what it is in a tenement consisting of four rooms or over. These figures vary somewhat for different cities, but they approximate in each city those given above; and in all cases the increase of mortality, and especially of infant mortality, with the decrease in the number of rooms used by the family and with the consequent overcrowding is startling. The slum exacts a heavy total of death from those who dwell therein; and this is the case not merely in the great crowded slums of high buildings in New York and Chicago, but in the alley slums of Washington. In Washington people can not afford to ignore the harm that this causes. No Christian and civilized community can afford to show a happy-go-lucky lack of concern for the youth of to-day; for, if so, the community will have to pay a terrible penalty of financial burden and social degradation in the to-morrow. There should be severe child-labor and factory-inspection laws. It is very desirable that married women should not work in factories. The prime duty of the man is to work, to be the breadwinner; the prime duty of the woman is to be the mother, the housewife. All questions of tariff and finance sink into utter insignificance when compared with the tremendous, the vital importance of trying to shape conditions so that these two duties of the man and of the woman can be fulfilled under reasonably favorable circumstances. If a race does not have plenty of children, or if the children do not grow up, or if when they grow up they are unhealthy in body and stunted or vicious in mind, then that race is decadent, and no heaping up of wealth, no splendor of momentary material prosperity, can avail in any degree as offsets.

The Congress has the same power of legislation for the District of Columbia which the State legislatures have for the various States. The problems incident to our highly complex modern industrial civilization, with its manifold and perplexing tendencies both for good and for evil, are far less sharply accentuated in the city of Washington than in most other cities. For this very reason it is easier to deal with the various phases of these problems in Washington, and the District of Columbia government should be a model for the other municipal governments of the Nation, in all such matters as supervision of the housing of the poor, the creation of small parks in the districts inhabited by the poor, in laws affecting labor, in laws providing for the taking care of the children, in truant laws, and in providing schools.

In the vital matter of taking care of children, much advantage could be gained by a careful study of what has been accomplished

in such States as Illinois and Colorado by the juvenile courts. The work of the juvenile court is really a work of character building. It is now generally recognized that young boys and young girls who go wrong should not be treated as criminals, not even necessarily as needing reformation, but rather as needing to have their characters formed, and for this end to have them tested and developed by a system of probation. Much admirable work has been done in many of our Commonwealths by earnest men and women who have made a special study of the needs of those classes of children which furnish the greatest number of juvenile offenders, and therefore the greatest number of adult offenders; and by their aid, and by profiting by the experiences of the different States and cities in these matters, it would be easy to provide a good code for the District of Columbia.

Several considerations suggest the need for a systematic investigation into and improvement of housing conditions in Washington. The hidden residential alleys are breeding grounds of vice and disease, and should be opened into minor streets. For a number of years influential citizens have joined with the District Commissioners in the vain endeavor to secure laws permitting the condemnation of insanitary dwellings. The local death rates, especially from preventable diseases, are so unduly high as to suggest that the exceptional wholesomeness of Washington's better sections is offset by bad conditions in her poorer neighborhoods. A special "Commission on Housing and Health Conditions in the National Capital" would not only bring about the reformation of existing evils, but would also formulate an appropriate building code to protect the city from mammoth brick tenements and other evils which threaten to develop here as they have in other cities. That the Nation's Capital should be made a model for other municipalities is an ideal which appeals to all patriotic citizens everywhere, and such a special Commission might map out and organize the city's future development in lines of civic social service, just as Major L'Enfant and the recent Park Commission planned the arrangement of her streets and parks.

It is mortifying to remember that Washington has no compulsory school attendance law and that careful inquiries indicate the habitual absence from school of some twenty per cent of all children between the ages of eight and fourteen. It must be evident to all who consider the problems of neglected child life or the benefits of compulsory education in other cities that one of the most urgent needs of the National Capital is a law requiring the school attendance of all

children, this law to be enforced by attendance agents directed by the board of education.

Public play grounds are necessary means for the development of wholesome citizenship in modern cities. It is important that the work inaugurated here through voluntary efforts should be taken up and extended through Congressional appropriation of funds sufficient to equip and maintain numerous convenient small play grounds upon land which can be secured without purchase or rental. It is also desirable that small vacant places be purchased and reserved as small-park play grounds in densely settled sections of the city which now have no public open spaces and are destined soon to be built up solidly. All these needs should be met immediately. To meet them would entail expenses; but a corresponding saving could be made by stopping the building of streets and levelling of ground for purposes largely speculative in outlying parts of the city.

There are certain offenders, whose criminality takes the shape of brutality and cruelty towards the weak, who need a special type of punishment. The wife-beater, for example, is inadequately punished by imprisonment; for imprisonment may often mean nothing to him, while it may cause hunger and want to the wife and children who have been the victims of his brutality. Probably some form of corporal punishment would be the most adequate way of meeting this kind of crime.

The Department of Agriculture has grown into an educational institution with a faculty of two thousand specialists making research into all the sciences of production. The Congress appropriates, directly and indirectly, six millions of dollars annually to carry on this work. It reaches every State and Territory in the Union and the islands of the sea lately come under our flag. Cooperation is had with the State experiment stations, and with many other institutions and individuals. The world is carefully searched for new varieties of grains, fruits, grasses, vegetables, trees, and shrubs, suitable to various localities in our country; and marked benefit to our producers has resulted.

The activities of our age in lines of research have reached the tillers of the soil and inspired them with ambition to know more of the principles that govern the forces of nature with which they have to deal. Nearly half of the people of this country devote their energies to growing things from the soil. Until a recent date little has been done to prepare these millions for their life work. In most lines of human activity college-trained men are the leaders. The farmer had no opportunity for special training

until the Congress made provision for it forty years ago. During these years progress has been made and teachers have been prepared. Over five thousand students are in attendance at our State agricultural colleges. The Federal Government expends ten millions of dollars annually toward this education and for research in Washington and in the several States and Territories. The Department of Agriculture has given facilities for post-graduate work to five hundred young men during the last seven years, preparing them for advanced lines of work in the Department and in the State institutions.

The facts concerning meteorology and its relations to plant and animal life are being systematically inquired into. Temperature and moisture are controlling factors in all agricultural operations. The seasons of the cyclones of the Caribbean Sea and their paths are being forecasted with increasing accuracy. The cold winds that come from the north are anticipated and their times and intensity told to farmers, gardeners, and fruiterers in all southern localities.

We sell two hundred and fifty million dollars' worth of animals and animal products to foreign countries every year, in addition to supplying our own people more cheaply and abundantly than any other nation is able to provide for its people. Successful manufacturing depends primarily on cheap food, which accounts to a considerable extent for our growth in this direction. The Department of Agriculture, by careful inspection of meats, guards the health of our people and gives clean bills of health to deserving exports; it is prepared to deal promptly with imported diseases of animals, and maintain the excellence of our flocks and herds in this respect. There should be an annual census of the live stock of the Nation.

We sell abroad about six hundred million dollars' worth of plants and their products every year. Strenuous efforts are being made to import from foreign countries such grains as are suitable to our varying localities. Seven years ago we bought three-fourths of our rice; by helping the rice growers on the Gulf coast to secure seeds from the Orient suited to their conditions, and by giving them adequate protection, they now supply home demand and export to the islands of the Caribbean Sea and to other rice-growing countries. Wheat and other grains have been imported from light-rainfall countries to our lands in the West and Southwest that have not grown crops because of light precipitation, resulting in an extensive addition to our cropping area and our home-making territory that can not be irrigated. Ten million bushels of first-class macaroni wheat were grown from these experimental importations last year.

Fruits suitable to our soils and climates are being imported from all the countries of the Old World—the fig from Turkey, the almond from Spain, the date from Algeria, the mango from India. We are helping our fruit growers to get their crops into European markets by studying methods of preservation through refrigeration, packing, and handling, which have been quite successful. We are helping our hop growers by importing varieties that ripen earlier and later than the kinds they have been raising, thereby lengthening the harvesting season. The cotton crop of the country is threatened with root rot, the bollworm, and the boll weevil. Our pathologists will find immune varieties that will resist the root disease, and the bollworm can be dealt with, but the boll weevil is a serious menace to the cotton crop. It is a Central American insect that has become acclimated in Texas and has done great damage. A scientist of the Department of Agriculture has found the weevil at home in Guatemala being kept in check by an ant, which has been brought to our cotton fields for observation. It is hoped that it may serve a good purpose.

The soils of the country are getting attention from the farmer's standpoint, and interesting results are following. We have duplicates of the soils that grow the wrapper tobacco in Sumatra and the filler tobacco in Cuba. It will be only a question of time when the large amounts paid to these countries will be paid to our own people. The reclamation of alkali lands is progressing, to give object lessons to our people in methods by which worthless lands may be made productive.

The insect friends and enemies of the farmer are getting attention. The enemy of the San Jose scale was found near the Great Wall of China, and is now cleaning up all our orchards. The fig-fertilizing insect imported from Turkey has helped to establish an industry in California that amounts to from fifty to one hundred tons of dried figs annually, and is extending over the Pacific coast. A parasitic fly from South Africa is keeping in subjection the black scale, the worst pest of the orange and lemon industry in California.

Careful preliminary work is being done towards producing our own silk. The mulberry is being distributed in large numbers, eggs are being imported and distributed, improved reels were imported from Europe last year, and two expert reelers were brought to Washington to reel the crop of cocoons and teach the art to our own people.

The crop-reporting system of the Department of Agriculture is being brought closer to accuracy every year. It has two hundred

and fifty thousand reporters selected from people in eight vocations in life. It has arrangements with most European countries for interchange of estimates, so that our people may know as nearly as possible with what they must compete.

During the two and a half years that have elapsed since the passage of the reclamation act rapid progress has been made in the surveys and examinations of the opportunities for reclamation in the thirteen States and three Territories of the arid West. Construction has already been begun on the largest and most important of the irrigation works, and plans are being completed for works which will utilize the funds now available. The operations are being carried on by the Reclamation Service, a corps of engineers selected through competitive civil-service examinations. This corps includes experienced consulting and constructing engineers as well as various experts in mechanical and legal matters, and is composed largely of men who have spent most of their lives in practical affairs connected with irrigation. The larger problems have been solved and it now remains to execute with care, economy, and thoroughness the work which has been laid out. All important details are being carefully considered by boards of consulting engineers, selected for their thorough knowledge and practical experience. Each project is taken up on the ground by competent men and viewed from the standpoint of the creation of prosperous homes, and of promptly refunding to the Treasury the cost of construction. The reclamation act has been found to be remarkably complete and effective, and so broad in its provisions that a wide range of undertakings has been possible under it. At the same time, economy is guaranteed by the fact that the funds must ultimately be returned to be used over again.

It is the cardinal principle of the forest-reserve policy of this Administration that the reserves are for use. Whatever interferes with the use of their resources is to be avoided by every possible means. But these resources must be used in such a way as to make them permanent.

The forest policy of the Government is just now a subject of vivid public interest throughout the West and to the people of the United States in general. The forest reserves themselves are of extreme value to the present as well as to the future welfare of all the western public-land States. They powerfully affect the use and disposal of the public lands. They are of special importance because they preserve the water supply and the supply of timber for domestic purposes, and so promote settlement under the reclamation act.

Indeed, they are essential to the welfare of every one of the great interests of the West.

Forest reserves are created for two principal purposes. The first is to preserve the water supply. This is their most important use. The principal users of the water thus preserved are irrigation ranchers and settlers, cities and towns to whom their municipal water supplies are of the very first importance, users and furnishers of water power, and the users of water for domestic, manufacturing, mining, and other purposes. All these are directly dependent upon the forest reserves.

The second reason for which forest reserves are created is to preserve the timber supply for various classes of wood users. Among the more important of these are settlers under the reclamation act and other acts, for whom a cheap and accessible supply of timber for domestic uses is absolutely necessary; miners and prospectors, who are in serious danger of losing their timber supply by fire or through export by lumber companies when timber lands adjacent to their mines pass into private ownership; lumbermen, transportation companies, builders, and commercial interests in general.

Although the wisdom of creating forest reserves is nearly everywhere heartily recognized, yet in a few localities there has been misunderstanding and complaint. The following statement is therefore desirable:

The forest-reserve policy can be successful only when it has the full support of the people of the West. It can not safely, and should not in any case, be imposed upon them against their will. But neither can we accept the views of those whose only interest in the forest is temporary; who are anxious to reap what they have not sown and then move away, leaving desolation behind them. On the contrary, it is everywhere and always the interest of the permanent settler and the permanent business man, the man with a stake in the country, which must be considered and which must decide.

The making of forest reserves within railroad and wagon-road land-grant limits will hereafter, as for the past three years, be so managed as to prevent the issue, under the act of June 4, 1897, of base for exchange or lieu selection (usually called scrip). In all cases where forest reserves within areas covered by land grants appear to be essential to the prosperity of settlers, miners, or others, the Government lands within such proposed forest reserves will, as in the recent past, be withdrawn from sale or entry pending the completion of such negotiations with the owners of the land grants as will prevent the creation of so-called scrip.

It was formerly the custom to make forest reserves without first getting definite and detailed information as to the character of land and timber within their boundaries. This method of action often resulted in badly chosen boundaries and consequent injustice to settlers and others. Therefore this Administration adopted the present method of first withdrawing the land from disposal, followed by careful examination on the ground and the preparation of detailed maps and descriptions, before any forest reserve is created.

I have repeatedly called attention to the confusion which exists in Government forest matters because the work is scattered among three independent organizations. The United States is the only one of the great nations in which the forest work of the Government is not concentrated under one department, in consonance with the plainest dictates of good administration and common sense. The present arrangement is bad from every point of view. Merely to mention it is to prove that it should be terminated at once. As I have repeatedly recommended, all the forest work of the Government should be concentrated in the Department of Agriculture, where the larger part of that work is already done, where practically all of the trained foresters of the Government are employed, where chiefly in Washington there is comprehensive first-hand knowledge of the problems of the reserves acquired on the ground, where all problems relating to growth from the soil are already gathered, and where all the sciences auxiliary to forestry are at hand for prompt and effective cooperation. These reasons are decisive in themselves, but it should be added that the great organizations of citizens whose interests are affected by the forest reserves, such as the National Live Stock Association, the National Wool Growers' Association, the American Mining Congress, the National Irrigation Congress, and the National Board of Trade, have uniformly, emphatically, and most of them repeatedly, expressed themselves in favor of placing all Government forest work in the Department of Agriculture because of the peculiar adaptation of that Department for it. It is true, also, that the forest services of nearly all the great nations of the world are under the respective departments of agriculture, while in but two of the smaller nations and in one colony are they under the department of the interior. This is the result of long and varied experience and it agrees fully with the requirements of good administration in our own case.

The creation of a forest service in the Department of Agriculture will have for its important results:

First. A better handling of all forest work, because it will be under a single head, and because the vast and indispensable experience of the Department in all matters pertaining to the forest reserves, to forestry in general, and to other forms of production from the soil, will be easily and rapidly accessible.

Second. The reserves themselves, being handled from the point of view of the man in the field, instead of the man in the office, will be more easily and more widely useful to the people of the West than has been the case hitherto.

Third. Within a comparatively short time the reserves will become self-supporting. This is important, because continually and rapidly increasing appropriations will be necessary for the proper care of this exceedingly important interest of the Nation, and they can and should be offset by returns from the National forests. Under similar circumstances the forest possessions of other great nations form an important source of revenue to their governments.

Every administrative officer concerned is convinced of the necessity for the proposed consolidation of forest work in the Department of Agriculture, and I myself have urged it more than once in former messages. Again I commend it to the early and favorable consideration of the Congress. The interests of the Nation at large and of the West in particular have suffered greatly because of the delay.

I call the attention of the Congress again to the report and recommendation of the Commission on the Public
Public lands. Lands forwarded by me to the second session of the present Congress. The Commission has prosecuted its investigations actively during the past season, and a second report is now in an advanced stage of preparation.

In connection with the work of the forest reserves I desire again to urge upon the Congress the importance of authorizing the President to set aside certain portions of these reserves
Game preserves. or other public lands as game refuges for the preservation of the bison, the wapiti, and other large beasts once so abundant in our woods and mountains and on our great plains, and now tending toward extinction. Every support should be given to the authorities of the Yellowstone Park in their successful efforts at preserving the large creatures therein; and at very little expense portions of the public domain in other regions which are wholly unsuited to agricultural settlement could be similarly utilized. We owe it to future generations to keep alive the noble and beautiful creatures which by their presence add such

distinctive character to the American wilderness. The limits of the Yellowstone Park should be extended southwards. The Canyon of the Colorado should be made a national park; and the national-park system should include the Yosemite and as many as possible of the groves of giant trees in California.

Pensions. The veterans of the Civil War have a claim upon the Nation such as no other body of our citizens possess. The Pension Bureau has never in its history been managed in a more satisfactory manner than is now the case.

The progress of the Indians toward civilization, though not rapid, is perhaps all that could be hoped for in view of the circumstances. Within the past year many tribes have shown, in a degree greater than ever before, an appreciation of the necessity of work. This changed attitude is in part due to the policy recently pursued of reducing the amount of subsistence to the Indians, and thus forcing them, through sheer necessity, to work for a livelihood. The policy, though severe, is a useful one, but it is to be exercised only with judgment and with a full understanding of the conditions which exist in each community for which it is intended. On or near the Indian reservations there is usually very little demand for labor, and if the Indians are to earn their living and when work can not be furnished from outside (which is always preferable), then it must be furnished by the Government. Practical instruction of this kind would in a few years result in the forming of habits of regular industry, which would render the Indian a producer and would effect a great reduction in the cost of his maintenance.

Indians. It is commonly declared that the slow advance of the Indians is due to the unsatisfactory character of the men appointed to take immediate charge of them, and to some extent this is true. While the standard of the employees in the Indian Service shows great improvement over that of bygone years, and while actual corruption or flagrant dishonesty is now the rare exception, it is nevertheless the fact that the salaries paid Indian agents are not large enough to attract the best men to that field of work. To achieve satisfactory results the official in charge of an Indian tribe should possess the high qualifications which are required in the manager of a large business, but only in exceptional cases is it possible to secure men of such a type for these positions. Much better service, however, might be obtained from those now holding the places were it practicable to get out of them the best that is in them, and this should

be done by bringing them constantly into closer touch with their superior officers. An agent who has been content to draw his salary, giving in return the least possible equivalent in effort and service, may, by proper treatment, by suggestion and encouragement, or persistent urging, be stimulated to greater effort and induced to take a more active personal interest in his work.

Under existing conditions an Indian agent in the distant West may be wholly out of touch with the office of the Indian Bureau. He may very well feel that no one takes a personal interest in him or his efforts. Certain routine duties in the way of reports and accounts are required of him, but there is no one with whom he may intelligently consult on matters vital to his work, except after long delay. Such a man would be greatly encouraged and aided by personal contact with some one whose interest in Indian affairs and whose authority in the Indian Bureau were greater than his own, and such contact would be certain to arouse and constantly increase the interest he takes in his work.

The distance which separates the agents—the workers in the field—from the Indian Office in Washington is a chief obstacle to Indian progress. Whatever shall more closely unite these two branches of the Indian Service, and shall enable them to cooperate more heartily and more effectively, will be for the increased efficiency of the work and the betterment of the race for whose improvement the Indian Bureau was established. The appointment of a field assistant to the Commissioner of Indian Affairs would be certain to insure this good end. Such an official, if possessed of the requisite energy and deep interest in the work, would be a most efficient factor in bringing into closer relationship and a more direct union of effort the Bureau in Washington and its agents in the field; and with the cooperation of its branches thus secured the Indian Bureau would, in measure fuller than ever before, lift up the savage toward that self-help and self-reliance which constitute the man.

In 1907 there will be held at Hampton Roads the tricentennial celebration of the settlement at Jamestown, Virginia, with which the history of what has now become the United States really begins. I commend this to your favorable consideration. It is an event of prime historic significance, in which all the people of the United States should feel, and should show, great and general interest.

In the Post-Office Department the service has increased in efficiency, and conditions as to revenue and expenditure continue satisfactory. The increase of revenue during the year was \$9,358,181.10,

Jamestown
Tricentennial.

or 6.9 per cent, the total receipts amounting to \$143,382,624.34. The expenditures were \$152,362,116.70, an increase of about 9 per cent over the previous year, being thus \$8,979,492.36 in excess of the current revenue. Included in these expenditures was a total appropriation of \$12,956,637.35 for the continuation and extension of the rural free-delivery service, which was an increase of \$4,902,237.35 over the amount expended for this purpose in the preceding fiscal year. Large as this expenditure has been the beneficent results attained in extending the free distribution of mails to the residents of rural districts have justified the wisdom of the outlay. Statistics brought down to the 1st of October, 1904, show that on that date there were 27,138 rural routes established, serving approximately 12,000,000 of people in rural districts remote from post-offices, and that there were pending at that time 3,859 petitions for the establishment of new rural routes. Unquestionably some part of the general increase in receipts is due to the increased postal facilities which the rural service has afforded. The revenues have also been aided greatly by amendments in the classification of mail matter, and the curtailment of abuses of the second-class mailing privilege. The average increase in the volume of mail matter for the period beginning with 1902 and ending June, 1905 (that portion for 1905 being estimated), is 40.47 per cent, as compared with 25.46 per cent for the period immediately preceding, and 15.92 for the four-year period immediately preceding that.

Our consular system needs improvement. Salaries should be substituted for fees, and the proper classification, grading, and transfer of consular officers should be provided. I am not prepared to say that a competitive system of examinations for appointment would work well; but by law it should be provided that consuls should be familiar, according to places for which they apply, with the French, German, or Spanish languages, and should possess acquaintance with the resources of the United States.

The collection of objects of art contemplated in section 5586 of the Revised Statutes should be designated and established as a National Gallery of Art; and the Smithsonian Institution should be authorized to accept any additions to said collection that may be received by gift, bequest, or devise.

It is desirable to enact a proper National quarantine law. It is most undesirable that a State should on its own initiative enforce

quarantine regulations which are in effect a restriction upon interstate and international commerce. The question should properly be assumed by the Government alone. The Surgeon-General of the National Public Health and Marine-Hospital Service has repeatedly and convincingly set forth the need for such legislation.

**National
quarantine law.**

I call your attention to the great extravagance in printing and binding Government publications, and especially to the fact that altogether too many of these publications are printed. There is a constant tendency to increase their number and their volume. It is an understatement to say that no appreciable harm would be caused by, and substantial benefit would accrue from, decreasing the amount of printing now done by at least one-half. Probably the great majority of the Government reports and the like now printed are never read at all, and furthermore the printing of much of the material contained in many of the remaining ones serves no useful purpose whatever.

**Extravagance
in printing.**

The attention of the Congress should be especially given to the currency question, and that the standing committees on the matter in the two Houses charged with the duty, take up the matter of our currency and see whether it is not possible to secure an agreement in the business world for bettering the system; the committees should consider the question of the retirement of the greenbacks and the problem of securing in our currency such elasticity as is consistent with safety. Every silver dollar should be made by law redeemable in gold at the option of the holder.

Currency.

I especially commend to your immediate attention the encouragement of our merchant marine by appropriate legislation.

Merchant marine.

The growing importance of the Orient as a field for American exports drew from my predecessor, President McKinley, an urgent request for its special consideration by the Congress. In his message of 1898 he stated:

Oriental markets.

“In this relation, as showing the peculiar volume and value of our trade with China and the peculiarly favorable conditions which exist for their expansion in the normal course of trade, I refer to the communication addressed to the Speaker of the House of Representatives by the Secretary of the Treasury on the 14th of last June, with its accompanying letter of the Secretary of State, recommending an appropriation for a commission to study

the industrial and commercial conditions in the Chinese Empire and to report as to the opportunities for and the obstacles to the enlargement of markets in China for the raw products and manufactures of the United States. Action was not taken thereon during the last session. I cordially urge that the recommendation receive at your hands the consideration which its importance and timeliness merit."

In his annual message of 1899 he again called attention to this recommendation, quoting it, and stated further:

"I now renew this recommendation, as the importance of the subject has steadily grown since it was first submitted to you, and no time should be lost in studying for ourselves the resources of this great field for American trade and enterprise."

The importance of securing proper information and data with a view to the enlargement of our trade with Asia is undiminished. Our consular representatives in China have strongly urged a place for permanent display of American products in some prominent trade center of that Empire, under Government control and management, as an effective means of advancing our export trade therein. I call the attention of the Congress to the desirability of carrying out these suggestions.

In dealing with the questions of immigration and naturalization it is indispensable to keep certain facts ever before the minds of those who share in enacting the laws. First and foremost, let us

Immigration and naturalization.

remember that the question of being a good American has nothing whatever to do with a man's birthplace any more than it has to do with his creed. In every generation from the time this Government was founded men of foreign birth have stood in the very foremost rank of good citizenship, and that not merely in one but in every field of American activity; while to try to draw a distinction between the man whose parents came to this country and the man whose ancestors came to it several generations back is a mere absurdity. Good Americanism is a matter of heart, of conscience, of lofty aspiration, of sound common sense, but not of birthplace or of creed. The medal of honor, the highest prize to be won by those who serve in the Army and the Navy of the United States decorates men born here, and it also decorates men born in Great Britain and Ireland, in Germany, in Scandinavia, in France, and doubtless in other countries also. In the field of statesmanship, in the field of business, in the field of philanthropic endeavor, it is equally true that among the men of whom we are most proud as

Americans no distinction whatever can be drawn between those who themselves or whose parents came over in sailing ship or steamer from across the water and those whose ancestors stepped ashore into the wooded wilderness at Plymouth or at the mouth of the Hudson, the Delaware, or the James nearly three centuries ago. No fellow-citizen of ours is entitled to any peculiar regard because of the way in which he worships his Maker, or because of the birth-place of himself or his parents, nor should he be in any way discriminated against therefor. Each must stand on his worth as a man and each is entitled to be judged solely thereby.

There is no danger of having too many immigrants of the right kind. It makes no difference from what country they come. If they are sound in body and in mind, and, above all, if they are of good character, so that we can rest assured that their children and grandchildren will be worthy fellow-citizens of our children and grandchildren, then we should welcome them with cordial hospitality.

But the citizenship of this country should not be debased. It is vital that we should keep high the standard of well-being among our wage-workers, and therefore we should not admit masses of men whose standards of living and whose personal customs and habits are such that they tend to lower the level of the American wage-worker; and above all we should not admit any man of an unworthy type, any man concerning whom we can say that he will himself be a bad citizen, or that his children and grandchildren will detract from instead of adding to the sum of the good citizenship of the country. Similarly we should take the greatest care about naturalization. Fraudulent naturalization, the naturalization of improper persons, is a curse to our Government; and it is the affair of every honest voter, wherever born, to see that no fraudulent voting is allowed, that no fraud in connection with naturalization is permitted.

In the past year the cases of false, fraudulent, and improper naturalization of aliens coming to the attention of the executive branches of the Government have increased to an alarming degree. Extensive sales of forged certificates of naturalization have been discovered, as well as many cases of naturalization secured by perjury and fraud; and in addition, instances have accumulated showing that many courts issue certificates of naturalization carelessly and upon insufficient evidence.

Under the Constitution it is in the power of the Congress "to establish a uniform rule of naturalization," and numerous laws have

from time to time been enacted for that purpose, which have been supplemented in a few States by State laws having special application. The Federal statutes permit naturalization by any court of record in the United States having common-law jurisdiction and a seal and clerk, except the police court of the District of Columbia, and nearly all these courts exercise this important function. It results that where so many courts of such varying grades have jurisdiction, there is lack of uniformity in the rules applied in conferring naturalization. Some courts are strict and others lax. An alien who may secure naturalization in one place might be denied it in another, and the intent of the constitutional provision is in fact defeated. Furthermore, the certificates of naturalization issued by the courts differ widely in wording and appearance, and when they are brought into use in foreign countries, are frequently subject to suspicion.

There should be a comprehensive revision of the naturalization laws. The courts having power to naturalize should be definitely named by national authority; the testimony upon which naturalization may be conferred should be definitely prescribed; publication of impending naturalization applications should be required in advance of their hearing in court; the form and wording of all certificates issued should be uniform throughout the country, and the courts should be required to make returns to the Secretary of State at stated periods of all naturalizations conferred.

Not only are the laws relating to naturalization now defective, but those relating to citizenship of the United States ought also to be made the subject of scientific inquiry with a view to probable further legislation. By what acts expatriation may be assumed to have been accomplished, how long an American citizen may reside abroad and receive the protection of our passport, whether any degree of protection should be extended to one who has made the declaration of intention to become a citizen of the United States but has not secured naturalization, are questions of serious import, involving personal rights and often producing friction between this Government and foreign governments. Yet upon these questions our laws are silent. I recommend that an examination be made into the subjects of citizenship, expatriation, and protection of Americans abroad, with a view to appropriate legislation.

The power of the Government to protect the integrity of the elections of its own officials is inherent and has been recognized

and affirmed by repeated declarations of the Supreme Court. There is no enemy of free government more dangerous and none so insidious as the corruption of the electorate. No one defends or excuses

corruption, and it would seem to follow that none would oppose vigorous measures to eradicate it. I recommend the enactment of a law directed against bribery and corruption in Federal elections. The details of such a law may be safely left to the wise discretion of the Congress, but it should go as far as under the Constitution it is possible to go, and should include severe penalties against him who gives or receives a bribe intended to influence his act or opinion as an elector; and provisions for the publication not only of the expenditures for nominations and elections of all candidates but also of all contributions received and expenditures made by political committees.

No subject is better worthy the attention of the Congress than that portion of the report of the Attorney-General dealing with the long delays and the great obstruction to justice experienced in the cases of Beavers, Green and Gaynor, and Benson.

Were these isolated and special cases, I should not call your attention to them; but the difficulties encountered as regards these men who have been indicted for criminal practices are not exceptional; they are precisely similar in kind to what occurs again and again in the case of criminals who have sufficient means to enable them to take advantage of a system of procedure which has grown up in the Federal courts and which amounts in effect to making the law easy of enforcement against the man who has no money, and difficult of enforcement, even to the point of sometimes securing immunity, as regards the man who has money. In criminal cases the writ of the United States should run throughout its borders. The wheels of justice should not be clogged, as they have been clogged in the cases above mentioned, where it has proved absolutely impossible to bring the accused to the place appointed by the Constitution for his trial. Of recent years there has been grave and increasing complaint of the difficulty of bringing to justice those criminals whose criminality, instead of being against one person in the Republic, is against all persons in the Republic, because it is against the Republic itself. Under any circumstance and from the very nature of the case it is often exceedingly difficult to secure proper punishment of those who have been guilty of wrongdoing against the Government. By the time the offender can be brought

into court the popular wrath against him has generally subsided; and there is in most instances very slight danger indeed of any prejudice existing in the minds of the jury against him. At present the interests of the innocent man are amply safeguarded; but the interests of the Government, that is, the interests of honest administration, that is the interests of the people, are not recognized as they should be. No subject better warrants the attention of the Congress. Indeed, no subject better warrants the attention of the bench and the bar throughout the United States.

Alaska, like all our Territorial acquisitions, has proved resourceful beyond the expectations of those who made the purchase. It has become the home of many hardy, industrious, and thrifty American citizens. Towns of a permanent character have been built. The extent of its wealth in minerals, timber, fisheries, and agriculture, while great, is probably not comprehended yet in any just measure by our people. We do know, however, that from a very small beginning its products have grown until they are a steady and material contribution to the wealth of the Nation. Owing to the immensity of Alaska and its location in the far north, it is a difficult matter to provide many things essential to its growth and to the happiness and comfort of its people by private enterprise alone. It should, therefore, receive reasonable aid from the Government. The Government has already done excellent work for Alaska in laying cables and building telegraph lines. This work has been done in the most economical and efficient way by the Signal Corps of the Army.

In some respects it has outgrown its present laws, while in others those laws have been found to be inadequate. In order to obtain information upon which I could rely I caused an official of the Department of Justice, in whose judgment I have confidence, to visit Alaska during the past summer for the purpose of ascertaining how government is administered there and what legislation is actually needed at present. A statement of the conditions found to exist, together with some recommendations and the reasons therefor, in which I strongly concur, will be found in the annual report of the Attorney-General. In some instances I feel that the legislation suggested is so imperatively needed that I am moved briefly to emphasize the Attorney-General's proposals.

Under the Code of Alaska as it now stands many purely administrative powers and duties, including by far the most important, devolve upon the district judges or upon the clerks of the district court acting under the direction of the judges, while the governor,

upon whom these powers and duties should logically fall, has nothing specific to do except to make annual reports, issue Thanksgiving Day proclamations, and appoint Indian policemen and notaries public. I believe it essential to good government in Alaska, and therefore recommend, that the Congress divest the district judges and the clerks of their courts of the administrative or executive functions that they now exercise and cast them upon the governor. This would not be an innovation; it would simply conform the government of Alaska to fundamental principles, making the governorship a real instead of a merely nominal office, and leaving the judges free to give their entire attention to their judicial duties and at the same time removing them from a great deal of the strife that now embarrasses the judicial office in Alaska.

I also recommend that the salaries of the district judges and district attorneys in Alaska be increased so as to make them equal to those received by corresponding officers in the United States after deducting the difference in the cost of living; that the district attorneys should be prohibited from engaging in private practice; that United States commissioners be appointed by the governor of the Territory instead of by the district judges, and that a fixed salary be provided for them to take the place of the discredited "fee system," which should be abolished in all offices; that a mounted constabulary be created to police the territory outside the limits of incorporated towns—a vast section now wholly without police protection; and that some provision be made to at least lessen the oppressive delays and costs that now attend the prosecution of appeals from the district court of Alaska. There should be a division of the existing judicial districts, and an increase in the number of judges.

Alaska should have a Delegate in the Congress. Where possible, the Congress should aid in the construction of needed wagon roads. Additional light-houses should be provided. In my judgment, it is especially important to aid in such manner as seems just and feasible in the construction of a trunk line of railway to connect the Gulf of Alaska with the Yukon River through American territory. This would be most beneficial to the development of the resources of the Territory, and to the comfort and welfare of its people.

Salmon hatcheries should be established in many different streams, so as to secure the preservation of this valuable food fish. Salmon fisheries and canneries should be prohibited on certain of the rivers where the mass of those Indians dwell who live almost exclusively on fish.

The Alaskan natives are kindly, intelligent, anxious to learn, and willing to work. Those who have come under the influence of civilization, even for a limited period, have proved their capability of becoming self-supporting, self-respecting citizens, and ask only for the just enforcement of law and intelligent instruction and supervision. Others, living in more remote regions, primitive, simple hunters and fisher folk, who know only the life of the woods and the waters, are daily being confronted with twentieth-century civilization with all of its complexities. Their country is being overrun by strangers, the game slaughtered and driven away, the streams depleted of fish, and hitherto unknown and fatal diseases brought to them, all of which combine to produce a state of abject poverty and want which must result in their extinction. Action in their interest is demanded by every consideration of justice and humanity.

The needs of these people are:

The abolition of the present fee system, whereby the native is degraded, imposed upon, and taught the injustice of law.

The establishment of hospitals at central points, so that contagious diseases that are brought to them continually by incoming whites may be localized and not allowed to become epidemic, to spread death and destitution over great areas.

The development of the educational system in the form of practical training in such industries as will assure the Indians self-support under the changed conditions in which they will have to live.

The duties of the office of the governor should be extended to include the supervision of Indian affairs, with necessary assistants in different districts. He should be provided with the means and the power to protect and advise the native people, to furnish medical treatment in time of epidemics, and to extend material relief in periods of famine and extreme destitution.

The Alaskan natives should be given the right to acquire, hold, and dispose of property upon the same conditions as given other inhabitants; and the privilege of citizenship should be given to such as may be able to meet certain definite requirements. In Hawaii Congress should give the governor power to remove all the officials appointed under him. The harbor of Honolulu should be dredged. The Marine-Hospital Service should be empowered to study leprosy in the islands. I ask special consideration for the report and recommendations of the governor of Porto Rico.

Hawaii and
Porto Rico.

In treating of our foreign policy and of the attitude that this

great Nation should assume in the world at large, it is absolutely necessary to consider the Army and the Navy, and the Congress, through which the thought of the Nation finds its expression, should keep ever vividly in mind the fundamental fact that it is impossible to treat our foreign policy, whether this policy takes shape in the effort to secure justice for others or justice for ourselves, save as conditioned upon the attitude we are willing to take toward our Army, and especially toward our Navy. It is not merely unwise, it is contemptible, for a nation, as for an individual, to use high-sounding language to proclaim its purposes, or to take positions which are ridiculous if unsupported by potential force, and then to refuse to provide this force. If there is no intention of providing and of keeping the force necessary to back up a strong attitude, then it is far better not to assume such an attitude.

The steady aim of this Nation, as of all enlightened nations, should be to strive to bring ever nearer the day when there shall prevail throughout the world the peace of justice. There are kinds of peace which are highly undesirable, which are in the long run as destructive as any war. Tyrants and oppressors have many times made a wilderness and called it peace. Many times peoples who were slothful or timid or shortsighted, who had been enervated by ease or by luxury, or misled by false teachings, have shrunk in unmanly fashion from doing duty that was stern and that needed self-sacrifice, and have sought to hide from their own minds their shortcomings, their ignoble motives, by calling them love of peace. The peace of tyrannous terror, the peace of craven weakness, the peace of injustice, all these should be shunned as we shun unrighteous war. The goal to set before us as a nation, the goal which should be set before all mankind, is the attainment of the peace of justice, of the peace which comes when each nation is not merely safe-guarded in its own rights, but scrupulously recognizes and performs its duty toward others. Generally peace tells for righteousness; but if there is conflict between the two, then our fealty is due first to the cause of righteousness. Unrighteous wars are common, and unrighteous peace is rare; but both should be shunned. The right of freedom and the responsibility for the exercise of that right can not be divorced. One of our great poets has well and finely said that freedom is not a gift that tarryes long in the hands of cowards. Neither does it tarry long in the hands of those too slothful, too dishonest, or too unintelligent to exercise it. The eternal vigilance which is the price of liberty must be exercised, sometimes to guard against outside foes;

although of course far more often to guard against our own selfish or thoughtless shortcomings.

If these self-evident truths are kept before us, and only if they are so kept before us, we shall have a clear idea of what our foreign policy in its larger aspects should be. It is our duty to remember that a nation has no more right to do injustice to another nation, strong or weak, than an individual has to do injustice to another individual; that the same moral law applies in one case as in the other. But we must also remember that it is as much the duty of the Nation to guard its own rights and its own interests as it is the duty of the individual so to do. Within the Nation the individual has now delegated this right to the State, that is, to the representative of all the individuals, and it is a maxim of the law that for every wrong there is a remedy. But in international law we have not advanced by any means as far as we have advanced in municipal law. There is as yet no judicial way of enforcing a right in international law. When one nation wrongs another or wrongs many others, there is no tribunal before which the wrongdoer can be brought. Either it is necessary supinely to acquiesce in the wrong, and thus put a premium upon brutality and aggression, or else it is necessary for the aggrieved nation valiantly to stand up for its rights. Until some method is devised by which there shall be a degree of international control over offending nations, it would be a wicked thing for the most civilized powers, for those with most sense of international obligations and with keenest and most generous appreciation of the difference between right and wrong, to disarm. If the great civilized nations of the present day should completely disarm, the result would mean an immediate recrudescence of barbarism in one form or another. Under any circumstances a sufficient armament would have to be kept up to serve the purposes of international police; and until international cohesion and the sense of international duties and rights are far more advanced than at present, a nation desirous both of securing respect for itself and of doing good to others must have a force adequate for the work which it feels is allotted to it as its part of the general world duty. Therefore it follows that a self-respecting, just, and far-seeing nation should on the one hand endeavor by every means to aid in the development of the various movements which tend to provide substitutes for war, which tend to render nations in their actions toward one another, and indeed toward their own peoples, more responsive to the general sentiment of humane and civilized mankind; and on the other hand that it should keep prepared, while scrupu-

lously avoiding wrongdoing itself, to repel any wrong, and in exceptional cases to take action which in a more advanced stage of international relations would come under the head of the exercise of the international police. A great free people owes it to itself and to all mankind not to sink into helplessness before the powers of evil.

We are in every way endeavoring to help on, with cordial good will, every movement which will tend to bring us into more friendly relations with the rest of mankind. In pursuance of this policy I

Arbitration treaties. shall shortly lay before the Senate treaties of arbitration with all powers which are willing to enter into these treaties with us. It is not possible at

this period of the world's development to agree to arbitrate all matters, but there are many matters of possible difference between us and other nations which can be thus arbitrated. Furthermore, at the request of the Interparliamentary Union, an eminent body

Second Hague conference. composed of practical statesmen from all countries, I have asked the Powers to join with this Government in a second Hague conference, at which it is

hoped that the work already so happily begun at The Hague may be carried some steps further toward completion. This carries out the desire expressed by the first Hague conference itself.

It is not true that the United States feels any land hunger or entertains any projects as regards the other nations of the Western Hemisphere save such as are for their welfare. All that this

Policy toward other nations of Western Hemisphere. country desires is to see the neighboring countries stable, orderly, and prosperous. Any country whose people conduct themselves well can count upon our hearty friendship. If a nation shows

that it knows how to act with reasonable efficiency and decency in social and political matters, if it keeps order and pays its obligations, it need fear no interference from the United States. Chronic wrongdoing, or an impotence which results in a general loosening of the ties of civilized society, may in America, as elsewhere, ultimately require intervention by some civilized nation, and in the Western Hemisphere the adherence of the United States to the Monroe Doctrine may force the United States, however reluctantly, in flagrant cases of such wrongdoing or impotence, to the exercise of an international police power. If every country washed by the Caribbean Sea would show the progress in stable and just civilization which with the aid of the Platt amendment Cuba has shown since our troops left the island, and which so many of the republics in both

Americas are constantly and brilliantly showing, all question of interference by this Nation with their affairs would be at an end. Our interests and those of our southern neighbors are in reality identical. They have great natural riches, and if within their borders the reign of law and justice obtains, prosperity is sure to come to them. While they thus obey the primary laws of civilized society they may rest assured that they will be treated by us in a spirit of cordial and helpful sympathy. We would interfere with them only in the last resort, and then only if it became evident that their inability or unwillingness to do justice at home and abroad had violated the rights of the United States or had invited foreign aggression to the detriment of the entire body of American nations. It is a mere truism to say that every nation, whether in America or anywhere else, which desires to maintain its freedom, its independence, must ultimately realize that the right of such independence can not be separated from the responsibility of making good use of it.

In asserting the Monroe Doctrine, in taking such steps as we have taken in regard to Cuba, Venezuela, and Panama, and in endeavoring to circumscribe the theater of war in the Far East, and to secure the open door in China, we have acted in our own interest as well as in the interest of humanity at large. There are, however, cases in which, while our own interests are not greatly involved, strong appeal is made to our sympathies. Ordinarily it is very much wiser and more useful for us to concern ourselves with striving for our own moral and material betterment here at home than to concern ourselves with trying to better the condition of things in other nations. We have plenty of sins of our own to war against, and under ordinary circumstances we can do more for the general uplifting of humanity by striving with heart and soul to put a stop to civic corruption, to brutal lawlessness and violent race prejudices here at home than by passing resolutions about wrongdoing elsewhere. Nevertheless there are occasional crimes committed on so vast a scale and of such peculiar horror as to make us doubt whether it is not our manifest duty to endeavor at least to show our disapproval of the deed and our sympathy with those who have suffered by it. The cases must be extreme in which such a course is justifiable. There must be no effort made to remove the mote from our brother's eye if we refuse to remove the beam from our own. But in extreme cases action may be justifiable and proper. What form the action shall take must depend upon the circumstances of the case; that is, upon the degree of the atrocity and upon our power to remedy it. The cases in which we could interfere by

force of arms as we interfered to put a stop to intolerable conditions in Cuba are necessarily very few. Yet it is not to be expected that a people like ours, which in spite of certain very obvious shortcomings, nevertheless as a whole shows by its consistent practice its belief in the principles of civil and religious liberty and of orderly freedom, a people among whom even the worst crime, like the crime of lynching, is never more than sporadic, so that individuals and not classes are molested in their fundamental rights—it is inevitable that such a nation should desire eagerly to give expression to its horror on an occasion like that of the massacre of the Jews in Kishenef, or when it witnesses such systematic and long-extended cruelty and oppression as the cruelty and oppression of which the Armenians have been the victims, and which have won for them the indignant pity of the civilized world.

Even where it is not possible to secure in other nations the observance of the principles which we accept as axiomatic, it is necessary for us firmly to insist upon the rights of our own citizens

Rights of American
citizens abroad.

without regard to their creed or race; without regard to whether they were born here or born abroad. It has proved very difficult to secure

from Russia the right for our Jewish fellow-citizens to receive passports and travel through Russian territory. Such conduct is not only unjust and irritating toward us, but it is difficult to see its wisdom from Russia's standpoint. No conceivable good is accomplished by it. If an American Jew or an American Christian misbehaves himself in Russia he can at once be driven out; but the ordinary American Jew, like the ordinary American Christian, would behave just about as he behaves here, that is, behave as any good citizen ought to behave; and where this is the case it is a wrong against which we are entitled to protest to refuse him his passport without regard to his conduct and character, merely on racial and religious grounds. In Turkey our difficulties arise less from the way in which our citizens are sometimes treated than from the indignation inevitably excited in seeing such fearful misrule as has been witnessed both in Armenia and Macedonia.

The strong arm of the Government in enforcing respect for its just rights in international matters is the Navy of
The Navy. the United States. I most earnestly recommend that there be no halt in the work of upbuilding the American Navy. There is no more patriotic duty before us as a people than to keep the Navy adequate to the needs of this country's position. We have undertaken to build the Isthmian

Canal. We have undertaken to secure for ourselves our just share in the trade of the Orient. We have undertaken to protect our citizens from improper treatment in foreign lands. We continue steadily to insist on the application of the Monroe Doctrine to the Western Hemisphere. Unless our attitude in these and all similar matters is to be a mere boastful sham we can not afford to abandon our naval programme. Our voice is now potent for peace, and is so potent because we are not afraid of war. But our protestations upon behalf of peace would neither receive nor deserve the slightest attention if we were impotent to make them good.

The war which now unfortunately rages in the far East has emphasized in striking fashion the new possibilities of naval warfare. The lessons taught are both strategic and tactical, and are political as well as military. The experiences of the war have shown in conclusive fashion that while sea-going and sea-keeping torpedo destroyers are indispensable, and fast lightly armed and armored cruisers very useful, yet that the main reliance, the main standby, in any navy worthy the name must be the great battle ships, heavily armored and heavily gunned. Not a Russian or Japanese battle ship has been sunk by a torpedo boat, or by gunfire, while among the less protected ships, cruiser after cruiser has been destroyed whenever the hostile squadrons have gotten within range of one another's weapons. There will always be a large field of usefulness for cruisers, especially of the more formidable type. We need to increase the number of torpedo-boat destroyers, paying less heed to their having a knot or two extra speed than to their capacity to keep the seas for weeks, and, if necessary, for months at a time. It is wise to build submarine torpedo boats, as under certain circumstances they might be very useful. But most of all we need to continue building our fleet of battle ships, or ships so powerfully armed that they can inflict the maximum of damage upon our opponents, and so well protected that they can suffer a severe hammering in return without fatal impairment of their ability to fight and maneuver. Of course ample means must be provided for enabling the personnel of the Navy to be brought to the highest point of efficiency. Our great fighting ships and torpedo boats must be ceaselessly trained and maneuvered in squadrons. The officers and men can only learn their trade thoroughly by ceaseless practice on the high seas. In the event of war it would be far better to have no ships at all than to have ships of a poor and ineffective type, or ships which, however good, were yet manned by untrained and unskillful crews. The best officers and men in a poor ship could do nothing against fairly

good opponents; and on the other hand a modern war ship is useless unless the officers and men aboard her have become adepts in their duties. The marksmanship in our Navy has improved in an extraordinary degree during the last three years, and on the whole the types of our battle ships are improving; but much remains to be done. Sooner or later we shall have to provide for some method by which there will be promotions for merit as well as for seniority, or else retirement of all those who after a certain age have not advanced beyond a certain grade; while no effort must be spared to make the service attractive to the enlisted men in order that they may be kept as long as possible in it. Reservation public schools should be provided wherever there are navy-yards.

Within the last three years the United States has set an example in disarmament where disarmament was proper. By law our Army is fixed at a maximum of one hundred thousand and a minimum of sixty thousand men. When there was insurrec-

The Army.

tion in the Philippines we kept the Army at the maximum. Peace came in the Philippines, and

now our Army has been reduced to the minimum at which it is possible to keep it with due regard to its efficiency. The guns now mounted require twenty-eight thousand men, if the coast fortifications are to be adequately manned. Relatively to the Nation, it is not now so large as the police force of New York or Chicago relatively to the population of either city. We need more officers; there are not enough to perform the regular army work. It is very important that the officers of the Army should be accustomed to handle their men in masses, as it is also important that the National Guard of the several States should be accustomed to actual field maneuvering, especially in connection with the regulars. For this reason we are to be congratulated upon the success of the field maneuvers at Manassas last fall, maneuvers in which a larger number of Regulars and National Guard took part than was ever before assembled together in time of peace. No other civilized nation has, relatively to its population, such a diminutive Army as ours; and while the Army is so small we are not to be excused if we fail to keep it at a very high grade of proficiency. It must be incessantly practiced; the standard for the enlisted men should be kept very high, while at the same time the service should be made as attractive as possible; and the standard for the officers should be kept even higher—which, as regards the upper ranks, can best be done by introducing some system of selection and rejection into the promotions. We should be able, in the event of some sudden emergency, to put

into the field one first-class army corps, which should be, as a whole, at least the equal of any body of troops of like number belonging to any other nation.

Great progress has been made in protecting our coasts by adequate fortifications with sufficient guns. We should, however, pay much more heed than at present to the development of an extensive system of floating mines for use in all our more important harbors. These mines have been proved to be a most formidable safeguard against hostile fleets.

I earnestly call the attention of the Congress to the need of amending the existing law relating to the award of Congressional medals of honor in the Navy so as to provide that they may be awarded to commissioned officers and warrant officers as well as to enlisted men. These justly prized medals are given in the Army alike to the officers and the enlisted men, and it is most unjust that the commissioned officers and warrant officers of the Navy should not in this respect have the same rights as their brethren in the Army and as the enlisted men of the Navy.

In the Philippine Islands there has been during the past year a continuation of the steady progress which has obtained ever since our troops definitely got the upper hand of the insurgents. The Philippine people, or, to speak more accurately, the many tribes, and even races, sundered from one another more or less sharply, who go to make up the people of the Philippine Islands, contain many elements of good, and some elements which we have a right to hope stand for progress. At present they are utterly incapable of existing in independence at all or of building up a civilization of their own. I firmly believe that we can help them to rise higher and higher in the scale of civilization and of capacity for self-government, and I most earnestly hope that in the end they will be able to stand, if not entirely alone, yet in some such relation to the United States as Cuba now stands. This end is not yet in sight, and it may be indefinitely postponed if our people are foolish enough to turn the attention of the Filipinos away from the problems of achieving moral and material prosperity, of working for a stable, orderly, and just government, and toward foolish and dangerous intrigues for a complete independence for which they are as yet totally unfit.

On the other hand our people must keep steadily before their minds the fact that the justification for our stay in the Philippines must ultimately rest chiefly upon the good we are able to do in the

islands. I do not overlook the fact that in the development of our interests in the Pacific Ocean and along its coasts, the Philippines have played and will play an important part, and that our interests have been served in more than one way by the possession of the islands. But our chief reason for continuing to hold them must be that we ought in good faith to try to do our share of the world's work, and this particular piece of work has been imposed upon us by the results of the war with Spain. The problem presented to us in the Philippine Islands is akin to, but not exactly like, the problems presented to the other great civilized powers which have possessions in the Orient. There are points of resemblance in our work to the work which is being done by the British in India and Egypt, by the French in Algiers, by the Dutch in Java, by the Russians in Turkestan, by the Japanese in Formosa; but more distinctly than any of these powers we are endeavoring to develop the natives themselves so that they shall take an ever-increasing share in their own government, and as far as is prudent we are already admitting their representatives to a governmental equality with our own. There are commissioners, judges, and governors in the islands who are Filipinos and who have exactly the same share in the government of the islands as have their colleagues who are Americans, while in the lower ranks, of course, the great majority of the public servants are Filipinos. Within two years we shall be trying the experiment of an elective lower house in the Philippine legislature. It may be that the Filipinos will misuse this legislature, and they certainly will misuse it if they are misled by foolish persons here at home into starting an agitation for their own independence or into any factious or improper action. In such case they will do themselves no good and will stop for the time being all further effort to advance them and give them a greater share in their own government. But if they act with wisdom and self-restraint, if they show that they are capable of electing a legislature which in its turn is capable of taking a sane and efficient part in the actual work of government, they can rest assured that a full and increasing measure of recognition will be given them. Above all they should remember that their prime needs are moral and industrial, not political. It is a good thing to try the experiment of giving them a legislature; but it is a far better thing to give them schools, good roads, railroads which will enable them to get their products to market, honest courts, an honest and efficient constabulary, and all that tends to produce order, peace, fair dealing as between man and man, and habits of intelligent industry and thrift. If they are safeguarded

against oppression, and if their real wants, material and spiritual, are studied intelligently and in a spirit of friendly sympathy, much more good will be done them than by any effort to give them political power, though this effort may in its own proper time and place be proper enough.

Meanwhile our own people should remember that there is need for the highest standard of conduct among the Americans sent to the Philippine Islands, not only among the public servants but among the private individuals who go to them. It is because I feel this so deeply that in the administration of these islands I have positively refused to permit any discrimination whatsoever for political reasons and have insisted that in choosing the public servants consideration should be paid solely to the worth of the men chosen and to the needs of the islands. There is no higher body of men in our public service than we have in the Philippine Islands under Governor Wright and his associates. So far as possible these men should be given a free hand, and their suggestions should receive the hearty backing both of the Executive and of the Congress. There is need of a vigilant and disinterested support of our public servants in the Philippines by good citizens here in the United States. Unfortunately hitherto those of our people here at home who have specially claimed to be the champions of the Filipinos have in reality been their worst enemies. This will continue to be the case as long as they strive to make the Filipinos independent, and stop all industrial development of the islands by crying out against the laws which would bring it on the ground that capitalists must not "exploit" the islands. Such proceedings are not only unwise, but are most harmful to the Filipinos, who do not need independence at all, but who do need good laws, good public servants, and the industrial development that can only come if the investment of American and foreign capital in the islands is favored in all legitimate ways.

Every measure taken concerning the islands should be taken primarily with a view to their advantage. We should certainly give them lower tariff rates on their exports to the United States; if this is not done it will be a wrong to extend our shipping laws to them. I earnestly hope for the immediate enactment into law of the legislation now pending to encourage American capital to seek investment in the islands in railroads, in factories, in plantations, and in lumbering and mining.

THEODORE ROOSEVELT.

THE WHITE HOUSE,
December 6, 1904.

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do	Feb. 20	Neutrality of China in the war between Russia and Japan. Quotes telegrams to and from the Department relating to the proposal of the United States Government for the maintenance of.	2
	.....do	June 10	Contraband of war. States at length the stand taken by the United States toward the Russian declaration of.	3
	.....do	Aug. 3	Designation of the diplomatic and consular service as "American" instead of "United States." Directs the use of the adjective "American" instead of "United States."	7
	.....do	Aug. 5	Establishment of ports of entry in the Canal Zone of the Isthmus of Panama announced.	8
	.....do	Sept. 23	Contraband of war. Incloses copy of instruction to the American ambassador at St. Petersburg protesting against the interpretation by the Russian Government of its declaration of.	4
	.....do .....	.....do	Proclamations and decrees of neutrality, asks for copies of.	14
	.....do	Oct. 20	Pacific settlement of international disputes. Invitation to the Governments signatories to The Hague convention to enter into arbitration treaties.	8
	.....do	Oct. 21	Second Peace Conference at The Hague. Quotes resolution passed by the Interparliamentary Union and instructs to ascertain the views of the several Governments relating to.	10
do	Nov. 28	Designation of the diplomatic and consular service as "American" instead of "United States." In the exercise of notarial functions the term _____ of the United States of America must be used and not American _____.	7
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	Mr. Jusserand to Mr. Hay.....do	Same subject. The French Government will conform to the principles as stated in circular of April 27, 1898.	23
1507	Mr. Conger to Mr. Hay.....	Feb. 17	Same subject. Incloses copy of regulations adopted by the Chinese Government in definition of.	18
83	Mr. Jackson to Mr. Hay.....	Mar. 7	Same subject. Incloses text of, issued by the Roumanian Government.	30
347	Mr. Dodge to Mr. Hay.....	Apr. 25	Same subject. Incloses text of, issued by the German Government.	24
369	Mr. Thomas to Mr. Hay.....	Apr. 30	Same subject. Incloses text of, issued by Sweden and Norway.	31

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176	Mr. Hale to Mr. Hay	Oct. 4	Same subject. Incloses text of, issued by Austria-Hungary.	15
	Mr. Sickles to Mr. Hay	Oct. 5	Same subject. Incloses text of notice that Belgium is perpetually neutral.	16
793	Mr. Newell to Mr. Hay	do . . .	Same subject. Incloses text of, issued by the Netherlands.	26
281	Mr. Winthrop to Mr. Hay . . .	Oct. 6	Same subject. Incloses text of, issued by Spain..	30
2467	Mr. Clayton to Mr. Hay	Oct. 7	Same subject. Incloses text of, issued by Mexico.	25
413	Mr. Iddings to Mr. Hay	Oct. 10	Same subject. Incloses text of, issued by Italy ..	25
1453	Mr. Choate to Mr. Hay	Oct. 15	Same subject. Incloses text of, issued by Great Britain.	24
1005	Mr. Neill to Mr. Hay	Oct. 29	Same subject. Incloses copies of notes exchanged by the Peruvian Government and the Japanese Minister in Mexico relating to.	29
226	Mr. Richardson to Mr. Hay.	Oct. 31	Same subject. No proclamation issued. Brazil abides by the rules as published in circular of April 29, 1898.	16
78	Mr. Beaupré to Mr. Hay	Nov. 10	Same subject. No special proclamation issued by the Argentine Republic.	15
	Mr. Ames to Mr. Hay	Nov. 12	Same subject. No special proclamation issued by Chile.	17

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16	Mr. Adee to Mr. Beaupré	Aug. 30	Same subject. Cites Department's circular of Mar. 27, 1899, for the legation's guidance, and states that Charles A. Tappan is entitled to a passport.	36
35	Mr. Beaupré to Mr. Hay	Sept. 13	Treaty of friendship and commerce between the Argentine Republic and Persia. Incloses text of.	38
36	Same to same	do . . .	Boundary conventions between the Argentine Republic and Chile. Incloses text of.	40

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37	Mr. Storer to Mr. Hay	1903. May 18	Emigration law of Hungary. Incloses translation of the proposed law, with the "exposé de motifs."	47
	Mr. Adee to Mr. Hale	Aug. 19	Medical examination of emigrants at ports of departure. Instructs to inquire whether officers of the United States Public Health and Marine-Hospital Service can be stationed at such ports to make medical inspections of emigrants.	92
	Mr. Hay to Mr. Storer (telegram).	1904. Feb. 10	Neutrality of China in the war between Russia and Japan. Proposal of the United States for an international arrangement to secure the.	42
	Mr. Storer to Mr. Hay (telegram).	Feb. 12	Same subject. The Austrian Government is disposed to accept the proposal in a general way.	42
105	Same to same	do . . .	Same subject. The Austrian Government asks whether Manchuria is included in the term "neutrality of China."	42
	Mr. Hay to Mr. Storer (telegram).	Feb. 13	Same subject. The United States can not specify metes and bounds.	43
106	Mr. Storer to Mr. Hay	Feb. 15	Same subject. The Austro-Hungarian representatives at St. Petersburg, Tokyo, and Peking will be instructed in the sense of the United States proposal.	44
72	Mr. Hay to Mr. Storer	Feb. 26	Visit of an American fleet to Austrian ports. Announces the proposed.	44
115	Mr. Storer to Mr. Hay	Apr. 14	Same subject. Incloses a note from the foreign office calling attention to the law which interdicts the approach of foreign fleets to the Austro-Hungarian coast without special permission.	45
	Mr. Hengelmüller to Mr. Hay.	Apr. 18	Emigration law of Hungary. Incloses memorandum relating to the Dillingham bill and the Hungarian contracts with the Cunard Line.	67
119	Mr. Storer to Mr. Hay	Apr. 21	Same subject. Reports that the proposed law has been passed at Budapest.	68

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	Mr. Hay to Mr. Storer (telegram).	Apr. 29	Visit of an American fleet to Austrian ports. Instruction to request permission for the.	46
	Mr. Loomis to Mr. Storer (telegram).	May 2	Same subject. Includes Fiume in preceding instruction.	46
	Same to same (telegram)...	May 14	Same subject. Fleet will arrive at Trieste about July 1.	46
131	Mr. Storer to Mr. Hay.....	May 18	Same subject. Permission for the visit is granted.	46
134	Same to same	May 20	Emigration law of Hungary. Incloses ordinances promulgating the law.	70
156	Mr. Hale to Mr. Hay	July 19	Medical examination of emigrants at ports of departure. Permission for the, can not be granted by the Austro-Hungarian Government.	92
	Mr. Loomis to Mr. Hale (telegram).	Oct. 13	Transportation of emigrants from Hungary. Complaints of discrimination have been made concerning the; instructs to investigate the matter.	86
178	Mr. Hale to Mr. Hay	Oct. 18	Same subject. Gives result of his investigation.	87
111	Mr. Hay to Mr. Hale	Oct. 19	Same subject. Instructs to use good offices in behalf of the Red Star Line, discriminated against.	88
116	Same to same	Oct. 29	Same subject. Complaint of Mrs. Maria Hornick, who was compelled to forfeit her prepaid passage ticket and buy another via the Cunard Line.	88
184	Mr. Storer to Mr. Hay	Nov. 17	Same subject. The attitude of the Austro-Hungarian Government is stated in No. 178 of Oct. 18, 1904 (ante).	88
186	Same to same	Nov. 29	Same subject. Reports further on the attitude of the Austro-Hungarian Government on this question.	89
121	Mr. Hay to Mr. Storer	Dec. 14	Same subject. Instructs to bring the case of Mrs. Maria Hornick to the attention of the Hungarian Government.	91
122	Same to same .....	....do ...	Same subject. Transmits the case of Mrs. Sophia Vance, similar to that of Mrs. Hornick.	91
123	Same to same	Dec. 15	Same subject. Department is pleased to note that the Austro-Hungarian Government is disposed to promptly investigate complaints made by American citizens.	91

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215	Mr. Hay to Mr. Townsend (telegram).	Feb. 10	Neutrality of China in the war between Russia and Japan. Proposal of the United States for an international arrangement to secure the.	95
	Mr. Townsend to Mr. Hay..	Feb. 11	Same subject. Department's telegram of the 10th instant has been communicated to the minister for foreign affairs.	95
	Mr. Hay to Mr. Townsend (telegram).	Feb. 15	Same subject. The representatives of England, Germany, and France at St. Petersburg and Tokyo have already been instructed in the sense of the United States proposal.	96
	Same to same (telegram) ..	Feb. 16	Same subject. The United States can not specify metes and bounds in its proposal.	96
	Mr. Townsend to Mr. Hay (telegram).do ...	Same subject. With the understanding that "administrative entity" does not include Manchuria, the Belgian Government accepts the United States proposal.	96
216	Same to samedo ...	Same subject. Confirms above telegram in detail.	96
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114	Mr. Dawson to Mr. Hay....	Jan. 23	Treaty with Bolivia terminating the dispute over the Acre Territory. Incloses text.	104
117	Same to same.....	Feb. 9	Misuse of the flag of the United States. Reports discontinuance of the.	103
121	Same to same.....	Feb. 15	Acre treaty. Reports ratification of, by Brazil...	107
130	Same to same.....	Mar. 18	Same subject. Reports exchange of ratifications.	107
144	Mr. Thompson to Mr. Hay..	May 6	Message of the President of Brazil. Incloses copy of.	108
204	Same to same.....	July 23	Agreement between Brazil and Peru terminating boundary dispute, and convention for the arbitration of claims. Incloses text.	109

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33	Mr. Wilson to Mr. Hay....	Apr. 15	Agreement between Turkey and Bulgaria to maintain peace and order in Macedonia. Incloses text.	112
35	Mr. Jackson to Mr. Hay....	May 14	Conditions in Macedonia. Reports that the reforms introduced by Russia and Austria and the recent Turkish-Bulgarian agreement have brought about comparative tranquillity in Macedonia.	113

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364	Mr. Wilson to Mr. Hay....	1904. June 15	Message of the President of Chile. Incloses text.	115
381	Mr. Ames to Mr. Hay.....	Oct. 2	Boundary convention between Chile and the Argentine Republic. Incloses copy of.	116

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	Mr. Hay to Mr. Conger (telegram).	Feb. 10	Neutrality of China in the war between Russia and Japan. Instructs him to inform the Chinese Government that the United States earnestly desires that the neutrality and entity of China be respected by both belligerents.	118
	Mr. Conger to Mr. Hay (telegram).	do	Same subject. Reports that the representatives of France, Germany, and Great Britain have asked their Governments to suggest to the belligerents that no troops be sent into Chihli.	118
1500	Same to same.....	do	Same subject. Incloses identical telegram sent by the several ministers to their Governments, as reported in above telegram.	119
	Same to same (telegram)...	Feb. 11	Same subject. Department's telegram of the 10th instant has been complied with.	119
	Same to same (telegram)...	Feb. 13	Same subject. China issued its declaration of neutrality yesterday.	120
	Sir Chentung Liang-Cheng to Mr. Hay.	Feb. 13	Same subject. Incloses the neutrality proclamation of China,	120

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	Same to same (telegram) ..	Feb. 14	Same subject. Reports arrest of all Japanese arriving at Niuchwang from the interior.	147
1504	Same to same	Feb. 15	Neutrality of China. Incloses notes from the foreign office expressing the purpose of the imperial court to remain at Peking.	122
1505	Same to same	do ..	Same subject. Incloses an edict to the officials of the Empire to maintain security and peace.	123
1507	Same to same	Feb. 17	Same subject. Incloses regulations for the enforcement of the neutrality edict.	124
1508	Same to same	do ..	Same subject. Incloses a note from the foreign office acknowledging receipt of the kind expressions of the Government of the United States concerning the neutrality of China.	124
	Mr. Hay to Mr. Conger (telegram).	Feb. 19	Same subject. Transmits the reply of the Russian Government to the proposal of the United States.	125
1509	Mr. Conger to Mr. Hay.....	Feb. 23	Same subject. Department's telegram of the 19th instant has been communicated to the Chinese Government.	125
	Mr. Conger to Mr. Hay (telegram).	Feb. 24	Protection of Japanese interests. Transmits report of Consul Miller that the Russian authorities refuse to give him any information concerning Japanese subjects.	147
1522	Same to same	Feb. 27	Neutrality of China. Incloses the reply of the foreign office to his note communicating the reply of the Russian Government.	126
1523	Same to same	Mar. 1	Same subject. Incloses a proclamation issued by Viceroy Alexeieff.	127
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1529	Same to same	Mar. 5	Visit of Prince Pu Lun to the United States. Reports departure of the prince.	148
1535	Same to same	Mar. 11	Neutrality of China. Incloses additional regulations for the enforcement of the neutrality edict.	129
	Mr. Hay to Mr. Conger (telegram).	Mar. 12	Same subject. Instructs to express to the Chinese Government the earnest hope of the United States Government that China will maintain strict neutrality.	130
	Mr. Conger to Mr. Hay (telegram).	Mar. 15	Same subject. Reports that China is resolved to maintain strict neutrality.	131
1541	Same to same	do ..	Same subject. Confirms in detail his telegram of same date.	131
1544	Same to same	Mar. 22	Mining regulations in China. Incloses copies of and his protest against the same.	150
	Mr. Hay to Mr. Conger (telegram).	Mar. 26	Neutrality of China. Asks to be informed whether the Chinese army is extensively officered by Japanese.	131
	Mr. Conger to Mr. Hay (telegram).	Mar. 29	Same subject. Reports that only a few Japanese officers are employed in the Chinese army.	132
1555	Same to same	Mar. 30	Same subject. Confirms in detail his telegram of the 29th instant.	132
	Same to same (telegram) ..	Apr. 5	Protection of Japanese interests. Reports that the Japanese servants of the American correspondents have not been released.	147
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	Mr. Hay to Sir Chentung Liang-Cheng.	Apr. 12	Visit of Prince Pu Lun. The prince will be received by the President on the 25th instant.	148
31	Sir Chentung Liang-Cheng to Mr. Hay.	Apr. 22	Same subject. Incloses copy of a letter from the Emperor of China to the President.	148
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	The Chinese legation to Mr. Hay.do...	Same subject. Telegram from the Waiwu-Pu, giving assurance of the purpose of the Chinese Government to maintain the strictest neutrality.	133
1607	Mr. Conger to Mr. Hay.....do...	Mining regulations in China. Incloses copy of the revised mining regulations and his note giving notice to the foreign office that they can not be accepted by the United States Government.	153
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	Mr. Conger to Mr. Hay (telegram).	June 8	Murder of Louis L. Etzel reported.....	168
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1639	Mr. Conger to Mr. Hay.....	June 22	Conservancy of the Whangpu River. Incloses correspondence with the Waiwu-Pu relating to the.	189
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	Mr. Hay to Mr. Conger (telegram).do...	Conservancy of the Whangpu River. If sufficient guaranties of early and satisfactory action are given the proposals of the Nanking viceroy are unobjectionable.	190
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	Mr. Conger to Mr. Hay (telegram).	July 5	Murder of Louis L. Etzel. Reports the proposed punishment of the persons responsible and indemnity to Etzel's family.	173
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	Mr. Adee to Mr. Conger (telegram).	Aug. 22	Neutrality of China. Instructs to protest to both belligerents if collision is threatened on account of the Russian wireless-telegraph station at Chefoo and to reserve all of this Government's rights in the premises.	136
	Same to same (telegram)....	....do ...	Same subject. Instructs to inquire what rules of neutrality China proposes to apply to the presence of the Russian cruiser <i>Askold</i> at Shanghai.	137
	Same to same (telegram)....	Aug. 23	Same subject. The consul-general has been instructed that foreign consuls can not guarantee China's neutrality.	137
1690	Mr. Conger to Mr. Hay.....	Aug. 25	Payment of the Chinese indemnity. Incloses correspondence from the secretary of the bankers' commission at Shanghai to the dean of the diplomatic corps, transmitting a letter from the taotai of Shanghai.	179
	Mr. Hay to Mr. Conger (telegram).	Aug. 26	Neutrality of China. Instructs him to use his influence to support China in its demand for neutrality in its waters.	137
1692	Mr. Conger to Mr. Hay.....	....do ...	Same subject. China is doing its best to preserve its neutrality. Incloses note to Prince Ch'ing relating to the <i>Askold</i> and the Japanese official statement in the <i>Ryeshetelni</i> incident.	138
601	Mr. Goodnow to Mr. Loomis.	....do ...	Same subject. Gives résumé of affairs in Shanghai since the arrival of the Russian war vessels <i>Grozovoi</i> and <i>Askold</i> and notes from the taotai concerning same.	140
1695	Mr. Conger to Mr. Hay.....	Aug. 30	Same subject. Incloses note from Prince Ch'ing stating that the Russian war vessels at Shanghai will be disarmed on the 25th of August.	145
837	Mr. Adee to Mr. Conger....	Sept. 2	Payment of the Chinese indemnity. Approves his action as reported in his 1669.	181
838	Same to same .....	....do ...	Mining regulations in China. Incloses reports from the Geological Survey and the General Land Office on the.	160
840	Mr. Loomis to Mr. Conger..	Sept. 29	Conservancy of the Whangpu River. Approves his note of Aug. 11, 1904, to Prince Ch'ing, inclosed in his 1680.	198
	Mr. Conger to Mr. Hay (telegram).	Oct. 23	Payment of the Chinese indemnity. Quotes the proposal of the Chinese Government.	181
	Mr. Hay to Mr. Conger (telegram).	Oct. 24	Same subject. Accepts Chinese proposal	181
1733	Mr. Conger to Mr. Hay.....	Oct. 26	Same subject. Incloses a memorandum from the foreign office, reply to the joint note forwarded in his 1669.	182
858	Mr. Hay to Mr. Conger.....	Nov. 19	Conservancy of the Whangpu River. Incloses copy of an instruction to the American representatives accredited to the signatory powers of the final protocol, pointing out the importance of an early agreement relating to the Chinese proposal.	199
	Mr. Conger to Mr. Hay (telegram).	Nov. 22	Payment of the Chinese indemnity. Asks whether the United States will continue to receive payments in silver.	183
	Mr. Hay to Mr. Conger (telegram).	Nov. 23	Same subject. The United States Government expects the same treatment as other powers.	183
862	Same to same.....	Dec. 1	Neutrality of the United States in the war between Russia and Japan. Points out the necessity of absolute neutrality being observed by all officers of the Government. Incloses the President's proclamation of Mar. 10, 1904.	185
	Mr. Conger to Mr. Hay (telegram).	Dec. 5	Payment of the Chinese indemnity. The Chinese Government insists that the United States should receive payment according to the terms of the bonds signed by China.	184
	Mr. Hay to Mr. Conger (telegram).	Dec. 6	Same subject. It is preferred that the United States should not be placed in an exceptional position.	184
	Same to same (telegram)....	Dec. 12	Antiforeign movements in China. Instructs to report about.	200

CHINA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
1766	Mr. Conger to Mr. Hay	1904. Dec. 14	Same subject. Reports at length, and states that the disturbances are more antidynastic in their aims than antiforeign. The Government is alert and determined to prevent any disturbance of the peace, and seems to be able to repress any outbreak.	200
	Mr. Hay to Mr. Conger (telegram).	Dec. 20	Payment of the Chinese indemnity. Subject to the conditions stated in Department's telegram of the 6th instant, the United States accepts the proposal of China.	184

COLOMBIA.

	Mr. Snyder to Mr. Hay (telegram).	1903. Dec. 26	Seizure of the Bogotá City Railway Company's property by Colombian authorities reported.	227
	Mr. Adee to Mr. Snyder (telegram).	Dec. 31	Same subject. Instructs to invite the attention of the minister for foreign affairs to the matter.	227
263	Mr. Snyder to Mr. Hay	1904. Jan. 2	Attitude of Colombia toward the United States and Panama.	204
	Same to same (telegram) ..	Jan. 20	Seizure of the Bogotá City Railway Company's property. The difficulty has been settled.	227
	Same to same (telegram) ..	Jan. 26	Attitude of Colombia, etc. Rumors are current that the United States will permit the landing of Colombian troops on the Isthmus.	204
	Mr. Loomis to Mr. Snyder (telegram).	Jan. 29	Same subject. The attitude of the United States remains unchanged.	205
	Mr. Snyder to Mr. Hay (telegram).	Jan. 30	Same subject. Reports the departure of 500 troops for the coast.	205
295	Same to same.....	Feb. 24	Seizure of the Bogotá City Railway Company's property. Gives details of the incident.	228
	Same to same (telegram) ...	Feb. 28	Attitude of Colombia, etc. Reports movements of troops.	205
	Same to same (telegram) ...	Mar. 10	Same subject. Reports the decrease of the Colombian army from 11,000 to 5,000 men.	205
302	Same to same.....	Mar. 26	Same subject. Reports subsidence of all public expression on this subject.	206
311	Same to same	Apr. 19	Same subject. Incloses note of protest from the foreign office against the attitude of the United States in regard to the formation of the Republic of Panama and against the transfer of the New Panama Canal Company's property to the United States.	206, 224
68	Mr. Hay to Mr. Snyder.....	Apr. 28	Same subject. Acknowledges receipt of his No. 302; which has been read with much interest.	224
330	Mr. Snyder to Mr. Hay	June 2	Reestablishment of diplomatic relations between Columbia and Venezuela and Italy. Incloses decree.	226
332	Same to same.....	June 3	Same subject. Incloses decree	226
	Same to same (telegram) ...	July 4	Election of General Reyes as President of Colombia reported.	225
	Mr. Hay to Mr. Snyder (telegram).	Aug. 12	Inauguration of General Reyes as President of Colombia. Instructs to convey congratulations to General Reyes.	225
357	Mr. Snyder to Mr. Hay	Aug. 18	Same subject. Above telegram has been complied with.	225
383	Same to same.....	Oct. 25	Message of the President of Colombia to the Colombian Congress. Extracts.	229

CUBA.

715	Mr. Squiers to Mr. Hay.....	1903. Nov. 7	Murder of E. A. Murray. Reports that the police authorities at Camaguey seem to be guilty of criminal negligence in connection with the.	254
304	Mr. Adee to Mr. Squiers....	Dec. 16	Same subject. Directs to ascertain what steps are necessary to procure counsel to assist in the prosecution of the case.	254
790	Mr. Sleeper to Mr. Hay.....	Dec. 31	Same subject. Incloses law of criminal procedure.	255
800	Same to same	1904. Jan. 9	Treaty of amity, commerce, and navigation between Cuba and Italy. Incloses text.	230
319	Mr. Loomis to Mr. Squiers ..	Jan. 14	Murder of E. A. Murray. Asks status of the case.	256
825	Mr. Squiers to Mr. Hay.....	Jan. 22	Same subject. Reports acquittal of Manuel Fuentes Remedios, accused of—and dismissal of proceedings against the police officer—charged with negligence.	256

CUBA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1904.		
	Mr. Squires to Mr. Hay.....	Feb. 1	Indignity offered to the American consulate at Cienfuegos. Transmits consuls report of.	236
	(telegram). Same to same (telegram)...	Feb. 4	Withdrawal of United States troops from Cuba. Quotes address by President Palma on the occasion of the.	238
845	Same to same.....	Feb. 5	Same subject. Confirms above telegram in detail.	239
853	Same to same.....	Feb. 12	Indignity offered to the American consulate at Cienfuegos. Incloses correspondence with Cuban authorities relating to.	237
347	Mr. Hay to Mr. Squiers.....	Mar. 1	Same subject. The incident may be regarded as closed.	238
926	Mr. Squiers to Mr. Hay.....	Apr. 23	Message of President Palma to the Cuban Congress. Incloses copy of.	239
	Treaty between the United States and Cuba.	July 2	Embodying the provisions defining the future relations of the United States with Cuba contained in the act of Congress approved Mar. 2, 1901, making appropriations for the Army. Text.	243
	Supplementary convention between the United States and Cuba.	...do...	Extending the period within which may be exchanged the ratifications of the above treaty.	246
1083	Mr. Squiers to Mr. Hay.....	Oct. 1	Murder of E. A. Murray. Reports the grossly inadequate punishment of the policeman who was criminally negligent in the case.	257
438	Mr. Hay to Mr. Squiers.....	Oct. 10	Same subject. Instructs him to ask that the Cuban Government impose adequate punishment on the negligent police officer.	257
1101	Mr. Sleeper to Mr. Hay.....	Oct. 22	Sanitary conditions in Cuba. Incloses report of the consular agent at Matanzas on.	247
1104	Same to same.....	Oct. 28	Same subject. Incloses report of the American consul at Santiago on.	250
1116	Same to same.....	Nov. 10	Message of President Palma to the Cuban Congress. Quotes extracts of.	241
448	Mr. Hay to Mr. Squiers.....	Nov. 25	Sanitary conditions in Cuba. Incloses letter from the Secretary of the Treasury and instructs to inform the Cuban Government that, unless sanitary conditions are improved in Cuba the United States will probably declare quarantine against Cuban ports.	250
	Mr. Squiers to Mr. Hay (telegram).	Nov. 28	Same subject. Reports that measures are being taken to improve conditions.	252
1137	Same to same.....	Dec. 3	Same subject. Incloses sanitary reports from the American consular officers at Santiago and Cardenas.	252
	Same to same (telegram) ..	Dec. 15	Same subject. Reports that the House passed a bill appropriating \$190,000 for sanitation.	253
	Same to same (telegram) ..	Dec. 17	Same subject. The Senate passed appropriation bill for sanitation.	253

DENMARK.

	Mr. Hay to Mr. Swenson (telegram).	1904. Feb. 11	Neutrality of China in the war between Russia and Japan. Proposal of the United States for an international arrangement to secure the.	258
	Mr. Swenson to Mr. Hay (telegram).	Feb. 15	Same subject. Reports that the Danish Government is in favor of the proposal.	258
329	Same to same.....	Feb. 16	Same subject. Confirms above telegram in detail.	258
331	Same to same.....	Feb. 24	Same subject. Incloses note from the foreign office, accepting the proposal of the United States.	260

DOMINICAN REPUBLIC.

680	Mr. Powell to Mr. Hay.....	1903. Dec. 3	Recognition of the provisional government of the Dominican Republic. Incloses correspondence with the provisional government relating to the.	261
686	Same to same.....	Dec. 15	Same subject. Incloses further correspondence on the subject.	262
210	Mr. Loomis to Mr. Powell..	1904. Jan. 9	Same subject. Approves his notes to the provisional government.	265

DOMINICAN REPUBLIC—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1904.		
	Mr. Loomis to Mr. Powell (telegram).	Jan. 17	Same subject. Asks whether the stability of the provisional or of the Jimenez governments is sufficient to warrant formal recognition.	265
	Mr. Powell to Mr. Hay (telegram).	Jan. 20	Same subject. Reports that the legation has recognized the Morales government.	265
	Same to same (telegram).....	Jan. 24	Same subject. Reports the situation unchanged.	266
726	Same to same.....	Jan. 25	Same subject. Confirms above telegrams in detail, and reports the movements of U. S. naval vessels.	266
742	Same to same.....	Jan. 31	Protection of the German vice-consul at Santo Domingo City. Incloses correspondence and relates circumstances in connection with the request for and the granting of.	267
	Protocol of an agreement between the United States and the Dominican Republic.	....do....	Arbitration of the claim of the San Domingo Improvement Company against the Dominican Republic. Text.	270
	Mr. Powell to Mr. Hay (telegram).	Feb. 9	Forceful entrance of the consular office at Samana by Dominican authorities reported.	286
766	Same to same.....	Feb. 12	Same subject. Incloses correspondence relating to the incident.	286
	Mr. Hay to Mr. Powell (telegram).	Feb. 16	Same subject. Instructs to make proper representations against the unjustifiable invasion of the consular office.	288
221	Same to same.....	Feb. 17	Same subject. Confirms above telegram in detail.	288
	Award of the Commission of Arbitration.	July 14	Settlement of the claims of the San Domingo Improvement Company and its allied companies against the Dominican Republic. Text.	274
9	Mr. Dawson to Mr. Hay....	Aug. 9	Revolution in the Dominican Republic. Incloses copies of the treaties of peace between the revolutionary forces and the Morales government.	289
18	Mr. Hay to Mr. Dawson....	....do....	Settlement of the claim of the San Domingo Improvement Company. Announces the appointment of John T. Abbott as financial agent under the provisions of the award.	279
14	Mr. Dawson to Mr. Hay....	Aug. 13	Imprisonment of Francisco Martinez, a Porto Rican, at Macoris. Incloses correspondence relating to the.	291
27	Same to same.....	Aug. 29	Settlement of the claim of the San Domingo Improvement Company. Incloses his note to the minister of foreign affairs announcing the appointment of John T. Abbott as financial agent.	279
20	Mr. Adee to Mr. Dawson...	Aug. 31	Imprisonment of Francisco Martinez. Approves his course in the case.	293
42	Mr. Dawson to Mr. Hay....	Sept. 27	Settlement of the claim of the San Domingo Improvement Company. Incloses correspondence between Mr. Abbott and the Dominican Government relating to the payment of the award and his demand for possession of the custom-house at Puerto Plata.	280
	Mr. Dawson to Mr. Hay (telegram).	Sept. 30	Same subject. Reports that the Dominican Government refuses to recognize the award.	283
	Mr. Hay to Mr. Dawson (telegram).	Oct. 4	Same subject. Instructs to insist upon the award.	283
	Mr. Dawson to Mr. Hay (telegram).	Oct. 14	Same subject. Reports acceptance of the award.	283
58	Same to same.....	Oct. 17	Same subject. Reports that the shares of the Banque Nationale de St. Dominique have been deposited at the legation.	284
	Same to same (telegram) ..	Oct. 21	Same subject. The financial agent was put in possession of the custom-house at Puerto Plata.	284
60	Same to same.....	Oct. 22	Same subject. Reports the delivery of the shares of the Banque Nationale and of the unified scrip to the Dominican Government.	284
76	Same to same.....	Nov. 22	Same subject. Reports the determination of the President not to place the financial agent in charge of the custom-houses at Monte Christi, Sanchez, and Samana.	285
	Mr. Loomis to Mr. Dawson (telegram).	Nov. 26	Same subject. Asks whether the determination of the Dominican Government reported in his No. 76 is final.	285
	Mr. Dawson to Mr. Hay (telegram).	Nov. 28	Same subject. Under certain conditions the financial agent may be asked to take charge of all four ports.	285

ECUADOR.

No.	From and to whom.	Date.	Subject.	Page.
374	Mr. Sampson to Mr. Hay ...	1904. Jan. 4	Treaty of friendship, navigation, and commerce between Ecuador and Italy. Incloses copy of Message of the President of Ecuador to the National Congress. Extracts.	294
	Mr. Hallock to the Department of State.	Sept. 8		295

ETHIOPIA.

	Treaty between the United States and the King of Ethiopia.	1904. Sept. 30	To regulate the commercial relations between the two countries. Text.	298
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FRANCE.

1295	Mr. Hay to Mr. Porter (telegram).	1904. Feb. 8	Neutrality of China in the war between Russia and Japan. Proposal of the United States for an international arrangement to secure the.	301
	Mr. Porter to Mr. Hay.....	Feb. 12	Same subject. Department's telegram of the 8th instant will be discussed by the cabinet and satisfactory reply is expected.	301
	Same to same (telegram)...	Feb. 13	Same subject. The French Government gives adherence to the proposal of the United States.	302
	Mr. Hay to Mr. Porter (telegram).	Feb. 15	Same subject. Expresses gratification of the President for the hearty and prompt cooperation of France.	302
	Same to same (telegram)...	Feb. 19	Same subject. Transmits Russia's reply to the proposal of the United States.	302
	Mr. Porter to Mr. Hay (telegram).	Apr. 2	Transfer of the new Panama Canal Company's property to the United States. Reports that speedy conclusion is expected.	302
	Same to same (telegram)...	Apr. 17	Same subject. Reports execution of the deed of transfer.	303
	Mr. Vignaud to Mr. Hay (telegram).	May 2	Same subject. Transmits letters and contract exchanged with J. P. Morgan & Co.	303
	Treaty between the United States and France.	May 9	For the determination of their relations in Tunis. Text.	304
	Mr. Hay to Mr. Porter (telegram).	May 28	Abduction of Ion Perdicaris by bandits in Morocco. Instructs to request the good offices of the French Government.	307
	Mr. Porter to Mr. Hay (telegram).	May 30	Same subject. The French minister at Tangier has been instructed to cooperate in the rescue of Perdicaris.	307
	Mr. Hay to Mr. Porter (telegram).	June 25	Same subject. Transmits the thanks of the President to the French Government.	308
	Mr. des Portes to Mr. Hay..	July 14	Decoration conferred upon Secretary of State John Hay by the French Republic. Announces the fact and offers congratulations.	306
	Mr. Hay to Mr. des Portes (telegram).	....do...	Same subject. Expresses appreciation.....	306
Mr. Hay to Mr. Porter (telegram).	....do...	Same subject. Instructs to advise the French Government of his acceptance and to express to it his gratitude.	307	

GERMANY.

294	Mr. Hay to Mr. Tower (telegram).	1904. Feb. 8	Neutrality of China in the war between Russia and Japan. Proposal of the United States for an international arrangement to secure the.	309
	Mr. Tower to Mr. Hay (telegram).	Feb. 9	Same subject. The proposal of the United States is agreeable to the German Government.	309
	Same to same	Feb. 10	Same subject. Confirms above telegram in detail and incloses copy of his note to the foreign office.	310
	Mr. Hay to Mr. Tower (telegram).	....do...	Same subject. Department will at once communicate the views of the United States to all neutral signatories of the protocol of Peking.	311
	Mr. Tower to Mr. Hay (telegram).	Feb. 11	Same subject. The German representatives at St. Petersburg, Tokyo, and Peking will be at once instructed in the sense of the United States proposal.	311
	Mr. Hay to Mr. Tower (telegram).	Feb. 15	Same subject. Instructs to convey to the Emperor the appreciation of the President.	311

GERMANY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Tower to Mr. Hay (telegram).	1904. Feb. 17	Same subject. Reports compliance with above telegram and transmits gratification of the Emperor.	311
	Same to same (telegram)...	Feb. 20	Same subject. Reports that the German Government is gratified that the proposal of the United States has been so generally accepted in principle by the powers.	312
331	Same to same	Apr. 5	Fine imposed upon Emil Vibert for nonperformance of military service. Reports the circumstances connected with the case and incloses correspondence.	317
179	Mr. Hay to Mr. Dodge.....	Apr. 26	Passport application of Robert Albert Böker. Instructs to recall the embassy's refusal to issue a passport upon the.	312
182	Same to same	May 5	Fine imposed upon Emil Vibert. Department is of opinion that intervention in Vibert's behalf would be successful if, in addition to his American citizenship, it was based on forfeiture of his German allegiance under the German law of June 1, 1870.	319
358	Mr. Tower to Mr. Hay.....	May 13	Passport application of Robert Albert Böker. Gives reasons for refusal of passport and asks further instruction.	312
368	Same to same	May 27	Fine imposed on Emil Vibert. The German Government holds that the German law of 1870 can not be applied in this case, and that the naturalization treaties between Germany and the United States do not apply to Alsace and Lorraine.	320
192	Mr. Hay to Mr. Tower.....	May 31	Passport application of Robert Albert Böker. The applicant's father having forfeited his right to protection as an American citizen, the refusal of the passport seems to be proper.	314
382	Mr. Tower to Mr. Hay.....	June 11	Fine imposed on Emil Vibert. The minister for foreign affairs suggests that Vibert address a petition to the Emperor for the annulment of the fine and release from German allegiance.	321
207	Mr. Hay to Mr. Tower.....	June 13	Same subject. Approves his course as reported in his No. 368.	322
215	Same to same	June 28	Same subject. If Vibert sends a petition to the embassy, the same may be forwarded to the foreign office with the statement that such action does not concede the German contention that the naturalization treaties do not apply to Alsace and Lorraine.	322
440	Mr. Dodge to Mr. Hay.....	Aug. 17	Neutrality of Germany in the war between Russia and Japan. Reports that the Russian war vessels which took refuge at Tsingtau have been disarmed by the German authorities.	323
531	Same to same.....	Nov. 12	Passport obtained fraudulently by Josef Henry Tetz. Reports circumstances connected with the case and incloses the passport and correspondence.	315
280	Mr. Hay to Mr. Tower.....	Dec. 2	Same subject. Instructs to inform the German authorities that Tetz is not an American citizen and that the passport has been withdrawn.	316

GREAT BRITAIN.

15	Sir Mortimer Durand to Mr. Loomis.	1904. Jan. 29	Delimitation of the Alaska boundary. Announces that the Canadian government is ready to enter into arrangements for the.	324
19	Same to same	Feb. 2	Protection of the British vice-consulate at Santo Domingo. Conveys the thanks of the British Government for the.	327
28	Mr. Loomis to Sir Mortimer Durand.	Feb. 5	Delimitation of the Alaska boundary. Mr. O. H. Tittmann, superintendent of the Coast and Geodetic Survey, has been designated as the United States representative on the Delimitation Commission.	324
	Mr. Hay to Mr. Choate (telegram).	Feb. 8	Neutrality of China in the war between Russia and Japan. Proposal of the United States for an international arrangement to secure the.	327
	Mr. Choate to Mr. Hay (telegram).	Feb. 9	Same subject. The British Government asks to be informed whether Manchuria is included in the phrase "neutrality of China."	327
	Mr. Hay to Mr. Choate (telegram).	Feb. 10	Same subject. The United States seeks by its proposal to secure the smallest possible area of hostilities and the largest possible area of neutrality.	328

GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1904.		
	Mr. Choate to Mr. Hay (telegram).	Feb. 11	Same subject. The British Government approves in principle the proposal of the United States, but suggests a qualification in regard to the description of the area to be neutralized.	328
	Mr. Hay to Mr. Choate (telegram).	Feb. 12	Same subject. Japan accepts the principle of China's neutrality provided Russia does so. The delimitation of the area of hostilities can not be attempted, and an identic note by the powers is not necessary.	328
	Mr. Choate to Mr. Hay (telegram).	Feb. 13	Same subject. The British representatives at St. Petersburg, Tokyo, and Peking have been instructed in the sense of his telegram of the 11th instant.	329
	Mr. Hay to Mr. Choate (telegram).	Feb. 15	Same subject. Instructs to express to Lord Lansdowne cordial appreciation.	329
1346	Mr. White to Mr. Hay	Apr. 13	Newfoundland fisheries, agreement between France and Great Britain relating to the. Incloses copy of.	329
	Mr. Hay to Mr. White (telegram).	Apr. 20	Contraband of war. Informs him that war correspondents using wireless telegraph within the zone of operations of the Russian fleet will be treated as spies and vessels with such apparatus will be seized.	332
	Mr. White to Mr. Hay (telegram).	Apr. 27	Same subject. Reports that the British Government has made reservations similar to those of the United States.	333
	Mr. Choate to Mr. Hay (telegram).	May 27	Abduction of Ion Perdicaris by bandits in Morocco. Transmits the conditions for the release of Perdicaris and Varley insisted upon by the brigand.	338
	Mr. Hay to Mr. Choate (telegram).	May 31	Same subject. Thanks to the foreign office for communicating the information from Tangier.	338
	Mr. Choate to Mr. Hay (telegram).	June 3	Contraband of war. Lord Lansdowne desires to exchange views with the Government of the United States on the Russian order making every kind of fuel contraband of war.	333
	Mr. Hay to Mr. Choate (telegram).	June 13	Same subject. Instructions on his telegram of the 3d instant were mailed on the 10th.	333
	Mr. White to Mr. Hay (telegram).	July 13	Protection of seals in the North Pacific Ocean. At the request of the Russian and Japanese Governments measures have been taken by the British Government to patrol the region of the Commander Islands for the.	339
	Same to same (telegram)...	July 14	Same subject. The British Government requests to be informed what measures, if any, the United States proposes to take for the protection of seals.	339
	Mr. Hay to Mr. Choate (telegram).	July 18	Same subject. Instructs to ascertain whether the British Government is willing to enter into a reciprocal agreement relating to seal poachers.	339
	Mr. Choate to Mr. Hay (telegram).	July 21	Same subject. The British Government agrees to a reciprocal arrangement.	340
	Mr. Loomis to Mr. Choate (telegram).	July 29	Contraband of war. The Government of the United States thinks that the sinking of the <i>Knight Commander</i> was not justified. Cites authorities.	333
	Mr. Hay to Mr. Choate (telegram).	Aug. 1	Protection of seals. Informs him of the acceptance by Russia of the proposal that American vessels patrol the prohibited zone.	340
1420	Mr. Choate to Mr. Hay	Aug. 2	Contraband of war. Incloses correspondence with the foreign office giving the views of the British Government on the subject.	334
	Same to same (telegram)...	Aug. 3	Same subject. The British foreign office desires to know the views of the United States on the sinking of the <i>Knight Commander</i> and the depredations of the Russian volunteer fleet.	336
	Same to same (telegram)...	...do	Protection of seals. The British and Russian Governments have come to an agreement relating to the protection of seals.	340
	Same to same (telegram)...	Aug. 5	Same subject. The British-Russian agreement extends over the whole prohibited zone.	340
	Mr. Hay to Mr. Choate (telegram).	Aug. 6	Contraband of war. It is deemed inadvisable to express an opinion in reply to telegram of the 3d instant.	337
	Same to same (telegram)...	...do ...	Protection of seals. The commander of the American patrol vessel will be instructed in regard to the area within which to confine his operations.	341
	Same to same (telegram)...	Aug. 9	Contraband of war. Requests a copy of the representations made by the British Government.	337

GREAT BRITAIN—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Choate to Mr. Hay (telegram).	1904. Aug. 10	Same subject. Lord Lansdowne protested verbally against the contentions of the Russian Government and its harsh mode of enforcing the same.	337
	Mr. Adee to Mr. Choate (telegram).	Aug. 25	Protection of seals. The American cruiser <i>Buffalo</i> has been ordered to patrol the waters of the Commander Islands.	341
176	Sir Mortimer Durand to Mr. Loomis.	Oct. 1	Delimitation of the Alaska boundary. Incloses the report of Messrs. King and Tittmann. The Canadian government is satisfied with the proposed line. Asks whether the United States will agree thereto.	325
1452	Mr. Choate to Mr. Hay	Oct. 15	Protection of seals. Incloses a report from the British patrol vessel.	341
	Declaration signed at St. Petersburg.	Nov. 25	Firing on British fishing vessels by Russian war vessels. Agreement for an international commission of inquiry.	342
	Mr. Hay to Sir Mortimer Durand.	Dec. 1	Same subject. Informs him of the appointment of Rear-Admiral Charles Henry Davis on the commission of inquiry.	342
143	Same to same	Dec. 2	Delimitation of the Alaska boundary. The United States is ready to accept the line proposed by the commission.	326
205	Sir Mortimer Durand to Mr. Hay.	Dec. 6	Firing on British fishing vessels by Russian war vessels. Conveys the thanks of the British Government for the prompt appointment of Rear-Admiral Davis as a member of the commission.	343

GREECE.

	Mr. Loomis to Mr. Jackson (telegram).	1904. June 7	Visits of United States war vessels to Greece. Informs him that a fleet will arrive on the 30th instant.	344
193	Mr. Jackson to Mr. Hay.....	July 6	Same subject. Reports incidents connected with the visit of an American fleet.	344
203	Same to same.....	Sept. 5	Same subject. Reports the visit of the United States European squadron to Corfu.	345

GUATEMALA AND HONDURAS.

131	Mr. Combs to Mr. Hay	1904. Jan. 11	Currency of Guatemala. Incloses decree fixing the relative value of, and his note to the foreign office.	346
97	Mr. Hay to Mr. Combs	Feb. 25	Claims of Mrs. Charles W. Renton, Ella Miller Renton, and Jacob Baiz against Honduras. Reviews the Renton claims and instructs him to ask for settlement.	352
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721	Same to same	Feb. 26	Arbitration of the preferential treatment of claims against Venezuela. Incloses the award of the tribunal.	506
410	Mr. Hay to Mr. Newel.....	Mar. 9	Same subject. The Government of the United States is ready to pay its share of the costs of the arbitration, but can not see to the execution of the award by other governments.	516
736	Mr. Newel to Mr. Hay.....	Apr. 5	Same subject. Incloses correspondence with the secretary-general of the permanent court of arbitration in which Jonkheer Ruyssenaers offers to act as intermediary in regard to the honorarium to be paid to the arbitrators.	517
	Same to same (telegram)...	May 3	Same subject. Asks whether he shall draw on the Department for our share of the arbitrators' compensation.	518
	Jonkheer van Swinderen to Mr. Hay.do ...	Contraband of war. Acknowledges with thanks Department's memorandum of February 16, 1904.	524
	Mr. Hay to Mr. Newel (telegram).	May 4	Arbitration of the preferential treatment of claims against Venezuela. Authorizes him to draw on the Department for this Government's quota of compensation to the arbitrators.	519
	Mr. Penfield to Mr. Hay....	May 15	Same subject. Final report of the agent of the United States.	509
	Treaty between the United States and the Netherlands.	May 31	Extending the extradition convention of June 2, 1887, between the two countries to their respective island possessions and colonies. Text.	524
770	Mr. Newel to Mr. Hay.....	July 8	International conventions relating to differences in marriage laws, divorce laws, and the guardianship of minors. Incloses copy of.	526

NETHERLANDS—Continued.

No.	From and to whom.	Date.	Subject.	Page.
777	Mr. Newel to Mr. Hay.....	1904. Aug. 5	Arbitration of the preferential treatment of claims against Venezuela. Reports that Mexico and Venezuela have paid their quota of compensation to the arbitrators.	519
779	Same to same	Aug. 8	Same subject. The compensation of the arbitrators has been paid by all the Governments that took part in the arbitration.	519

NICARAGUA, COSTA RICA, AND SALVADOR.

	Messrs. Hopkins & Hopkins to Mr. Hay.	1903. Aug. 20	Salvador Commercial Company, settlement of claim of, against Salvador. Incloses agreement between the company and the Government of Salvador.	533
	Mr. Merry to Mr. Hay (telegram).	Sept. 22	Same subject. Reports that Salvadorean Congress ratified the above agreement.	536
575	Mr. Loomis to Mr. Merry...	1904. Feb. 4	Same subject. Incloses letter from the attorneys of the company complaining of the nonfulfillment by the Salvadorean Government of the above agreement, and instructs him to take appropriate measures.	536
576	Mr. Hay to Mr. Merry.....	Feb. 9	Same subject. Calls attention to the essential points in which Salvador fails to comply with the agreement.	539
921	Mr. Merry to Mr. Hay.....	Feb. 25	Same subject. Incloses his note to the foreign office giving notice of the complaint of the company.	539
931	Same to same.....	Mar. 31	Same subject. Incloses a copy of the law enacted by the Salvadorean Congress covering the objections raised by the company.	540
961	Same to same.....	Aug. 31	Peace conference between the Presidents of Nicaragua, Guatemala, Honduras, and Salvador reported.	541
983	Same to same.....	Oct. 28	Arbitration of the boundary dispute between Nicaragua and Honduras. The question of the boundary line will be submitted to the King of Spain.	542

PANAMA.

	Mr. Bunau-Varilla to Mr. Hay.	1903. Dec. 10	Payment of the Canal indemnity. Announces that J. P. Morgan & Co. have been appointed the financial agents of Panama.	651
	Mr. Buchanan to Mr. Hay (telegram).	1904. Jan. 8	Sanitary conditions on the Isthmus of Panama. Suggests that United States medical inspectors be stationed at certain South and Central American ports to report the sanitary conditions of such ports and vessels bound for the Isthmus.	552
22	Same to same.....	Jan. 9	Same subject. Incloses correspondence with Rear-Admiral Glass and the Panaman Government on the subject.	552
29	Same to same.....	Jan. 16	Same subject. Incloses further correspondence with the Panaman Government.	555
44	Same to same.....	Jan. 25	Same subject. Incloses a decree of the Panaman Government ordering a measure of police precaution.	558
56	Mr. Russell to Mr. Hay.....	Feb. 16	Constitution of the Republic of Panama. Incloses copy of, and reports the election of President and Vice-Presidents.	562
	Mr. Bunau-Varilla to Mr. Hay.	Feb. 20	Sanitary conditions on the Isthmus of Panama. Suggests that officers of the Public Health and Marine-Hospital Service stationed at foreign ports exercise their authority for all vessels leaving for the Isthmus of Panama.	559
57	Mr. Russell to Mr. Hay.....	Feb. 22	Inauguration of Dr. Manuel Amador Guerrero as first President of Panama reported.	581
	Convention between the United States and the Republic of Panama.	Feb. 26	For the construction of a ship canal to connect the waters of the Atlantic and Pacific oceans. Text.	543
	Mr. Bunau-Varilla to Mr. Hay.	Mar. 3	Payment of the canal indemnity. States that a check for \$10,000,000 may be prepared, payable to J. P. Morgan & Co., but that it should be held until receipt of the specific order from the Government of Panama to deliver it.	652

PANAMA—Continued.

No.	From and to whom.	Date.	Subject.	Date.
28	Mr. Hay to Mr. Bunau-Varilla.	1904. Mar. 4	Sanitary conditions on the Isthmus of Panama. Informs him that the officers of the Public Health and Marine-Hospital Service will be instructed in the sense of his note of February 20, 1904.	560
	Mr. Russell to Mr. Hay (telegram).	Apr. 23	Payment of the canal indemnity. Requests to be informed when the United States will be ready to make payment on account of the canal indemnity.	652
	Mr. Hay to Mr. Russell (telegram).	Apr. 25	Same subject. Payment will be made in a few days.	653
	Mr. Russell to Mr. Hay (telegram).	....do...	Same subject. The Panaman Government asks that \$1,000,000 be paid to J. P. Morgan & Co. and that balance be held until arrival of the newly appointed minister.	653
	Mr. Hay to Mr. Russell (telegram).	Apr. 30	Same subject. \$1,000,000 will be paid to J. P. Morgan & Co. on the 2d proximo and balance will be held until arrival of new Panaman minister.	653
	Mr. Loomis to Mr. Russell (telegram).	May 16	Same subject. The balance due Panama will be paid at once to J. P. Morgan & Co.	653
	Mr. Russell to Mr. Hay (telegram).	May 17	Same subject. The Panaman Government requests that the balance due Panama be held until the arrival of a commission appointed to receive it.	654
	Mr. Loomis to Mr. Russell (telegram).	May 18	Same subject. The United States Government having recognized J. P. Morgan & Co. as the financial agents of Panama, this Government can not now repudiate that authority.	654
	Mr. Russell to Mr. Hay (telegram).	....do...	Same subject. The Panaman Government is unwilling to authorize payment of balance due to J. P. Morgan & Co. and maintains that it has a right to direct the payment to the commission appointed for that purpose.	654
	Mr. Loomis to Mr. Russell (telegram).	May 19	Same subject. Instructs him to inform the Panaman Government that the United States Government declines to modify the arrangement made with Panama concerning the payment of the indemnity.	655
	Mr. Russell to Mr. Hay (telegram).	May 21	Same subject. Reports that the Panaman Government accepts the terms of the United States Government.	655
86	Same to same.....	May 24	Transfer of the Canal Zone to the United States. Reports the arrival and reception by the President of Gen. George W. Davis, governor of the Canal Zone. Incloses announcement issued by the governor to the inhabitants of the Zone.	581
88	Same to same.....	May 27	Same subject. Incloses a letter from the foreign office to General Davis proposing a formal transfer and delivery of the Canal Zone to the representatives of the United States.	584
	Mr. Lee to Mr. Hay (telegram).	June 17	Same subject. Reports that the transfer papers were signed on the 16th instant.	584
116	Same to same.....	July 18	Establishment of United States ports, custom-houses, and post-offices in the Canal Zone. Quotes a memorial by the local chamber of commerce to the President of Panama protesting against the same.	585
	Mr. Barrett to Mr. Hay (telegram).	July 25	Same subject. Reports that the President of Panama protested against the establishment of ports of entry at Ancon and Cristobal.	586
4	Same to same.....	July 26	Same subject. Discusses the situation concerning custom-houses in the Canal Zone.	587
	Same to same (telegram)...	July 27	Same subject. Reports that the Panaman minister for foreign affairs has agreed to a modus vivendi.	588
6	Same to same.....	Aug. 2	Same subject. Incloses correspondence between Governor Davis and the foreign office relating to the subject.	588
8	Same to same.....	....do...	Same subject. Incloses copies of the protest of the minister for foreign affairs and his reply thereto.	593
	Mr. Loomis to Mr. Barrett (telegram).	....do...	Same subject. Instructs him to assure the Panaman Government that the United States Government will do nothing inconsistent with the honor and true interests of both Republics.	594
10	Mr. Barrett to Mr. Hay.....	....do...	Same subject. Reports good progress in his efforts to relieve the tension of the port question.	594
14	Same to same.....	Aug. 9	Same subject. Incloses correspondence with the foreign office relating to Department's telegram of the 2d instant.	595
7	Mr. de Obaldía to Mr. Hay.	Aug. 11	Same subject. Transmits a statement with regard to the port question in the Canal Zone.	597

PANAMA—Continued.

No.	From and to whom.	Date.	Subject.	Date.
6	Mr. de Obaldía to Mr. Hay.	1904. Aug. 11	Same subject. Discusses at length the difficulties between the Panaman Government and the Government of the Canal Zone concerning the establishment of ports of entry, custom-houses, and post-offices in the Canal Zone.	598
	Mr. Hay to Mr. de Obaldía.	Aug. 18	Same subject. Incloses copy of note from Mr. Varilla to Mr. Hay dated January 19, 1904, relating to the interpretation of the canal convention.	607
	Mr. de Obaldía to Mr. Hay.	Aug. 19	Same subject. States that he had knowledge of Mr. Varilla's note of January 19, 1904, and that he based his views on the canal convention.	609
23	Mr. Barrett to Mr. Hay.....	Aug. 20	Same subject. Reports that he submitted Mr. Varilla's note to the minister for foreign affairs and that the intimation that the United States is ready to open negotiations outlined in the President's order of June 24 has allayed public excitement.	610
	Same to same (telegram) ..	Aug. 23	Same subject. The Panaman Government prefers that the negotiations be conducted at Panama.	610
10	Mr. Adee to Mr. de Obaldía.	Aug. 29	Same subject. Informs him that it is deemed advisable to conduct the negotiations at Panama, and suggests that he advise his Government to that effect.	610
15	Mr. Adee to Mr. Barrett....	....do ...	Same subject. Advises him that the negotiations will be conducted at Panama.	611
	Mr. de Obaldía to Mr. Hay.	Aug. 31	Same subject. States that he has informed his Government of the decision that the negotiations will be conducted at Panama.	611
31	Mr. Barrett to Mr. Hay.....	Sept. 6	Same subject. Incloses correspondence with the foreign office relating to the opening of negotiations for the settlement of the port question.	612
	Mr. Adee to Mr. Barrett (telegram).	Sept. 8	Extradition of Herman E. Haass. Instructs him to ascertain whether the Panaman Government will entertain request for surrender of a fugitive from the United States as an act of comity.	644
	Mr. Barrett to Mr. Hay (telegram).	....do ...	Same subject. The Panaman Government agrees to surrender fugitive.	644
	Mr. Adee to Mr. Barrett (telegram).	Sept. 12	Same subject. Instructs him to request provisional arrest and detention of Herman E. Haass.	644
	Same to same (telegram) ..	Sept. 13	Same subject. Informs him that Haass is expected to be at Hotel Gran Central, Panama, to-day.	644
40	Mr. Barrett to Mr. Hay.....	....do ...	Same subject. Reports the Panama police have been notified.	645
41	Same to same.....	Sept. 19	Same subject. Reports the arrest of Haass.....	645
22	Mr. Loomis to Mr. Barrett..	Sept. 23	Same subject. Informs him that John T. Connors, extradition agent, will present the President's warrant.	646
52	Mr. Lee to Mr. Hay.....	Oct. 11	Same subject. Reports the surrender of Haass to the extradition agent by the Panaman Government, and incloses copy of the resolution authorizing the surrender.	646
12	Mr. Hay to Mr. de Obeldía.	Oct. 24	Establishment of ports, etc., in the Canal Zone. Answers at length arguments as presented in his No. 6, of August 11, 1904.	613
66	Mr. Lee to Mr. Hay.....	Nov. 14	Seditious and mutinous conduct of the army of Panama. Reports steps taken by the legation to assist the Panaman Government in preserving order.	647
	Mr. Loomis to Mr. Lee (telegram).	Nov. 15	Same subject. Instructs him to offer assistance to the President of Panama from the United States in the suppression of the mutiny.	648
	Mr. Loomis to Mr. Barrett (telegram).	Nov. 17	Establishment of ports, etc., in the Canal Zone. Announces that the Secretary of War will visit Panama.	630
27	Mr. Hay to Mr. Lee.....	Nov. 19	Extradition of Herman E. Haass. Incloses indictment of Haass.	647
70	Mr. Barrett to Mr. Hay.....	Nov. 22	Seditious and mutinous conduct of the army of Panama. Gives an account of events in connection with the subject, and reports that the army has been disbanded.	648
71 B	Same to same.....	Dec. 6	Establishment of ports, etc., in the Canal Zone. Relates events in connection with the visit of the Secretary of War to Panama, and reports the successful termination of the difference between the Zone government and the Panaman Government.	631

PANAMA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
32	Mr. Hay to Mr. Barrett.....	1904. Dec. 8	Seditious and mutinous conduct of the army of Panama. Commends his course in the matter.	651
	Mr. Barrett to Mr. Hay (telegram).	Dec. 13	Establishment of ports, etc., in the Canal Zone. Reports successful inauguration of the new system of relations in the Canal Zone.	643
78	Same to same.....	Dec. 20	Sanitary conditions on the Isthmus of Panama. Incloses report of the chief sanitary officer, and states that there is no reason to believe that a yellow-fever epidemic will break out on the Isthmus.	560

PERSIA.

31	Mr. Pearson to Mr. Hay....	1904. Jan. 20	Passport application of Ablahat Odishu Samuel. Reports that he has declined to issue the passport and states his reasons.	656
22	Mr. Hay to Mr. Pearson....	Feb. 25	Same subject. Approves his action.....	656
	Mr. Pearson to Mr. Hay (telegram).	Mar. 13	Murder of Rev. Benjamin W. Labaree, an American missionary in Persia, reported.	657
	Mr. Hay to Mr. Pearson (telegram).	Mar. 23	Same subject. Instructs him to insist on energetic action by the Persian authorities to apprehend and punish the murderer.	658
	Mr. Pearson to Mr. Hay (telegram).	Mar. 25	Same subject. The American and British legations are insisting on energetic action on the part of the Persian Government to apprehend the murderer, who has been identified and located.	658
44	Same to same.....	Apr. 18	Same subject. Gives detailed account of the murder, and reports action taken by Persian Government to apprehend the murderer.	658
	Mr. Tyler to Mr. Hay (telegram).	May 5	Same subject. Reports that the American and British legations presented a joint note on the subject to the prime minister.	659
	Same to same (telegram)...	May 18	Same subject. Reports the arrest of the murderer.	659
1	Same to same.....	May 30	Same subject. Reports conversation with the minister for foreign affairs on the subject of protection of foreigners in Persia.	659
30	Mr. Hay to Mr. Tyler.....	June 20	Same subject. The Department expects that full justice be meted out to the participators in the crime.	660
	Mr. Tyler to Mr. Hay (telegram).	June 24	Same subject. Reports that the accomplices will not be arrested unless a peremptory message is sent by the Department.	661
	Mr. Hay to Mr. Tyler (telegram).	....do...	Same subject. The President hopes that this case be settled before the arrival of the new Persian minister.	661
31	Same to same.....	June 25	Same subject. Approves his action as reported in his No. 51.	661
56	Mr. Tyler to Mr. Hay.....	July 1	Same subject. Reports that little progress has been made since the arrest of the murderer. Incloses correspondence with the minister for foreign affairs.	661
	Mr. Pearson to Mr. Hay....	July 8	Same subject. Incloses copy of an identic note presented to the prime minister by the American and British ministers.	667
	Mr. Loomis to Mr. Pearson.	July 22	Same subject. Commends his course in the matter.	668
63	Mr. Tyler to Mr. Hay.....	July 23	Same subject. Incloses further correspondence with the foreign office.	669
66	Same to same.....	July 29	Same subject. Incloses copy of his note to the minister for foreign affairs regarding the failure of the authorities to arrest the accomplices of the murderer.	670
72	Same to same.....	Aug. 20	Same subject. Incloses copy of his note to the prime minister relating to the removal of certain government officials and the arrest of the accomplices of the murderer.	672
35	Mr. Adee to Mr. Tyler.....	Aug. 31	Same subject. Commends his course in the matter.	673
80	Mr. Tyler to Mr. Hay.....	Sept. 21	Same subject. Reports that, in view of the delay, hesitation, and ambiguous statements of the Persian Government, he paid a visit to the minister for foreign affairs and earnestly impressed upon him the necessity for speedy action.	673
	Same to same (telegram)...	Oct. 11	Same subject. Requests further instruction from the Department.	674
	Mr. Hay to Mr. Tyler (telegram).	Oct. 12	Same subject. If no immediate satisfaction is given the President will be constrained to lay the matter before Congress.	674

PERSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Tyler to Mr. Hay (telegram).	1904. Oct. 18	Same subject. Reports that the Shah has ordered the Crown Prince to arrest the murderers immediately.	675
	Same to same (telegram)...	Oct. 26	Same subject. Reports that the Crown Prince sent a detachment of fifty mounted men to arrest the murderers.	675
	Mr. Pearson to Mr. Hay (telegram).	Nov. 1	Same subject. The Crown Prince reports that six of the accomplices, in trying to escape, were killed.	675
	Same to same (telegram)...	Nov. 21	Same subject. Reports that, according to reliable information the report of the 1st instant is untrue, and that he has lodged indignant remonstrance.	675
	Mr. Hay to Mr. Pearson (telegram).	Nov. 25	Same subject. If no satisfactory action is taken before Congress meets the President will lay the matter before that body.	675
	Mr. Pearson to Mr. Hay (telegram).	Nov. 28	Same subject. Reports prospect of a settlement, and requests instructions concerning an indemnity.	676
	Mr. Hay to Mr. Pearson (telegram).	....do...	Same subject. Instructs him to demand an indemnity of \$50,000.	676
	Mr. Pearson to Mr. Hay (telegram).	Dec. 12	Same subject. The Persian Government agrees to pay the indemnity, but begs the President to reduce the amount.	676
	Same to same (telegram) ..	Dec. 28	Same subject. Reports the conditions of the settlement as agreed to by the Persian Government.	676
	Mr. Hay to Mr. Pearson (telegram).	Dec. 29	Same subject. Approves the conditions of the settlement.	677
	Mr. Pearson to Mr. Hay (telegram).	1905. Jan. 3	Same subject. Reports payment of the indemnity.	677
	Mr. Loomis to Mr. Pearson (telegram).	Jan. 4	Same subject. Gives instructions concerning the disposition of the indemnity.	677
	Same to same	Jan. 6	Same subject. The President commends his energetic and efficient action in the case.	677

PERU.

817	Mr. Neill to Mr. Hay	1903. Nov. 19	Claim of W. R. Grace & Co. against Peru, settlement of. Incloses copy of his note to the minister for foreign relations calling attention to this long-pending claim.	678
831	Same to same	Dec. 19	Same subject. Reports that an agreement has been made between the minister of finance and W. R. Grace & Co.	679
849	Mr. Dudley to Mr. Hay	1904. Jan. 28	Arbitration of the boundary dispute between Ecuador and Peru. Incloses protocol.	680
852	Same to same	Jan. 30	Boundary between Bolivia and Peru. Incloses treaty relating to the demarcation of, and treaty of arbitration respecting the limits of the two countries.	684
856	Same to same	Feb. 3	Claim of W. R. Grace & Co. against Peru. Incloses copy of a law making provisions for the payment of.	680
879	Same to same	Mar. 5	Marriages of foreigners in Peru. Incloses copy of a decree requiring foreigners who desire to marry in Peru to present certificates from their legations in proof of their civil condition.	687
883	Same to same	Mar. 25	Visit of the United States Pacific Squadron to Peru. Reports cordial reception of.	692
885	Same to same	Mar. 28	Marriages of foreigners in Peru. Incloses copy of his note to the foreign office pointing out the reasons why United States representatives can not comply with the requirements of the decree relating to.	689
325	Mr. Hay to Mr. Dudley	Apr. 11	Same subject. Approves his action	690
894	Mr. Dudley to Mr. Hay .....	....do...	Same subject. Incloses copy of his instruction to the American consul at Callao not to issue certificates of celibacy.	690
	Same to same (telegram)...	May 7	Death of President Candamo of Peru announced.	693
	Mr. Hay to Mr. Dudley (telegram).	....do...	Same subject. Instructs him to express sympathy of the President and people of the United States.	693
14	Mr. Calderon to Mr. Hay...	May 9	Same subject. Expresses appreciation for the message of sympathy.	693
912	Mr. Dudley to Mr. Hay	May 10	Arbitration of the boundary dispute between Colombia and Peru. Reports the signing of a convention for the.	694

PERU—Continued.

No.	From and to whom.	Date.	Subject.	Page.
920	Mr. Dudley to Mr. Hay.....	1904. May 16	Death of President Candamo. Reports that he sent flowers in the name of the President upon the occasion of the late President Candamo.	694
923	Same to same.....	May 17	Arbitration of the boundary dispute between Colombia and Peru. Incloses copy of the convention.	695
329	Mr. Loomis to Mr. Dudley..	May 19	Marriages of foreigners in Peru. Approves his No. 894.	691
950	Mr. Dudley to Mr. Hay.....	July 8	Display of the Peruvian flag on anniversaries of other nations and as a sign of condolence upon the death of chiefs of other States. Incloses copy of a decree providing for.	697
958	Same to same.....	July 23	Marriages of foreigners in Peru. Incloses executive resolution suspending the decree inclosed in his No. 879.	691
337	Mr. Adee to Mr. Dudley....	Aug. 3	Display of the Peruvian flag, etc. The tributes shown by this Government on occasion of the death of the chief of a friendly State are within the discretion of the Executive.	698
977	Mr. Dudley to Mr. Hay.....	Aug. 21	Arbitration of the boundary dispute between Ecuador and Peru. Reports that an encounter took place between Ecuadorean and Peruvian troops.	682
978	Same to same.....	Aug. 29	Display of the Peruvian flag, etc. The decree inclosed in his No. 950 was nominally issued upon the basis of reciprocity, but it is stated that it is not the purpose of the Peruvian Government to inquire into the fact of reciprocity.	698
341	Mr. Adee to Mr. Neill.....	Sept. 17	Arbitration of the boundary dispute between Ecuador and Peru. Instructs him to inquire into the facts of the encounter between Ecuadorean and Peruvian troops and to express the desire of the President that peace may be preserved.	683
995	Mr. Neill to Mr. Hay.....	Oct. 12	Same subject. Reports that the expression of the desire of the President that peace be preserved was received with pleasure and satisfaction by the Peruvian Government, and that an adjustment of the difficulty will be secured.	683
1004	Same to same.....	Oct. 29	Arbitration of Alto Juruá and Alto Purús claims. Reports that the Peruvian Congress approved the convention with Brazil for the arbitration of.	699

PORTUGAL.

	Mr. Hay to Mr. Bryan (telegram.)	1904. Feb. 10	Neutrality of China in the war between Russia and Japan. Proposal of the United States for an international arrangement to secure the.	700
	Mr. Bryan to Mr. Hay (telegram.)	Feb. 16	Same subject. The Portuguese Government concurs in the proposal of the United States.	700
60	Same to same.....	Feb. 17	Same subject. Confirms his telegram of same date and incloses note from the Portuguese foreign office.	700
33	Mr. Hay to Mr. Bryan.....	Feb. 26	Visit of the United States battle-ship squadron to Lisbon. Informs him of the proposed visit.	702
70	Mr. Bryan to Mr. Hay.....	Mar. 22	Same subject. King Carlos promises a cordial welcome to the American squadron.	702
	The King of Portugal to President Roosevelt (telegram.)	June 11	Same subject. Expresses his pleasure of the visit of the American squadron.	703
	President Roosevelt to the King of Portugal (telegram.)	June 13	Same subject. Expresses thanks for the courtesy to himself and the generous hospitality to the American fleet.	703
85	Mr. Bryan to Mr. Hay.....	June 18	Arbitration treaty between Portugal and Spain. Text.	701
84	Same to same.....	June 21	Visit of the United States battle-ship squadron to Lisbon. Gives an account of the hospitality extended to the fleet.	703

ROUMANIA.

No.	From and to whom.	Date.	Subject.	Page.
93	Mr. Wilson to Mr. Hay.....	1904. May 5	Jews in Roumania. Reports that Jewish newspapers of London speak of better relations now existing in Roumania between the Jews and Christians.	706
97	Mr. Jackson to Mr. Hay....	May 27	Petroleum industry in Roumania. Reports that the Roumanian Parliament passed a law for the purpose of controlling concessions by private persons to corporations.	706
105	Same to same.....	June 25	Same subject. Reports the new rules concerning the Government petroleum reservoirs issued under the new law.	707

RUSSIA.

	Mr. McCormick to Mr. Hay (telegram).	1904. Jan. 2	Difficulty between Russia and Japan. Reports that he is informed that a conciliatory reply to the Japanese counter proposals will be sent in a few days.	708
	Mr. Loomis to Mr. McCormick (telegram).	Feb. 6	Same subject. Informs him of the attitude of Japan toward Russia.	708
	Mr. McCormick to Mr. Hay (telegram).	Feb. 7	Same subject. Reports the conditions proposed by Russia to Japan.	708
	Mr. Hay to Mr. McCormick (telegram).	....do ...	Protection of Japanese interests in Russia. Instructs him to inquire whether it will be agreeable to the Russian Government if American representatives look after the interests of Japan in Russia.	714
	Mr. McCormick to Mr. Hay (telegram).	Feb. 8	Difficulty between Russia and Japan. Reports that the Russian minister at Tokyo had the Russian reply when the Japanese minister asked for his passports.	709
	Same to same (telegram)...	Feb. 9	Protection of Japanese interests. The Russian Government has no objections to the American representatives looking after the interests of Japan.	714
	Mr. Loomis to Mr. McCormick (telegram).	....do ...	Same subject. Directs him to instruct the American consular officers in Russia in the sense of the above telegram.	714
	The Russian embassy to Mr. Hay.	Feb. 10	War between Russia and Japan. Reports the beginning of hostilities.	709
84	Mr. McCormick to Mr. Hay.	....do ...	Same subject. Incloses a Government communication on the situation in the Far East.	709
	Mr. Hay to Mr. McCormick (telegram).	....do ...	Neutrality of China in the war between Russia and Japan. Expresses the earnest desire of the Government of the United States that the neutrality of China be respected by both belligerents.	722
	Mr. McCormick to Mr. Hay (telegram).	Feb. 11	Same subject. Department's telegram of the 10th has been communicated to the minister for foreign affairs.	723
	Count Cassini to Mr. Hay ..	Feb. 15	Same subject. Communicates rules for vessels entering Port Arthur.	723
	Mr. Hay to Mr. McCormick (telegram).	....do ...	Same subject. Transmits the reply of the Japanese Government to the proposal of the United States.	723
89	Mr. McCormick to Mr. Hay.	Feb. 17	Same subject. Reports that the Russian Government will shortly reply to the proposal of the United States.	724
	Same to same (telegram) ..	Feb. 19	Same subject. Transmits the reply of the Russian Government to the proposal of the United States.	724
	Mr. Hay to Mr. McCormick (telegram).	....do ...	Same subject. The reply of the Russian Government is considered as responsive to the proposal of this Government.	725
	The Russian embassy to the Department of State.	Feb. 29	Same subject. Defines the limits of the border region in Manchuria which may be used as the field of military operations.	725
	Mr. Hay to Mr. McCormick.	Mar. 2	Protection of American interests in Korea. An assurance from the Russian Government that all possible security will be given to neutral Americans in Korea would be acceptable to the United States Government.	726
95	Mr. McCormick to Mr. Hay.	Mar. 5	Same subject. Reports that the minister for foreign affairs gave assurances that in case of the occupation of Korea by Russian troops all neutral foreigners would be safeguarded.	726
98	Same to same.....	Mar. 9	Contraband of war. Transmits the Russian rules relating to.	727

RUSSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. McCormick to Mr. Hay (telegram).	1904. Mar. 19	Protection of Japanese interests. Reports that he is sending several destitute Japanese to Berlin.	715
	Mr. Loomis to Mr. McCormick (telegram).	....do....	Same subject. Approves his action as reported in above telegram.	715
	Same to same (telegram)...	Mar. 24	Same subject. The Japanese Government desires that its destitute subjects in Siberia be notified that they may be assisted to Berlin if they desire.	715
	Same to same (telegram)....	....do....	Same subject. The Japanese Government desires the consent of the Russian Government to send a neutral vessel to Saghalien Island to take off the Japanese consular staff and 600 refugees.	715
	Count Cassini to Mr. Hay ..	Mar. 26	Neutrality of China. Gives information that mines are being laid at the mouth of the Liao Ho River.	725
	Same to same.....	Mar. 28	Protection of American interests in Korea. Warns all neutral powers of the danger in which vessels calling at Korean ports may be involved through the development of the war.	727
	Same to same.....	Mar. 30	Neutrality of China. Transmits rules for vessels navigating waters in which military operations are carried on.	726
92	Mr. Hay to Mr. McCormick.	'pr. 1	Protection of Japanese interests. Incloses a note from the Japanese minister at Washington informing the Department that the Russian Government has agreed to communicate information concerning Japanese prisoners of war.	716
	Same to same (telegram)...	Apr. 4	Arrest of American newspaper correspondents by Russian authorities. Informs him of the arrest of Messrs. Washburn and Little, and instructs him to ask for their release.	777
	Mr. McCormick to Mr. Hay (telegram).	Apr. 6	Protection of Japanese interests. Reports that the foreign office is awaiting a reply from the viceroy in regard to a neutral vessel to take off Japanese subjects from Saghalien Island.	717
	Mr. Hay to Mr. McCormick (telegram).	Apr. 7	Same subject. Instructs him to use good offices to effect the release of two Japanese servants of Messrs. Washburn and Little, who were arrested near Niuchwang.	717
96	Same to same.....	Apr. 11	Same subject. Incloses a note from the Japanese minister at Washington expressing a desire for the release of the Japanese on board the captured press boat <i>Hanyei Maru</i> .	717
	Mr. McCormick to Mr. Hay	....do....	Same subject. The request for the release of the Japanese subjects on board the <i>Hanyei Maru</i> has been referred to the viceroy.	718
119	Same to same.....	Apr. 12	Arrest of American newspaper correspondents. Reports the release of Messrs. Washburn and Little.	778
	Same to same (telegram)...	Apr. 15	Protection of Japanese interests. Reports that permission has been granted for a neutral vessel to take off Japanese subjects from Saghalien Island.	718
	Count Cassini to Mr. Hay....	....do....	Contraband of war. Gives information that correspondents using wireless telegraph within the zone of operations of the Russian fleet will be considered as spies.	729
239	Mr. Hay to Count Cassini...	Apr. 20	Same subject. Acknowledges above note, and reserves all rights the United States may have in international law in case of an arrest of an American citizen or seizure of an American vessel.	729
	Mr. McCormick to Mr. Hay (telegram).	Apr. 21	Protection of Japanese interests. The Japanese consul at Korsakov has been informed that a neutral vessel will take off Japanese subjects at that place.	718
	Mr. Hay to Mr. McCormick (telegram).	Apr. 22	Same subject. The British steamer <i>Ettrick Dale</i> will be dispatched to Korsakov.	718
127	Mr. McCormick to Mr. Hay.	Apr. 30	Same subject. Incloses a note from the foreign office declining to release the Japanese prisoners captured on the <i>Hanyei Maru</i> .	719
	Same to same (telegram)...	May 1	Same subject. Reports that the viceroy will exchange information relating to prisoners of war as often as practicable.	719
	Same to same (telegram)...	May 6	Same subject. Reports that the commercial agent at Vladivostok has turned the Japanese consular premises over to the port admiral for Red Cross purposes.	720
	Same to same (telegram)...	May 8	Same subject. Reports the arrival and departure of the <i>Ettrick Dale</i> at and from Korsakov.	720

RUSSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1904.		
110	Mr. Hay to Mr. McCormick.	May 9	Same subject. Incloses copy of his note to the Japanese minister at Washington relating to the Japanese consular premises at Vladivostok	720
	Mr. McCormick to Mr. Hay (telegram).	....do....	Passport application of Michael Silberkasten. Asks whether Department issued a passport.	778
	Mr. Hay to Mr. McCormick (telegram).	May 10	Same subject. No record of passport to Silberkasten.	778
	Same to same (telegram)...	May 11	Protection of Japanese interests. The Japanese Government has no objection to the use of the consular premises at Vladivostok for Red Cross purposes.	720
132	Mr. McCormick to Mr. Hay.	....do....	Neutrality of the United States in the war between Russia and Japan. Incloses report of the Russian minister to Korea taking exceptions to the action of Captain Marshall, of the U. S. S. <i>Vicksburg</i> , in the battle off Chemulpo.	780
134	Same to same.....	May 14	Protection of Japanese interests. The viceroy has been requested to communicate the names of the Japanese prisoners taken on the <i>Kimshu Maru</i> .	721
	Same to same (telegram)...	May 17	Contraband of war. Reports that raw cotton is declared contraband.	729
141	Same to same.....	May 21	Same subject. Incloses decree declaring cotton contraband of war.	730
144	Same to same.....	May 25	Same subject. Above decree applies to raw cotton and cotton waste.	730
146	Same to same.....	May 27	Passport application of Michael Silberkasten. Incloses report of the consul at Warsaw on the subject.	778
	Circular	June 10	Contraband of war. Gives the attitude of the United States on the subject.	730
	Mr. Hay to Mr. McCormick (telegram).	June 11	Protection of Japanese interests. The Japanese Government requests permission to send a neutral vessel to Caparison Djaore for Japanese refugees.	721
	Mr. McCormick to Mr. Hay (telegram).	June 22	Same subject. The viceroy declines to release the crew of the captured <i>Hagiao Ura Maru</i> .	721
164	Same to same.....	June 30	Same subject. Reports that he has sent a list of Japanese prisoners of war to the Japanese minister at Berlin.	721
127	Mr. Hay to Mr. McCormick.	July 1	Discriminatory treatment of Jews (American citizens) in Russia. Incloses a resolution adopted by the House of Representatives relating to the subject for transmission to the Russian Government.	790
	Mr. Loomis to Mr. Eddy (telegram).	July 18	Protection of seals in the North Pacific Ocean. Instructs him to ascertain whether the Russian Government desires to have the operations of the American patrol vessels extend to the waters of the Commander Islands.	794
131	Same to same.....	July 20	Protection of Japanese interests. Incloses a note from the Japanese minister at Washington stating that it is not necessary to send a vessel to Caparison Djaore, as the Japanese subjects have been transferred to the interior.	722
	Mr. Eddy to Mr. Hay (telegram).	....do....	Protection of seals. Department's telegram of the 18th instant has been communicated to the foreign office.	794
	Mr. Adee to Mr. Eddy (telegram).	July 27	Seizure of the steamship <i>Arabia</i> . Instructs him to request release of vessel and cargo.	732
	Same to same (telegram)...	....do....	Seizure of the steamship <i>Ardova</i> . Instructs him to advise the Russian Government that the United States Government owns part of the cargo of that vessel.	732
	Mr. Eddy to Mr. Hay (telegram).	July 28	Seizure subject. Reports the release of the <i>Ardova</i> .	733
134	Mr. Loomis to Mr. McCormick.	July 29	Same subject. Incloses a communication from the War Department relating to the cargo of the <i>Ardova</i> .	733
	Mr. Loomis to Mr. Eddy (telegram).	July 30	Seizure and sinking of the <i>Knight Commander</i> . Instructs him to inform the Russian Government that the United States reserves all rights of security, regular treatment, and reparation for American cargo on the <i>Knight Commander</i> .	734
	Mr. Eddy to Mr. Hay (telegram).	July 31	Protection of seals. Reports the acceptance by the Russian Government of the proposal concerning.	795
	Mr. Adee to Mr. Eddy (telegram).	Aug. 1	Seizure of the <i>Arabia</i> . Instructs him to ascertain whether the <i>Arabia</i> has been taken to Vladivostok and whether a prize court has been established there.	734
	Mr. McCormick to Mr. Hay (telegram).	Aug. 2	Same subject. Answers above telegram in the affirmative.	735

RUSSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1904.		
	Mr. Adee to Mr. McCormick (telegram).	Aug. 3	Same subject. Transmits the manifest of the <i>Arabia</i> and instructs him to request release of vessel and cargo.	735
172	Mr. McCormick to Mr. Hay.	....do....	Prize regulations. Incloses copy of.....	735
	Mr. Adee to Mr. McCormick (telegram).	Aug. 4	Protection of seals. The Government of the United States deems it inexpedient to report any marauding by American vessels to the Russian Government.	795
	Mr. Hay to Mr. McCormick (telegram).	Aug. 9	Seizure of the <i>Arabia</i> . Press reports state that the prize court has confiscated all the cargo of the <i>Arabia</i> consigned to Japanese ports.	755
	Mr. McCormick to Mr. Hay (telegram).	Aug. 10	Same subject. Reports confiscation of all the cargo of the <i>Arabia</i> consigned to Japan and release of the vessel.	755
176	Same to same.....	....do....	Same subject. Incloses a note from the foreign office informing him of the decision of the prize court in the matter of the cargo of the <i>Arabia</i> .	755
	Same to same (telegram)....	....do....	Protection of seals. The Russian Government accepts the proposition as stated in Department's telegram of the 4th instant.	795
	Mr. Hay to Mr. McCormick (telegram).	Aug. 11	Seizure of the <i>Arabia</i> . Takes exceptions to the decision of the prize court, and instructs him to protest against the condemnation of the cargo and to ask for its release.	756
	Same to same (telegram)....	Aug. 13	Same subject. Asks upon what principle certain machinery, part of the cargo of the <i>Arabia</i> , was condemned, if at all.	757
	Mr. McCormick to Mr. Hay (telegram).	....do....	Same subject. Department's telegram of the 11th instant has been complied with.	757
138	Mr. Hay to Mr. McCormick.	Aug. 15	Seizure of the <i>Ardova</i> . Incloses telegram from the consular agent at Alexandria stating that a letter to the United States quartermaster-general at Manila was seized by the Russian commander.	757
	Same to same (telegram)....	Aug. 16	Seizure of the steamship <i>Calchas</i> . Instructs him to request the release of noncontraband American cargo.	758
	Mr. McCormick to Mr. Hay.	Aug. 19	War between Russia and Japan. Incloses regulations for the protection of Russian ports.	711
178	Same to same.....	Aug. 20	Seizure of the <i>Arabia</i> . Reports that the British ambassador protested against the seizure on similar lines as his own protest.	758
	Mr. McCormick to Count Lamsdorff.	Aug. 22	Discriminatory treatment of Jews, etc. Note transmitting the resolution adopted by the House of Representatives.	790
	Mr. Adee to Mr. McCormick (telegram).	Aug. 23	Seizure of the <i>Arabia</i> . Instructs him to ascertain whether evidence will be received by the council of admiralty on the hearing of the appeal.	759
	Mr. McCormick to Mr. Hay (telegram)	Aug. 24	Same subject. Reports that cargo of machinery on the <i>Arabia</i> was confiscated and states the principle upon which confiscation was made.	759
	Mr. Adee to Mr. McCormick (telegram).	Aug. 25	Protection of seals. The American cruiser <i>Bufalo</i> will patrol the waters of the Commander Islands.	796
	Same to same (telegram)....	Aug. 26	Seizure of the <i>Arabia</i> . Instructs him to request that ample time be given to the interested parties to take an appeal from the decisions of the prize court.	759
	Mr. McCormick to Mr. Hay (telegram).	Aug. 30	Same subject. Evidence will be accepted by the council of admiralty.	759
	Same to same (telegram)....	....do....	Same subject. Gives the regulations for the extension of the time for an appeal.	760
143	Mr. Hay to Mr. McCormick.	....do....	Same subject. Instructs him to make earnest protest against the decisions of the prize court and to state that the Government of the United States is unable to recognize the principle of that decision and still less to acquiesce in it as a policy.	760
	Mr. Adee to Mr. McCormick (telegram).	Sept. 1	Seizure of the <i>Calchas</i> . Instructs him to request the release of the cargo of the <i>Calchas</i> if the seizure was based on its destination to private parties in Japanese ports.	763
144	Same to same.....	....do....	Seizure of the <i>Arabia</i> . Enters further protest against the seizure.	763
181	Mr. McCormick to Mr. Hay.	Sept. 3	Same subject. Reports that Department's instruction of the 30th ultimo has been communicated to the minister for foreign affairs and that Count Lamsdorff declined to express any opinion, as the matters are now in the hands of the admiralty court.	76.
183	Same to same.....	Sept. 10	Seizure of the <i>Calchas</i> . Incloses a note from the minister for foreign affairs stating that the special commission for the examination of the <i>Calchas</i> has not yet finished its work.	765

RUSSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1904.		
	Count Cassini to Mr. Adee (telegram).	Sept. 13	Neutrality of the United States. Announces that the Russian transport <i>Lena</i> has entered the port of San Francisco.	785
	Mr. Adee to Count Cassini. ....do...		Same subject. Investigation is being made as to the repairs needed by the <i>Lena</i> .	785
	Mr. McCormick to Mr. Hay (telegram).	Sept. 14	Seizure of the <i>Calchas</i> . Reports the decision of the prize court relating to the <i>Calchas</i> .	765
	Mr. Adee to Count Cassini (telegram).	....do...	Neutrality of the United States. Only such repairs to the <i>Lena</i> can be allowed as may be necessary for seaworthiness and for taking her back to her nearest home port.	785
	Count Cassini to Mr. Adee (telegram).	Sept. 15	Same subject. Requests a delay of forty-eight hours to permit him to receive instructions from his Government.	786
	Mr. Adee to Count Cassini (telegram).	....do...	Same subject. The captain of the <i>Lena</i> has informed the Government of the United States that he must disarm, and has asked permission to repair his ship.	786
	Same to same (telegram)....	....do...	Same subject. The President has issued an order directing the <i>Lena</i> to be taken in custody by the naval authorities of the United States.	787
	Same to same (telegram)....	Sept. 16	Same subject. Acknowledges Count Cassini's telegram of the 15th instant.	787
	Mr. Adee to Mr. McCormick (telegram).	....do...	Seizure of American cargoes. Requests the answer of the minister for foreign affairs to his note communicating Department's Nos. 143 and 144.	766
184	Mr. McCormick to Mr. Hay.	Sept. 17	Same subject. Reports statement made by Count Lamsdorff to the British ambassador in regard to the decisions of the prize court.	766
	Same to same (telegram)....	Sept. 19	Same subject. Reports that the minister for foreign affairs accepts the principle as set forth in Department's instructions, with certain reservations.	767
	Mr. Loomis to Mr. McCormick.	....do...	Same subject. Instructs him to forward Count Lamsdorff's note and his supplemental instructions to the prize court.	767
	Count Cassini to Mr. Adee..	Sept. 20	Neutrality of the United States. The Russian Government requests the return of the crew of the <i>Lena</i> to Russia.	788
186	Mr. McCormick to Mr. Hay.	Sept. 21	Seizures of American cargoes. Incloses a memorandum from Count Lamsdorff replying to Mr. McCormick's notes in regard to the decisions of the prize court.	767
	Same to same (telegram)....	....do...	Same subject. The time limit of appeal has been extended to October 22 and December 12.	769
148	Mr. Loomis to Mr. McCormick.	Sept. 22	Neutrality of the United States. Incloses report of Commander Marshall replying to the criticism of his conduct in the battle off Chemulpo, as reported in embassy's No. 132.	782
	Same to same (telegram) ..	Sept. 23	Seizure of American cargoes. Instructs him to ascertain whether a consignment of lumber on the <i>Calchas</i> has been confiscated.	769
189	Mr. McCormick to Mr. Hay.	....do...	Same subject. Incloses a list of the members of the admiralty court.	770
	Mr. Loomis to Count Cassini.	Sept. 24	Neutrality of the United States. Informs him that the crew of the <i>Lena</i> can not be repatriated without the consent of the Japanese Government, and that it has been intimated that Japan will not consent thereto.	788
191	Mr. McCormick to Mr. Hay.	Sept. 29	Seizures of American cargoes. Suggests that counsel be retained to conduct the appeal cases.	770
	Mr. Adee to Mr. McCormick (telegram).	Oct. 4	Same subject. Instructs him to ascertain the disposition of certain machinery, part of the cargo of the <i>Calchas</i> .	771
	Mr. McCormick to Mr. Hay (telegram).	Oct. 6	Same subject. Reports that a bond has been fixed for the <i>Calchas</i> .	771
193	Same to same	Oct. 7	Discriminatory treatment of Jews. Incloses a note from the minister for foreign affairs stating that the matter will be brought to the attention of a special commission appointed to revise the passport regulations.	793
	Mr. Eddy to Mr. Hay (telegram).	Oct. 8	Seizure of the <i>Calchas</i> . Reports the disposition by the prize court of certain machinery, part of the cargo of the <i>Calchas</i> .	772
155	Mr. Hay to Mr. Eddy.....	Oct. 13	Same subject. Incloses papers concerning the confiscation of United States mail matter on the <i>Calchas</i> and instructs him to request an investigation.	772
156	Same to same	Oct. 14	Protection of Japanese interests. Incloses note from the Japanese minister at Washington conveying the thanks of his Government to Mr. McCormick for his good offices.	722

RUSSIA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1904.		
157	Mr. Hay to Mr. Eddy.....	Oct. 17	Seizure of the <i>Calchas</i> . Incloses additional papers concerning the opening of United States mail bags on the <i>Calchas</i> .	772
	Mr. Loomis to Mr. Eddy (telegram).	Oct. 20	Seizure of American cargoes. Instructs him to ascertain the disposition of consignments of tobacco and petroleum, part of the cargo of the <i>Knight Commander</i> .	773
	Mr. Adee to Mr. Eddy (telegram).	Oct. 24	Same subject. Instructs him to advise and assist American claimants.	773
197	Mr. Eddy to Mr. Hay.....	Oct. 26	Same subject. Incloses his note to the foreign office concerning the confiscation of United States mail matter on the <i>Calchas</i> .	773
	Mr. Eddy to Mr. Hay (telegram).	Oct. 27	Firing on British fishing vessels by Russian war vessels. The report of the Russian admiral states that Japanese torpedo boats, under cover of the fishing vessels, attempted to attack the fleet.	796
	Same to same (telegram)...	Oct. 28	Same subject. The British embassy has presented a demand for an impartial inquiry.	796
	Same to same (telegram).....do...	do	Same subject. The Russian Government agrees to the submission of the matter to a special tribunal.	796
164	Mr. Hay to Mr. Eddy.....	do	Passport application of Michael Silberkasten. Incloses a letter from the Attorney-General approving the action of the consul at Warsaw in taking up the naturalization certificate.	780
198	Mr. Eddy to Mr. Hay.....	Nov. 2	Seizure of the <i>Calchas</i> . Reports interview with the minister for foreign affairs relating to the confiscation of United States mail matter on the <i>Calchas</i> .	774
	Same to same	Nov. 5	Firing on British fishing vessels, etc. Incloses newspaper clipping giving an account of the incident.	797
	Mr. Hay to Mr. Eddy (telegram).	Dec. 1	Same subject. Informs him of the appointment of Rear-Admiral Davis as a member of the North Sea Commission.	799
169	Mr. Hay to Mr. McCormick.	Dec. 6	Contraband of war. Requests copies of all communications between himself and Count Lamsdorf on the subject.	774
	Mr. Hay to Mr. Eddy (telegram).	Dec. 10	Seizures of American cargoes. Instructs him to request an extension of the time limit for an appeal in the <i>Arabia</i> case.	775
	Count Cassini to Mr. Hay	do	Neutrality of the United States. Request permission for the captain of the <i>Lena</i> to hoist the national flag, dress his ship, and to fire the imperial salute in celebrating the name day of His Majesty the Emperor on the 19th instant.	789
	Mr. Eddy to Mr. Hay (telegram.)	Dec. 13	Seizure of American cargoes. Reports that all appeals must be filed in St. Petersburg.	775
252	Mr. Hay to Count Cassini ..	Dec. 14	Neutrality of the United States. The <i>Lena</i> being incompetent to salute the American flag and not being entitled to a salute in return, the request of her captain to fire a salute in commemoration of the name day of His Majesty the Emperor can not be granted.	789
	Mr. Hay to Mr. Eddy (telegram.)	Dec. 15	Seizures of American cargoes. Requests information regarding the time limit for appeals.	775
	Mr. Eddy to Mr. Hay (telegram.)	Dec. 16	Same subject. Reports that the captains of the <i>Calchas</i> and <i>Knight Commander</i> have entered appeals en bloc.	775
	Mr. Loomis to Mr. Eddy (telegram.)	Dec. 17	Same subject. Instructs him to request the foreign office to instruct its consular officers to transmit powers of attorney by cable.	775
	Mr. Eddy to Mr. Hay (telegram.)	Dec. 18	Same subject. Hearing of the <i>Knight Commander</i> and <i>Calchas</i> cases have been set for January 15.	776
	Same to same (telegram) ...	Dec. 20	Same subject. Department's telegram of the 17th has been complied with.	776
	Same to same (telegram) ...	Dec. 22	Same subject. Instructions have been given to Russian consuls to telegraph powers of attorney.	776
	Mr. Hay to Mr. Eddy (telegram).	Dec. 23	Same subject. Claimants desiring to take appeals have found it impossible to do so within the prescribed time, instructs him to request an extension of the time limit.	777
	Mr. Eddy to Mr. Hay (telegram).	Dec. 24	Same subject. Urges that all powers of attorney be telegraphed without delay.	777

SERVIA.

No.	From and to whom.	Date.	Subject.	Page.
35	Mr. Wilson to Mr. Hay	1904. Apr. 7	Renewal of diplomatic relations. Reports that the several European powers are renewing diplomatic relations with Servia.	800
37	Same to same	Apr. 19	Same subject. Reports renewal of diplomatic relations with other European powers.	800
40	Mr. Jackson to Mr. Hay	May 14	Presentation of credentials by Minister Jackson. Reports courtesies extended to him and incloses text of his address and of the reply of King Peter.	801
44	Same to same	June 14	Coronation of King Peter. Reports that the ceremony will take place on Aug. 29, and that he intends to go to Belgrade to be present at the coronation.	802
10	Mr. Hay to Mr. Jackson....	July 8	Same subject. Approves his purpose to attend the coronation.	802
	Mr. Jackson to Mr. Hay (telegram).	Sept. 21	Same subject. The coronation took place to-day.	803
52	Same to same	Sept. 26	Same subject. Gives an account of the ceremonies.	803

SPAIN.

188	Mr. Hardy to Mr. Hay	1904. Feb. 5	Citizenship of Jorge Grau y Ortegueira, a native Porto Rican. Incloses a dispatch from the consul at Cadiz stating that there is some difficulty with the Spanish authorities in regard to the recognition of the Porto Rican citizenship of Grau.	804
	Mr. Hay to Mr. Hardy (telegram).	Feb. 10	Neutrality of China in the war between Russia and Japan. Proposal of the United States for an international arrangement to secure the.	806
	Mr. Hardy to Mr. Hay (telegram).	Feb. 13	Same subject. The Spanish Government is awaiting action by other powers.	806
194	Same to same .....	....do...	Same subject. Confirms in detail above telegram.	806
	Mr. Hay to Mr. Hardy (telegram).	Feb. 15	Same subject. Informs him that action has already been taken by Germany, France, and Great Britain.	807
	Mr. Hardy to Mr. Hay (telegram).	Feb. 16	Same subject. The Spanish Government asks for the text of the adherence of Germany, France, and Great Britain to the proposal of the United States.	807
	Mr. Hay to Mr. Hardy (telegram).	....do...	Same subject. No formal text of adherence to the proposal of the United States has been adopted by the powers.	807
	Mr. Hardy to Mr. Hay (telegram).	Feb. 17	Same subject. Reports the adherence to the proposal of the United States by the Government of Spain.	807
112	Mr. Hay to Mr. Hardy	Feb. 26	Citizenship of Jorge Grau y Ortegueira. Department holds that he is entitled to protection by the United States.	805
205	Mr. Hardy to Mr. Hay	Mar. 8	Same subject. Reports that the Spanish authorities accept the certificate of the consul.	805
233	Same to same	June 7	International Ocean Telegraph Company, settlement of claim of, against Spain. Reports his efforts in behalf of the company and incloses draft for \$10,003.46.	808
	Mr. Hay to Mr. Hardy	June 24	Same subject. Acknowledges his No. 233 with contents.	809

SWEDEN AND NORWAY.

176	Mr. Hay to Mr. Thomas	1903. Nov. 13	Testimonial presented to Capt. Hans Holm by the United States. Transmits the testimonial to be presented to Captain Holm for his services to the shipwrecked crew of the American bark <i>John E. Stanhope</i> .	810
343	Mr. Thomas to Mr. Hay	1904. Jan. 18	Same subject. Returns the receipt of Captain Holm.	810
345	Same to same	Jan. 21	Celebration of the seventy-fifth birthday anniversary of King Oscar. Gives an account of the celebration.	810

SWEDEN AND NORWAY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Grip to Mr. Adee.....	1904. Mar. 1	Protection of the interests of Sweden and Norway in the Dominican Republic. Requests good offices of United States naval authorities to permit the entry of the Norwegian steamer <i>Farmand</i> to the port of Macoris.	811
	Mr. Hay to Mr. Grip.....	Mar. 5	Same subject. United States naval officers have been instructed to use good offices to enable the <i>Farmand</i> to follow her normal course.	812
	Mr. Grip to Mr. Hay.....	Mar. 9	Same subject. Requests that good offices may be exercised in behalf of the steamer <i>Hugin</i> .	812
	Mr. Hay to Mr. Grip.....	Mar. 11	Same subject. The Navy Department had already been requested to use good offices in behalf of the <i>Hugin</i> .	812
	Mr. Grip to Mr. Hay.....	Apr. 22	Same subject. Expresses thanks of his Government.	813

SWITZERLAND.

54	Mr. Hill to Mr. Hay.....	1904. Aug. 11	Refusal of passport to Jacob Wertli. Incloses correspondence with the consulates at St. Gall and Zurich relating to the application of Wertli and requests decision of the case.	814
60	Mr. Adee to Mr. Hill.....	Aug. 31	Same subject. An investigation should be made, and if clear and satisfactory explanation of the suspicion of fraud is made a passport may be issued, but not otherwise.	816
60	Mr. Boutell to Mr. Hay.....	Sept. 24	Same subject. Passport has been refused by the legation.	816

TURKEY.

	Mr. Leishman to Mr. Hay (telegram).	1903. Dec. 7	Assault on the American consul at Alexandretta by Turkish officials. Reports that the consul has gone to Beirut for safety.	833
	Mr. Loomis to Mr. Leishman (telegram).	Dec. 14	Same subject. Instructs him to demand expression of regrets and punishment of the authorities at Alexandretta.	834
	Mr. Leishman to Mr. Hay (telegram).	Dec. 15	Same subject. Requests more definite instructions.	834
	Mr. Hay to Mr. Leishman (telegram).	Dec. 16	Same subject. Informs him that Consul Davis will be conveyed back to Alexandretta by Admiral Cotton.	834
	Mr. Leishman to Mr. Hay (telegram).	Dec. 22	Same subject. The governor of Alexandretta expressed proper regrets to the American consul.	835
	Same to same (telegram)...	1904. Jan. 17	Equal treatment for American institutions. Constant efforts, since the arrival of the American fleet, to bring the matter to a settlement remain unsuccessful.	818
	Mr. Hay to Mr. Leishman (telegram).	Jan. 19	Same subject. The fleet will be withdrawn in order to facilitate prompt settlement of the pending questions.	818
	Mr. Leishman to Mr. Hay (telegram).	Jan. 31	Same subject. The withdrawal of the fleet is greatly appreciated by the minister for foreign affairs, who gives assurances that he will use his best endeavors to obtain a settlement.	818
	Mr. Loomis to Mr. Leishman (telegram).	Feb. 1	Same subject. The fleet will depart to-day.....	819
	Mr. Hay to Mr. Leishman (telegram).	Mar. 25	Murder of Rev. Benjamin W. Labaree in Persia. Instructs him to request the Turkish Government to have its frontiers watched and to prevent the murderer from obtaining asylum in Turkish territory.	835
752	Mr. Leishman to Mr. Hay..	Apr. 1	Equal treatment for American institutions. Incloses memorandum from the foreign office declining to take favorable action.	819
763	Same to same.....	Apr. 20	Same subject. Incloses copy of his note to the Porte acknowledging the memorandum inclosed in his No. 752.	820
769	Same to same.....	Apr. 28	Revolutionary movement in Armenia. Reports on the disturbed conditions in several districts in Armenia.	836

TURKEY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1904.		
778	Mr. Leishman to Mr. Hay..	May 2	Murder of Rev. Benjamin W. Labaree in Persia. Incloses note from the Sublime Porte advising him that orders have been given to arrest the murderer should he pass into Ottoman territory.	835
	Mr. Hay to Mr. Leishman (telegram).	June 9	Equal treatment for American institutions. Instructs him to ask for an audience of the Sultan if no satisfactory reply is given by the foreign office.	821
	Mr. Leishman to Mr. Hay (telegram).	June 11	Revolutionary movement in Armenia. Reports encounters between the revolutionists and the Kurds.	836
	Same to same (telegram)...	June 15	Equal treatment for American institutions. Reports that the school question has been sent to the council of ministers for review, and that he expects that favorable action will be taken.	821
	Same to same (telegram)...	June 17	Same subject. Reports his impression that the school question will soon be settled.	821
822	Same to same.....	June 27	New stamp-tax law in Turkey. Incloses correspondence with the foreign office relating to.	839
	Same to same (telegram)...	July 2	Equal treatment for American institutions. Reports that no definite reply has been given, and unless he is otherwise instructed he will demand an audience with the Sultan.	822
883	Same to same	July 11	Same subject. Reports that he has requested an audience with the Sultan in the name of the President.	822
669	Mr. Hay to Mr. Leishman..	....do...	New stamp-tax law in Turkey. Approves his action in reserving all possible rights in his reply to the Porte.	840
836	Mr. Leishman to Mr. Hay..	July 13	Same subject. Incloses note from the Porte, making certain concessions, and his reply thereto.	841
	Same to same (telegram) ..	July 15	Equal treatment for American institutions. In view of the fact that he was twice put off in regard to the audience he requests further instructions.	822
	Mr. Loomis to Mr. Leishman (telegram).	July 16	Same subject. Instructs him to ask an imperial audience at a fixed day, and to state that this Government fails to understand the delay in granting him the treatment due to the friendly relations of the two countries.	823
	Mr. Leishman to Mr. Hay (telegram).	July 18	Revolutionary movement in Armenia. The Turkish Government asks that Consul Norton be instructed not to go to Van and Bitlis.	837
	Mr. Loomis to Mr. Leishman.	July 19	Same subject. Informs him that Consul Norton is going to Van and Bitlis under instruction from the Department to gather information in regard to the reported massacres of Armenians.	837
674	Same to same	July 22	Murder of Rev. Benjamin W. Labaree in Persia. Informs him of the arrest of the murderer.	836
	Mr. Leishman to Mr. Hay (telegram).	July 23	Equal treatment for American institutions. Reports that the Sultan will receive him next Friday.	823
	Same to same (telegram)...	July 29	Same subject. Reports that the Sultan promised to give the pending questions immediate consideration.	823
	Mr. Loomis to Mr. Leishman (telegram).	....do...	Same subject. The reported audience with the Sultan is gratifying, and this Government expects that its wishes will be fully complied with.	823
	Mr. Leishman to Mr. Hay (telegram).	Aug. 1	Revolutionary movement in Armenia. Reports the arrival of Consul Norton at Moresk.	837
	Same to same (telegram)...	Aug. 2	Equal treatment for American institutions. Reports that the Sultan is unable to give the promised reply before next Thursday.	824
	Same to same (telegram)...	Aug. 4	Same subject. The promised reply has not been received.	824
	Mr. Hay to Mr. Leishman (telegram).	Aug. 5	Same subject. Informs him that an American fleet will visit Smyrna.	824
	Mr. Leishman to Mr. Hay (telegram).	Aug. 8	Same subject. Reports that neither explanation nor apology has been offered for the failure to give the promised reply, and, unless strong measures are adopted, matters may continue to drag along indefinitely.	824
	Mr. Hay to Mr. Leishman (telegram) ..	....do...	Same subject. Instructs him to take an indefinite leave and depart from Turkey in one of the United States naval vessels which will arrive in a few days, unless he obtain a satisfactory answer from the Turkish Government.	825
	Mr. Leishman to Mr. Hay (telegram).	....do...	Same subject. Reports that the foreign office promises a reply not later than Thursday. Suggests that the proposed visit of the fleet be delayed.	825

TURKEY—Continued.

No.	From and to whom.	Date.	Subject.	Page.
	Mr. Hay to Mr. Leishman (telegram).	1904. Aug. 9	Same subject. Informs him that the fleet can not be communicated with before its arrival at Smyrna.	825
	Mr. Leishman to Mr. Hay (telegram).	....do...	Same subject. Reports that the most positive assurances have again been given of a satisfactory settlement not later than Thursday.	825
	Mr. Hay to Mr. Leishman (telegram).	Aug. 10	Same subject. The American fleet will be withdrawn as soon as it becomes evident that its presence is no longer required.	826
866	Mr. Leishman to Mr. Hay..	Aug. 11	New stamp-tax law in Turkey. Reports that the law in its present form is so defective that it will in all probability have to be recast.	842
	Same to same (telegram)...	Aug. 12	Equal treatment for American institutions. Reports that an informal memorandum from the foreign office states that the American schools will not be discriminated against and that a settlement of the Lane property will be made.	826
	Mr. Hay to Mr. Leishman (telegram).	....do...	Same subject. The Turkish memorandum is not regarded unfavorably by this Government. Instructs him to inform the Turkish Government that the President must insist upon immediate fulfillment of the engagements.	827
	Mr. Leishman to Mr. Hay (telegram).	Aug. 13	Same subject. Transmits a note from the minister for foreign affairs confirming his previous memorandum.	827
	Mr. Hay to Mr. Leishman (telegram).	....do...	Same subject. Instructs him to accept the note of the minister for foreign affairs as a compliance with our claims and to direct the fleet to withdraw.	827
	Mr. Leishman to Mr. Hay (telegram).	....do...	Same subject. Department's telegram of this day complied with.	828
870	Same to same.....	Aug. 15	Same subject. Incloses correspondence with the Porte concerning the settlement of pending questions.	828
872	Same to same.....	Aug. 16	Same subject. Incloses further correspondence on the subject.	830
873	Same to same.....	Aug. 28	Revolutionary movement in Armenia. Reports that the trouble is apparently over.	837
	Same to same (telegram)...	Sept. 3	Same subject. Reports that the revolutionists are again active at Van.	838
879	Same to same.....	....do...	Same subject. Confirms in detail above telegram.	838
889	Same to same.....	Sept. 15	Equal treatment for American institutions. Requests to be authorized to employ counsel in the transfer and registration of property in the name of institutions.	831
902	Same to same.....	Sept. 29	Fraudulent naturalization of Stelio E. Pappadimitriou. Incloses correspondence relating to, and suggests that more stringent instructions be issued to consuls in regard to the recognition of passports not bearing the Turkish visé.	844
903	Same to same.....	Sept. 30	Equal treatment for American institutions. Incloses his note addressed to the missionary societies asking for data in regard to the landed property owned by the societies.	832
707	Mr. Hay to Mr. Leishman..	Oct. 8	Same subject. Authorizes him to employ counsel in the matter of transfer and registration of property of the American institutions.	833
912	Mr. Leishman to Mr. Hay..	Oct. 13	New stamp-tax law in Turkey. Reports that he has lodged a protest against the enforcement of the new law until its acceptance by the American Government.	843
914	Same to same.....	....do...	Fraudulent naturalization of Stelio E. Pappadimitriou. Incloses further correspondence relating to.	845
716	Mr. Adee to Mr. Leishman.	Oct. 25	Same subject. The Department is unwilling to instruct consular officers in Turkey not to recognize passports which have not been viséd by Ottoman consular officers, as such regulation would offend the spirit of sections 1999 and 2000 of the Revised Statutes of the United States.	846
718	Mr. Loomis to Mr. Jay.....	Nov. 4	New stamp-tax law in Turkey. Approves Mr. Leishman's action in protesting against the enforcement of.	843
942	Mr. Jay to Mr. Hay.....	Nov. 8	Passport obtained by fraud by Xenophon J. Ralli. Incloses correspondence with the consulate-general at Constantinople stating that Ralli obtained a passport from the Department after his application had been refused by the legation.	846
731	Mr. Hay to Mr. Jay.....	Dec. 9	Same subject. The passport obtained by Ralli from the Department may be disregarded, as it was obtained by fraud.	848

URUGUAY AND PARAGUAY.

No.	From and to whom.	Date.	Subject.	Page.
		1904.		
	Mr. Finch to Mr. Hay (telegram).	Jan. 8	Revolution in Uruguay. Reports encounters between the revolutionists and the Government forces.	849
708	Same to same.....	Jan. 9	Citizenship of persons born in the United States of alien parents. Asks whether such persons are entitled to passports.	853
713	Same to same.....	Jan. 13	Revolution in Uruguay. Reports steps taken by the Government to suppress the.	849
253	Mr. Hay to Mr. Finch	Feb. 23	Citizenship of persons born in the United States of alien parents. Cites authorities on their status.	854
733	Mr. Finch to Mr. Hay	Mar. 3	Citizenship of Louis Eugene Hufnagel, born in Uruguay of naturalized American parents. Reports the impressment of Hufnagel into the military service of Uruguay.	854
734	Same to same.....	Mar. 4	Same subject. Incloses a note from the minister for foreign affairs claiming that Hufnagel, being born in Uruguay, is subject to the service of the national guard of that Republic.	856
740	Same to same.....	Mar. 16	Revolution in Uruguay. Incloses a dispatch from the consul at Montevideo on the conditions in his district created by the revolution.	850
256	Mr. Hay to Mr. Finch	Apr. 8	Citizenship of Louis Eugene Hufnagel. Gives status of.	858
754	Mr. Finch to Mr. Hay	May 21	Same subject. Incloses correspondence with the minister for foreign affairs, and asks whether passport may be issued to Hufnagel.	858
262	Mr. Adee to Mr. Finch	July 5	Same subject. Hufnagel is entitled to a passport for such purposes as it may properly be used to serve, but can not be protected from his obligations to the Government of Uruguay.	859
160	Mr. Ruffin to Mr. Loomis...	Aug. 11	Revolution in Paraguay. Reports encounters between the revolutionists and the Government forces and steps taken by the Government to suppress the revolution.	859
	Mr. Adee to Mr. Ruffin (telegram).	Aug. 15	Same subject. Instructs him not to grant asylum to political refugees in the consulate.	860
	Mr. Finch to Mr. Hay (telegram).	Sept. 12	Revolution in Uruguay. Reports the death of the leader of the revolution.	851
	Same to same (telegram) ..	Sept. 25	Same subject. Reports that peace has been restored.	851
786	Same to same	Oct. 18	Same subject. Incloses message of the President of Uruguay containing the terms upon which peace was negotiated.	851
787	Same to same	Oct. 19	Same subject. Reports that the assembly general has approved the peace negotiations.	853
798	Same to same.....	Dec. 19	Difficulties between Uruguay and the Argentine Republic. Incloses newspaper clipping reporting settlement of.	861
799	Same to same.....	Dec. 26	Revolution in Paraguay. Incloses agreement or treaty of peace.	860

VENEZUELA.

		1903.		
104	Mr. Hay to Mr. Russell.....	Apr. 7	Arbitration of Venezuelan claims by mixed claims commissions. Instructs him to arrange for suitable rooms for the meetings of the United States-Venezuelan commission.	863
105	Same to same	Apr. 20	Same subject. Informs him of the appointment of the United States commissioner and agent.	863
108	Mr. Loomis to Mr. Russell..	May 1	Same subject. If the Government of Venezuela has not yet appointed its commissioner, he is instructed to urge compliance with the provision of the protocol.	863
173	Mr. Russell to Mr. Hay.....	May 2	Same subject. Reports the appointment of the Venezuelan commissioner.	864
113	Mr. Hay to Mr. Russell.....	May 11	Same subject. Informs him of the designation by the Queen of the Netherlands of the umpire on the commission.	864
117	Same to same	May 15	Same subject. Informs him of the appointment by the President of the umpires on the German-Venezuelan and Italian-Venezuelan commissions.	864
	Mr. Loomis to Mr. Russell (telegram).	May 20	Same subject. Informs him of the appointment of the umpire for the British and Dutch commissions.	865
212	Mr. Russell to Mr. Hay.....	Oct. 11	Same subject. Reports the award in favor of Mexican claimants.	865

VENEZUELA—Continued.

No.	From and to whom.	Date.	Subject.	Page.
		1903.		
213	Mr. Russell to Mr. Hay.....	Oct. 11	Same subject. Incloses brief account of the work of the German commission.	866
218	Same to same	Oct. 24	Same subject. Reports the appointment of Dr. Carlos F. Grisanti as a member of the United States-Venezuelan commission.	866
225	Same to same	Nov. 29	Same subject. Incloses copies of attachments against the property of the heirs of Henry F. Rudloff.	866
228	Same to same	Dec. 6	Same subject. Incloses the protest of Venezuela against the award of the umpire in the Belgian claims.	867
237	Same to same.....	Dec. 27	Same subject. Reports that the United States-Venezuelan claims commission completed its work.	869
		1904.		
242	Mr. Bowen to Mr. Hay.....	Jan. 9	Same subject. Reports that he has requested continuance of payments on the Hancox and mixed claims.	869
168	Mr. Loomis to Mr. Bowen.....do...	.....do...	Same subject. Instructs him to inform the Government of Venezuela that the Government of the United States can not recognize the validity of any attachments issued against its property in the awards of the claims commission.	870
173	Same to same	Jan. 22	Same subject. Instructs him to insist upon prompt payment of the awards in the Hancox and mixed claims.	870
	Mr. Bowen to Mr. Hay.....	Mar. 2	Message of President Castro to the Venezuelan Congress. Extracts.	871
276	Same to same.....	Apr. 17	Relations between Venezuela and Colombia. Reports reestablishment of.	872
281	Same to same.....	May 14	New constitution of Venezuela. Extracts	873
285	Same to same.....do...	.....do...	Relations between Venezuela and Colombia. Incloses decree reestablishing traffic with Colombia.	872
315	Same to same.....	Aug. 20	Arbitration of Venezuelan claims by mixed claims commissions. Incloses schedule of the awards of the commissions.	871

CORRESPONDENCE.

CIRCULARS.

PROTECTION OF PANAMAN INTERESTS BY CONSULAR OFFICERS OF THE UNITED STATES.

Mr. Hay to Mr. ———.^a

DEPARTMENT OF STATE,
Washington, January 19, 1904.

SIR: I inclose for your information copy of a circular instruction to the consular officers of the United States, including those in the _____, directing them to discharge, in representation of Panaman interests until consular officers are appointed by that Government, and so far as may be permitted by the Government of the _____, the duties ordinarily devolving upon consular officers.

You will advise the Government of the _____ of this, and request its consent to the arrangement.

I am, etc.,

JOHN HAY.

[Inclosure.]

DEPARTMENT OF STATE,
Washington, January 12, 1904.

To the Consular Officers of the United States:

GENTLEMEN: Upon the request of the Government of Panama you are instructed to use your good offices in representation of the interests of the Republic of Panama and its citizens until consular officers are appointed by that Government. You will be expected to discharge, so far as may be permitted by the Government to which you are accredited, the duties ordinarily devolving upon consular officers. In this connection your attention is called to paragraphs 174 and 453 of the Consular Regulations in relation to your standing under the instruction herein issued.

The tariff of fees prescribed for services rendered by you under this instruction is as follows:

For the certification of a manifest, 5 pesos.

For the certification of an invoice, 2 pesos.

For a bill of health, 2 pesos.

All fees collected for services performed by you for Panama are to be retained. A copy of every paper and document certified should be transmitted

^a Same instruction, mutatis mutandi, to all diplomatic representatives of the United States.

to the minister for foreign affairs at the city of Panama, and a separate report of all such fees should be rendered to this Department quarterly, the said returns to be plainly indicated as services performed for Panama, both upon the face of the return and on the indorsement thereof.

Your signature in your official capacity on all papers executed for Panama should be followed by the words "In charge of the interests of Panama."

I am, etc.,

HERBERT H. D. PIERCE,
Third Assistant Secretary.

NEUTRALITY OF CHINA IN THE WAR BETWEEN RUSSIA AND JAPAN.

Mr. Hay to Mr. _____.^a

DEPARTMENT OF STATE,
Washington, February 20, 1904.

SIR: After several days of conversation and correspondence with the representatives of the powers interested in Chinese affairs, the following note was sent, February 10, to the Governments of Russia, Japan, and China, and a copy of it was transmitted to all the powers signatory of the protocol of Peking, requesting each of them to make similar representations to Russia and Japan:

You will express to the minister of foreign affairs the earnest desire of the Government of the United States that in the course of the military operations which have begun between Russia and Japan the neutrality of China and in all practicable ways her administrative entity shall be respected by both parties, and that the area of hostility shall be localized and limited as much as possible, so that undue excitement and disturbance of the Chinese people may be prevented and the least possible loss to the commerce and peaceful intercourse of the world may be occasioned.

On the 13th of February the following answer was received from the Japanese Government, addressed to the American minister in Tokyo:

In response to your note of the 12th instant on the subject of the neutrality of China during the existing war, I beg to say that the Imperial Government, sharing with the Government of the United States in the fullest measure the desire to avoid, as far as possible, any disturbance of the orderly condition of affairs now prevailing in China, are prepared to respect the neutrality and administrative entity of China outside the regions occupied by Russia as long as Russia, making a similar engagement, fulfills in good faith the terms and conditions of such engagement.

On the 19th of February the following answer was received from the Russian Government:

The Imperial Government shares completely the desire to insure tranquillity of China; is ready to adhere to an understanding with other powers for the purpose of safeguarding the neutrality of that Empire on the following conditions:

Firstly. China must herself strictly observe all the clauses of neutrality.

Secondly. The Japanese Government must loyally observe the engagements entered into with the powers, as well as the principles generally recognized by the law of nations.

Thirdly. That it is well understood that neutralization in no case can be extended to Manchuria, the territory of which, by the force of events, will serve as the field of military operations.

^a This instruction, *mutatis mutandi*, sent to all diplomatic representatives of the United States.

On the same day the Department of State sent the following telegram to the Governments of Russia and Japan, communicating its purport to the other powers interested:

The answer of the Russian Government is viewed as responsive to the proposal made by the United States as well as by the other powers, and this Government will have pleasure in communicating it forthwith to the Governments of China and Japan, each of which has already informed us of its adherence to the principles set forth in our circular proposal.

I am, sir, etc.,

JOHN HAY.

NEUTRAL COMMERCE IN ARTICLES CONDITIONALLY CONTRABAND OF WAR.

DEPARTMENT OF STATE,
Washington, June 10, 1904.

To the Ambassadors of the United States in Europe.

GENTLEMEN: It appears from public documents that coal, naphtha, alcohol, and other fuel have been declared contraband of war by the Russian Government.

These articles enter into general consumption in the arts of peace, to which they are vitally necessary. They are usually treated not as "absolutely contraband of war," like articles that are intended primarily for military purposes in time of war, such as ordnance, arms, ammunition, etc., but rather as "conditionally contraband"—that is to say, articles that may be used for or converted to the purposes of war or peace, according to circumstances. They may rather be classed with provisions and food stuffs of ordinarily innocent use, but which may become absolutely contraband of war when actually and especially destined for the military or naval forces of the enemy.

In the war between the United States and Spain the Navy Department, General Orders, No. 492, issued June 20, 1898, declared, in article 19, as follows: "The term 'contraband of war' comprehends only articles having a belligerent destination." Among articles absolutely contraband it declared ordnance, machine guns, and other articles of military or naval warfare. It declared as conditionally contraband "coal, when destined for a naval station, a port of call, or a ship or ships of the enemy." It likewise declared provisions to be conditionally contraband "when destined for the enemy's ship or ships, or for a place that is besieged."

The above rules as to articles absolutely or conditionally contraband of war were adopted in the Naval War Code, promulgated by the Navy Department, June 27, 1900.

While it appears from the documents mentioned that rice, food stuffs, horses, beasts of burden, and other animals which may be used in time of war are declared to be contraband of war only when they are transported for account of or in destination to the enemy, yet all kinds of fuel, such as coal, naphtha, alcohol, are classified along with arms, ammunition, and other articles intended for warfare on land or sea.

The test in determining whether articles ancipitis usus are contraband of war is their destination for the military uses of a belligerent. Mr. Dana, in his Notes to Wheaton's International Law, says: "The chief circumstance of inquiry would naturally be the port of destina-

tion. If that is a naval arsenal, or a port in which vessels of war are usually fitted out, or in which a fleet is lying, or a garrison town, or a place from which a military expedition is fitting out, the presumption of military use would be raised, more or less strongly according to the circumstances."

In the wars of 1859 and 1870 coal was declared by France not to be contraband. During the latter war Great Britain held that the character of coal depended upon its destination, and refused to permit vessels to sail with it to the French fleet in the North Sea. Where coal or other fuel is shipped to a port of a belligerent, with no presumption against its pacific use, to condemn it as absolutely contraband would seem to be an extreme measure.

Mr. Hall, International Law, says: "During the West African Conference, in 1884, Russia took occasion to dissent vigorously from the inclusion of coal amongst articles contraband of war, and declared that she would categorically refuse her consent to any articles in any treaty, convention, or instrument whatever which would imply its recognition as such."

We are also informed that it is intended to treat raw cotton as contraband of war. While it is true that raw cotton could be made up into clothing for the military uses of a belligerent, a military use for the supply of an army or garrison might possibly be made of food stuffs of every description which might be shipped from neutral ports to the nonblockaded ports of a belligerent. The principle under consideration might, therefore, be extended so as to apply to every article of human use which might be declared contraband of war simply because it might ultimately become in any degree useful to a belligerent for military purposes.

Coal and other fuel and cotton are employed for a great many innocent purposes. Many nations are dependent on them for the conduct of inoffensive industries, and no sufficient presumption of an intended warlike use seems to be afforded by the mere fact of their destination to a belligerent port. The recognition, in principle, of the treatment of coal and other fuel and raw cotton as absolutely contraband of war might ultimately lead to a total inhibition of the sale, by neutrals to the people of belligerent States, of all articles which could be finally converted to military uses. Such an extension of the principle by treating coal and all other fuel and raw cotton as absolutely contraband of war, simply because they are shipped by a neutral to a non-blockaded port of a belligerent, would not appear to be in accord with the reasonable and lawful rights of a neutral commerce.

I am, gentlemen, etc.,

JOHN HAY.

Mr. Loomis to Mr. ————— (a)

DEPARTMENT OF STATE,
Washington, September 23, 1904.

SIR: In connection with the Department's instruction of August 8 last (inclosing copies of the circular of June 10, 1904), on the subject

^a Same instruction, mutatis mutandi, to all American diplomatic representatives.

of neutral commerce in articles conditionally contraband of war, I inclose herewith for your information and the legation's files a copy of an instruction to the American ambassador at St. Petersburg protesting against the interpretation given by the Russian Government and the Vladivostok prize court to the imperial order of February 29 last, relating to contraband of war.

I am, sir, etc.,

B. F. LOOMIS,
Acting Secretary.

(Inclosure.)

Mr. Hay to Mr. McCormick.

No. 143.]

DEPARTMENT OF STATE,
Washington, August 30, 1904.

Sir: I have the honor to acknowledge the receipt of your No. 176 of the 10th instant.

The Department has carefully considered the note of the Russian minister of foreign affairs, dated July 27 last, a copy of which is inclosed with your dispatch with reference to the decision of the prize court in the case of the steamer *Arabia*, containing American cargo, seized by the Russian naval forces and sent to Vladivostock for adjudication.

As communicated to you by the minister, the decision of the court was "that the steamer *Arabia* was lawfully seized; that the cargo, composed of railway material and flour, weighing about 2,360,000 livres, destined to Japanese ports and addressed to different commercial houses in said ports, constitutes contraband of war; * * * that the cargo bound for Japanese ports should be confiscated as being lawful prize."

In communicating the said decision the minister observed, in response to the request of this Government for the release of the noncontraband portion of the cargo, that the question could only be decided through judicial channels on the basis of a decision of the prize court.

This is the first authentic information which the Department has received of the precise grounds on which the prize court decided to confiscate the railway material and flour in question. The judgment of confiscation appears to be founded on the mere fact that the goods in question were bound for Japanese ports and addressed to various commercial houses in said ports. In view of the well-known attitude, it should hardly seem necessary to say that the Government of the United States is unable to admit the validity of the judgment which appears to have been rendered in disregard of the settled law of nations in respect to what constitutes contraband of war. If the judgment and the communication accompanying its transmission are to be taken as an expression of the attitude of His Imperial Majesty's Government, and as an interpretation of the Russian imperial order of February 29 last, it raises a question of momentous import in its bearing on the rights of neutral commerce.

The Russian imperial order denounces as absolutely contraband of war telegraph, telephone, and railway materials, and fuel of all kinds, without regard to the question whether destined for military or for purely pacific and industrial uses.

Clause 5, article 10, of the imperial order denounces as contraband of war "all articles destined for war on land or sea, as well as rice, provisions, and horses, beasts of burden, and others (*autres*) capable of serving a warlike purpose, and if they are transported on account of or to the destination of the enemy."

The ambiguity of meaning which characterizes the language of this clause, lending itself to a double interpretation, left its real intent doubtful. The vagueness of the language, used in so important a matter, where a just regard for the rights of neutral commerce required that it should be clear and explicit, could not fail to excite inquiry among American shippers, who, left in doubt as to the significance attributed by His Imperial Majesty's Government to the word "enemy"—uncertain as to whether it meant "enemy government or forces," or "enemy ports or territory"—have been compelled to refuse the shipment of goods of any character to Japanese ports. The very obscurity of the terms used seemed to contain a destructive menace even to legitimate American commerce.

In the interpretation of clause 10 of article 5, and having regard to the traditional attitude of His Imperial Majesty's Government, as well as to the established rule of international law with respect to goods which a belligerent may or may not treat as contraband of war, it seemed to the Government of the United States incredible that the word "*autres*" or the word "*l'ennemi*" could be intended to include as contraband of war food stuffs, fuel, cotton, and all "other" articles destined to Japanese ports, irrespective of the question whether they were intended for the support of a noncombatant population or for the use of the military or naval forces. In its circular of June 10 last, communicated by you to the Russian Government, the Department interpreted the word "enemy" in a mitigated sense, as well as in accordance with the enlightened and humane principles of international law, and therefore it treated the word "enemy," as used in the context, as meaning "enemy government or forces" and not the "enemy ports or territory."

But if a benign interpretation was placed on the language used, it is because such an interpretation was due to the Russian Government, between whom and the United States a most valued and unbroken friendship has always existed, and it was no less due to the commerce of the latter, inasmuch as the broad interpretation of the language used would imply a total inhibition of legitimate commerce between Japan and the United States, which it would be impossible for the latter to acquiesce in.

Whatever doubt could exist as to the meaning of the imperial order has been apparently removed by the inclosure in your dispatch of the note from Count Lamsdorff, stating tersely and simply the sentence of the prize court. The communication of the decision was made in unqualified terms, and the Department is therefore constrained to take notice of the principle on which the condemnation is based and which it is impossible for the United States to accept, as indicating either a principle of law or a policy which a belligerent State may lawfully enforce or pursue toward the United States as a neutral.

With respect to articles and material for telegraphic and telephonic installations, unnecessary hardship is imposed by treating them all as contraband of war—even those articles which are evidently and unquestionably intended for merely domestic or industrial uses. With respect to railway materials the judgment of the court appears to proceed in plain violation of the terms of the imperial order, according to which they are to be deemed to be contraband of war only if intended for the construction of railways. The United States Government regrets that it could not concede that telegraphic, telephonic, and railway materials are confiscable simply because destined to the open commercial ports of a belligerent.

When war exists between powerful states it is vital to the legitimate maritime commerce of neutral states that there be no relaxation of the rule—no deviation from the criterion—for determining what constitutes contraband of war, lawfully subject to belligerent capture, namely, warlike nature, use, and destination. Articles which, like arms and ammunition, are by their nature of self-evident warlike use are contraband of war if destined to enemy territory; but articles which, like coal, cotton, and provisions, though of ordinarily innocent, are capable of warlike, use, are not subject to capture and confiscation unless shown by evidence to be actually destined for the military or naval forces of a belligerent.

This substantive principle of the law of nations can not be overridden by a technical rule of the prize court that the owners of the captured cargo must prove that no part of it may eventually come to the hands of the enemy forces. The proof is of an impossible nature, and it can not be admitted that the absence of proof in its nature impossible to make can justify the seizure and condemnation. If it were otherwise, all neutral commerce with the people of a belligerent state would be impossible; the innocent would suffer inevitable condemnation with the guilty.

The established principle of discrimination between contraband and non-contraband goods admits of no relaxation or refinement. It must be either inflexibly adhered to or abandoned by all nations. There is and can be no middle ground. The criterion of warlike usefulness and destination has been adopted by the common consent of civilized nations after centuries of struggle in which each belligerent made indiscriminate warfare upon all commerce of all neutral states with the people of the other belligerent, and which led to reprisals as the mildest available remedy.

If the principle which appears to have been declared by the Vladivostok prize court, and which has not so far been disavowed or explained by His Imperial Majesty's Government, is acquiesced in, it means, if carried unto full execution, the complete destruction of all neutral commerce with the noncombatant population of Japan; it obviates the necessity of blockades; it renders meaningless the principle of the declaration of Paris, set forth in the imperial order of February 29 last, that a blockade in order to be obligatory must be effective; it obliterates all distinction between commerce in contraband and noncontraband goods, and is in effect a declaration of war against commerce of every description between the people of a neutral and those of a belligerent state.

You will express to Count Lamsdorff the deep regret and grave concern with which the Government of the United States has received his unqualified communication of the decision of the prize court; you will make earnest protest against it and say that the Government of the United States regrets its complete inability to recognize the principle of that decision and still less to acquiesce in it as a policy

I have, etc.,

JOHN HAY.

**DESIGNATION OF THE DIPLOMATIC AND CONSULAR SERVICE AS
"AMERICAN" INSTEAD OF "UNITED STATES."**

DEPARTMENT OF STATE,
Washington, August 3, 1904.

To the American Diplomatic and Consular Officers.

GENTLEMEN: I have to inform you that hereafter in correspondence and in printing official stationery and in cutting new seals for the diplomatic and consular service the adjective used shall be "American" instead of "United States." Stationery so modified will be furnished by the Department upon requisition from time to time as the supply at the various offices may become exhausted. It is desired that the seals and coats of arms with which your offices are now supplied shall continue to be used as long as they may be serviceable, when they will be replaced with new ones on which the word "American" shall have been substituted for "United States."

I am, gentlemen, etc.,

ALVEY A. ADEE,
Acting Secretary.

DEPARTMENT OF STATE,
Washington, November 28, 1904.

To the American Diplomatic and Consular Officers.

GENTLEMEN: Referring to the circular of August 3, 1904, in regard to the use of "American" instead of "United States," I have to inform you that when acting in your notarial capacity you should describe yourselves as officers (secretary of legation, consul-general, etc.) "of the United States of America," and not as "American" officers.

It is necessary when attesting papers to be used in the various States that you should describe yourselves as you are designated in the statutes from which you derive your notarial powers.

I am, gentlemen, etc.,

JOHN HAY.

OPENING OF THE CANAL ZONE OF THE ISTHMUS OF PANAMA TO COMMERCE.

DEPARTMENT OF STATE,
Washington, August 5, 1904.

To the Diplomatic Officers of the United States.

GENTLEMEN: You are instructed to advise the Government to which you are accredited that by an order, dated June 24, 1904, the President has declared the Canal Zone of the Isthmus of Panama open to commerce with friendly nations, and has established Ancon and Cristobal as ports of entry in the said zone.

I am, etc

JOHN HAY.

PACIFIC SETTLEMENT OF INTERNATIONAL DISPUTES.

Invitation to the Governments signatories to The Hague convention to enter into arbitration treaties.

DEPARTMENT OF STATE,
Washington, October 20, 1904.

To the Diplomatic Officers of the United States accredited to the governments signatories to The Hague Convention for the pacific settlement of international disputes.

GENTLEMEN: By Article XIX of the convention for the pacific settlement of international disputes, concluded at The Hague on July 29, 1899, the signatory governments reserved to themselves the right of concluding agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment.

Under this provision certain agreements have already been concluded, notably that between France and Great Britain.

The long-standing views of the United States concerning the settlement of international disputes by arbitration, to which it has given practical effect in numerous instances, are too well known to need restatement. Repeated expressions to them have been given both by the executive and the legislative branches of the Government.

As long ago as June 17, 1874, the House of Representatives by a unanimous vote gave expression to its opinion that "differences between nations should, in the interest of humanity and fraternity, be adjusted, if possible, by international arbitration." It was therefore "*Resolved*, That the people of the United States, being devoted to the policy of peace with all mankind, enjoying its blessings and hoping for its permanence and its universal adoption, hereby through their Representatives in Congress recommend such arbitration as a rational substitute for war."

The President, in his last message to the Congress of the United States, on December 7, 1903, stated:

There seems good ground for the belief that there has been a real growth among the civilized nations of a sentiment which will permit a gradual substitution of other methods than the method of war in the settlement of disputes. It is not pretended that as yet we are near a position in which it will be possible

wholly to prevent war, or that a just regard for national interest and honor will in all cases permit of the settlement of international disputes by arbitration; but by a mixture of prudence and firmness with wisdom we think it is possible to do away with much of the provocation and excuse for war, and at least in many cases to substitute some other and more rational method for the settlement of disputes. The Hague Court offers so good an example of what can be done in the direction of such settlement that it should be encouraged in every way.

Moved by these views, the President has charged me to instruct you to ascertain whether the Government to which you are accredited, which he has reason to believe is equally desirous of advancing the principle of international arbitration, is willing to conclude with the Government of the United States an arbitration treaty of like tenor to the arrangement concluded between France and Great Britain, on October 14, 1903.

I inclose herewith a copy of both the English and French^a texts of that arrangement. Should the response to your inquiry be favorable, you will request the government to authorize its minister at Washington to sign the treaty with such plenipotentiary on the part of the United States as the President may be pleased to empower for the purpose.

I am, gentlemen, etc.,

JOHN HAY.

[Inclosure.]

Agreement between the United Kingdom and France providing for the settlement by arbitration of certain classes of questions which may arise between the two Governments. Signed at London October 14, 1903.

The Government of His Britannic Majesty and the Government of the French Republic, signatories of the Convention for the pacific settlement of international disputes, concluded at the Hague on the 29th July, 1899;

Taking into consideration that by Article XIX of that Convention the High Contracting Parties have reserved to themselves the right of concluding Agreements, with a view to referring to arbitration all questions which they shall consider possible to submit to such treatment,

Have authorized the Undersigned to conclude the following arrangement:—

ARTICLE I.

Differences which may arise of a legal nature, or relating to the interpretation of Treaties existing between the two Contracting Parties, and which it may not have been possible to settle by diplomacy, shall be referred to the Permanent Court of Arbitration established at the Hague by the Convention of the 29th July, 1899, provided, nevertheless, that they do not affect the vital interests, the independence, or the honour of the two Contracting States, and do not concern the interests of third Parties.

ARTICLE II.

In each individual case the High Contracting Parties, before appealing to the Permanent Court of Arbitration, shall conclude a special Agreement defining clearly the matter in dispute, the scope of the powers of the Arbitrators, and the periods to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure.

^a Not printed.

ARTICLE III.

The present Agreement is concluded for a period of five years, dating from the day of signature.

Done in duplicate at London, the 14th day of October, 1903.

(L. S.) LANSDOWNE.
(L. S.) PAUL CAMBON.

PROPOSAL FOR A SECOND HAGUE CONFERENCE.

DEPARTMENT OF STATE,
Washington, October 21, 1904.

To the representatives of the United States accredited to the governments signatories to the acts of The Hague Conference, 1899.

SIR: The Peace Conference which assembled at The Hague on May 18, 1899, marked an epoch in the history of nations. Called by His Majesty the Emperor of Russia to discuss the problems of the maintenance of general peace, the regulation of the operations of war, and the lessening of the burdens which preparedness for eventual war entails upon modern peoples, its labors resulted in the acceptance by the signatory powers of conventions for the peaceful adjustment of international difficulties by arbitration, and for certain humane amendments to the laws and customs of war by land and sea. A great work was thus accomplished by the conference, while other phases of the general subject were left to discussion by another conference in the near future, such as questions affecting the rights and duties of neutrals, the inviolability of private property in naval warfare, and the bombardment of ports, towns, and villages by a naval force.

Among the movements which prepared the minds of governments for an accord in the direction of assured peace among men, a high place may fittingly be given to that set on foot by the Interparliamentary Union. From its origin in the suggestions of a member of the British House of Commons, in 1888, it developed until its membership included large numbers of delegates from the parliaments of the principal nations, pledged to exert their influence toward the conclusion of treaties of arbitration between nations and toward the accomplishment of peace. Its annual conferences have notably advanced the high purposes it sought to realize. Not only have many international treaties of arbitration been concluded, but, in the conference held in Holland in 1894, the memorable declaration in favor of a permanent court of arbitration was a forerunner of the most important achievement of the Peace Conference of The Hague in 1899.

The annual conference of the Interparliamentary Union was held this year at St. Louis, in appropriate connection with the world's fair. Its deliberations were marked by the same noble devotion to the cause of peace and to the welfare of humanity which had inspired its former meetings. By unanimous vote of delegates, active or retired members of the American Congress, and of every Parliament in Europe with two exceptions, the following resolution was adopted:

Whereas, enlightened public opinion and modern civilization alike demand that differences between nations should be adjudicated and settled in the same

manner as disputes between individuals are adjudicated, namely, by the arbitrament of courts in accordance with recognized principles of law, this conference requests the several governments of the world to send delegates to an international conference to be held at a time and place to be agreed upon by them for the purpose of considering:

1. The questions for the consideration of which the conference at The Hague expressed a wish that a future conference be called.

2. The negotiation of arbitration treaties between the nations represented at the conference to be convened.

3. The advisability of establishing an international congress to convene periodically for the discussion of international questions.

And this conference respectfully and cordially requests the President of the United States to invite all the nations to send representatives to such a conference.

On the 24th of September, ultimo, these resolutions were presented to the President by a numerous deputation of the Interparliamentary Union. The President accepted the charge offered to him, feeling it to be most appropriate that the Executive of the nation which had welcomed the conference to its hospitality should give voice to its impressive utterances in a cause which the American Government and people hold dear. He announced that he would at an early day invite the other nations, parties to the Hague conventions, to reassemble with a view to pushing forward toward completion the work already begun at The Hague by considering the questions which the first conference had left unsettled with the express provision that there should be a second conference.

In accepting this trust the President was not unmindful of the fact, so vividly brought home to all the world, that a great war is now in progress. He recalled the circumstance that at the time when, on August 24, 1898, His Majesty the Emperor of Russia sent forth his invitation to the nations to meet in the interests of peace the United States and Spain had merely halted in their struggle to devise terms of peace. While at the present moment no armistice between the parties now contending is in sight, the fact of an existing war is no reason why the nations should relax the efforts they have so successfully made hitherto toward the adoption of rules of conduct which may make more remote the chances of future wars between them. In 1899 the conference of The Hague dealt solely with the larger general problems which confront all nations, and assumed no function of intervention or suggestion in the settlement of the terms of peace between the United States and Spain. It might be the same with a reassembled conference at the present time. Its efforts would naturally lie in the direction of further codification of the universal ideas of right and justice which we call international law; its mission would be to give them future effect.

The President directs that you will bring the foregoing considerations to the attention of the minister for foreign affairs of the Government to which you are accredited and, in discreet conference with him, ascertain to what extent that Government is disposed to act in the matter.

Should His Excellency invite suggestions as to the character of the questions to be brought before the proposed second peace conference, you may say to him that, at this time, it would seem premature to couple the tentative invitation thus extended with a categorical programme of subjects of discussion. It is only by comparison of views that a general accord can be reached as to the matters to be considered

by the new conference. It is desirable that in the formulation of a programme the distinction should be kept clear between the matters which belong to the province of international law and those which are conventional as between individual governments. The final act of The Hague conference, dated July 29, 1899, kept this distinction clearly in sight. Among the broader general questions affecting the right and justice of the relation of sovereign states which were then relegated to a future conference were, the rights and duties of neutrals, the inviolability of private property in naval warfare, and the bombardment of ports, towns, and villages by a naval force. The other matters mentioned in the final act take the form of suggestions for consideration by interested governments.

The three points mentioned cover a large field. The first, especially, touching the rights and duties of neutrals, is of universal importance. Its rightful disposition affects the interests and well-being of all the world. The neutral is something more than an on-looker. His acts of omission or commission may have an influence—indirect, but tangible—on a war actually in progress; whilst on the other hand he may suffer from the exigencies of the belligerents. It is this phase of warfare which deeply concerns the world at large. Efforts have been made, time and again, to formulate rules of action applicable to its more material aspects, as in the declarations of Paris. As recently as the 28th of April of this year the Congress of the United States adopted a resolution reading thus:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress of the United States that it is desirable, in the interest of uniformity of action by the maritime states of the world in time of war, that the President endeavor to bring about an understanding among the principal maritime powers with a view of incorporating into the permanent law of civilized nations the principle of the exemption of all private property at sea, not contraband of war, from capture or destruction by belligerents.

Approved, April 28, 1904.

Other matters closely affecting the rights of neutrals are the distinction to be made between absolute and conditional contraband of war, and the inviolability of the official and private correspondence of neutrals.

As for the duties of neutrals toward the belligerent, the field is scarcely less broad. One aspect deserves mention, from the prominence it has acquired during recent times, namely, the treatment due to refugee belligerent ships in neutral ports.

It may also be desirable to consider and adopt a procedure by which states nonsignatory to the original acts of The Hague Conference may become adhering parties.

You will explain to his excellency the minister of foreign affairs that the present overture for a second conference to complete the postponed work of the first conference is not designed to supersede other calls for the consideration of special topics, such as the proposition of the Government of the Netherlands, recently issued, to assemble for the purpose of amending the provisions of the existing Hague convention with respect to hospital ships. Like all tentative conventions, that one is open to change in the light of practical experience, and the fullest deliberation is desirable to that end.

Finally, you will state the President's desire and hope that the

undying memories which cling around The Hague as the cradle of the beneficent work which had its beginning in 1899 may be strengthened by holding the second peace conference in that historic city.

I am, sir, etc.,

JOHN HAY.

DEPARTMENT OF STATE,
Washington, December 16, 1904.

To the representatives of the United States accredited to the governments signatories to the acts of The Hague Conference, 1899.

SIR: By the circular instruction dated October 21, 1904, the representatives of the United States accredited to the several governments which took part in the Peace Conference held at The Hague in 1899, and which joined in signing the acts thereof, were instructed to bring to the notice of those governments certain resolutions adopted by the Interparliamentary Union at its annual conference held at St. Louis in September last, advocating the assembling of a second peace conference to continue the work of the first, and were directed to ascertain to what extent those governments were disposed to act in the matter.

The replies so far received indicate that the proposition has been received with general favor. No dissent has found expression. The Governments of Austria-Hungary, Denmark, France, Germany, Great Britain, Italy, Luxemburg, Mexico, the Netherlands, Portugal, Roumania, Spain, Sweden and Norway, and Switzerland exhibit sympathy with the purposes of the proposal, and generally accept it in principle, with a reservation in most cases of future consideration of the date of the conference and the programme of subjects for discussion. The replies of Japan and Russia conveyed in like terms a friendly recognition of the spirit and purposes of the invitation, but on the part of Russia the reply was accompanied by the statement that in the existing condition of things in the Far East it would not be practicable for the Imperial Government, at this moment, to take part in such a conference. While this reply, tending as it does to cause some postponement of the proposed second conference, is deeply regretted, the weight of the motive which induces it is recognized by this Government and, probably, by others. Japan made the reservation only that no action should be taken by the conference relative to the present war.

Although the prospect of an early convocation of an august assembly of representatives of the nations in the interest of peace and harmony among them is deferred for the time being, it may be regarded as assured so soon as the interested powers are in a position to agree upon a date and place of meeting and to join in the formulation of a general plan for discussion. The President is much gratified at the cordial reception of his overtures. He feels that in eliciting the common sentiment of the various governments in favor of the principle involved and of the objects sought to be attained a notable step has been taken toward eventual success.

Pending a definite agreement for meeting when circumstances shall permit, it seems desirable that a comparison of views should be had among the participants as to the scope and matter of the subjects to

be brought before the second conference. The invitation put forth by the Government of the United States did not attempt to do more than indicate the general topics which the final act of the first conference of The Hague relegated, as unfinished matters, to consideration by a future conference—adverting, in connection with the important subject of the inviolability of private property in naval warfare, to the like views expressed by the Congress of the United States in its resolution adopted April 28, 1904, with the added suggestion that it may be desirable to consider and adopt a procedure by which States nonsignatory to the original acts of The Hague conference may become adhering parties. In the present state of the project, this Government is still indisposed to formulate a programme. In view of the virtual certainty that the President's suggestion of The Hague as the place of meeting of a second peace conference will be accepted by all the interested powers, and in view also of the fact that an organized representation of the signatories of the acts of 1899 now exists at that capital, this Government feels that it should not assume the initiative in drawing up a programme, nor preside over the deliberations of the signatories in that regard. It seems to the President that the high task he undertook in seeking to bring about an agreement of the powers to meet in a second peace conference is virtually accomplished so far as it is appropriate for him to act, and that, with the general acceptance of his invitation in principle, the future conduct of the affair may fitly follow its normal channels. To this end it is suggested that the further and necessary interchange of views between the signatories of the acts of 1899 be effected through the International Bureau under the control of the Permanent Administrative Council of The Hague. It is believed that in this way, by utilizing the central representative agency established and maintained by the powers themselves, an orderly treatment of the preliminary consultations may be insured and the way left clear for the eventual action of the Government of the Netherlands in calling a renewed conference to assemble at The Hague, should that course be adopted.

You will bring this communication to the knowledge of the minister for foreign affairs and invite consideration of the suggestions herein made.

I am, etc.

JOHN HAY.

PROCLAMATIONS AND DECREES OF NEUTRALITY ISSUED DURING THE WAR BETWEEN RUSSIA AND JAPAN.

Mr. Loomis to Mr. ————.^a

DEPARTMENT OF STATE,
Washington, September 23, 1904.

SIR: It is desired to have you obtain and forward to the Department with the least possible delay copies of the neutrality proclamations issued by the Government of ———— during the war between Russia and Japan.

I am, etc.,

F. B. LOOMIS,
Acting Secretary.

^aThis instruction was sent mutatis mutandis to the American representatives in Austria, Belgium, Brazil, Chile, Great Britain, Italy, Mexico, The Netherlands, Peru, and Spain.

Mr. Beaupré to Mr. Hay.

No. 78.]

AMERICAN LEGATION,
Buenos Ayres, November 10, 1904.

SIR: Referring to the Department's unnumbered instruction of September 23 last, relating to the neutrality proclamations issued by this Government during the war between Russia and Japan, I have the honor to report that I am in receipt of a response of the minister of foreign affairs of the Argentine Government to a note which I addressed to him in the matter. In said response the minister of foreign affairs informs me that the Argentine Government has not made public any especial document declaring its neutrality, but has limited itself to the statement that it would observe it (neutrality) in reply to the communications of the two countries at war in which they notified it of the state of war.

The minister further informs me that in the report of his department to the National Congress for the year 1903 the Congress is reminded that the course of events in the extreme East has been followed with interest by this Government, and that in conformity to the rules of international law this Government has made a declaration of neutrality, with the determination of fulfilling strictly the duties imposed by and of exercising the rights derived from the same, while deploring the bloody contest entered upon by two nations equally esteemed.

* * * * *

I am, etc.,

A. M. BEAUPRÉ.

Mr. Hale to Mr. Hay.

No. 176.]

AMERICAN EMBASSY,
Vienna, October 4, 1904.

SIR:

* * * * *

I beg to report that on February 17 last a general declaration of the neutrality of Austria (copy of which, together with translation, is inclosed herewith) appeared in the official *Wiener Zeitung*. A precisely similar declaration was issued on the same day at Budapest for the subjects of the countries of the Hungarian Crown. No other neutrality proclamations of any sort have been issued by the dual monarchy.

I have, etc.,

CHANDLER HALE.

[Inclosure—Translation.]

Neutrality proclamation of the Austrian Government, published in the official Wiener Zeitung on the 17th of February, 1904.

The Imperial Russian and the Imperial Japanese Governments having officially informed the I. and R. ministry of foreign affairs that a state of war now exists between these two powers, the Austro-Hungarian Monarchy has declared its neutrality to both belligerents and will observe an attitude strictly in conformity with the law of nations.

It is therefore the duty of all Austrian subjects to carefully refrain from any actions which might be inconsistent with the neutrality of the monarchy.

Mr. Sickles to Mr. Hay.

AMERICAN LEGATION,
Brussels, October 5, 1904.

SIR: I have the honor to inform the Department that I have received to-day the official information that Belgium has issued no neutrality proclamations and has limited its action to publishing in the official organ of the Government, *Moniteur Belge*, of February 12, 1904, a notice calling the attention of the Belgian people to the fact that Belgium, being perpetually neutral, any act contrary to the duties of neutrality must be carefully avoided.

I inclose herewith the notice above referred to, together with a translation of the same.

I have, etc.,

STANTON SICKLES.

[Inclosure.—Translation.]

From the Moniteur Belge, February 12, 1904.

OFFICIAL NOTICES.

Russia and Japan being in a state of war, the Government reminds the people that Belgium is perpetually neutral, and that any act contrary to the duties of neutrality must be carefully avoided.

The penal code contains the following provision, to which it may be useful to call public attention:

ART. 123. Whosoever, by hostile actions not approved of by the Government, shall have exposed the state to hostilities on the part of a foreign power, shall be punished with imprisonment from five to ten years, and if hostilities should result therefrom, with ten to fifteen years' imprisonment.

Mr. Richardson to Mr. Hay.

No. 226.]

AMERICAN LEGATION,
Petropolis, October 31, 1904.

SIR: In response to your dispatch of September 23, requesting copies of the neutrality proclamation issued by the Brazilian Government, I have the honor to inclose herewith a copy of the one issued at the beginning of the war between the United States and Spain,^a Brazil having issued no special proclamation for the present war between Russia and Japan, as will be seen from the translation of the note received with this, below.

I have, etc.,

CHARLES RICHARDSON.

[Inclosure.]

Baron Rio Branco to Mr. Richardson.

MINISTRY OF FOREIGN AFFAIRS,
Rio de Janeiro, October 29, 1904.

I have present the note which your excellency directed to me on the 25th of the current month, requesting in the name of your Government that there be

^a Printed in Foreign Relations, 1898, p. 846.

remitted to it a copy of the rules of neutrality followed by Brazil during the war between Russia and Japan.

The Brazilian Government did not adopt special rules with relation to this lamentable event, for the reason that on this subject it has fixed rules, which are contained in the inclosed circular published by edict on the 29th of April, 1898.^a

I improve the occasion, etc.,

RIO BRANCO.

Mr. Ames to Mr. Hay.

AMERICAN LEGATION,
Santiago, November 12, 1904.

SIR: I have the honor to inform you in reply to Department's unnumbered instruction of September 23, directing me to obtain and forward to the Department copies of the neutrality proclamations issued by the Government of Chile during the war between Russia and Japan, that no such proclamation has been issued by the Government of Chile. In confirmation of this statement I have the honor to inclose a copy and translation of a note sent me by the Chilean minister for foreign relations, under date of yesterday, in response to my written inquiry.

I have, etc.,

EDWARD WINSLOW AMES.

[Inclosure.—Translation.]

Mr. Vergara to Mr. Ames.

MINISTRY OF FOREIGN RELATIONS,
Santiago, November 11, 1904.

MR. CHARGÉ D'AFFAIRES:

I had the honor to receive your note of the 7th instant, in which, in pursuance of instructions from your Government, you asked me for copies of the proclamations of neutrality issued by the Government of Chile during the war between Russia and Japan.

In reply I have the honor to inform you that the Government has issued no such proclamation, and that it adheres, with reference to the Russo-Japanese conflict, to the general principles of international law which govern the relations between neutral and belligerent nations.

I improve this opportunity, etc.,

LUIS A. VERGARA.

Sir Chentung Liang-Cheng to Mr. Hay.

CHINESE LEGATION,
Washington, February 13, 1904.

MY DEAR MR. SECRETARY: I beg to inclose herewith for the files of your Department copies of two telegrams from the Waiwu Pu, dated the 12th instant, relative to the neutrality of China in the present conflict between Japan and Russia, the contents of which I communicated to you this morning.

I am, etc.,

CHENTUNG LIANG-CHENG.

^a Printed in Foreign Relations, 1898, p. 846.

[Inclosure 1.—Translation.]

Cablegram from the Waiwu Pu, dated February 12, 1904.

An Imperial decree has this day been received, which reads as follows:

Whereas a state of war now exists between Japan and Russia; and

Whereas in view of the friendly relations existing between this government and the governments of both of the said countries, it behooves China to take proper steps for the maintenance of a strict neutrality:

We hereby command, therefore, the Manchu generals, governors-general, and governors of all the provinces that they issue orders to all civil and military officers under their direction, and enjoin all subjects and persons residing within their jurisdiction, to observe a strict neutrality between the contending powers with a view to the preservation of good feeling and general quiet, and to commit no act, intentionally or unintentionally, in violation thereof.

We hereby declare and make known this our command.

You will please communicate the foregoing to the Secretary of State.

[Inclosure 2.—Translation.]

A cablegram from the Waiwu Pu, February 12, 1904.

Japan and Russia have commenced hostilities. In view of the fact that both are friendly powers, and on account also of a neighborly feeling for each of them, an Imperial decree declaring the neutrality of this government has been issued to all the provincial authorities for their guidance. Strict orders have also been issued for the suppression of local disorders and for the protection of merchants and missionaries.

The defense of Mukden and Hingking, where the Imperial mausoleums and palaces are, is intrusted to the duly designated Manchu general. The two powers should permit no injury to be done to the cities, forts, public buildings, lives, and property in the three Manchurian provinces. The Chinese troops originally stationed there are not to attack, or to be attacked by, either party. All the territory west of the Liao River, which the Russian troops have evacuated, is to be occupied by troops under the command of the minister-superintendent of the northern ports (Viceroy of Chihli). In all the provinces and along the borders of Inner and Outer Mongolia, China will observe the laws of neutrality and the two powers will not be permitted to violate Chinese territory or to cross the boundary.

Manchuria, however, is still occupied by foreign troops.

In territory not already evacuated China is powerless to discharge the duties of a neutral. It is hereby expressly declared that, without regard to the ultimate outcome of the conflict, all the territory in the three Manchurian provinces, with all the rights and prerogatives appertaining thereto, must be restored to Chinese control, and must not be subject to seizure and occupation by either power. The foreign representatives at this capital are duly informed of the contents of this telegram. You will please communicate the same to the Secretary of State.

Mr. Conger to Mr. Hay.

No. 1507.]

AMERICAN LEGATION,
Peking, February 17, 1904.

SIR: For the enforcement of the neutrality edict the Chinese Government have now published a series of regulations, a copy of which I inclose herewith, and have the honor, etc.,

E. H. CONGER.

[Inclosure.]

Neutrality regulations.

The Chinese Government has adopted the following regulations in definition of its proclamation of neutrality:

1. The troops of the various foreign powers left to secure a clear road to the sea, stationed between Peking and Shan-hai-kuan, are so placed in accordance with the protocol agreed upon by the powers on the 25th of the seventh moon, XXVII year of Kuang-sü—that is, September 7, 1901, of the Western calendar—and must continue to observe the original intent of the said protocol and must not concern themselves with the present changed aspect of affairs.

2. If any foreigners living within the limits of the neutral territory of this Empire shall secretly supply the belligerents with contraband of war to the prejudice of this country's responsibilities as a neutral, the local authorities must take measures to prohibit it or notify the consular authorities concerned that they may investigate and take action.

Chinese officials and people must uniformly observe the following regulations prohibiting actions that interfere with neutrality:

3. Chinese subjects must not meddle in the war nor enlist as soldiers.

4. Vessels belonging to Chinese subjects shall not enlist in the service of the belligerents, nor at their invitation engage in such official services as privateering or transport.

5. It is not permitted one to lease or sell a vessel to a belligerent, nor to load such vessel with munitions of war for a belligerent, nor equip it for such power, nor otherwise assist in such transaction so as to furnish it with such vessel and supplies for use of war or in privateering.

6. It is not allowed to buy up contraband of war for the belligerents nor to manufacture contraband of war within the boundaries (of the neutral territory), to be forwarded for sale to the armies or navies of the belligerents. Goods that are contraband of war are included under the following heads:

(a) Cannon shot, lead balls, powder, and all sorts of weapons.

(b) Salt peter, sulphur, and all materials used in the manufacture of powder.

(c) All vessels that may be used in fighting or materials used in their construction.

(d) Official dispatches relating to the war.

7. It is not allowed to transport officers or soldiers for the belligerents.

8. It is not allowed to loan funds to the belligerents.

9. Vessels, except when fleeing from a tempest, may not dare to enter a port blockaded by a belligerent.

10. Vessels entering the area of hostilities may not oppose their being searched by a belligerent.

11. It is not allowed to act as a spy for a belligerent to make report of military conditions.

12. It is not allowed to sell provisions, coal, or charcoal to belligerents in Chinese ports, except that vessels of all sorts belonging to belligerents may purchase such supplies as may be needed for the working of the vessels, subject to the special regulations given below.

The rights enjoyed by China as a neutral power are as follows:

13. China maintains diplomatic relations with the two belligerents as heretofore.

14. China is permitted to employ troops to guard her own frontiers.

15. The belligerent powers must not invade that portion of the Chinese Empire which has been declared to be neutral territory.

16. The belligerent powers must not blockade Chinese ports.

17. All passports and certificates issued by China must be recognized by the two belligerent powers.

18. Chinese subjects may still trade with the belligerent countries as usual, and may visit for commercial purposes any place where military operations are not being conducted.

19. It is expected that the belligerent powers will protect all Chinese subjects dwelling within their borders, both in person and property. They must not seize their wealth nor compel them to do military service.

20. Should there be Chinese subjects sojourning within a port blockaded by a belligerent power, this Government may send a war ship to give them protection or to take them from the port.

21. Chinese vessels may give transportation to envoys or noncombatant citizens of a belligerent power.

22. Goods of a belligerent country carried in Chinese ships, and Chinese goods carried in ships of a belligerent power, except such as are contraband of war, may pass to and fro without hindrance.

23. Arms and ammunition carried by Chinese ships, if intended simply for self-defense, must not be considered as prohibited.

24. Although Chinese ships may be carrying prohibited goods, if they are being shipped to a neutral country or being brought from a neutral country, they may not be detained.

25. If a Chinese vessel shall have already been seized by a belligerent power it must not at once be confiscated. There must first be an investigation by a court of the belligerent power, and only if there shall have been a violation of prohibitions may the vessel be condemned according to precedent. If there shall have been a mistaken seizure, compensation for damages must be paid by the belligerent power, the amount of such compensation to be determined by the court of said belligerent.

26. China may send officers to observe the military operations, but there must be no interference on their part.

Should there be land or naval forces of a belligerent within the limits of that portion of China declared to be neutral territory they must observe the following regulations:

27. Should any of the land forces of a belligerent, owing to defeat, flee across the boundaries into China, they must give up their arms and submit to the restraint of the Chinese officials; they must not presume to move about of their own accord.

28. Should there be any fugitive soldiers of a belligerent power within the borders of China in need of clothing and food, the Chinese Government will undertake to supply them, and at the conclusion of hostilities the said belligerent must make due compensation.

29. Privateers of a belligerent power may not sail into a Chinese port, but such as seek temporary shelter from a tempest, or wish to repair damages or obtain necessary provisions, if there really be no alternative, are exempted from this prohibition. Immediately upon the conclusion of their business they must leave said port.

30. War ships of a belligerent power must not engage in hostilities in any port of China nor seize merchant vessels therein nor make such a port a base for naval operations.

31. Should any war ships or transports of a belligerent desire to enter a Chinese seaport, if it be for no other purpose than that of touching at the port as in an ordinary voyage, they will be permitted to enter such ports as are ordinarily touched at. Within twenty-four hours they must leave. If on account of dangerous weather it be difficult for them to put to sea, or if their repair of damages be not completed, or if the supply of necessary provisions and coals purchased be insufficient to enable them to reach the nearest port, they must obtain an extension of the time limit from the Chinese naval commandant or the local official. Immediately upon the conclusion of their business they must take their departure.

32. War vessels and transports of belligerents must not bring ships which they have captured into a Chinese port. But should they be seeking shelter from a storm or desiring to repair damages or buy necessary provisions, and there really be no alternative course, they shall be exempted from this prohibition, and immediately upon the conclusion of their business they must take their departure. During their stay, however, they must not land their captives nor sell captured vessels or materials.

33. A belligerent power must not attempt to enroll troops in a Chinese seaport nor inland within the boundaries of neutral territory, nor buy arms, ammunition, or other military supplies in such places. If there should be a war vessel of a belligerent repairing damages at a Chinese seaport the work must be such only as may be required to enable it to reach the nearest port.

34. Should war vessels or transports of the two belligerent powers meet in one port, the vessel arriving last must wait until the first vessel shall have left the port one day and one night, and must receive the permission of the Chinese naval commandant or the local official before it may proceed.

35. In matters not fully provided for, the Tartar generals, viceroys, and governors of the various provinces shall, as occasion may arise, investigate the cir-

cumstances and examine the provisions of international law and direct their subordinates what action to take.

From the day on which the above regulations shall be communicated in dispatches and published they shall be of force, and action must at once and uniformly be taken in accordance with them. There must be no disobedience.

Mr. Swenson to Mr. Hay.

No. 341.]

AMERICAN LEGATION,
Copenhagen, May 9, 1904.

SIR: I have the honor to transmit herewith copies, together with translations, of a notice issued February 10, 1904, and a proclamation dated the 27th ultimo, both bearing on the neutrality of Denmark in the present war between Russia and Japan. The latter document has been formulated after an interchange of views between the Governments of Denmark, Sweden, and Norway. There was a desire to secure a uniformity in rules to be adopted, and this has been accomplished with one or two minor exceptions. You will observe that the Danish decree specifically concerns itself with the "Present war between Russia and Japan," whereas the Swedish, as I understand, is drawn so as to be applicable in any war, omitting reference by name. A number of ports are declared closed to warships belonging to the belligerents; which is not the case in Denmark.

* * * * *

I have, etc.,

LAURITS S. SWENSON.

[Inclosure 1.—Translation.]

Royal proclamation relative to neutrality of Denmark.

Whereas we have decided to preserve a strict neutrality during the present war between Russia and Japan: Now, therefore, we, Christian IX, by the grace of God King of Denmark, etc., in order to enforce such neutrality, make the following decree:

PARAGRAPH 1.

If warlike operations should extend to the vicinity of Denmark, the inner waters south of Sealand limited by the meridians of Omö and Stege shall be closed by means of stationary submarine mines; and ships of war belonging to either belligerent shall not be permitted to enter these waters nor the roadstead and harbor of Copenhagen, except in evident stress of weather, in which case such entrance shall be made public.

PARAGRAPH 2.

With the above exceptions, the war ships of either of the belligerents may enter all Danish ports. They must not, however, while in such ports, take in any supplies except provisions and such other things as may be requisite for the subsistence of their crews or for such repairs as are necessary for safe navigation. Urgent repairs, intended to make navigation safe, may be undertaken in such ports; but no acts intended to augment the military force of such ships will be permitted. The visit must not extend over a longer period than twenty-four hours, unless stress of weather, lack of provisions, or repairs neces-

sitate a longer stay; in either of which cases the ship shall be required to put to sea as soon as possible after the cause of the delay has been removed.

So much coal only may be taken in as may be necessary to carry such vessels to the nearest nonblockaded home port, or, with permission from the proper Danish authorities, to some other neutral destination. No ship will be permitted, without special authorization, to coal in any Danish harbor or roadstead more than once in the course of three months.

During the visit the existing sanitary and police regulations, as well as others that later circumstances may render necessary, must be strictly observed.

The belligerents must not commit hostile acts in Danish harbors or waters or make use of the same as base for operations at sea against each other or for the purpose of facilitating such operations. Nor must they use such harbors or waters for augmenting or renewing their military equipment or for recruiting purposes.

No warship belonging to either of the belligerents shall be permitted to leave a Danish harbor, roadstead, or bay from which a ship (whether it be a warship or a merchant vessel) belonging to the other belligerent has departed before the expiration of at least twenty-four hours from the departure of such last mentioned vessel.

PARAGRAPH 3.

Privateers will not be permitted to enter Danish harbors nor to lie in a Danish roadstead.

Prizes must not be brought into a Danish harbor or roadstead except in evident case of stress, nor must prizes be condemned or sold therein.

PARAGRAPH 4.

Hostile ships have free access to the harbors and waters of the country, and may take in such supplies as may be needed for the prosecution of their work.

PARAGRAPH 5.

The belligerents are not permitted to maintain coal depots on Danish territory. It is forbidden to clear from Danish harbors cargoes of coal directly destined for the fleets of the belligerents. This injunction does not, however, apply to coal brought from a harbor to the outlying roadstead intended to be used in compliance with the above provisions of paragraph 2, section 2.

PARAGRAPH 6.

Under penalties imposed by the law of February 13, 1904, relating to acts that endanger the neutrality of the country, the following acts are forbidden to be done by Danish subjects:

1. Cooperating in any act involving a violation of the provisions contained in the above paragraphs 1-3 and in paragraph 5.

2. In any capacity to enter service, in or from Danish territory, on board government vessels of the belligerents, including, except in peril of the sea, the towing of the warships or military transports, or rendering them any other assistance in navigation, or piloting them beyond Danish pilots' waters. Pilots duly authorized by the state will, however, be permitted, within their respective districts, to pilot such ships in the water thoroughfares Kattegat, the Sound, and the Belts, as well as into and out of a harbor.

3. On Danish territory, to construct or reconstruct for, sell, or in any other way, directly or indirectly, transfer to the belligerent powers ships which are known or suspected to be intended for use in war, as well as to cooperate in any way, on or from Danish territory, in the fitting out of such ships or in preparing them for warlike enterprises.

4. On or from Danish territory, to aid either of the belligerents in their warlike enterprises; as, for instance, by supplying their ships with articles that are considered contraband, or by undertaking any work that is intended to augment the armament of their ships or to increase the military force.

5. On Danish territory, publicly inviting anyone to take services in the forces of the belligerents, either on land or at sea, or to render them military aid in any other manner.

This decree takes immediate effect.

Given at Amalienborg, the 27th of April, 1904.

Under our royal hand and seal.

CHRISTIAN R.

[Inclosure 2.—Translation.]

Notice to the Danish trade and shipping in consequence of the outbreak of war between Russia and Japan.

By Royal authority of this date, the following regulations are to be observed by Danish trade and shipping during the war, according to Danish laws or the rules of international law.

ARTICLE 1. When a Danish merchant vessel at sea is hailed by an armed ship belonging to either belligerent, she has, at the request of the officer in command, without opposition, to produce the ship's papers, i. e., the certificate of nationality and registry (or default of such a one, a provisional certificate of nationality delivered by a Danish consul), the crew list, the clearance papers, and the manifest. It is forbidden to conceal, to destroy, or to throw overboard papers concerning the ship or her cargo as well before as during the search. No Danish ship is allowed to have double papers or fly another flag than the Danish flag. Without a special permission in every case from the ministry of foreign affairs, no provisional certificate of nationality shall be delivered to any ship which has sailed under the flag of one of the belligerent powers during the war or the last six months before its outbreak.

ART. 2. No master is allowed to sail to any port blockaded by one of the belligerent powers. He has, as far as possible, to procure information, whether the entry to the port to which he is bound, is free. If he, on approaching a port, the blockade of which was unknown to him, is hailed by a man of war of the blockading power, and is informed by the commanding officer of the blockade of that port, he has immediately to withdraw, without trying secretly to enter the port.

ART. 3. No owner or master is allowed to employ his ship to the transporting of troops or contraband of war for any of the belligerent powers, or to let or charter ships which are known or supposed to be destined for such purpose.

ART. 4. As contraband of war—which is forbidden to convey to the belligerent powers or to their subjects—are considered: arms, ammunition, articles of clothing and equipment, and other manufactured articles which may be directly used for war purposes. Also dispatches from or to the authorities of any of the belligerent powers may be contraband of war, which it is prohibited to carry. If modifications or additional provisions with respect to contraband of war be needed, the ministry of foreign affairs will publish further instructions, after having procured the royal assent.

ART. 5. Russia having signed and Japan having later joined the maritime declaration made at Paris on the 16th of April, 1856, both parties are bound to recognize that privateering is abolished, that the neutral flag covers the enemy's cargo, contraband of war excepted; that the neutral cargo is not subject to seizure on board the enemy's ship, contraband of war being likewise excepted, and that blockades have to be effective.

ART. 6. If a master considers himself entitled to complain of the way in which he has been treated by any armed ship belonging to the powers at war, he has, as soon as possible, to present his claim before the ministry of foreign affairs, or before a Royal legation or consulate.

The Ministry of Foreign Affairs, February 10, 1904.

DEUNTZER.

Mr. Jusserand to Mr. Hay.

[Translation.]

FRENCH EMBASSY,
February 13, 1904.

MR. SECRETARY OF STATE:

My Government has just communicated to me that the Russian and Japanese Governments having officially advised it of the state of war existing between them it had decided to conform, in order to observe neutrality, to the principles set down by the circular published in the

official journal of the Republic on April 27, 1898.^a I consider it my duty to bring these intentions to the knowledge of your excellency and to mention that the above-named circular has been communicated by my predecessor to the Department of State on the 11th of May, 1898.

Please accept, etc.,

JUSSERAND.

Mr. Dodge to Mr. Hay.

No. 347.]

AMERICAN EMBASSY,
Berlin, April 25, 1904.

SIR: I have the honor to send to you inclosed herewith two copies (with English translations) of the neutrality proclamation of the German Government relating to the war now in progress between Russia and Japan, dated February 13, 1904.

I have, etc.,

H. PERCIVAL DODGE.

[Inclosure.—Translation.]

German Empire.—Proclamation.

According to official declarations which have been made here by the Imperial Russian Government and the Imperial Japanese Government, a state of war now exists between Russia and Japan. This is hereby proclaimed, with the further announcement that it is the duty of everyone within the territory of the Empire and in the German protectorates, as well as of Germans in foreign lands, to refrain from all acts contrary to the neutrality of Germany.

Berlin, February 13, 1904.

The Imperial Chancellor,

COUNT VON BÜLOW.

Mr. Choate to Mr. Hay.

No. 1453.]

AMERICAN EMBASSY,
London, October 15, 1904.

SIR: * * * I have the honor to inclose the following documents, viz:

(1) The King's proclamation of neutrality issued on February 11 last.^a (2) Copy of a letter dated February 11 last, addressed to the principal departments of His Majesty's Government, informing them of His Majesty's resolution to maintain neutrality.^b

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I am, sir, etc.,

JOSEPH H. CHOATE.

^a Printed in Foreign Relations 1898, p. 862.

^b Not printed. The proclamation and the letter of instruction are expressed in the same terms as the proclamation of April 26, 1898, and the letter of instruction of April 23, 1898, printed on pp. 865 and 869, respectively, in Foreign Relations 1898.

Mr. Iddings to Mr. Hay.

No. 413.]

AMERICAN EMBASSY,
Rome, Italy, October 10, 1904.

SIR: In compliance with your unnumbered instruction of September 23, 1904, I beg leave to send you herewith a copy of the Official Gazette of February 11, 1904, containing the neutrality proclamation issued by the Italian Government after the beginning of the war between Japan and Russia.^a

I have, etc.,

LEWIS MORRIS IDDINGS.

Mr. Clayton to Mr. Hay.

No. 2467.]

AMERICAN EMBASSY,
Mexico, October 7, 1904.

SIR:

* * * * *

I have the honor to inclose a copy and translation of Mr. Mariscal's note of the 5th instant informing me that he had transmitted therewith two copies of the Diario Oficial containing Mexico's official declaration of neutrality.

* * * * *

I have, etc.,

POWELL CLAYTON.

[Inclosure.—Translation.]

Mr. Mariscal to Mr. Clayton.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, October 5, 1904.

MR. AMBASSADOR: In reply to your excellency's note of the 3d instant requesting data concerning the neutrality proclamations issued by the Government of Mexico during the war between Russia and Japan, I have the honor to transmit herewith two copies of the Diario Oficial, wherein Mexico's official declaration of neutrality in the Russian-Japanese conflict appears.

I renew, etc.,

IGNO. MARISCAL.

[Subinclosure.]

[From Diario Oficial of February 16, 1904.]

Mexico's neutrality in the Russian-Japanese conflict.

PROCLAMATION.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, February 13, 1904.

This department having been informed by the diplomatic representatives of Russia and Japan, accredited before the Government of Mexico, of the state of war in which both of the aforesaid countries have been since the 10th instant,

^a Not printed. The proclamation is expressed in the same terms as the proclamation of April 25, 1898, printed in Foreign Relations 1898, page 874 et seq.

and in consideration of all the circumstances attending the case, the President of the Republic has declared that the Mexican Government should and shall observe the strictest neutrality with regard to said conflict.

The President also ordered that the aforesaid proclamation be made known to the parties concerned, and that it be published in the *Diario Oficial* in order that it may be properly observed.

MARISCAL.

Mr. Newel to Mr. Hay.

No. 793.]

AMERICAN LEGATION,
The Hague, October 5, 1904.

SIR:

* * * * *

I have the honor to inclose herewith a copy of the neutrality proclamation of the Netherlands Government issued February 12, 1904, together with a translation, and also a translation of the rules for the maintenance of neutrality in the Netherlands Indies as published in the *Java Courant* of February 11, 1904.

* * * * *

I have, etc.,

STANFORD NEWEL.

[Inclosure 1.—Translation.]

Neutrality proclamation.

The ministers of foreign affairs, of justice, of marine, and of war, thereto authorized by Her Majesty the Queen, hereby proclaim to all whom it may concern, that the Netherlands Government will preserve strict neutrality in regard to the hostilities which have broken out between Japan and Russia, and in observance of such neutrality do issue the following prohibitions:

ARTICLE I.

It is prohibited to enlist within the Kingdom in the interests of either belligerent party either soldiers or volunteers, to form or to drill auxiliary troops or voluntary corps.

ARTICLE II.

It is prohibited within the Kingdom in the interests of either of the belligerent parties to take service on any war ship.

ARTICLE III.

It is prohibited within the Kingdom to equip in the interests of either of the belligerent parties any vessel for military purposes, to arm or to man such, or to bring or to provide such vessels to the said parties.

ARTICLE IV.

It is prohibited within the Kingdom to provide ammunition or arms to war ships of either of the belligerent parties, to assist them in any way toward the increase of their men, arms, or equipment and to the making of any improvement or repairs, as also toward the providing of the material or implements necessary thereto.

The same prohibition is made in regard to every vessel that is evidently destined for the direct conveyance to a war ship of either of the belligerent parties of the assistance or goods mentioned in the first clause.

ARTICLE V.

It is prohibited, without previous sanction thereto from the proper authority, to afford within the territory of the Kingdom to any war ship of the belligerent parties provisions or fuel.

ARTICLE VI.

It is prohibited within the Kingdom to assist in the clearing or repairing of any prize ship, in the sale of any prize goods, or to accept as a gift or in exchange or to hold the same for the purpose of preservation.

ARTICLE VII.

Under the vessels mentioned in the preceding articles are not included the hospital vessels referred to in the treaty of July 29, 1899, ratified by the law of the 9th of July, 1900 (Official Gazette, No. 125).

ARTICLE VIII.

Under the territory of the Kingdom is also included the seacoast to within a distance of 3 nautical miles of 60 degrees latitude at low-water mark. In regard to bays, that distance of 3 nautical miles shall be measured from a straight line athwart the bay as close as possible to the entrance at the first point at which the entrance to the bay exceeds 10 miles of 60 degrees latitude.

The above-mentioned ministers also direct attention to the following legal provisions:

ART. 100. 1°. Penal Code, reading as follows: "Imprisonment for a period not exceeding six years may be incurred by the person who, in the case of war in which the Netherlands is not concerned, commits any act by which the neutrality of the Kingdom may be endangered or any special provision issued by the Government in maintenance of neutrality be infringed."

ART. 205. Penal Code, reading: "He who without the sanction of the sovereign shall enlist anyone for foreign service shall be liable to imprisonment for a period not exceeding one year, or a fine not exceeding 3,000 florins."

ART. 7. 4° of the law relating to Netherlands citizenship and the rights of residents in the country reads: "Netherlands citizenship is forfeited by the adoption of foreign service without the sanction of the sovereign in foreign military or state service."

Finally, the above-mentioned ministers warn all Netherlands subjects to withhold from any action that is not in accordance with the strict neutrality of the Netherlands in regard to the belligerent parties, and that they can only reckon on the interference and protection of the Government when it shall be evident that they have in no way neglected the obligations resting upon them as the citizens of a neutral State.

Hence the Netherlands citizens are hereby urgently admonished to respect all steps that the belligerent parties may adopt in conformity with belligerent rights.

Their attention, and especially that of captains, shipowners and ship brokers, is directed to the danger and risks consequent on the nonobservance of efficient blockade of the belligerent parties, the conveyance for them of contraband of war, of military dispatches (unless in the way of regular postal service), and the execution of any other transport service in their interest.

The minister of foreign affairs,

R. MELVIL VAN LYNDEN.

The minister of justice,

J. A. LOEFF.

The minister of marine,

ELLIS.

The minister of state, the minister of war,

J. W. BERGABSIUS.

[Inclosure 2.—Translation.]

Rules for the maintenance of neutrality in the Netherlands Indies.

In a special edition of the Java Courant of the 11th of February prescriptions are published in regard to the maintenance of neutrality in the Netherlands Indies during the war in East Asia, the rules coming entirely in accordance with those issued in this country respecting the same subject, as published in the Netherlands.

In addition thereto, however, it appears from the Java Courant that the following additional measures are issued for the Netherlands Indies:

ARTICLE 1. Not more than three ships or war vessels of either of the belligerent parties shall be admitted to the harbors or marine outlets of the Netherlands Indies at the same time. They shall be admitted to such places for a period not exceeding twenty-four hours, except in the case of urgent necessity, either in order to take in supplies of provender or fuel or in cases of necessity or distress. In such cases they shall be compelled to leave as soon as they shall have shipped provender or fuel, which if possible must be accomplished within twenty-four hours, or otherwise as quickly as possible, as soon as the danger has passed, and in the case of repairs within twenty-four hours after those repairs have been completed. In no other case shall twenty-four hours' limit be surpassed, except where such is necessary in the application of article 5 of this proclamation. Sufficient provender may be shipped as is necessary for the maintenance of the crew, while the stock of fuel may not exceed an amount necessary for the vessel to reach the nearest harbor of the country to which the vessel belongs or of one of its allies in the war. The same vessel shall not be allowed to return a second time for fuel within a period of three months from the time of the first supply, except special authorization be given thereto. The crew shall only be allowed to go ashore unarmed—officers and sergeants, provided they carry nothing else but their swords, are excepted in so far as such articles form a part of their uniform—and no plying of boats be allowed but as unarmed.

ARTICLE 2. Privateers shall not be admitted to the harbors or outlets in the Netherlands Indies, except in the case of distress, dangers of the sea, or want of provisions. As soon as the reason for their entry is passed they shall immediately leave. They shall not take in more provisions than is required for them to reach the nearest harbor of the country to which they belong or that of one of their allies in the war, and not more coal than is necessary to provide for their requirements for a period of twenty-four hours, sailing at a maximum of three English miles an hour. Within a period of three months they shall not be provided with coal a second time.

ARTICLE 3. War ships or privateers shall not be admitted to the harbors or outlets of the Netherlands Indies when accompanied by prize, except in the case of distress or want of provisions. As soon as the reason for their entry is passed they shall leave immediately. They shall not ship more provisions than is necessary for them to reach the nearest harbor of the country to which they belong, or that of one of their allies in the war. So long as they keep prizes coal shall not be supplied them. When war ships pursued by the enemy shall seek shelter in Netherlands Indies waterways they shall abandon their prizes.

ARTICLE 4. The sale and exchange and distribution of prizes or of articles derived thence, as also of booty, shall not be allowed in the harbors, roads, in the outlets, and the territorial waters of the Netherlands Indies.

ARTICLE 5. Ships and war vessels which, in accordance with articles 1, 2, 3, are admitted, shall not remain in the harbors, roads, or outlets of the Netherlands Indies longer than the stipulated time.

Should, however, war vessels or other ships and vessels of the belligerent parties be in the same harbor, in the roads, or in the same outlet of the Netherlands Indian Archipelago at the same time, an interval of twenty-four hours shall be allowed to elapse between the departure of one ship or of ships, of one vessel or of vessels, of the one party, and the following departure of a ship or of ships, of one vessel or of vessels, of the other party.

This period shall be regulated by the maritime authorities of the place.

Mr. Neill to Mr. Hay.

No. 1005.]

AMERICAN LEGATION,
Lima, Peru, October 29, 1904.

SIR: Regarding the desire contained in Department's instruction of September 23 last to obtain and forward without delay copies of the neutrality proclamations issued by the Government of Peru during the war between Russia and Japan, I have the honor to inform you that I was able to obtain copies of a note from the legation of Japan, in Mexico, of February 11, 1904, advising this Government of the declaration by Japan of the war against Russia, and asking that measures be taken by Peru for the maintenance of its neutrality.

Also the reply given by the Peruvian foreign office to the said note, wherein the minister for foreign relations, at that time Doctor Elmore, assured the legation of Japan that Peru would maintain the strictest neutrality, for which purpose the necessary measures had been taken.

These are the only two documents having relation to the matter, existing in the Peruvian foreign office, of which I inclose copies and translation.

I have, etc.,

RICHARD R. NEILL.

[Inclosure 1.—Translation.]

Mr. Soughimoura to Doctor Pardo.

LEGATION OF JAPAN,
Mexico, February 11, 1904.

MR. MINISTER: In accordance with instructions from my Government, I have the honor to inform your excellency that on the first of the present month His Majesty the Emperor, my august Sovereign, issued a decree declaring war against Russia, and at the same time to express to you that the Government of His Imperial Majesty does not doubt that Peru will maintain strict neutrality, and hopes that the necessary measures will be taken to make the same effective.

I take this opportunity, etc.,

K. SOUGHIMOURA.

[Inclosure 2.—Translation.]

Mr. Elmore to Mr. Soughimoura.

PERUVIAN FOREIGN OFFICE,
Lima, May 20, 1904.

MR. MINISTER: I have had the honor of receiving the esteemed note of your excellency of the 11th of February last, in which you are pleased to inform me, in compliance with the instructions of your Government, that on the first of February of the present year His Majesty the Emperor of Japan had issued a decree declaring war against Russia.

Your excellency expresses to me, at the same time, that the Government of His Imperial Majesty has no doubt that Peru will maintain strict neutrality, for which purpose he trusts that the necessary measures will be taken.

In reply I must inform your excellency that my Government sincerely deplores the fact of war being declared, but it once having commenced it will maintain, in compliance with its duty, the strictest neutrality.

I take, etc.,

ALBERTO ELMORE.

Mr. Jackson to Mr. Hay.

No. 83. Roumanian series.]

AMERICAN LEGATION,
Athens, March 7, 1904.

SIR: I have the honor to acknowledge the receipt of a copy of the President's proclamation of neutrality in the war between Russia and Japan, dated the 11th ultimo.

In the official Roumanian gazette (*Monitorul Oficial*), No. 262, a proclamation dated February 18 (March 2), 1904, is published, of which the following is a translation:

The Government of His Majesty the King of Roumania proclaims generally that it will observe most strict neutrality during the war between Russia and Japan.

The Government of His Majesty the King especially reminds all Roumanians on this occasion that, in conformity with the preceding declaration, they should abstain from any action which may be considered as hostile towards either of the belligerent States, and that it is expressly forbidden by law to enlist in their armies, in no matter what capacity, or to contribute to the arming or equipment of any vessel of war.

I have, etc.,

JOHN B. JACKSON.

Mr. Winthrop to Mr. Hay.

No. 281.]

AMERICAN LEGATION,
Madrid, October 6, 1904.

SIR: I have the honor to acknowledge the receipt of your unnumbered dispatch of September 23, 1904, requesting this legation to procure for the Department copies of the neutrality proclamations issued by the Government of Spain during the war between Russia and Japan.

In accordance therewith, I have the honor to inclose a copy of the *Gaceta de Madrid* of February 11, 1904, containing the only proclamation issued by the Government of Spain.

I may add that it is not the Spanish custom to publish such proclamations separately.

I have, etc.,

ROBERT M. WINTHROP.

[Inclosure.—Translation.]

MINISTER OF STATE,
SECTION OF POLITICAL AFFAIRS.

Hostilities having unfortunately broken out between Russia and Japan, owing to the attack of the latter power on the Russian squadron anchored in the outer roads of Port Arthur, according to a note of the ambassador of the Russian Empire at this court to-day, the Government of His Majesty deems it a duty to enjoin the strictest neutrality on Spanish subjects, in accordance with the laws in force and with the principles of international public law.

In consequence whereof it is hereby announced that Spaniards residing in Spain or abroad, who shall commit any hostile act which may be considered contrary to the most absolute neutrality, shall forfeit the right to the protection of His Majesty's Government and shall suffer the consequence of any measure adopted by the belligerents, without prejudice to the penalties which they may incur in accordance with the laws of Spain.

Any agents, whether nationals or foreigners, engaging in or promoting the recruiting of soldiers for either of the belligerent armies or squadrons, within Spanish territory, shall be likewise punished, according to article 150 of the penal code.

Mr. Thomas to Mr. **FOREIGN MISSIONS LIBRARY,**
156 FIFTH AVENUE, New York.
 AMERICAN LEGATION,
 Stockholm, April 30, 1904.

No. 369.]

SIR: Referring to former correspondence on the neutrality of Sweden and Norway during the Russo-Japanese war, I have now the honor to inclose herewith a printed copy, furnished me by the Royal foreign office, in the French language, of the rules of neutrality for Sweden and Norway, proclaimed this day by Royal ordinance.

These rules take effect at once.

I have, etc.,

W. W. THOMAS.

[Inclosure.—Translation.]

Rules of neutrality decreed by Royal ordinance of April 30, 1904.

The King of Sweden and Norway, having agreed to the declaration on the subject of the principles of maritime law in times of war, signed at Paris on April 16, 1856, privateers will not be admitted to the ports nor to the roadsteads of the two kingdoms.

The King, having ratified the convention of July 29, 1899, for the adaptation to maritime law the principles of the Geneva Convention of August 22, 1864, it is necessary to announce that article 6 of said convention declares that merchant vessels, yachts, or small neutral vessels carrying or receiving wounded, sick, or the shipwrecked of the belligerents can not be captured on account of the fact of such transportation, but remain liable to capture only for violations of neutrality which they may have committed.

The King has decided—

1st. To interdict to war vessels of the belligerents entry to the territorial waters within the fixed submarine defences, as well as to the following ports:

(a) In Sweden:

Stockholm, comprising the waters within a line commencing at Spillersboda, on the Swedish continent, and passing Furusund, Sandhamn, and Fiversätraö, to Dalarö and another line, Herrhamra-Landsort-Ledskär;

Karlskrona, within the fixed submarine defences

Färösund, the entrance from the north comprising the waters within a line connecting Vialmsudde with Hällegrundsudde, and the entrance from the south comprising the waters within a line Ryssnäs—boundary of Bungeör—Bungnäs; and

Slite, comprising the waters within the true north and west lines connecting the boundary of Magö with the main land of the Island of Gottland.

(b) In Norway:

The port of *Fredrikshald*;

The fjord of *Kristiania* inside of Bastö;

The fjord of *Tönsberg* inside of Natholmen and of the light-houses of Östre Vakerholmen, of Mogerötangen, and of Vallö;

The port of *Kristianssand* with the waters inside of Fredriksholm and of the light-houses of Oxö, of Grønningen, and of Torsö;

The port of *Bergen* with its entrances:

(a) Byfjorden inside of Hjelteskjaer-Stangen;

(b) The entrance from the north inside of Herlö-Agnö-Bognö;

The fjord of *Trondhjem* inside of the fortifications of Agdenes; and

The port of Vardö.

2nd. To accord to war vessels of belligerent powers entrance to the other ports of Sweden and Norway.

They must, however, conform with the following rules:

They are forbidden to obtain any supplies except stores, provisions, and means for repairs necessary for the subsistence of the crew or for the security of navigation. In regard to coal, they can only purchase the necessary quantity to reach the nearest nonblockaded national port, or, with the consent of the authorities of the King, a neutral destination. Without special permis-

sion the same vessel will not be permitted to again purchase coal in a port or roadstead of Sweden or Norway within three months after the last purchase.

They will be permitted to make urgent repairs for the security of navigation, but they are forbidden to undertake work for the purpose of strengthening their military power.

They can remain there only 24 hours unless the state of the sea, the want of provisions, or the damages to the vessel require a longer stay. In this case they must leave the port as soon as possible after removal of the cause of its detention.

The sanitary and police regulations which the circumstances would or might render necessary must be observed and respected.

It is well understood that neither of the belligerents is permitted to do any hostile act in the ports or waters of Sweden or Norway nor to make them a base of maritime operation against the other, nor to use them to facilitate or to increase or to renew its military forces.

It is likewise forbidden to any war vessel of one of the belligerent parties to leave the port, haven, or bay of Sweden and Norway from which any vessel of the other belligerent party (war vessel or merchant vessel) has left, before the expiration of not less than 24 hours after the departure of the latter vessel.

3rd. To forbid entrance into the ports and roadstead of Sweden and Norway, except in case of distress, of prizes as well as their condemnation or sale therein.

4th. To forbid the belligerent powers to establish coal depots on Swedish or Norwegian soil.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA,

A PROCLAMATION.

Whereas a state of war unhappily exists between Japan, on the one side, and Russia, on the other side;

And whereas the United States are on terms of friendship and amity with both the contending powers, and with the persons inhabiting their several dominions;

And whereas there are citizens of the United States residing within the territories or dominions of each of the said belligerents and carrying on commerce, trade, or other business or pursuits therein, protected by the faith of treaties;

And whereas there are subjects of each of the said belligerents residing within the territory or jurisdiction of the United States, and carrying on commerce, trade, or other business or pursuits therein;

And whereas the laws of the United States, without interfering with the free expression of opinion and sympathy, or with the open manufacture or sale of arms or munitions of war, nevertheless impose upon all persons who may be within their territory and jurisdiction the duty of an impartial neutrality during the existence of the contest;

And whereas it is the duty of a neutral government not to permit or suffer the making of its waters subservient to the purposes of war;

Now, therefore, I, THEODORE ROOSEVELT, President of the United States of America, in order to preserve the neutrality of the United States and of their citizens and of persons within their territory and jurisdiction, and to enforce their laws, and in order that all persons, being warned of the general tenor of the laws and treaties of the United States in this behalf, and of the law of nations, may thus be prevented from an unintentional violation of the same, do hereby declare and proclaim that by the act passed on the 20th day of April,

A. D. 1818, commonly known as the "neutrality law," the following acts are forbidden to be done, under severe penalties, within the territory and jurisdiction of the United States, to wit:—

1. Accepting and exercising a commission to serve either of the said belligerents by land or by sea against the other belligerent.

2. Enlisting or entering into the service of either of the said belligerents as a soldier, or as a marine, or seaman on board of any vessel of war, letter of marque, or privateer.

3. Hiring or retaining another person to enlist or enter himself in the service of either of the said belligerents as a soldier, or as a marine, or seaman on board of any vessel of war, letter of marque, or privateer.

4. Hiring another person to go beyond the limits or jurisdiction of the United States with intent to be enlisted as aforesaid.

5. Hiring another person to go beyond the limits of the United States with intent to be entered into service as aforesaid.

6. Retaining another person to go beyond the limits of the United States with intent to be enlisted as aforesaid.

7. Retaining another person to go beyond the limits of the United States with intent to be entered into service as aforesaid. (But the said act is not to be construed to extend to a citizen or subject of either belligerent who, being transiently within the United States, shall, on board of any vessel of war, which, at the time of its arrival within the United States, was fitted and equipped as such vessel of war, enlist or enter himself or hire or retain another subject or citizen of the same belligerent, who is transiently within the United States, to enlist or enter himself to serve such belligerent on board such vessel of war, if the United States shall then be at peace with such belligerent.)

8. Fitting out and arming, or attempting to fit out and arm, or procuring to be fitted out and armed, or knowingly being concerned in the furnishing, fitting out, or arming of any ship or vessel with intent that such ship or vessel shall be employed in the service of either of the said belligerents.

9. Issuing or delivering a commission within the territory or jurisdiction of the United States for any ship or vessel to the intent that she may be employed as aforesaid.

10. Increasing or augmenting, or procuring to be increased or augmented, or knowingly being concerned in increasing or augmenting, the force of any ship of war, cruiser, or other armed vessel, which at the time of her arrival within the United States was a ship of war, cruiser, or armed vessel in the service of either of the said belligerents, or belonging to the subjects of either, by adding to the number of guns, of such vessels, or by changing those on board of her for guns of a larger calibre, or by the addition thereto of any equipment solely applicable to war.

11. Beginning or setting on foot or providing or preparing the means for any military expedition or enterprise to be carried on from the territory or jurisdiction of the United States against the territories or dominions of either of the said belligerents.

And I do hereby further declare and proclaim that any frequenting and use of the waters within the territorial jurisdiction of the United States by the armed vessels of either belligerent, whether public ships or privateers, for the purpose of preparing for hostile operations, or as posts of observations upon the ships of war or privateers or merchant vessels of the other belligerent lying within or being about to enter the jurisdiction of the United States, must be regarded as unfriendly and offensive, and in violation of that neutrality which it is the determination of this Government to observe; and to the end that the hazard and inconvenience of such apprehended practices may be avoided, I further proclaim and declare that from and after the fifteenth day of February instant, and during the continuance of the present hostilities between Japan and Russia, no ship of war or privateer of either belligerent shall be permitted to make use of any port, harbor, roadstead, or waters subject to the jurisdiction of the United States from which a vessel of the other

belligerent (whether the same shall be a ship of war, a privateer, or a merchant ship) shall have previously departed, until after the expiration of at least twenty-four hours from the departure of such last-mentioned vessel beyond the jurisdiction of the United States. If any ship of war or privateer of either belligerent shall, after the time this notification takes effect, enter any port, harbor, roadstead, or waters of the United States, such vessel shall be required to depart and to put to sea within twenty-four hours after her entrance into such port, harbor, roadstead, or waters, except in case of stress of weather or of her requiring provisions or things necessary for the subsistence of her crew, or for repairs; in either of which cases the authorities of the port or of the nearest port (as the case may be) shall require her to put to sea as soon as possible after the expiration of such period of twenty-four hours, without permitting her to take in supplies beyond what may be necessary for her immediate use; and no such vessel which may have been permitted to remain within the waters of the United States for the purpose of repair shall continue within such port, harbor, roadstead, or waters for a longer period than twenty-four hours after her necessary repairs shall have been completed, unless within such twenty-four hours a vessel, whether ship of war, privateer, or merchant ship of the other belligerent, shall have departed therefrom, in which case the time limited for the departure of such ship of war or privateer shall be extended so far as may be necessary to secure an interval of not less than twenty-four hours between such departure and that of any ship of war, privateer, or merchant ship of the other belligerent which may have previously quit the same port, harbor, roadstead, or waters. No ship of war or privateer of either belligerent shall be detained in any port, harbor, roadstead, or waters of the United States more than twenty-four hours, by reason of the successive departures from such port, harbor, roadstead, or waters of more than one vessel of the other belligerent. But if there be several vessels of each or either of the two belligerents in the same port, harbor, roadstead, or waters, the order of their departure therefrom shall be so arranged as to afford the opportunity of leaving alternately to the vessels of the respective belligerents, and to cause the least detention consistent with the objects of this proclamation. No ship of war or privateer of either belligerent shall be permitted, while in any port, harbor, roadstead, or waters within the jurisdiction of the United States, to take in any supplies except provisions and such other things as may be requisite for the subsistence of her crew, and except so much coal only as may be sufficient to carry such vessel, if without any sail power, to the nearest port of her own country; or in case the vessel is rigged to go under sail, and may also be propelled by steam power, then with half the quantity of coal which she would be entitled to receive, if dependent upon steam alone, and no coal shall be again supplied to any such ship of war or privateer in the same or any other port, harbor, roadstead, or waters of the United States, without special permission, until after the expiration of three months from the time when such coal may have been last supplied to her within the waters of the United States, unless such ship of war or privateer shall, since last thus supplied, have entered a port of the government to which she belongs.

And I further declare and proclaim that by the first article of the convention as to rights of neutrals at sea, which was concluded be-

tween the United States of America and His Majesty the Emperor of all the Russias on the 22d day of July, A. D. 1854, the following principles were recognized as permanent and immutable, to wit:

"1. That free ships make free goods; that is to say, that the effects or goods belonging to subjects or citizens of a power or state at war are free from capture and confiscation when found on board of neutral vessels, with the exception of articles contraband of war.

"2. That the property of neutrals on board an enemy's vessel is not subject to confiscation, unless the same be contraband of war.

And I do further declare and proclaim that the statutes of the United States and the law of nations alike require that no person, within the territory and jurisdiction of the United States, shall take part, directly or indirectly, in the said war, but shall remain at peace with each of the said belligerents, and shall maintain a strict and impartial neutrality, and that whatever privileges shall be accorded to one belligerent within the ports of the United States shall be, in like manner, accorded to the other.

And I do hereby enjoin all the good citizens of the United States, and all persons residing or being within the territory or jurisdiction of the United States, to observe the laws thereof, and to commit no act contrary to the provisions of the said statutes, or in violation of the law of nations in that behalf.

And I do hereby warn all citizens of the United States, and all persons residing or being within their territory or jurisdiction, that, while the free and full expression of sympathies in public and private is not restricted by the laws of the United States, military forces in aid of either belligerent can not lawfully be originated or organized within their jurisdiction; and that while all persons may lawfully, and without restriction by reason of the aforesaid state of war, manufacture and sell within the United States arms and munitions of war, and other articles ordinarily known as "contraband of war," yet they can not carry such articles upon the high seas for the use or service of either belligerent, nor can they transport soldiers and officers of either, or attempt to break any blockade which may be lawfully established and maintained during the war, without incurring the risk of hostile capture and the penalties denounced by the law of nations in that behalf.

And I do hereby give notice that all citizens of the United States and others who may claim the protection of this Government, who may misconduct themselves in the premises, will do so at their peril, and that they can in no wise obtain any protection from the Government of the United States against the consequences of their misconduct.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington this 11th day of February in the year of our Lord one thousand nine hundred and four and of the Independence of the United States the one hundred and twenty-eighth.

[SEAL.]

By the President:

JOHN HAY,

Secretary of State.

THEODORE ROOSEVELT.

ARGENTINE REPUBLIC.

PASSPORT APPLICATION OF WILLIAM A. TAPPEN AND HIS SON CHARLES L. TAPPEN.

Mr. Beaupré to Mr. Hay.

No. 14.]

AMERICAN LEGATION,
Buenos Ayres, July 15, 1904.

SIR: Mr. William A. Tappen has applied to this legation for a passport, which I have declined to issue, but have agreed to submit the case for the Department's consideration.

Mr. Tappen was born in Germany, emigrated to the United States in 1868, lived there until 1881, and was naturalized by the circuit court of St. Louis County, St. Louis, Mo., on May 29, 1876. He came to the Argentine Republic in 1882, returned to the United States in 1886, remained there about a year, and then came back to this country, where he has since resided uninterruptedly. For about ten years he was employed by this Government as inspector of locomotives, and is now actuary of a Buenos Ayres insurance company. He has no material interests in the United States, says that he would like to return and resume his duties of citizenship there, but that up to this time he has not found it possible to do so for pecuniary reasons. He holds passport No. 33 of this legation, issued August 1, 1890, at which time his naturalization papers were exhibited as evidence.

In 1886, while Mr. Tappen was visiting in the United States, his son Charles L. Tappen was born at St. Louis, Mo., and an authenticated certificate of his baptism in St. Louis is offered in evidence of this. The young man has also applied for a passport, and, as he is still a minor, I am inclined to think that he is entitled to it; but I have thought best to submit both cases to the Department before taking action. Charles L. Tappen came to this country with his father in 1887, and ever since has resided here. He has no definite plans as to his future, but expresses a desire to be able to live in the United States.

I am, etc.,

A. M. BEAUPRÉ.

Mr. Adee to Mr. Beaupré.

No. 16.]

DEPARTMENT OF STATE,
Washington, August 30, 1904.

SIR: I have to acknowledge the receipt of your dispatch No. 14, of the 15th ultimo, on the subject of the applications of Mr. William A. Tappen and his son, Charles L. Tappen, for passports, from which it appears that Mr. Tappen was born in Germany, emigrated to the United States in 1868, lived there until 1881, was naturalized on May

29, 1876, went to the Argentine Republic in 1882, returned to the United States in 1886, remained there about a year, and then returned to the Argentine Republic, where he has since resided; and that his son was born at St. Louis, Mo., in 1886.

In reply I have to say that the Department is not advised of all the circumstances surrounding the case and can not definitely decide it. The question is, does Mr. Tappen intend to return to the United States or does he not? Taking the Department's circular instruction of March 27, 1899,^a and applying it to Mr. Tappen's application you should be able to decide whether a passport should issue.

The case of his son is simple. Having been born in this country he is a citizen thereof and can not divest himself of his American citizenship during his minority. He is, consequently, entitled to a passport until he reaches the age of 21 years, when he may elect his nationality. (See Van Dyne on Citizenship, p. 24, et seq.)

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

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

Mr. White to Mr. Hay.

No. 72.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, May 9, 1904.

SIR: I have the honor to transmit herewith three copies of the message read on the 5th instant at the opening of the Argentine Congress by the President of the Republic.

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The Buenos Ayres Herald, the only English organ that comments at any length on the message, while admitting the good case which it makes out for the past few years and the bright outlook for the future, maintains that this is in spite of rather than as a consequence of the activities of the passing Administration.

The message seems to have been received by the people of this country and by the foreign press in a manner approaching indifference, which fact is, perhaps, an indication of the improved credit of the nation.

I have, etc.,

CHARLES D. WHITE,

[Inclosure.]

[From the Buenos Ayres Herald, Friday, May 6, 1904; The Buenos Ayres Herald, Saturday, May 7, 1904.]

THE PRESIDENT'S MESSAGE.

GENTLEMEN, SENATORS, AND DEPUTIES: For the last time I have the honor of opening your session, and it should be pleasant for us to realize this constitutional act in such a favorable situation of credit, of well-being, and of general prosperity.

The Argentine nation is increasing and developing in extraordinary proportions, both materially and morally. Every day is noted an improvement in the practice of its democratic institutions. Her future greatness is no longer the vague and uncertain aspiration of patriotism, but takes the form and character of reality.

* * * * *

FOREIGN AFFAIRS.

The Republic maintains cordial relations with the rest of the world. The bonds uniting it to other nations are becoming ever firmer in consequence of commercial intercourse, which is incessantly increasing; of the various conventions which regulate commercial, judicial, sanitary, and other interests, and of the congresses, conferences, and exhibitions frequently attended by our delegates.

The relations which we maintain with the States of America, and especially with our neighbors, are particularly fraternal.

Every day the wisdom of the pacts made with Chile is recognized. These pacts have caused to prevail a policy of peace and of frank and loyal friendship between the two nations. This example was applauded in Europe and America, and is certain to exercise a beneficial influence upon the relations of the states in this part of the world.

It is pleasant to state that the Argentine Government has been the object of special distinctions on the part of the South American governments, having been honored by being appointed arbitrator in the dispute between Bolivia and Peru.

The gravitation of the political and economical interests of these countries must necessarily determine a more equitable criterion for the harmonization of their respective laws, to favor the expansion of their commercial policy, and the interchange of their native produce.

In a few days the agreements with the Governments of Bolivia and Chile for the termination of the demarcation of the frontiers will be submitted to you, as also the draft of a treaty relative to the occupation of the lands which, by the decision of His Britannic Majesty, now are under different jurisdiction.

With these conventions and another which is being negotiated the last differences which threatened to draw these nations into war have been smoothed over, and these nations are now only occupied in trying to increase their friendly relations.

The Argentine Government has recognized the new State of Panama, after having acquired the information necessary to assure itself of the transcendancy and permanency of what has occurred there. In the memorial of the ministry of foreign affairs you will find the data necessary to appreciate the attitude of the Argentine foreign office in this emergency.

* * * * *

**TREATY OF FRIENDSHIP AND COMMERCE BETWEEN THE
ARGENTINE REPUBLIC AND PERSIA.**

Mr. Beaupré to Mr. Hay.

No. 35.]

AMERICAN LEGATION,
Buenos Ayres, September 13, 1904.

SIR: I have the honor to report that there has been passed by the Congress and signed by the Executive of this Republic a bill ratifying a treaty of friendship and commerce with Persia. This treaty was arranged by the plenipotentiaries of this country and Persia and signed by them at Ostend, Belgium, on the 27th of July, 1902. It was sent to the Senate on September 24 of that year and approved by the same on June 2, 1903. Recommended by the committee of the deputies on May 18 last, it passed that body on August 12. The bill of ratification was signed by the President on August 19 last.

I inclose three copies of the "Diario de sesiones" of the Chamber of Deputies, in which the text of the treaty is given, together with a translation of the treaty into English.

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure.—Translation.]

Treaty of friendship and commerce between the Argentine Republic and Persia.

His Imperial Majesty Mozaffar-Eddine Schahinschah, of Persia, and Lieut. Gen. Julio A. Roca, president of the Argentine Republic, animated alike by the desire of establishing and encouraging friendly and commercial relations between their respective countries, have decided to conclude a treaty to this effect and have named their plenipotentiaries, to wit:

His Imperial Majesty the Schahinschah, His Excellency Gen. Isaac Khan Mofokhamed Dowleh, his field adjutant-general, and his envoy extraordinary in the United States of America.

And His Excellency the President of the Argentine Republic, His Excellency Doctor Eduardo Wilde, envoy extraordinary and minister plenipotentiary in Belgium and Holland.

Who, after having communicated to one another their full powers, which were found in good and due form, have agreed to the following articles:

ART. 1st. There shall be perpetual peace and invariable friendship between His Imperial Majesty the Schahinschah of Persia, his heirs and successors, and the Argentine Republic, and between their respective citizens and subjects.

ART. 2nd. His Imperial Majesty the Schahinschah and the Government of the Argentine Republic shall have the right to name diplomatic agents, consuls-general, vice-consuls, and consular agents, who shall reside respectively in the capital and principal cities of the two countries where the residence of such foreign agents is permitted and shall enjoy the same rights, privileges, favors, immunities, and exemptions as are or may be conceded to the diplomatic and consular agents of the most favored powers.

The consuls-general, consuls, vice-consuls, and consular agents must obtain in the usual manner, before entering upon the exercise of their duties, the exequatur of the government of the country where they are to perform said duties.

ART. 3rd. The citizens and subjects of each one of the high contracting parties shall enjoy in regard to their persons and property, in the whole extent of territory of the other, the same rights, liberty, favors, and immunities which are enjoyed or shall be enjoyed by the citizens or subjects of the most favored nations.

ART. 4th. There shall be reciprocal liberty of commerce between the Persian Empire and the Argentine Republic.

The merchandise of each one of the two countries shall be allowed to enter freely into the territory of the other in accordance with the laws of the same, and neither of the two high contracting parties shall impose upon the products of the soil or of the industry of the other party other or higher duties of import, consumption, storage, reexportation, or transit than are imposed upon the same products of the most favored nation.

Likewise, no prohibition of importation or of exportation of any article whatsoever shall be imposed upon the reciprocal commerce of the contracting parties unless the very same is applied to all the nations, except for especial reasons of health or to prevent the propagation of epidemic diseases, the destruction of crops, or in view of the contingency of war.

ART. 5th. Should there arise between the high contracting parties a difference which could not be settled through the channel of diplomacy, the high contracting parties agree to submit it to the arbitration of a friendly power proposed and accepted by common agreement.

ART. 6th. This treaty shall go into effect two months after the interchange of ratifications.

So long as neither of the two high contracting parties renounce it, this treaty shall continue in force, and it shall not cease to govern until the expiration of a

year counting from the day on which one of the high contracting powers shall announce its intention of canceling it.

ART. 7th. Two copies of the present treaty shall be made in each one of the languages: Persian, Spanish, French. In case of disagreement in regard to the interpretation of the Persian or Spanish text the matter in dispute shall be decided in accordance with the French text, which decision shall be obligatory upon the two governments.

ART. 8th. The present treaty shall be ratified by his Imperial Majesty the Schahinschah and by His Excellency the President of the Argentine Republic in accordance with their respective laws, and the ratifications shall be interchanged within as short a time thereafter as possible.

In confidence in the same the plenipotentiaries have signed this present treaty and affixed to it their respective seals, at Ostend, this twenty-first day of the month of Rabiul Sani, one thousand three hundred and twenty of the Hegira, the twenty-seventh of July, one thousand nine hundred and two.

(Signed)

EDUARDO WILDE.

(Signed)

General ISAAC KHAN MOFAKHAMED DOWLEH.

BOUNDARY CONVENTIONS BETWEEN THE ARGENTINE REPUBLIC AND CHILE.

Mr. Beaupré to Mr. Hay.

No. 36.]

AMERICAN LEGATION,
Buenos Ayres, September 13, 1904.

SIR: I have the honor to report that there has been passed by the Congress and signed by the Executive of this Republic a bill ratifying two conventions agreed upon between this country and Chile in the matter of pending boundary questions. These two conventions were drawn up by the minister of foreign affairs of this Republic, Doctor Terry, and the Chilean minister at this capital, Dr. Vergara Donoso, and signed by them in this city on May 2 last. Submitted to Congress on the same day, they were ratified in joint session on August 25 last.

I inclose three copies of Boletin Oficial, No. 3265, of the 3d instant, which contains the text of the treaties, together with a translation of them into English.

Doctor Terry and the Chilean minister have again recently conferred on the matter of the pending boundary questions and it is likely that the above conventions will be followed by other or additional conventions, settling small difficulties that arise in the course of the work of fixing the actual frontier. If so, I shall at once report them.

I am, etc.,

A. M. BEAUPRÉ.

[Inclosure.—Translation.]

Conventions between the Argentine Republic and Chile.

Met at the ministry of foreign affairs and worship of the Argentine Republic, H. E. the minister of this Department, Doctor Jose Antonio Terry, and H. E. Mr. Jose Francisco Vergara Donoso, envoy extraordinary and minister plenipotentiary of Chile, with the purpose of reaching an agreement that should avoid whatever difficulty might arise between the commissions of the two countries in tracing in the region the line established by the arbitral decision of the

boundary commission dated March 24th, 1899, their full powers exhibited and found to be in good and due form, agreed to the following:

1st. That, if in the course of the operations of material demarcation of the straight lines indicated in the arbitral decision it should be found that these lines skirt some mountain ridge or other accident of nature which by its proximity to the same might offer a more permanent frontier, the mixed commission shall, the respective heads of the commissions being in accord, and without prejudice to the establishment of said lines, propose to the respective Governments the substitution of natural limits for these lines on terms of a fair compensation.

2d. Once these lines proposed by common accord by the heads of the mixed commission have been accepted by the Governments, they shall be recognized as the ultimate boundary between the two countries, to which end the present agreement shall be submitted for their approval to the respective Congresses.

In confidence in which the present convention is signed and sealed in duplicate, in the city of Buenos Aires, on the second day of the month of May, 1904, by

(Signed)

J. A. TERRY.

(Signed)

J. F. VERGARA DONOSO.

Met in the ministry of foreign affairs and worship of the Argentine Republic, H. E. the minister of this Department, Doctor Jose Antonio Terry, and H. E. Mr. Jose Francisco Vergara Donoso, envoy extraordinary and minister plenipotentiary of Chile, with the purpose of making an agreement that may facilitate the material demarcation of the boundary to the north of the 23d parallel of south latitude, their full powers exhibited and found to be in good and due form, agreed to the following:

To the north of the mentioned parallel 23 the ultimate boundary between the Argentine Republic and the Republic of Chile shall be a straight line which, beginning at the point of intersection of said parallel with the meridian 67 west of Greenwich, terminates in the highest peak of the Mount Zapaleri, indicated as such in the map prepared by the Argentino-Bolivian Boundary Commission.

Done and signed at Buenos Aires, this present convention, in duplicate, the second day of May, 1904.

(Signed)

J. A. TERRY.

(Signed)

J. F. VERGARA DONOSO.

AUSTRIA-HUNGARY.

NEUTRALITY OF CHINA IN THE WAR BETWEEN JAPAN AND RUSSIA.

Mr. Hay to Mr. Storer.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 10, 1904.

(Mr. Hay instructs Mr. Storer to consult the Austrian Government in regard to the possibility and desirability of an arrangement between the neutral powers to use their good offices with Russia and Japan for the purpose of inducing them to respect China's neutrality and administrative entity as far as possible, limiting and localizing the area of hostile operations to minimize the disturbance and excitement of the Chinese people and the injury to commerce and to the peaceful intercourse of the world. If no opposition to this proposition is offered, he is instructed to suggest that the representatives of Austria-Hungary at St. Petersburg, Tokyo, and Peking be instructed in this sense.)

Mr. Storer to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Vienna, February 12, 1904.

(Mr. Storer states that the Austrian Government is disposed in a general way to follow any concurrent use of good offices neutral powers having more important interests involved than those of Austria may agree upon, but wishes to be informed beforehand, if possible, of the extent of territory on which the neutrality of China is to be respected, and asks whether it is desired to include Manchuria.)

Mr. Storer to Mr. Hay.

No. 105.]

AMERICAN LEGATION,
Vienna, February 12, 1904.

SIR: I have the honor to acknowledge the receipt of your telegraphic instruction.

At the earliest possible moment I have had an interview with Count Goluchowski, handing him a memorandum of the substance of your instruction.

While in general terms saying that Austria-Hungary would take the same view and attitude as the other neutral powers in the direction pointed out by your instruction, he repeated what he had said on a previous occasion, already reported by me, that the interests of Austria-Hungary were so slight and remote in all the extreme Eastern questions that there should be no expectation from any quarter that his Government would take any initiative or active part nor do more than follow what might be agreed upon by such other neutral powers as had real and weighty interests at stake. He preferred to have some enlightenment as to what was meant by the "neutrality of China" from a territorial point of view, as to whether that was intended to include Manchuria or no, before giving any instructions to the Austro-Hungarian representatives at St. Petersburg, Tokyo, and Peking.

His views are that the military operations having necessarily to be conducted on land in Manchuria, recognized as part of China, or in Korea, two neutral countries, gave rise to an abnormal condition of affairs which made it difficult to be precise in terms, and also necessary to have a clear notion of the territorial extent of the neutrality which it is hoped will be respected by the belligerents.

I may add that these peculiar circumstances and the dangers of hitherto unsettled questions in international and belligerent law coming suddenly forward for consideration are looked on with great apprehension among official and diplomatic circles in Vienna.

As to that part of your instruction which asked the opinion of the Austro-Hungarian Government of the desirability of the neutral powers using concurrent good offices to induce the respect of Chinese neutrality, Count Goluchowski was quite cool and rather pessimistic so far as any great effect could be anticipated. In his opinion the proclamation of neutrality by all the powers, and the strict carrying out of the duties of neutrals, would probably do all that any concurrent effort to mediate further could be expected to accomplish.

However, as I have said above, Austria-Hungary feels disposed to follow the lead of powers having greater interests at stake, provided these powers can come to a definite agreement as to methods and aims.

* * * * *

I have, etc.,

BELLAMY STORER.

Mr. Hay to Mr. Storer.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 13, 1904.

(Mr. Hay informs Mr. Storer that this Government desires China's neutrality to be respected everywhere so far as is practicable in a state of war which must of course be carried on in part on the waters or soil of China. But to make a general agreement of the powers possible this Government does not specify metes or bounds.)

Mr. Storer to Mr. Hay.

No. 106.]

AMERICAN LEGATION,
Vienna, February 15, 1904.

SIR: I have the honor to acknowledge the receipt of your instruction arriving midnight Saturday.

At the earliest moment to-day I had an interview with the minister for foreign affairs. He had considered the questions involved, and the effect of the above instruction was that he declared that under the limitations heretofore expressed by him, and reported by me, arising necessarily from the slight importance of Austria-Hungary's interests in the Far East in comparison with those of other powers, he was entirely in accord with the intentions, now understood, of your instruction and could find no fault with the view and wishes of the United States Government. He added he would at once instruct the diplomatic representatives of Austria-Hungary at St. Petersburg, Tokyo, and Peking in accordance with this view, and authorized me to cable this to you.

He repeated again that, in details, Austria-Hungary would not be disposed to take any initiative, but would be found in accord with whatever the powers more in interest might be able to agree upon.

I have, etc.,

BELLAMY STORER.

[NOTE.—See circular of February 20, 1904, printed p. 2.]

VISIT OF AN AMERICAN FLEET TO AUSTRIAN PORTS.

Mr. Hay to Mr. Storer.

No. 72.]

DEPARTMENT OF STATE,
Washington, February 26, 1904.

SIR: As long ago as last June it was planned by the Navy Department that after the winter and spring maneuvers of the United States battle-ship squadron in the Caribbean Sea that squadron should make a voyage to European waters, accompanied by the European Squadron.

It was proposed that the vessels should visit Lisbon, Trieste, and possibly one of the French Mediterranean ports, remaining in each port about three weeks, after which they would proceed together to Gibraltar, the battle-ship squadron then returning to the United States and the European Squadron of course remaining on its station.

The object of this visit being simply to afford the vessels and their crews the opportunities for practice incident to an extended trans-Atlantic voyage, and as the visit is without significance of any kind, this Government would be gratified if the courtesies and attentions to the squadrons were limited to the simple, ordinary formalities of such occasions on entering the port visited.

The date of the proposed visit is not yet fixed, but it will be shortly after the conclusion of the maneuvers in the Caribbean Sea now about to take place. You will be advised further as soon as the time shall be set.

I am, sir, etc.,

JOHN HAY.

Mr. Storer to Mr. Hay.

No. 115.]

AMERICAN LEGATION,
Vienna, April 14, 1904.

SIR: As your instruction No. 72, bearing date of February 26, called for no official action until further advice from the Department, I deemed it best to bring unofficially to the attention of the foreign office the intended cruise of our ships of war in the Mediterranean, as well as the wishes of our Government as to the courtesies and attentions which might otherwise be offered to the navy of a friendly power on such an occasion.

To this unofficial communication I have the honor to report I have to-day received the answer of the foreign office, also unofficial in form, but containing information of sufficient importance to transmit at once for the consideration of the Department. It will be seen that no more than three war ships of the United States may enter at the same time any Austrian or Hungarian port, nor more than six enter Austro-Hungarian waters until, as a preliminary, permission is asked for through the diplomatic channel.

I inclose a copy and a translation of the letter of the under secretary of state, Ritter von Mérey.

I have, etc.,

BELLAMY STORER.

[Inclosure.—Translation.]

Mr. Mérey to Mr. Storer.

IMPERIAL AND ROYAL MINISTRY FOR FOREIGN AFFAIRS,
Vienna, April 12, 1904.

MY DEAR AMBASSADOR: I have at once communicated to the proper quarter the contents of the note that your excellency was good enough to send on the 30th of March to inform the Government of Austria-Hungary that a United States squadron was to visit several ports of Europe this summer, and among them would stop at Trieste.

The naval section of the war department of Austria-Hungary has received the news of this visit to one of our ports with the greatest pleasure. Yet it is thought that the attention of the Government of the United States should be called to article 2 of the law in force on "The approach to the Austro-Hungarian coast of war vessels of friendly powers." By the terms of this article it is interdicted for more than three ships of war of the same foreign navy to anchor at the same time in the same port; and for more than six of such ships of war to remain in the neighborhood of our coast, unless a special authorization therefor has been previously asked for through the diplomatic channel. The newspapers having spoken of a much larger number of ships, it is of importance, in order to avoid any misunderstanding, that timely notice should be given of this restriction to the Government of the United States.

I beg to add that the Austro-Hungarian naval authorities will take notice of the desire of your excellency to confine the marks of courtesy to the formalities of rule and custom and take this occasion to renew to you, my dear ambassador, the assurances, etc.

For the minister:

MÉREY.

Mr. Hay to Mr. Storer.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 29, 1904.

(Mr. Hay instructs Mr. Storer to request permission for a fleet of nine American naval vessels to make a friendly visit to Austro-Hungarian waters and to the port of Trieste.)

Mr. Loomis to Mr. Storer.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 2, 1904.

(Mr. Loomis instructs Mr. Storer to include Fiume when requesting permission for the United States fleet to enter Austro-Hungarian ports.)

Mr. Loomis to Mr. Storer.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 14, 1904.

(Mr. Loomis advises Mr. Storer that our fleet will arrive at Trieste about July 1 and will remain in Austrian waters about two or three weeks.)

Mr. Storer to Mr. Hay.

No. 131.]

AMERICAN LEGATION,
Vienna, May 18, 1904.

SIR: I have the honor to report that last evening I received the official answer of the Government of Austria-Hungary to the request for permission to visit Trieste and Fiume, as well as to remain in Austro-Hungarian waters, on the part of our fleet.

It will be seen from the copy and translation I have the honor to inclose that the answer is in the affirmative. * * *

I have, etc.,

BELLAMY STORER.

[Inclosure.—Translation.]

Mr. Mérey to Mr. Storer.

IMPERIAL AND ROYAL MINISTRY OF FOREIGN AFFAIRS,
Vienna, May 14, 1904.

In reply to the highly esteemed note of the 2d instant, the Imperial and Royal ministry of foreign affairs has the honor most respectfully to bring to the

knowledge of his excellency the ambassador of the United States of America, Mr. Bellamy Storer, that the Imperial and Royal Government awaits with pleasure the intended visit to the ports of Trieste and Fiume by an American squadron consisting of nine ships.

The undersigned avails himself at the same time of this opportunity to renew, etc.

For the minister.

MÉREY.

EMIGRATION LAW OF HUNGARY.

Mr. Storer to Mr. Hay.

No. 37.]

AMERICAN LEGATION,
Vienna, May 18, 1903.

SIR: I have the honor to inclose a translation of the proposed law of Hungary relating to emigration, with the amendments adopted up to the present time, together with the "exposé de motifs," or recommendations of the minister of the interior, which according to custom accompanies the bill for its explanation to the Parliament.

I venture to call the Department's attention to the reasoning and admissions of the minister of the interior, who is, in addition, prime minister or president of the council of ministers of Hungary, as showing the attitude of that Government toward its former citizens and its desire to keep control over them even after they have become residents of the United States.

This attitude on the part of other governments constitutes an interesting and important subject of consideration for our own Government.

* * * * *

I have, etc.,

BELLAMY STORER.

[Inclosure 1.—Translation.]

Bill of regulation for emigration.

CHAPTER I. *Emigration in general.*

SEC. 1. In point of view of the application of this law he is considered an emigrant who goes to foreign countries with the object of continuously living there for an indefinite time.

SEC. 2. In regard to emigration the following restrictions have been established:

(a) Those who on account of military laws are obliged to present themselves before the authorities or are subject to military service are allowed to emigrate only with the permission of the respective competent authorities.

(b) Persons who are under preliminary investigation or examination for having committed a crime or offense, against whom either the judicial or police authorities have issued a warrant of arrest, are not permitted to emigrate at all.

(c) Minors can emigrate only if they are able to show the written and officially legalized consent of their father or guardian, and those who have not yet attained their fifteenth year of age—even under those conditions only—can emigrate in company of a responsible adult, and then only on condition that a future home is provided for them at their place of destination.

The following are not allowed to emigrate:

(d) Those parents who intend to leave children under 15 years of age at home without providing for their proper care.

(e) Those who have not sufficient funds for the journey to the place of their destination or for the conditions which are established in regard to the immigration in the country to which they wish to emigrate.

(f) Those who are promised by the government of any foreign country, or by any colonization or similar company or a private person looking to organized colonization, free transportation in whole or in part, or any advance of cost of transportation.

SEC. 3. Every emigrant must supply himself with a passport as required for that country to which he desires to emigrate.

SEC. 4. The ministry furnishes emigrants—if they apply for it—full and reliable information as to all conditions with reference to those States or those countries to which they have the intention of going.

SEC. 5. The ministry is empowered to prohibit the emigration into any other dominion or into any foreign country where the life, health, morals, or property of the emigrants may be placed in jeopardy; and this either universally or for persons of any particular occupation only.

SEC. 6. The ministry is empowered to restrict emigration, in any particular direction or directions, as may seem best from the standpoint of public inspection (health) or to protect the interests of the emigrants.

CHAPTER II. *The passenger traffic—Contractors and agents.*

SEC. 7. He who wishes to engage in the transport of emigrants must have a license. The license is granted by the minister of the interior.

SEC. 8. A license is granted to:

(1) Resident contractors, whether individuals or associations, provided the personally responsible managers are Hungarian citizens.

(2) Nonresident contractors whether individuals or associations.

(a) Provided they nominate a resident citizen of Hungary as their representative for Hungary both in all matters regarding the emigration and also their relations toward the authorities, with full power and responsibility.

(b) Provided they subject themselves to the Hungarian law and the Hungarian courts of justice in case of differences arising through said traffic (business).

SEC. 9. Every applicant for such license must prove ability to transport emigrants safely and deposit in advance at least K100,000 as security.

SEC. 10. The license is only to be granted for designated countries; parts of countries or places, and if the journey be by sea, only for designated ports.

SEC. 11. The license gives the manager the right to extend his business over the entire territory within the scope of the law.

SEC. 12. The contractor is bound from time to time to lay his tariff of fares before the minister of the interior for approval. Higher rates than approved of can not be charged.

With the exception of the advertisement regarding time-tables, subsistence and fares it is forbidden to issue proclamations or information concerning emigration or to send any such to individuals.

Also, it is forbidden for contractors as well as for their agents to attempt to induce emigration either verbally or by letter, or to encourage it, or to solicit from door to door, and to ask or accept any reward or service from emigrants excepting the fare.

SEC. 13. The contractor is allowed, with the permission of the minister of the interior, to have his business managed by a representative, and also to establish branch offices. In respect to the person of the representative the approval of the minister of the interior is required.

SEC. 14. License as such agent can be obtained only by one fulfilling the following requirements:

(a) If he is a Hungarian citizen.

(b) If he lives within the judicial district, or in one of the districts in which he is doing business.

(c) If he is not under guardianship or trusteeship, is not insolvent, if no criminal proceedings in penal law are pending against him, and if he has never been condemned to imprisonment for crime or offense committed for self-interest (Paragraph XXXVIII, ex of the law of 1881) or a transgression coming under that law, and if his morality and reliability are without reproach.

SEC. 15. The contractor may appoint a representative to make contracts. In every case of appointing such a representative the approval of the minister of the interior is required.

SEC. 16. The contractor is responsible according to civil law for every action of his representative within the scope of the emigration business.

SEC. 17. The representative is not to be paid by commissions on the contracts he has made, but only by a regular salary stipulated in advance.

SEC. 18. Only one who answers to the conditions required in section 14 regarding representatives may be appointed as one. Officers of state, of justice, magistrates, and subordinate functionaries, clergymen, and school-teachers can not be representatives.

SEC. 19. The business territory of such representative is to be bounded only by the limits either of a designated judicial district or by those of several designated judicial districts.

In the same district only one representative of the same contractor is allowed to carry on business.

SEC. 20. The manager is allowed to carry on his business in person only, and neither he nor any of his family nor any of his employees are permitted to conclude any contract for the transport business for any other manager or on their own account.

The injunction of section 12 refers also to the representative.

SEC. 21. The concession (or license) of the manager and that of his representative, as well as the grant of authorization, can be limited or withdrawn at any time by the minister of the interior.

The concession is to be withdrawn:

(a) If the person concerned no longer satisfies the requirements contained in sections 8, 14, and 18, respectively.

(b) If events occur to show that the manager, his representative, or substitute are unreliable in regard to the management of the concern.

(c) The concession is to be withdrawn from the manager also if the deficit which arises by the legal deductions from the security deposited is not made good within fifteen days from the day of the demand in due form.

SEC. 22. The security (guaranty) deposited by the manager is intended to cover all liabilities as also all fines and expenses growing out of the business, whether payable to the authorities or private parties.

The nature of the security as well as the manner of depositing it, the management and restitution is to be decided by the minister of the interior according to decree.

SEC. 23. The manager as well as his representative are bound to keep books, which must be conformable to the rules of business and the laws of trade, and as prescribed by the minister of the interior. He must also keep a copying book for his correspondence.

The management of the deposit and form of contract to be used are to be fixed by decree of the minister of the interior.

The minister of the interior, as well his authorized substitute, and the police authorities, have the right to investigate the management of the business at any time, to make abstracts of the accounts, and to control the proceedings of the manager and his representative generally.

CHAPTER III. *Legal relations between the manager and the emigrant.*

SEC. 24. The contractor is allowed to carry through the transport of the emigrant only on the authority of a contract in writing, made in advance.

With persons who have no passports, as well as with persons mentioned in section 2, it is forbidden to enter into a contract.

SEC. 25. The contract is to be drawn up in the Hungarian language, or to be drawn up in columns both in the Hungarian language and in the mother tongue of the emigrant, in duplicate, one of which is given to the emigrant, the other remaining with the manager or the agent. The contract must contain the following:

(1) The full name, age, and place of residence of the emigrant.

(2) The exact route to be taken is to be stated and the place to which transport is to be contracted for.

(3) The exact time of starting; in case of an ocean voyage the name of the vessel as well as the day fixed for sailing.

(4) For a railroad journey the class must be stated; if by ship the position must be designated which the emigrant, respectively, his family and luggage are to occupy.

(5) The exact stipulation of the fare in figures and words.

(6) The requirements of this law regarding the duties of the contractor and of settling possible complaints.

SEC. 26. The contractor binds himself :

(1) To send the emigrant with his family luggage to the place stated in the contract for the fare set down therein, which must under no consideration be raised.

(2) To provide sufficient, wholesome, and clean board and lodging for the entire journey, in case the emigrant has not stipulated to provide for himself during his journey on land.

(3) To provide medical treatment free of charge, and in case of death during the voyage, free funeral

(4) To insure the luggage against damages and loss and the head of the family against accident, according to the rates approved by the minister of the interior. This insurance premium sum may be stipulated in the contract outside the fare.

(5) If the trip is postponed or interrupted without any apparent fault on the part of the emigrant, to give him entire board and lodging, without any extra charge, and to send him and his luggage on to his place of destination as rapidly as possible.

SEC. 27. If the delay lasts longer than a week the emigrant is allowed to cancel the contract and to demand the return of the fare already paid, while he has the right in case of having suffered any loss thereby to claim damages according to the general laws.

SEC. 28. The fare can also be reclaimed in case of the death of the emigrant or a member of his family who accompanies him, dying before beginning the sea voyage, or of being prevented from leaving by illness, or other circumstances for which it can be proved he is not responsible.

Half of the fare can be redemanded if the emigrant cancels the contract for any reason whatever before starting on his journey.

SEC. 29. Agreements which violate the provisions of sections 12, 26, 27, and 28 are invalid.

SEC. 30. The contractor is obliged to bring back without any extra charge such persons who, notwithstanding the prohibition contained in section 24, are sent on without a passport, if these persons had no right to emigrate according to section 2.

SEC. 31. During sea voyage the contractor is obliged to see that the vessel which the emigrants are to sail in is perfectly in order for the designated course, is furnished properly, well appointed, and provided with sufficient provisions. The same obligation is incumbent on the master of the vessel.

SEC. 32. The vessel which carries emigrants is examined before sailing by the proper authorities, with the concurrence of the port authorities, to ascertain whether it meets all the demands pointed out in the preceding sections.

Further, every such vessel of that kind is examined before sailing, as well as the emigrants and the crew as to the state of their health, by the proper medical authorities.

SEC. 33. Within the meaning of this law seagoing vessels are considered fit for the transport of emigrants that sail to ports non-European, and carry at least 25 passengers, not including those in separate compartments.

The minister of the interior is authorized to make full arrangements, in accord with the minister of commerce, respecting the quality of such vessels, their accommodations and appointments in regard to their supply of provisions, their official examination and control, also regarding the medical examination of travelers and crew, the prohibition of the embarking of sick people, and preservation of health and morality among the emigrants.

CHAPTER IV.—*Emigration fund.*

SEC. 34. For the relief of members of the families of emigrants who remain behind in poverty, for obtaining information for them as to those already emigrated, for providing employment, for founding asylums for them, and lastly for covering, partly or entirely, the traveling expenses of those destitute of means who desire to return to their native country, special funds must be raised.

Such funds are to be raised :

(a) From appointing for this object in the government budget.

(b) From all unexpended balances received from issuing passports after deduction of stamp duty and fees.

(c) From the fees fixed by law which are to be paid by the transport contractors on obtaining licenses.

(d) From the annual dues to be fixed by contract, payable by all banking institutes which may be intrusted with the management of the funds of the emigrants and with their return-passage money.

SEC. 35. The emigration funds shall be under the management of the minister of the interior, who renders account of them in his annual balance.

SEC. 36. The minister is instructed to provide for the proper administration of the deposits, and to insure the safe delivery of money sent back by emigrants by means of the Royal Hungarian Postsparkasse, or a reliable Hungarian bank.

CHAPTER V.—*Officials.*

SEC. 37. For the fitting treatment of the questions regarding emigration, as well as to aid the minister of the interior in the performance of these duties, a council of emigration is to be organized.

SEC. 38. The minister of the interior is president of this council; in case of his being prevented, the government's secretary (first assistant of the minister) takes his place.

The members of this council consist of: One appointee of the prime minister, one member each from the police and sanitary upper divisions of the ministry of the interior, justice ecclesiastic affairs and public instruction, of commerce, agriculture, and the department of national defense; then of 10 members, named by the minister of the interior, from the chambers of commerce and agricultural societies, or those engaged in agriculture, manufactures, or commerce. The minister of the interior decides as to organization and business order of the council of emigration.

SEC. 40. To supervise the operations of this law, as well as for the direct inspection of the entire emigration business, the minister of the interior is authorized to appoint a commissioner of emigration, possessing the rank of a Government official (*Staatsbeamter*), and assistants, according to need.

SEC. 41. The commissioner of emigration is entitled to be present at the examination of vessels (sec. 32) for transport of emigrants, and even to make an independent examination. He is to report to the minister of the interior any possible deficiency or irregularities which are noticed, and, in special cases, to inform the local authorities.

The masters of vessels for carrying emigrants are obliged, if the commissioner so desires, to furnish a true statement of all conditions of the ship and its route, and to allow him at any time to inspect the ship and examine the ship's papers.

SEC. 42. The commissioner of emigration is the immediate subordinate of the minister of the interior. His compensation, as well as that of those assigned to him as assistants, will be put in the annual budget. Any special services are regulated by the minister of the interior.

CHAPTER VI.—*Articles in the penal code.*

SEC. 43. Any contractor or contractor's agent who violates the stipulations of sections 12, 13, 14, 23, 24, 26, and 31, or who does not observe the decrees issued by the minister of the interior in accordance with this law in case such action on his part does not include a graver offense, commits a misdemeanor, and is to be punished by imprisonment not exceeding two months, as well as by fine amounting not exceeding K. 600 (about \$120).

In case this misdemeanor is committed by the agent, but with knowledge of the contractor, or if the latter has neglected the inspection demanded by the circumstances, the contractor is liable to punishment together with the agent.

Every shipmaster also is guilty of a misdemeanor and punished by the same penalty who does not fulfill his duty imposed in section 31 or in the second paragraph of section 33, whether this happens in his own country or abroad.

SEC. 44. Any agent who does not comply with the provisions of sections 13, 19, and 24, as well as those regulations regarding the management of business which may be issued by the minister of the interior under this law, commits a misdemeanor, and is to be punished by imprisonment of not more than one month and also by a fine of not more than K. 400 (about \$80).

SEC. 45. Anyone who engages in the transportation of emigrants either as principal or agent without having the license required in sections 7 and 15 is guilty of a misdemeanor, and is to be punished by imprisonment up to two months and a fine up to K. 600 (about \$120).

Letters, circulars, printed matter, and passage tickets sent out by contractors and agents without a license may be seized and confiscated by the proper authorities (in the post-office).

SEC. 46. Anyone who incites to emigration at a public meeting by speeches or by distributing printed matter and pamphlets or by exhibiting these publicly is to be punished with imprisonment of not more than two months and by a fine of not more than K. 600 (\$120).

SEC. 47. Anyone is guilty of a misdemeanor and is to be punished by a fine inflicted upon him amounting to K. 200 who publishes, by means of press advertisements regarding emigration, traffic managers and agents who have not the permission of the ministry of the interior.

SEC. 48. Of all misdemeanors against the provisions of this law, in as far as these have not been committed by the press, the criminal court has jurisdiction—original and appellate jurisdiction.

(a) In small and large villages, in towns with regularly designated magistrates, and with independent municipal organizations, the authorities mentioned in section 13 of the article of law XX, of the year 1901, both of the primary and appellate courts.

(b) In the capital and residence town of Budapest, as in the districts of Neupest and Rakospalota, the head of the prefectory of the district shall have original jurisdiction; on appeal the local government of the district or his deputy, with appeal in the third instance to the minister of the interior.

CHAPTER VII.—*Final articles.*

SEC. 49. For the purpose of founding emigration funds according to section 34, K. 80,000 are appropriated for the year 1903.

SEC. 50. At the moment of this law becoming operative, the article of law XXXVIII, of the year 1881, as well as all decrees relative to emigration, are annulled.

SEC. 51. The minister of the interior is authorized to fix the date when this law is to take effect, as well as with its administration.

Budapest, November 5, of the year 1902.

KOLOMAN SZÉLL.

[Inclosure 2.—Translation.]

Report of reasons for the bill of regulation of emigration.

The Government and authorities, as well as all parties interested therein, and, we may say, public opinion in general, have busied themselves so thoroughly and conscientiously with the question of emigration in the last few years, with its historical development, with investigations and explanations of its reasons and the injurious effect which emigration has upon the interests of the nation and of the land, that it seems almost superfluous to give detailed reasons as to the importance of the emigration question and the necessity for regulating it. It may be sufficient only to point out the unfortunate facts, which prove that in consequence of emigration hundreds of thousands leave their native country and settle in foreign parts without our knowing where and under what conditions they exist.

Emigration has spread especially in two directions—one to the countries across the ocean, principally to North America, and on the continent of Europe, especially to Roumania.

In how great a measure emigration to foreign countries has increased from year to year we are not in a condition to state, as we do not possess any full and reliable statistics. Since 1899 the collecting of regular statistics has been ordered. These statistics, however, are misleading and insufficient because of defective organization. In order to obtain, therefore, any adequate information upon this subject we must depend upon the statistics of foreign countries or upon the reports from German, Dutch, Belgian, and Italian ports, from which ports the emigrants from our country usually set sail. We must rely upon the data of these foreign countries, principally those of the United States of North America, because the emigration from our fatherland sets especially in that direction. These data are contained in the subjoined report, published by the office of central statistics.

Emigration by water for the years 1881 to 1901.

Year.	From Hungary have emigrated—									To the United States of America, according to statistics of United States.		
	From European ports according to registration of those said ports.											
	German ports.			From Antwerp.	Ports of Holland.			From Genoa.	Total.	Men.	Women.	Total.
	Hamburg.	Bremen.	Total.		Amsterdam.	Rotterdam.	Total.					
Average, 1881 to 1885	10,011	3,821	13,832	(d)	(d)	(d)	(d)	(d)		7,479	2,632	10,111
1886 to 1890	8,049	14,025	22,074	b 1,187	b 270	b 684	b 954	b 1,508	b 28,307	12,623	4,578	17,201
1891	4,124	17,289	c 21,413	5,443	784	4,314	5,098	1,046	c 33,000	19,792	7,756	27,548
1892	2,645	17,667	c 20,312	6,555	1,808	5,799	7,537	721	c 35,125	24,203	8,480	32,683
1893	1,867	12,059	c 13,926	7,178	135	679	814	1,078	c 22,996	19,037	7,182	26,219
1894	1,366	4,061	5,427	2,212	20	277	297	108	8,044	5,779	3,221	9,000
1895	3,679	13,857	17,536	4,675	445	3,012	3,457	190	25,858	15,547	8,137	23,684
1891 to 1895	2,736	12,987	15,723	5,213	639	2,802	3,441	628	25,005	16,872	6,955	23,827
1896	3,082	11,726	c 14,808	6,122	404	2,105	2,509	1,210	c 24,649	17,529	8,350	25,879
1897	1,584	8,092	c 9,676	2,820	175	762	937	673	c 14,106	7,728	6,063	13,791
1898	2,135	14,758	c 16,893	3,268	74	1,751	1,825	816	c 22,802	13,157	7,763	20,920
1899	4,855	27,945	32,800	7,453	58	2,301	2,359	782	43,394	.....	.....	.....
1900	9,691	31,627	41,320	9,697	.....	3,072	3,072	678	54,767	.....	.....	.....
1896 to 1900	4,269	18,830	23,099	5,872	142	1,998	2,140	833	31,943	.....	.....	.....
1901	12,806	42,347	55,153	11,282	.....	4,506	4,506	(d)	70,941	.....	.....	.....

^a From 1891 to 1897 approximative dates.

^b Averaging two years.

^c Besides there have emigrated in the year of 1893 from Wilhelmshaven, 6; in 1891 from Stettin, 6; in 1892, 1; in 1896, 196; in 1897, 204; and in 1898, 163 individuals, citizens by law of Hungary.

^d Dates do not exist.

In this table the statistics of the United States for the years 1899 to 1901 regarding immigration could not be entered, for the reason that in these last years emigrants were not registered according to the place of their birth but according to their racial nationality. These dates are of interest to us in spite of this, for they show the circumstances under which our emigrants are classed according to race. The public official estimates of the United States give the following list of emigrants:

July 1 of the year 1899 to June 30, 1900:

Of Hungarian nationality	13,777
Of Slovakish nationality	29,243
Of Croatian-Slavonian nationality	17,184
Of Ruthenian nationality	2,832
Total	63,036

July 1, 1900, to June 30, 1901:

Hungarian nationality	13,311
Slovakish nationality	29,343
Croatian-Slavonian nationality	17,938
Ruthenian nationality	5,288
Total	65,870

That those named in the first three sections are legal citizens of Hungary is doubtless true, but how many of the Ruthenians are really Hungarians can not be computed, many having emigrated from Galicia who are of the Ruthenian race.

It is certain that a great number have emigrated from our country to the United States who are of German nationality. The number can not be stated, however, as they have been registered as "Germans."

As to the number of those who annually emigrate to Roumania and as to how many Hungarian subjects are still resident there, we have not even approximate data to go by. The only means by which to trace them (the making out of passports) could not help us to determine the extent of emigration, because of the ebb and flow of commercial travel.

The principal causes which first started emigration were doubtless unfavorable economic conditions and the want of work. Its development, however, was undeniably encouraged by inducements from interested outsiders and recently also the greed of suddenly becoming rich and a longing for adventure. In order to discourage this emigration movement the authorities could not fail to step in as soon as they felt that it was spreading. In the beginning they tried to raise obstacles by prohibitory measures, such as the rejection of petitions for passports and by an order forbidding the passing of frontiers. The only consequence of this, however, was that the emigrants, being refused passports, escaped and emigrated without them. In the beginning the negotiations for emigration were principally carried on by agencies of foreign ship companies established in Vienna, which, not being under the control of our native Hungarian authorities, could ply their trade unhindered. To paralyze the effect of these agencies and to bring them under control the licenses for native agencies were planned, and thus the article of Law XXXVIII of the year 1881 in reference to emigration agencies was enacted, by which every negotiation in regard to emigration was made dependent upon a license issued by the minister of the interior.

This law is entirely ineffectual and it has never been enforced at all, and not a single license for negotiating emigration has been granted.

The working of foreign enterprises and agencies has been therefore continued, partly by mail, partly by the interposition of secret agents recruited from districts in the country.

To obviate this interference all printed matter encouraging emigration, which was sent from abroad, was excluded from the mail, and as, in consequence of these measures, printed matter was then sent in sealed letters, care was taken that they be seized at the addressee's and their transmission prevented.

To counteract the working of secret agents the attention of the inhabitants has been frequently called to the unfavorable conditions of certain foreign countries, to the dangers to which emigrants are exposed, and the people have been warned to beware of unscrupulous agents. All these arrangements have, however, proved insufficient and emigration has grown from year to year, and in the year 1901 emigration to the countries across the ocean has increased according to the above-mentioned statistics up to the number of 70,941 souls.

In how far this emigration, truly startling in its proportions, is to be set down to purely economic causes lies outside the compass of this report, which deals with the provisions of the bill to regulate emigration. That outside encouragement is to this day a great factor in the spread of emigration is indubitable; indeed the danger grows greater because the incitement to emigrate is taking on a new form, which we can neither control nor punish.

Up to this time, as we have mentioned, foreign agents, acting in their own interests, have incited our poorer population to emigrate, but now the emigrants themselves are making a propaganda for emigration by describing their condition in foreign countries in letters to their relations, acquaintances, and neighbors at home. They depict their situation in the brightest colors; they also send money home, and thus this sad condition of affairs has arisen that those who emigrated are encouraging their relations and friends to emigrate also.

The material for emigration being won over in this manner, agents stand ready to take advantage of it by rushing forward and pressing upon these willing people tickets already made out for their passage.

Whether or not this is the real cause of the movement, the deplorable fact remains that emigration, instead of diminishing, is spreading in an alarming manner, and its injurious influence is exercised upon our general prosperity and upon our economic life in an ever-increasing measure.

Could our superfluous working hands emigrate temporarily and bring home afterwards the savings from their high wages, this would indeed be no misfortune. In countries of eastern Europe we notice that on the one hand the number of their emigrants sinks into insignificance compared with ours, and on the other that almost without exception such (working) hands only emigrate as find no means of livelihood in their own country. These emigrants send much money home.

That can not be denied. Statistics prove it.

But this is not much of an advantage, because the number of those who send considerable sums is very insignificant when compared to the majority who barely exist or who are even brought to starvation. More than this, the amount which comes back in this way is not an absolute gain, because those who mention this as an advantage forget the counter value, which is to be

deducted from it, i. e., the sum of money required by every emigrant to defray his journey through Europe and his stay in the port from which he sails, his passage money, etc. To this must be added the amount that every emigrant is obliged to bring with him by the immigration laws of the trans-Atlantic countries. If we add to all this the exceedingly great economic loss which occurs by the emigrants, as a rule, squandering the small fortune which they have had at home in order to procure the money for emigration, and if we deduct this real loss from the sum which they may send home afterwards or bring home, the remaining amount is so insignificant that it is a great mistake to assert for this reason that emigration is an advantage. Even were the amount sent home a net profit, without any counter value, the national economical and political interests of the State, the army, and the individual would still be injured by emigration.

It is impossible, for instance, to reduce to a money value the irretrievable loss of so great a number of inhabitants. Those who ought to defend the country emigrate. Finally, what an immense moral loss it is to a country if a considerable portion of the population separates itself entirely from her, and that those who come back again return home preaching political doctrines which threaten the national peace.

Since the first taking charge of Government affairs I have taken an intense interest in the question of emigration, and have even under present circumstances and with such means as have been at my disposal tried to alter and improve matters.

I have ordered the authorities to find out and punish severely all those agents who do business without a license; to prevent the introduction and dissemination of circulars and pamphlets which encourage emigration, and also to enlighten the inhabitants as to the dangers to which emigrants are exposed in trans-Atlantic countries. Furthermore, I have forbidden the collecting of exaggeratedly high fees by district functionaries from those to whom they issue passports; I have ordered an examination into the reasons why emigration appears to be more general in certain provinces than in others, in order, if possible, to present the facts to the governors of such provinces. I have been also anxious to look after the moral and physical welfare of our emigrants, and to this end I am supplying ample funds for the Hungarian Society in New York, which procures employment for emigrants and grants shelter to the destitute. Already in this year's budget I have put down a still larger amount for this purpose in order to satisfy the needs of their souls and to support the schools for their children. I have taken care that priests and teachers with patriotic sentiments be supplied to them, and finally, with no slight burdening of the public exchequer, I have striven to encourage their return to their own country. Quite recently a number of citizens of our country who have been disappointed and ruined in the trans-Atlantic states have been longing for their native land, and I have taken the expenses for their return voyage upon myself, charging the portfolio of the ministry of the interior with them, as the amount put in the general budget of foreign affairs for this object was not sufficient.

Besides I have called the attention of the respective ministers to the extensive progress of emigration and have requested them to make all possible arrangements in their own sphere of action to reduce it if possible. Many notable improvements are to be undertaken by the ministry in the line of agriculture and industry, which will soften the unfavorable conditions that bring about and encourage emigration.

Such arrangements are principally:

The support of industrial establishments and factories; the lawful regulation of the rights of the workingman who is occupied with agriculture or labor of a similar kind; the founding of saving banks for workingmen and servants; the cheap, or even gratuitous, supplying of seeds and fruit trees; the extension of active help toward agricultural improvements in aid of our mountaineers; the doing of relief work for the good of the people, helping them to earn a living by the grant of loans, etc.

All these arrangements have not been sufficient, however, I am sorry to say, and therefore it is absolutely the duty of the Government to make use of all possible means for reducing emigration on the one hand, or else, if emigration be not preventable, to regulate it by law.

For reducing emigration those arrangements prove the most effective which apply to agriculture and industry, and every single member of the Government must endeavor in his own sphere of action to create favorable conditions in this

respect and to avert as much as possible every cause which may drive men to emigrate. In proof that much can be done I will state that when the emigration question was presented to the legislature recently the Government resolved to make appropriations of K. 200,000,000 in order to multiply the means of livelihood and to further agricultural improvement in the mountain region. This action has shown already fine results in Transylvania, and will be extended to other places in the mountain districts. The land tax will be regulated also, and, finally, those important questions respecting which the Government will soon bring forward a bill, etc.

But if our agricultural and industrial conditions—that is, our conditions for self-support—should even become excellent, emigration will continue as long as the discrepancy exists between the wages paid in our native country and those paid in trans-Atlantic countries, and so long as (through the ever more perfected means of conveyance) the expense of the journey involves so small an outlay as at present. There will always be sons in the native country who are not content with the way their fathers earned a livelihood at home and will go to foreign countries hoping to find better conditions.

Therefore, besides the endeavor to reduce emigration, further legal regulations are necessary not only for the general good of our native country, but also in the interests of the emigrants themselves. The present unregulated condition of emigration is an injury to the emigrants themselves. Formerly emigration was prevented in every way possible, and later, too, was barely tolerated; and the consequence was that emigrants looked upon themselves as fugitives, and no sooner had they confessed their intention of emigrating than they became the prey of swindlers and speculators, who cheated them until they reached their place of destination.

Emigrants do not enjoy in a foreign land such support and aid as the subjects of most countries at home in the shape of charitable organizations, which shelter and help them, not to mention that the latter countries are in the happy position of possessing colonies to which their own citizens may emigrate without loss of nationality.

We do not maintain abroad enough organizations and societies for general instruction and social enjoyment established in order to keep our countrymen together, to give them assistance, and to keep alive the memory of their fatherland and their patriotism. In the countries of eastern Europe, where emigration has been going on more or less for a long time, this question has already been settled by law and regulated accordingly. Among the laws on this subject which have been recently promulgated three deserve special attention for their importance and for the fact that they sum up the entire question. These three are the Swiss law of the year 1888, the German law of the year 1897, and the Italian law of the year 1901.

One can recapitulate the essential principles of these laws as follows:

Permission or tolerance is accorded to emigration under certain reservations.

The permission to encourage emigration is dependent on a license by the authorities, which is only given to such persons or companies as are found to be absolutely reliable, and only after the payment of a considerable security. The management of agents employed with the settlement of emigration is under strict control of the authorities. They are punished for any neglect, their duties toward emigrants are strictly defined, and precautionary measures taken to insure the fulfillment of them.

In regard to safety of transport on vessels, maintenance of emigrants, and care of their health dispositions are made by special orders based upon governmental authority.

As counselor of the central authorities (minister of foreign affairs, resp. Reichskanzler) a board of emigration was appointed. For control and supervision in emigration affairs special officers (commissioners, surveyors) are nominated.

The Swiss and Italian laws have decreed that emigrants must receive reliable information as to all the conditions of their new home which can be of interest to them. Their complaints are quickly attended to, they are looked after abroad, and are started upon the right path. The Italian law has established a special court of justice for smoothing over possible differences between the manager of the company and his agent on one hand and the emigrant on the other.

Finally, the Italian law contains particular orders regarding the performance of the military duties of emigrants.

Of those arrangements contained in the laws of foreign countries which have been found effectual in practice we might avail ourselves also.

Beside these general conditions, however, we must look to our own special requirements, which arise from the peculiar conditions of our own country, in regulating this subject. Although our Government recognizes as a principle that emigration is a great injury to the country, it recognizes also the fact that it can not be forbidden by law, for the reason that this would be a contradiction of the right of choosing a residence and of the liberty of the individual.

In regulating emigration, therefore, we must strive to accomplish, first, that emigration be restricted in certain cases by general or individual interests; second, that it should be a quest for work, and that every kind of reckless and careless emigration and the encouragement thereto be prevented; third, that emigration be directed to such countries as are the most beneficial for the interests of the emigrant as well as for that of the country, and that he be prevented from going to countries in which he can not presumably earn a livelihood or which are dangerously unhealthy; fourth, that all contractors for emigration and their agents are to be put under strict supervision; fifth, that we receive reliable reports of the economic, industrial, climatic, and other conditions of those countries to which emigration is tending, and those persons who desire to emigrate are to be previously informed of such conditions; sixth, that we wish them to continue to feel that they still belong to Hungary, and that their patriotism shall be kept alive, and that in every possible way their return to their native country may be assured.

Such are the principles upon which this bill is based.

It is superfluous to say that in regulating such a matter as emigration it is quite impossible to lay stress upon every detail or circumstance connected with the subject. Emigration is like life itself, with constantly changing conditions, and the lawmakers of to-day can not foresee what shape this many-sided and shifting question may assume to-morrow. Therefore, this bill must be indefinite with regard to certain matters into which we do not yet see clearly, for want of practical experience, and the Government reserves to itself the right to regulate such questions according to the experience which may be gained in particular cases and according to the necessities which may arise.

After having made this introduction, I have the honor to explain the especial meaning of and reasons for certain articles of this bill, as follows:

Section 1 decides what the law understands under the term emigrant. This does not mean to give a scientific definition, but a qualification upon which the law may have a firm base, where all the authorities may have an assured position from which they can advance with concerted action. Even if this term be fully understood, different significations may be applied to it in theory and these may affect its legal aspects in practice.

The idea is almost universal that emigration is associated with complete abandonment of the territory of a country, therefore he who goes from one province of the same country to another, as, for instance, from Hungary to Croatia or Slavonia, is not considered to be an emigrant. The differences in the essential conception of the meaning of the word "emigration" are still wider as a distinctive, meaning the withdrawing from the Union of the States is now sometimes asserted; also the intention of not returning; permanent settlement in a foreign country may be defined or the sailing away to countries across the ocean; or again, the employment in neighboring countries, even though it may last but a short time, etc.

For this reason recent laws either omit to define the meaning of the word "emigration" entirely, leaving it to be construed by the authorities or by the general courts of justice which apply the law (this done by the Reichsdeutsche and Swiss laws), or else they lay down simple definitions, easily understood, as do the Italian law and the Belgian governmental decree, regarding emigrants to trans-Atlantic countries.

According to our information with regard to native emigration, the greater portion of our emigrants go abroad with the intention of finding employment there, and, after having saved a considerable sum, of returning home at the end of a few years.

Taking this fact into consideration it would be incorrect for us to look upon a man as an emigrant only, provided he permanently settles abroad or has no intention of returning, for according to such a definition the terms of this law would not be applicable to the greater portion of those who go abroad. We must therefore define "emigration" if the object of the journey shall be:

First, a foreign country, whether accessible by land or sea.

Second, that the emigrant means to find a profitable employment of such kind

that his desertion of his native country may to some degree possess the character of stability; therefore those who emigrate only for a certain work of definite and short duration as, for instance, harvest work, can not be considered to be emigrants.

Section 2 decrees restrictions for emigration.

Most of the larger European countries (France, Germany, Italy, and Austria) protect the rights of emigrants by means of a special law upon that subject. It is true that in our country this question has not been exactly decreed by law, but it has been acknowledged in a general way by the Government and has been respected by the authorities, and from this principle also starts the decree No. 59207 issued by the ministry of the interior in the year 1900. It seems to be unnecessary, therefore, to decree this right, which exists beyond a doubt, by law. But connected with the complete right of settlement comes the question as to personal duties for the public welfare. From these no emigrant can free himself, therefore he is subject to restrictions in this respect in the carrying out of his intentions.

These restrictions section 2 desires to fix in the bill very emphatically, so that neither the public interests and duties which are considered in it may be risked nor the emigrants be exposed to unnecessary vexations.

The restrictions mentioned under (a) are meant to secure the defensive power of the country; those named under (b) for the preservation of the interests of order and penal justice; those named under (c) and (d) and (e) for the interests of the emigrants themselves and those of their relatives; finally, those named under (f) are necessary because pretended advantages are so often paraded before the people in order to lure them away that this may be considered an incitement to emigrate.

That the fulfillment of these restrictions may be secured it is necessary that the authorities be in a position to obtain knowledge of the intention of each emigrant beforehand and to examine whether circumstances may not exist which should forbid his emigration. To attain this end, section 3 orders that every emigrant must procure a passport beforehand. The same order is contained in the Italian emigration law, as well as in the decree issued by the Croatian and Slavonian provinces. A former decree of the ministry of the interior also orders for the same reason that emigration to Brazil is only permitted to those who have passports. In order that such arrangements be not to the disadvantage of emigrants, care is taken that in those laws which are still to be made on the subject of emigration and carried out by means of a decree all persons applying for passports shall receive them, provided no legal hindrance exists, in the shortest possible time and with the avoidance of all unnecessary charges. For citizens having the intention of leaving their fatherland and seeking their fortune in foreign parts, it is of special importance to get information as to the country to which they intend going. They should be warned in time against emigrating to any country where general or personal conditions are unfavorable, and an opportunity should be offered them to choose a more favorable country.

The necessity for this measure was noticed very soon in those countries where emigration has been going on for some time, and arrangements were made for satisfying these requirements.

In England emigrants were formerly forced to look out for themselves. The different workingmen's and charitable associations have since done much good in this respect.

Private information has proved inadequate, however, and in the year 1886 the emigrants' information office, probably under the supervision of the Government, but with the help of delegates of different corporations and experts, has been founded.

In Belgium the consulates, principally since the year 1885, must give minute reports regarding the conditions of those countries to which emigration is particularly directed. These reports are annually collected by the ministry, are printed, and are distributed among emigrants asking for information.

However, such consular reports are utilized only in a few cases, and in order that such information as they give may be more generally distributed the Government has seen fit to make a different kind of report.

Since the year 1885, therefore, information bureaus have been established, at first in the capitals only, but gradually in the "residence" towns of all the provinces, which have distributed and published reports in the shape of pamphlets and tables of statistics to those interested.

In Germany persons who were on the point of emigrating could for a long time receive full information through the office of the chancelor of the Empire. However, this was not made much use of, therefore an office was recently organized which obviated all bureaucratic obstacles. This is called the "Deutsche Colonisations-Gesellschaft" (German Colonization Association).

In Switzerland, by reason of section 25 of the emigration law, a commissary branch of the emigration department is organized under the ministry of foreign affairs, and sees to it that emigrants shall be supplied with information, advice, and recommendations. According to the report of the federal court this institution realizes all the hopes placed upon it as to practical utility.

In Italy this office is carried on by the chief commissary of emigration and the local agencies, both under the control of the central emigration department.

Section 4 of this bill makes it also the duty of the Government to see that those intending to emigrate shall receive sufficient information.

The special organization of this office is established by a decree, wherefore we must lay special stress on it that this office shall not be used to incite to emigration, and according to observations made abroad it is well also to interest ourselves in the social surroundings of the emigrant. There are countries and provinces in which the emigrant has been ruined in consequence of bad climate or commercial conditions and by bad associates. The Government and authorities must therefore take care in advance that citizens are prevented for their own good from emigrating to such places. This can be done if the Government and authorities by public proclamations, or by direct appeal to the individual, call his attention to the dangers which threaten him in such countries or provinces in case of his emigration.

These measures were also taken in our country up to the present time. Especially the legal authorities were directed by decree that they should warn our people against emigration to Brazil, as well by public proclamations as also by direct communication with the emigrant.

Nevertheless many rather believed in the tempting promises of the emigration agents than in the warning words of the authorities and have emigrated in groups to Brazil, where, very rapidly becoming undeceived, they turned despairingly to our consulates and home authorities, begging for help that they might return to their native country.

When all possible enlightenment and good-natured warning become ineffectual it is therefore necessary that governments should take prohibitory measures.

Similar experiences have also induced the Italian legislature to authorize the Government to suspend emigration to such countries. This is done in the interest of public order, or in case that the life, freedom, and fortune of the emigrant be seriously endangered.

The same orders are contained in section 5 of this bill.

The Government has not only to see that emigrants shall go to those countries in which they are most sure to find a livelihood, but also that they may enjoy all the rights on their voyage which have been secured to them in the bill; that they are protected from any wrong and from being taken advantage of, and that they shall be sent on to their place of destination.

Section 6 gives the Government the right to choose those means of transportation which in these respects offer the surest guaranty.

That the way leading from one of our native ports, especially from Fiume, would answer best this requirement does not need to be proven, wherefore the Government will direct its chief aim to select such ports for embarkment as soon as may be, and only if it should not succeed in doing this will it choose a means of transportation from foreign ports.

Chapter II of the bill defines the authority of those who shall undertake to make arrangements for emigration.

The article of Law XXXVIII of the year 1881 handed over this facilitation of emigration to agencies, which were appointed by the minister of the interior, and which are placed under the surveillance and control of the authorities of the government. To such agencies, however (proceeding upon the erroneous supposition that if there were no emigration agencies there would be no emigration), not a single license was granted, so that in the whole country not a single licensed emigration agency has been active, neither is any business done at the present time. That this supposition was erroneous is shown by the fact that the number of unlicensed secret agents has augmented all the more. Whether the rules with regard to emigration agencies set down in this article were sufficient, and whether emigration could be sufficiently controlled by them, it is impossible to determine. The experiences of foreign countries prove that

as the ship companies pay to these agents a certain commission for every emigrant, even those to whom the government has given a license are forced in their own interest to recruit as many emigrants as possible. Therefore they are not satisfied to do business only with those who apply to them of their own free will, but they try to recruit emigrants by circulars and appeals to the public, and by deputy agents employed by them. It is further for the advantage of agents that they may get together large numbers of would-be emigrants at the season when the commission paid by ship companies is at its very highest, not regarding whether this season is best for the interest of the emigrants themselves in their quest for a means of livelihood. From this fact there arises the disadvantage that the emigrant not finding employment for some time spends the money he has brought with him while seeking work and consequently suffers want from the very beginning, whereby his later welfare is very often jeopardized also. Lastly it is also an advantage for the agent to recruit as many emigrants as possible for those ship companies which pay the highest commission, and those shipowners whose ships are old-fashioned and badly fitted out can and do pay a much higher commission than the proprietors of ships affording greater safety, better provisions, and all the modern improvements. Italian experience proves this to be true. From all these facts we may conclude that the interests of agents conflict with those of the emigrants themselves, because all such agents, whether they be licensed by the authorities or not, will work for their own advantage to the disadvantage of the emigrants.

These observations have influenced the new German and Italian legislatures to hold the manager of the company responsible in all transactions with the emigrant and with the authorities.

Exactly the same is the case in section 7 of the bill. The ship companies established on solid foundation and working with large funds risk more if their contract should be violated, and therefore offer more security, so that the management of emigration can be confided to them with greater safety. For avoiding undesirable competition among the different companies, and also to obtain all possible information as to reliability, it is necessary that these transactions shall be entered into only upon the assurance of competent authorities that the required conditions have been fulfilled and a certificate to this effect been issued.

Section 8 orders the conditions under which these concessions may be granted and especially considers contracts which have to be carried out abroad, so that the enforcement of the law may also be extended so far as to supervise them. In order that the managers may be made responsible for keeping law and order he shall be constrained, if necessary, to the payment of damages to the emigrant, and in some cases should the emigrant violate the law the manager may have to pay a penalty inflicted on him.

Section 9 stipulates the depositing of a considerable sum as security.

The restriction in section 10 goes even further than the order contained in section 5 and supplements it by offering to the Government an opportunity to turn the tide of emigration, as far as it may be possible, toward those countries or provinces where the emigrants are concentrated in particular places, so that the feeling of racial kinship in possessing the same native country may be kept alive in them, and the community thus formed may be utilized for commercial advantage.

Section 11 decides the territorial boundary line of a concession, the spreading of which throughout the whole territory would seem judicious for the reason that in case a concession were granted to several managers, and they were limited to only certain sections of the country, an injury might be inflicted upon the conditions of traffic and of healthy competition, and the country might suffer in consequence. But in case only one manager shall have the concession it is evident that he may be allowed to carry on his trade throughout the country.

Emigrants may not be taken advantage of by managers in the raising of their fare arbitrarily and independently. Such charges are to be controlled by the authorities.

Section 12 orders, therefore, that the charges be presented from time to time to the minister of the interior for ratification and prohibits raising the fare demanded from emigrants.

The prohibition of section 12 is necessary that the desire to emigrate be not awakened and kindled by high-sounding advertisements, by attractive descriptions of circumstances in particular countries, or by dissemination of circulars or other printed matter of this nature. Therefore only those advertisements are

lawful which have strict reference to the traffic business and to the necessary information as to the route, the time-table, provisions for the voyage, and fares.

The manager or president of the company who is responsible can not always and everywhere personally direct this business, therefore section 14 grants that he may intrust it to an agent or representative.

In order that the reliability of this representative may be tested it is necessary that the minister of the interior be informed concerning him and sanction his appointment.

Section 15 allows the manager to appoint agents for conducting the emigration affairs.

According to section 8 respecting the emigration regulation of the German imperial law the manager is obliged to accept the help of agents in carrying out his undertaking beyond the community in which he has his personal residence and his own particular office.

This has also the advantage that the entire emigration business can be supervised better, since the manager is only permitted to employ such help as is sanctioned by and is under the surveillance of the authorities. Furthermore, that through the competition of different managers lower fares may be obtained.

The new Italian emigration law has suspended all agencies on account of unfavorable experiences, and only allows the appointment of representatives (Italian law, article 16). As with us there are neither special managers nor agents and the machinery of emigration must evolve itself with time; it seems more reasonable to allow the government to regulate this subject according as one system or the other develops itself more advantageously. The emigration business will be either handed over to the agents with proper restrictions or else the entire business will be left in the hands of the managers and their assistants and representatives.

In order to remove the drawbacks arising from the free competition of agents it is necessary that the agents shall receive concessions from the authorities in order that their number may be regulated according to the exigencies of circumstances.

The agent must be able to offer a certain security in his person as well as in his fortune to provide any possible failure on his part to live up to his contract.

Therefore section 16 provides (*a*) that the agent be a Hungarian citizen. A Hungarian citizen is less under suspicion that he is acting only from selfish motives, and is more likely to work for the interests of the people rather than for foreign interests; (*b*) that he shall live within the jurisdiction of the court which has authority over him; (*c*) he must be independent, of respectable antecedents, of good moral character, and entirely to be trusted as such a person that he can be depended upon to act conscientiously in a position full of temptations.

Finally, section 17 of the bill orders that for material security every agent must deposit K. 10,000, from which any possible loss may be made up or any possible fines paid.

As the agent is not permitted to appoint a substitute and to go from place to place around the country, his field of activity is confined within certain limits, and this field must be determined beforehand.

This is done by section 19 of the bill.

The agent arranges for the emigration, but not for the transportation itself; but he assists in getting it. Section 19, therefore, (*a*) forbids him to act for other managers but those mentioned in the concession; that he may not deliver any emigrants to managers of companies not possessing such concession. (*b*) forbids him to go into business on his own account, as he might thereby become a manager himself. (*c*) He is not allowed to establish branch offices or appoint a representative, for it is to be feared that through this an agitation movement might take place which would go far beyond his sphere of activity and new and independent partners might be introduced into the emigration business. (*d*) He is forbidden to move from place to place for concluding his bargain, because through this he might also become an agitator. (*e*) He is forbidden to demand or to accept from the emigrant any reward for any service on his part.

Finally, the prohibition of section 13 respecting the spreading abroad of circulars, etc., decreed for managers, is for the same reason to be extended to the agents.

Experience teaches that the system of employing managers and agents offers a wide field for abuse, but circumstances may sometimes arise which make it appear to be desirable that emigration be turned into other channels or made

more difficult. Therefore the Government must possess the power that without any wearisome legal proceedings it can immediately suspend emigration or can guide the emigrant in the path most suitable to his needs, and that it can revoke its concessions in case they prove to be an injury to the emigrant. Such decrees are contained in the law, Article XXXVIII, of the year 1881, as also in the German and Italian emigration laws while according to the Swiss law the concession granted can only be withdrawn from the agent in case of his failure to carry out his contract or after repeated transgressions of the rules.

Section 20 of the bill, therefore, gives the right to the minister of the interior to alter or withdraw the concessions at any time.

Circumstances may arise which absolutely demand the withdrawal of the concession. Circumstances of this nature have been considered in this paragraph under (a), (b), (c), and persons of such a character and behavior should have their concessions withdrawn as having proved themselves unfit to be trusted with the business of emigration.

Section 21 provides that the guaranty deposited by the manager and agent shall be sufficient to satisfy all possible requirements in the event of forfeiture, that claims may be settled without recourse to law. Regarding the acceptability and management of the guaranty special regulations are to be drawn up, and according to section 22 of this bill these measures are to be intrusted to the minister of the interior, who has power to enforce this law.

Chapter III desires to exactly regulate the conditions of the agreement with regard to the emigrants made by the manager, in order that there be no risk of the companies taking advantage of the ignorance or distress of the emigrants for selfish ends.

For this reason section 23 demands that the manager make a written contract with the emigrant, that the legal agreement may receive a definite stamp, and the number of lawsuits be diminished thereby as much as possible.

Managers will certainly beware of shirking obligations which can be proved by documentary evidence.

Section 24 prohibits the concluding of a contract with those emigrants who are not in possession of a passport or to the emigration of whom there is any legal hindrance. This prohibition is but the logical consequence and complement of those orders contained in sections 2 and 3 of this bill.

In order that both parties may acquire a distinct idea of their obligations, section 25 orders that the contract be drawn up in two copies, and for the better understanding of the emigrant that one of these shall be in his native language. The written contract, however, can only protect the interest of both parties provided all possible disputes are foreseen and provided for. As emigrants are generally lacking in education and intelligence, they can not judge of this matter themselves (items 1 to 6 of this paragraph), therefore all the essential provisions are to be included in the contract.

Section 26 describes the obligations which the manager must assume toward the emigrant. These are the same which appear in item 6 of section 25, and must be contained in the contract. They form, in fact, its most essential requirements.

These obligations are indispensable for the interest of humanity and the proper care of the health and interest of the emigrant.

In sections 27 and 28 the cases of withdrawing from the contract are discussed. According to Article XXXVIII of the law of 1881 either party can withdraw at any time from the contract of emigration. There are sufficient reasons for the provision that the emigrant shall not be hindered by any change of his plans, as material loss might accrue to him thereby.

The Swiss, German, and Italian emigration laws restrict the restitution of the whole fare only to certain special cases.

Therefore, according to the above-mentioned two paragraphs, the emigrant can only claim the restitution of the entire fare if he is prevented from traveling by important events which have occurred through no fault of his own.

If he withdraws from the contract without any adequate cause he can only claim half of the fare laid down as an advance payment.

That the decrees in the interest of the emigrant contained in the first paragraphs may have full effect section 29 provides that agreements contradictory to this decree are invalid. For were it left to the parties themselves to fix the conditions of the contract the clever manager or agent would be in a position to impose unfavorable conditions upon the ignorant emigrant.

The obligations laid upon the manager in section 30 are set forth to prevent any illegal action on his part or the neglect of any duty incumbent upon him.

In consequence of the disposition of section 3 all emigrants must have passports, which are only issued to those for whom there exists no hindrance to emigration.

It would therefore be an illegal action on the part of any manager who would transport persons who are not provided with a regular passport. In this case the manager is not only liable to punishment, but he can be legally bound to bear the expense of repatriating any emigrant with regard to whom there has been any legal hindrance to emigration. The safety of the transport on the ocean, as well as the health of the passengers, demands that the ship about to leave be in perfectly good condition and supplied with a sufficiently large crew and with all necessary comforts and provisions.

Section 31 makes it not only the duty of the manager, but also of the captain of the vessel, that both should bear the responsibility for the safety and the health of the passenger.

Even this is scarcely a sufficient protection. We can not expose the life and bodily health of our emigrants to the dangers which may arise through the neglect before mentioned, but must also avoid all possible contingencies.

Therefore section 32 orders that every vessel taking on board emigrants shall be examined by the proper authorities before sailing; further, that the state of health of the crew and the emigrants be established, the latter principally for the reason that those who on account of illness can not bear the fatigue of a great ocean voyage, or are suffering from a contagious malady, may be prevented from making the voyage.

In order that the authorities may know what ships they are to make use of, articles 31 and 32 describe what kind of ships are considered fit for purposes of emigration. This is done by fixing the lowest number of emigrants that a vessel must be able to carry. Section 33 fixes this minimum at 25. Also, for reasons mentioned above in those articles which determine contracts, it seems necessary to fix exactly and decidedly the quality of the fitting out and the furnishing of a vessel by which emigrants are transported, as well as the proceedings to be observed at this examination. Therefore the second paragraph of section 33 authorizes the minister of the interior to issue orders upon this subject. The minister of the interior, however, must, out of consideration for the interest of general traffic and commerce, act in concert with the minister of commerce.

Chapter IV orders the raising of emigration funds. The task of the State is not yet finished by shielding her citizens who seek their fortune abroad with a protecting arm as far as their new home. It is later, in a strange land and under new conditions, that the emigrant begins to feel his loneliness and helplessness. The sheltering arm will then be all the more needed by him. Common humanity therefore requires that the native land shall continue to help its emigrant sons, whose worst trials are at the outset in a strange country. Political, national, and economic interests demand also that the bond between the mother country and the emigrants shall not be broken.

Switzerland, Germany, and Italy give us examples worthy of imitation in this regard also. The Swiss emigration law orders that the complaints of emigrants be examined without charge by the Swiss consuls, and that a protocol be drawn up; further, it is the task of the Swiss federal council to take sufficient measures within the amount granted by the budget to provide that emigrants may receive help and advice in the chief ports, both when they embark and when they land.

This was the aim of the German law of 1897 on the subject of emigration. The reasons for it are stated as follows: In the first place, emigrants are more easily looked after at the outset than later, when they have settled themselves in a foreign land. This latter duty is intrusted to the foreign representatives and consuls of the country where the emigrant settles. Besides these special commissioners and assistants may be appointed. (Sec. 41, Par. III.) With regard to this, special recommendations are made to the consuls.

Still more far-reaching arrangements are contained in the Italian law (art. 12) created in the year 1901. According to this law the minister of foreign affairs may establish branch information and register offices in foreign countries, the government of the said country giving its sanction. Besides, they are allowed to nominate inspectors, who, traveling through these countries, may collect information about the circumstances of Italian emigrants and present his information to the council of emigration. Furthermore these inspectors and consular officers must examine the ships which carry emigrants. To cover the expenses of the State which arise from affairs connected with emigration,

both at home and abroad, emigration funds are established, which are drawn from appropriations made by the Government and from all fines of delinquent managers, or income from other sources.

In the interest of the support of Hungarian emigrants provision has previously been made as follows:

It is provided that an officer of the Hungarian consulate of the city of New York be present at the examination of immigrants made by American authorities upon their arrival in New York Harbor.

The Hungarian Benevolent Society in New York has been also newly organized, and is in a position to give assistance to emigrants. This society is subvented by the State.

In some places new consulates have been established, etc., but the number of emigrants grew so rapidly and unexpectedly that these arrangements have become inadequate.

It is therefore necessary that the protection of the interests of emigrants shall be adequate to these changed conditions, that these matters may be arranged upon a permanent basis and with a sufficient expenditure. To this end the establishment of a special fund is proposed to be drawn from the fees fixed in the items (a) to (d) of section 34 of the bill. The organization of the protection itself will be the duty of the Government, and will look to the following contingencies:

(a) The support of those members of a family who may have remained at home. It may happen in spite of the restriction laid down in section 2 that the head of a family emigrates without securing the maintenance of children left behind. In such cases humanity requires that as they can not be supported in any other way they shall be assisted out of the funds already mentioned. The emigrants in this manner are helped as well as their families.

(b) This item provides for the reception of emigrants landing in the port of their destination, giving them information about the work which they may find, and helping them to find it, or giving them shelter until they have found employment. A great task in this way is that of the foreign Hungarian Society, and especially of the associations which for this object are given by the Government moral as well as material support.

(c) This item deals with the legal protection of emigrants. As the usually ignorant emigrant is the center of legal complications of which he is entirely ignorant, he may easily become a victim to the greed of his employer or of others. Therefore it will be a great benefit to him if he can turn to a reliable adviser in his possible troubles or legal difficulties.

(d) The cultivation of peaceful social intercourse and the founding and supporting of such associations as are competent to keep alive the love of their native country. This is of special importance from the point of view of Hungarian emigration, for this danger is especially threatening with regard to our Slovakish and Ruthenian emigrants. Left to themselves they are apt to be alienated from their native country and fall a prey to the different national associations which make active propaganda, and this is a harmful influence, for the reason that a large number of our emigrants return home again, and through their associations with those compatriots who have remained behind they bring a decided influence to bear on the native national movement.

(e) The support of those emigrants returning home. The mother country can not look on quietly while her sons, who do not prosper abroad, go to ruin there; she must endeavor to bring them back to their native country, and that they may become all the more faithful to her.

According to section 35 the administration and regulation of the emigration funds are in the hands of the minister of the interior.

As the minister of the interior is the highest authority in the control of emigration, he has the power to enforce these decrees, and it is necessary therefore that the funds used for this purpose shall be in his charge.

He must render an account of his administration of these funds, as of every other public fund, according to the power rested in Parliament.

For the preservation of important interests of our compatriots living abroad section 36 of the bill makes arrangements for emigrants to deposit their savings in safe places and guarantees to send them home safely.

The importance of these provisions is clearly set forth by the following official data, viz, that our emigrants have sent home in the course of the year 1901 through the post-office alone an amount of 50,000,000 kronen. How much they sent home by the medium of banks or private people, or how much those

returning brought back themselves it is impossible to ascertain, but it is probable that this sum has amounted to as much more. This amount would be still larger if unprincipled traders, bankers, and other middlemen did not swallow a considerable portion of it. Now these sums might be saved by having a special organization to look after this matter. A similar arrangement was made by Italy. Article 24 of the law for 1901 authorizes the Bank of Naples to collect, deposit, and send home the money saved by Italian emigrants, and this bank can make special arrangements for this purpose with banking houses and the minister for post and telegraphy. This has not escaped the observation of the Royal Hungarian Government and it has been trying to regulate this matter judiciously, and it is to be hoped that it may be arranged satisfactorily.

That the conducting and classifying of emigration affairs may be brought to a successful issue, special officers are nominated in Chapter V. If the frequently conflicting interests of the emigrants and all questions closely allied to emigration which interest the central administration are taken into consideration, such as economic and social questions, the ministry of the interior can not act solely according to the information received from subordinate authorities, but must also try to have light thrown upon these subjects in every possible way.

To this end a council has to be appointed according to section 37, the members of which, according to section 38, consist of representatives of the Government and those of its branches which are interested in the solution of problems such as the agricultural, commercial, industrial, and social.

The grouping together of this council and the nature of its conferences must be further determined in detail.

To provide for this organization is, according to section 39, to be the duty of the minister of the interior as the highest authority upon the subject.

Since in obtaining information the administrative authorities and officers have proved to be inadequate to execute punctually, rapidly, and uniformly the decrees of the Government and for the control of emigration movements arising in country districts at certain times, it has seemed to be necessary to select also special experts outside of the local authorities, whose time is at any rate taken up by their usual official business.

In consideration of this fact, section 40 has planned for the nomination of an emigration commissioner, with a suitable staff of assistants.

In consequence of the importance of the question as to whether the vessels are in good order and properly fitted out in order to protect the life and health of the emigrants, section 41 of the bill desires to make this requirement more effectually insured, and calls upon the emigration commissioner to assist at the examination decreed in section 31.

In order that this supervision may be exercised with most satisfactory results it is necessary that the commissioners shall secure information at all times as to the general condition of ships. They must therefore have the right to demand reports from the captains or be allowed to inspect the ships personally at any time to assure themselves as to their condition. It is the task of the minister of the interior and also of the local authorities to demand the correction of any shortcomings which they may point out. As the emigration commissioner is an assistant officer of the minister of the interior he must naturally come under the control of the minister of the interior. His duty and his term of service must be further elaborated, and the regulation of all this is left by section 42 to the minister of the interior as being the highest authority intrusted with carrying out the terms of the law.

As a consequence of the right of control, which the Parliament possesses, the income of the emigration commissioner and of his staff of assistants shall be determined in the budget of the State. Chapter VI determines the punishment of anyone violating the law.

The duties and prohibitions imposed upon the managers, as well as upon their agents and representatives, are not only advisable for the private interests of emigrants, but also for the public weal. Therefore their transgression is followed, not only by rendering them liable for damages by civil law, but also to punishment by fine or imprisonment. The new bill looks upon the matter from this point of view when it classes violations of this law as criminal transgressions. When the violation is one of police regulations only the offense is a simple misdemeanor, and punishment is inflicted accordingly.

Section 43 condemns violations of the law committed by the manager to the severest possible punishment, in the spirit of section 16 of Article XI of the law of 1879, because such an act of negligence puts in jeopardy higher and more

important interests. According to the principles of civil law, the manager can only be called to account for his own personal actions of negligence or violation; wherefore if such actions are committed by his representative the latter is to be punished, and not the manager himself. The manager, however, becomes an accomplice in case he had knowledge of wrongdoing or neglect on the part of his representative, or in case he might have prevented the offense by taking proper precautions. Therefore he too must clear himself by means of the civil law.

This paragraph also decrees just as severe punishment for acts of negligence on the part of the captain of the vessel, because he thereby endangers the life, health, and fortunes of his passengers.

Since the sphere of action of agents is more restricted and their violations of law are of less importance, such misdemeanors on their part are not looked upon so seriously.

Therefore section 44 decrees a less severe penalty for violations committed by them.

As the transport and the arrangements for transport shall only be undertaken by those provided with a license, and in order that those managers to whom no license has been issued be prevented from acting, section 45 of this bill desires to punish action on their part by severe penalties. The same paragraph also gives the right to proceed against them to the proper authorities, who may seize and confiscate mailed letters, pamphlets, and other printed matters, and also to confiscate the passenger tickets issued by such managers as have no official license. These decrees are necessary in order to frustrate the attempts of foreign ship companies and emigration agents to whom no license has been granted, so that we may not only have the power to hinder and punish the working of secret agents within the territory of the country, but that we may bring to naught also the injurious influence of foreign managers and of emigrants in foreign lands, who can not be reached directly by the punishing arm of the State, but whose action we can render ineffectual by cutting off their means of communication. But this can only be done if the authorities can seize such mail matter either at the post-office or directly after it has been delivered to the managers.

According to our present law, printed matter can only be seized by the press tribunal, or in urgent cases by the district court or the post-office.

In principle it is indeed acknowledged as the right of the police office, though it is restricted to urgent cases only. But as experience has taught us that such inflammatory pamphlets often have a swift effect upon emotions and the decisions of the populace, and as the proceedings of a regular court of justice are too tedious, it is desirable for the general welfare that such pamphlets as we are speaking of should be seized before they can be spread abroad. This must be done by the government authorities or by the police office. Though the State can not prevent emigration (aside from some exceptions) and is forced to tolerate emigration, no matter how much it be to the disadvantage of our political interests, she nevertheless can not permit this unnatural stimulation to emigration, in her own interests as well as for the advantage of her citizens.

Therefore section 46 orders that encouragement and inducement to emigrate, whether by public speeches or by the circulation of printed matter, shall be punished as a transgression.

As the advertisements of foreign ship companies and agents, which are frequently published in illustrated journals and calendars and scattered among the people of the lower classes, although they do not exactly contain an enticement, are still, as experience shows, often calculated to awaken and spur on the desire for emigration among many classes of the population, whereby the number of thoughtless emigrants is augmented; it is therefore necessary that the desire for emigration awakened in such manner be hindered as far as possible. It is also necessary that the competition of managers and agents who possess no license be put a stop to as injurious to the competition between those who possess one. Therefore section 47 forbids, under penalty of a fine, that managers and agents who possess no license shall advertise in any manner whatever.

As the violation of this rule belongs to the category of police regulations, it is most appropriate that the Government authorities shall have jurisdiction with regard to it and shall superintend its observance. This is provided for in Chapter II, Article XX, of the law of 1901. An exception is made as to violation of the law by interdicted publications. The second item of section 15, Article XXXIV, of the law of 1897 provides that this violation be prosecuted by the proper authorities.

The extended protection of emigrants, specialized in section 34 of the project, will necessitate a very considerable expense. To this end the income hitherto received from emigration funds is not nearly sufficient, and especially at first, assistance from the Government is indispensable.

But as this year's budget has already been presented to the Imperial Diet, section 49 orders for this purpose an additional appropriation of 80,000 kronen for the year's expenses.

It is clearly foreseen that after the bill has been passed the amount necessary and demanded by it must be set down yearly in the regular budget bill.

In case of this bill becoming a law all former laws on this subject, and more particularly Article XXXVIII of the law of 1881, as well as all orders relating thereto, are repealed; wherefore they are expressly declared to become invalid in section 50.

Finally, section 51 intrusts to the minister of the interior the task of carrying out the law.

The successful regulation and the uniform administration of emigration affairs demand that the management of them be regulated from a central point. The administration of emigration affairs (as the bill also provides that it shall in the future) has hitherto belonged to the sphere of action of the ministry of the interior. It is therefore still the minister of the interior upon whom will devolve the carrying out of this law.

Budapest, November 5. 1902.

KOLOMAN SZÉLL.

Mr. Hengelmüller to Mr. Hay.

IMPERIAL AND ROYAL AUSTRO-HUNGARIAN EMBASSY,
Washington, Monday, April 18, 1904.

MY DEAR MR. SECRETARY: Referring to our conversation of this morning, I beg to inclose herewith a memorandum with regard to amendment to the Dillingham bill and Hungarian contracts with Cunard Line.

Yours, very truly,

HENGELMÜLLER.

[Inclosure.]

MEMORANDUM.

An amendment has been proposed in the Senate to the Dillingham immigration bill, which provides that no immigrants shall be allowed to land in the United States whose emigration has been encouraged or induced by the agreement of any government, directly or indirectly, with any transportation company.

In so far as this amendment has been caused by or is directed against an agreement recently concluded by the Hungarian government with the Cunard Steamship Company, I beg to point out that it is based upon an erroneous impression derived from one of the clauses of said agreement.

By article 24 of the agreement the Hungarian government guarantee to the Cunard Company the transportation of 30,000 passengers yearly, and undertake to make good the difference between that and the actual number at the rate of 100 crowns a head.

It seems that this clause has produced an impression as if the Hungarian government meant to induce 30,000 of their people yearly to emigrate, or that at least having incurred a pecuniary obligation in case emigration should fall under that number they would find it their policy or their interest to encourage emigration up to that amount.

The Hungarian government deplore and discourage emigration, and nothing is further from their intention than to encourage it. I do not think it necessary to expatiate upon this matter, as the true position of the government, press, and people in Hungary, as well as in Austria, with regard to the emigration problem,

is well known to the federal government. American consular reports from Austria-Hungary, which have been lately published, bear testimony to the fact that emigration is regarded in my country as a serious, economical, and political menace, and as such deplored. Debates in parliaments and articles in the press have made this fact patent to any follower of public affairs in my country.

But emigration exists in Hungary, and as the government found themselves unable to prevent it they undertook to regulate or at least, in some measure, to control it. An emigration act was passed at the beginning of last year at Budapest, the object and the details of which I may suppose to be known to the State Department.

It seems a natural and a legitimate wish of the Hungarian Government that if their citizens could not be kept at home they should at least sail from one of their own ports. Up till now our emigrants had to come to the United States through Germany, Belgium, or Holland. By establishing a direct line from Fiume to New York the Hungarian Government intended to confer a benefit on their people and at the same time get a better control over the whole emigration. These considerations led to the agreement with the Cunard Line.

An English company establishing a direct line between two foreign ports desired some guaranty against possible loss. This desire was met by clause 24 of the agreement. In mentioning a given number of emigrants as the basis of the guaranty the Hungarian Government had not their wishes for the future but actual facts, as developed during latter years, in view.

So far are my Government from wishing to encourage emigration that Count Tisza has but last Thursday declared in Parliament that he would gladly hail the day when he will be called upon to pay the guaranty.

I venture to add that in so far as the proposed amendment aims at barring immigrants from landing, not because they are undesirable immigrants per se, but because of the Hungarian Government's contract with the Cunard Line, its passing would not lessen the tide of immigration, but simply transship it to other transportation companies.

WASHINGTON, April 17, 1904.

Mr. Storer to Mr. Hay.

No. 119.]

AMERICAN LEGATION,
Vienna, April 21, 1904.

SIR: I have the honor to report that the law governing emigration from Hungary has been passed at Budapest with certain additions and amendments to the text, of which I transmitted a translation in the month of May, 1903. As yet I have not been able to obtain a full official copy, but newspaper comments, both of praise and of hostile criticism, show that there is a diversity of opinion as to the necessity and advisability of the law. Last night the Emperor took occasion to speak to me on the subject, and expressed his belief that the provisions and aims of this law had not been fully understood, and that this fact was the only cause of the criticisms which the law was receiving on both sides the Atlantic. He added that the explanations to be offered would, he was confident, clear up any objections, as the principles and intentions of the law were those that had for long been understood and accepted. These explanations, I take it, will be made to the Department through the Austro-Hungarian embassy at Washington.

As soon as I am able to have before me an official copy of the law as promulgated I will report thereon fully to the Department.

I have, etc.,

BELLAMY STORER.

Mr. Storer to Mr. Hay.

No. 122.]

AMERICAN LEGATION,
Vienna, April 28, 1904.

SIR: I had hoped ere this to be in a position to report fully as to the details of both the new Hungarian emigration law and of the ordinances of the Hungarian minister of the interior putting this statute into effect. But I can not obtain, for another week, the official copies of one of these ordinances, or finish the detailed comparison of the text of the law as now put in force with the text of what was submitted by the former government in 1903, and at that time transmitted by the embassy, which is desirable to have done. I hope within a week to be able to transmit all the above documents, with translations.

I have the honor to report, however, that the promulgation of this law and its administrative enforcement has occasioned no little excitement and newspaper comment in Austria-Hungary.

The law itself was framed, as I reported last year, with the aim of preventing emigration so far as possible, and of regulating what could not be prevented, in such a way as to keep the Hungarian government in touch with those who emigrate.

The language of both the Hungarian and Austrian ministries to me last year was frank and decided. Hungary wishes to keep all her citizens; and there has for years been a constant struggle, both open and acknowledged and unavowed and secret, between the government and the agents of the great steamship companies, who, keen for commissions, foment emigration by every means in their power. When the wish of the Hungarian Government to restrict any emigration which may weaken the national strength is continually combated by individual activity on the part of those who have money to make in swelling the number of emigrants, it follows as a matter of course that a large percentage of those who actually succeed in getting away belong to the class that no government desires, either to keep or to receive. These two opposition forces, each acting on the line of the least resistance, give a compromise result unfavorable to the quality of those who reach America. The commission to the agent is as high for an emigrant whom Hungary is quite willing to let go, and whom the United States would better do without, as on one who would be a loss here and a gain to us.

It is not surprising when the interests of numerous middlemen, as well as of influential great shipping corporations, which receive heavy subsidies from governments other than Hungary, are threatened by a new law, that attacks from all quarters should be made upon it, and for all reasons.

* * * * *

Then there are strongly worded, though vague, charges of ill-treatment of emigrants from Fiume, on the Cunard Line, with which company the government of Hungary has made a convention giving it a provisional monopoly of carrying emigrants from that port.

The interests of the city of Fiume, of which, as its only seaport, the whole Kingdom of Hungary is naturally proud, and for which it is ready to make great sacrifices, are of course not identical with those

of the great shipping lines of Hamburg, Bremen, and Antwerp, or of British lines other than the Cunard.

How much influence this discrepancy of interest may have in this controversy may not be definable, but it unquestionably is very strong. It is quite possible the influence of these commercial rivalries are quite as strong in misrepresentation outside of Austria-Hungary as it is within.

I have already reported the language of the Emperor to me on this subject, last week.

In sending to me the proof sheets of one of the ordinances of the Hungarian minister of the interior above mentioned, the under-secretary of foreign affairs writes as follows:

The reading of these documents will convince your excellency that the Hungarian Government in its desire to regulate emigration is as far as possible from the idea of wishing to favor it.

In these ordinances all administrative and executive officers of the Hungarian Government are ordered to exercise the utmost vigilance in making inquiry into the reasons which induce anyone to emigrate, to do everything in their power to remedy these reasons in any special case, and under all circumstances to try by advice and personal influence to dissuade from emigration. Only in cases where they find the reasons unsurmountable and the emigrant intractable to their good advice, and where there is no legal ground for detaining him in the country, are such officials to allow the person to emigrate, and then under strict official supervision to assure that the interests of the state and the emigrant are alike protected.

* * * * *

I have, etc.,

BELLAMY STORER.

Mr. Storer to Mr. Hay.

No. 134.]

AMERICAN LEGATION,
Vienna, May 20, 1904.

SIR: I have the honor to transmit herewith one copy of the circular ordinance of the ministry of the interior of Hungary, dated April 13, 1904, with translation of the same.

Also one copy of the circular ordinance^a of the same ministry, dated April 18, 1904, with translation of the same.

Under separate cover by this day's mail I have the honor to transmit three copies of the official German text—translated from the original Hungarian—of the law of Hungary on emigration, as passed March 11–14 last.^a The verbal difference between the law thus passed and the law as placed before Parliament by the Hungarian Government, a full and (it is believed) faithful translation of which was made and transmitted to the Department on the 18th of May, 1903, are so slight that they may all, or nearly all, be accounted for by the fact that the present official version in German—made only after the bill has become a law—is not verbally the same with the only translations to be obtained in 1903, which were unofficial.

^a Not printed.

It will be remembered that our translation was necessarily made from the last-mentioned German texts.

The differences in numbering the paragraphs which may be observed do not, I am assured, alter in any way the meaning of the law, but only the order of the text.

An additional sentence is added at the end of former section 48, now numbered section 49. This provides only how certain penalties for technical infringements of details of the law are to be enforced.

It is hoped that the translation forwarded in 1903, with the explanation above given, may serve the purposes of the Department.

The law and the explanatory ordinances are to be read together to ascertain the practical working of this new policy of the Hungarian Government on the (to Hungary) vital subject of emigration.

I have the honor, etc.,

BELLAMY STORER.

[Inclosure 1.]

CIRCULAR ORDINANCE.

No. 40000, 1904, of the royal Hungarian minister of the interior to the several local authorities, including those at Fiume, in the matter of the putting into effect and execution of Law IV of the year 1903 concerning emigration.

By virtue of authority given me in section 52 of Law IV of 1903 I put said law into effect on the 20th April of this year, and regarding its execution I issue the inclosed general "instruction," which goes into effect simultaneously with the law.

On the occasion of issuing said general instruction I make the following remarks:

(1) On the day the said law is put into effect, Law XXXVIII of 1881, concerning emigration agencies and all the ordinances issued hitherto regarding emigration, is repealed.

(2) The detailed provisions of the law and of the instruction relating to its execution, which refer to the legal relations between the shipping concern and its employees, and the shipping concern and the emigrant, naturally relate chiefly to transoceanic emigration; the other provisions, however, apply to emigration in general, hence to continental emigration as well.

(3) Besides the general "instruction" now issued, four special instructions will be issued in addition, in the interest of the execution of the law, to wit:

(a) In conjunction with the minister of commerce, an instruction in the matter of the quality, safety, furnishing, equipment, and supplying with provisions, also the Government inspection and control of vessels; further, the medical inspection of the passengers and crew, the confinement of sick individuals, and, finally, the embarkation and the sanitary and moral protection of the emigrants.

(b) An instruction in the matter of the housing and boarding of emigrants in Fiume.

(c) An instruction in the matter of the right of persons, under liability to drafting and serving in accordance with the home defence law, to emigrate.

(d) And, finally, an instruction as to the procedure regarding the obtaining and showing of passports, and the collection of statistical data concerning the emigrants.

(4) By the authority given me in section 5 of the law, I further prohibit emigration to Brazil.

(5) I issue, provisionally, the following orders:

(a) The temporary concession granted under No. 112732/IIIa and date of November 24, 1903, to the Cunard Steamship Company to transport emigrants, remains in force until the granting of the final concession.

(b) The representative (deputy) designated by the said company and the individuals intrusted with the making of transportation contracts and licensed

by this ministry may continue their operations, conformably to the provisions in the inclosed "instruction" relative to agents (attorneys), until the agents designated in section 15 of the law, and approved by me, are employed. Measures have been taken simultaneously herewith to the effect that the transporting company, "Cunard," within a fixed limit of time, without regard to the agents at present employed, is to nominate to me its agents (representatives) for the obtaining of the necessary approval, and provide the same with the prescribed registry books.

(c) The transportation company, until further notice, is under obligations to transport emigrants as follows:

On ships of not more than 15 marine miles speed—

Individuals over 12 years, for 180 crowns;

Children from 1 to 12 years, for 90 crowns.

On ships of more than 15 marine miles speed—

Individuals over 12 years, for 200 crowns;

Children from 8 to 12 years, for 100 crowns;

and all children under 1 year, if traveling in the company of grown persons, free of charge on any vessel. It is further under obligation to house and board emigrants in Fiume for two days' time without extra charge.

From emigrants who, owing to the overcrowding of the vessel, are transported from Fiume by rail to any other European port and thence by vessel to New York, for transportation and boarding by land and sea, all told, no higher charges can be collected than is fixed for the direct journey from Fiume to New York.

(d) The books of the transportation company and its representatives (agents) to be kept according to section 23 of the law and sections 15 and 29 of the "instruction" must be submitted for authentication before May 20 of this present year to the minister of the interior, or to the authority designated in the last-cited section.

(6) The company, or its deputy (representative), is under obligation to provide its agents with blanks, according to the form of a contract fixed in section 34 of the "instruction," before May 20 of this year. After this date only blanks in conformity with said form may be used.

(7) The issue of passports and the collection of statistical data regarding emigration, until the issue of special ordinances concerning the same, shall take place in accordance with the regulations existing hitherto.

I further make it the duty of all the executive authorities to follow with the most vigilant attention in their respective jurisdictions the matter of emigration and its every phase, to endeavor to ascertain the reason of emigrating, and to take steps in their several jurisdictions so far as it lies in their power toward the removal and remedying of national, economic, or moral evils and injury caused by emigration or traceable to it, especially to make reports to their superiors, but under all circumstances endeavor with good counsel and kindly explanation to dissuade emigrants from emigrating.

I further expect the various authorities, in case the causes of emigration are unsurmountable and in case emigration can not be prevented by legal means, and emigrants are not to be dissuaded from their intention by good counsel and enlightenment, to at least endeavor to the best of their knowledge and will to carry out the intention of the law, which is that the emigration take place in the manner and direction most in conformity to the interests of the State, and still more to those of the emigrants. Especially let the authorities know it to be their duty to render impossible the workings of the secret agents of unlicensed transportation companies, to search them out and severely punish them, and to control vigilantly the agents (representatives) of the licensed transportation concern, so that their action be kept strictly within the limits of the law and the inclosed "instruction," and in no case develop into encouragement to emigration.

Budapest, April 13, 1904.

TISZA,

[Inclosure 2.]

*Ministry of Interior's Order No. 40000/1904.*INSTRUCTION CONCERNING THE EXECUTION OF LAW IV OF 1903, REGARDING
EMIGRATION.CHAPTER I.—*General provisions.*

ROUTE.

Sec. 4. By the authority given me in section 6 of the law for the direction of transoceanic emigration the route via Fiume is laid down first of all, and a license for the transportation of emigrants has for the present been given only for this route.

Routes via other ports lying outside of Hungary will be designated only in case the emigrants can not be transported via Fiume. Such routes will always be designated in the license granted to the particular concern.

If anyone should intend to emigrate across the sea in a direction different from the designated route, he can not be prevented therein by forcible means, but in his own interest he must be warned that the Hungarian authorities have no means of affording emigrants such protection and assistance against the injuries and losses that may happen on that route as is assured to them on the designated route.

Budapest, April 13, 1904.

TISZA.

[Inclosure 3.]

*Ordinance issued by the royal Hungarian minister of the interior No. 40000/1904.*INSTRUCTION CONCERNING THE EXECUTION OF THE LAW G. A. IV: 1903 IN
REGARD TO EMIGRATION.CHAPTER I.—*General regulations.*

THE EMIGRANT.

§ 1. From the point of view of the application of the law that person is to be considered an emigrant, according to § 1 of the law, who goes to a foreign country with the object of living there for an indefinite length of time.

The authorities shall determine whether really emigration is intended in individual cases, either from a declaration of the person concerned or from the existing circumstances.

Emigration may be presumed:

(a) When one travels as a passenger of the 3rd class (steerage passenger) to an extra-European country.

(b) When one travels to a European country, either as an industrial laborer hired on the basis of a regular contract or engaged as a house or farm laborer, or in any other position implying longer and indefinite time.

The following persons can not be considered as emigrants:

(1) Those who travel to a foreign country not on account of business, but merely for amusement, for making studies, etc., even if the stay in foreign countries extends over a considerable time.

(2) Those officials and workmen enumerated under (b), who are sent by home establishments and private firms to a foreign country for temporary work. Also those who go to a foreign country for the performance of temporary agricultural labor (harvesting, wood-cutting, digging, etc.).

RESTRICTION OF EMIGRATION.

§ 2. According to § 2 of this law the following restrictions in regard to emigration have been established:

(a) Those who on account of military laws are obliged to present themselves before the authorities or are subject to military service are allowed to emigrate

only by the written permission of the respective competent authorities. Before the production of such a permission no passport can be obtained. (§4 of the law G. A. VI: 1889.)

As long as the competent authorities for granting such a permission are not appointed the regulations of G. A. VI: 1889 in this respect, as well as the instructions issued by the "Honved-Minister" for carrying out the same, are still in force.

(b) In the interest of penal justice those persons are not allowed to emigrate against whom a criminal process is going on for an act (crime, misdemeanor, or trespass) for which imprisonment is decreed. The proceedings are to be considered as pending in case of crime and of misdemeanor under the jurisdiction of the royal court of justice as soon as the first steps in investigations are taken; but in case of any other misdemeanor and in case of trespass from the day on which the trial is to be held as long as the same is not discontinued by a legal resolution or a legal sentence.

Further, those persons are not allowed to emigrate who have been lawfully sentenced—it may even be to a fine—for a crime, misdemeanor, or trespass as long as the imprisonment to which they were condemned has not been expiated and the fine has not been paid, or, in case the fine was transmitted into an arrest, as long as the latter has not been expiated.

Sentenced persons set free on special conditions are likewise not allowed to emigrate.

The discontinuance of the penal proceedings as well as the expiation or the annulment of the penalty by an act of pardon is to be proved on the part of the emigrant by a statement of the competent court, of the public prosecutor, or the government board, respectively.

In case of doubt that one of the preventing circumstances, as named on sec. (b) exists, the authorities make inquiries in this respect at the competent court or of the competent public prosecutor.

(c) Minors are only allowed to emigrate with the written consent of their father or guardian, which has to be certified by the authorities; males under 15 years, and minor females can—even when they can produce such a permission—only emigrate when they travel in the company of a reliable adult, and when their future is provided for at their place of destination. This regulation is important in the interests of the emigrants and their relatives, and is especially directed against the traffic in young girls, for which reason the officials are bound to satisfy themselves in each single case as to the reliability of the accompanying person and to procure reliable information concerning the future of the minor emigrant at his new home.

(d) Parents who intend to leave their children, being under 15 years of age, at home will not be allowed to emigrate before they can prove that they have provided for the proper care of the same; this is to be ascertained, by proper information, at the time of issuing or delivering the passport.

Such care shall be considered as assured when for the maintenance of the person left behind a certain fund is provided which is deposited in a public institution; if the person has, from her own lawful occupation, a sufficient income, or if, finally, a relative or a friend of the emigrant assures the care of the person left behind.

The security for the maintenance is to be proved by means of a written declaration or an official protocol.

(e) Those are not allowed to emigrate who have not sufficient means to reach the place of destination, or who cannot comply with the conditions prescribed for immigration on the part of the country to which they intend to emigrate.

Information as to the amount necessary for the journey, as well as to the laws and regulations of certain foreign countries, issued with a view to regulate the immigration, will be given by the authorities in each single case.

(f) Those will not be allowed to emigrate to whom free passage in part or in full, or to whom an advancement of the costs of conveyance was promised, with a view of intended colonization, by the government of a foreign country, or by a colonization or similar association, or, finally, by a private person.

Should such a case come to the knowledge of the authorities the investigations and researches are to be begun at once, and an urgent report must be sent to the minister of the interior.

Finally, the emigration to such a state or country is not allowed to which the minister of interior forbids the emigration, on the base of §5 of this law, temporarily or for certain branches of labor.

§3. According to §3 of the law every emigrant must supply himself with a passport, issued for the country to which he intends to emigrate, in order that the authorities may know already in advance from where and by whom emigration is intended, and if there exists no condition which prohibits emigration.

ROUTE TO BE PURSUED IN EMIGRATING.

§4. According to the power of attorney, granted in §6 of the law, the route via Fiume is fixed for trans-oceanic emigration for the present, and permission for conveyance of emigrants is only granted for this route until further notice.

Other routes via harbors lying outside of Hungary will be only allowed in case the emigrants can not be transported by way of Fiume. These routes will always be designated in the license to be granted to the contractor.

If a person intends to deviate from the designated route and to emigrate across the ocean by another way, he can not be prevented by compulsory measures, but in his own interest his attention is to be called to the fact that the Hungarian government officials are not in a position to warrant to emigrants such protection and such aid on occasions of damages or injuries which they may incur on their journey by this route as they would be able to lend them when emigrating by the route indicated.

§5. The police authorities, their officials as well as the gendarmery, are compelled to pay close attention to prevent persons to whom emigration is prohibited from emigrating, and to see that the emigrants are supplied with a passport according to the regulations of §3.

Those persons who intend to emigrate and in regard to whom the preventing circumstances, enumerated in §2, exist, or who have no passport, are to be prevented from crossing the frontier. Deserters are to be brought under an escort to the nearest military station-comando. Persons prosecuted on account of a crime or misdemeanor, or persons sentenced on account of such punishable deeds, are to be brought to the nearest public prosecutor or district court; and persons sentenced on account of a trespass are to be brought to the competent police authorities. The other persons have to be conveyed either at their own expense, or—if they have not sufficient means—with a passport prescribing the route to be followed or by compulsory conveyance of vagrants to their domicile. The railway or ship tickets are to be taken from them and to be submitted to the minister of the interior for further action.

§6. The minister of the interior provides such reliable data as are of interest to the emigrants regarding the business, climatic, and any other conditions of the countries to which the Hungarian emigrant is directed.

The information of general interest, as well as the warning and prohibiting directions, will be published by the minister of the interior to the authorities by means of the official gazettes. Detailed information and descriptions regarding particular countries will be printed separately and forwarded to the authorities entrusted with the issuing of passports.

These descriptions are only to be delivered upon application by persons who intend to emigrate. The application, in which the country regarding which the information is desired must be designated, may be made on the occasion of the issuing of the passport or afterwards by letter or in person. The description is to be delivered if possible at the same time as the passport.

No charge is to be made for giving the above-mentioned description.

CHAPTER II.—*The contractor and his agents.*

THE CONTRACTOR—PRINCIPAL CONDITIONS OF TRANSPORTATION.

§7. He is to be considered as a transportation contractor, who by profession undertakes the conveyance of emigrants.

Undertakings for conveyance of emigrants can only be carried on with the permission of the minister of the interior.

He who conveys emigrants without a license, is, according to §46 of the law, to be punished with imprisonment up to two months and a fine of not more than

PERSONS TO WHOM LICENSES WILL BE GRANTED.

§8. Those persons to whom licenses for conveyance of emigrants will be granted are enumerated in §8 of the law.

The application for this license is to be addressed to the minister of the interior direct.

The applicant has to show that he can comply with the terms required by §8 of the law.

To this effect the following enclosures have to accompany the application.

(a) If the applicant is a Hungarian citizen:

(1) A certified copy of the name of the firm; if a company applies for a license the application must contain the names of the responsible members of the company, or the members of the board of directors.

(2) A legalized certificate proving the Hungarian citizenship of the proprietor of the firm, as well as of the above-mentioned member of the company and of the board of directors.

(3) A certificate issued by the competent authorities as to the moral conduct and the reliability of the person stated therein.

(b) When the applicant is a foreigner:

(1) The firm's name, and in case of a company the by-laws of the same in a certified Hungarian translation.

(2) An official certificate as to the moral conduct and reliability of the proprietor of the firm, as well as of the responsible members of the company, or of the board of directors.

(3) To name that person or home firm which will be entrusted with the representation; the requirements enumerated in subsection 1, 2, and 3 of heading (a) have also to be proved regarding the representative.

(4) The binding declaration that the applicant subjects himself to the Hungarian laws and to the ordinances and instructions issued on the basis of these laws, as well as to the judgment and resolutions of the Hungarian courts and of the government boards regarding the conveyance of emigrants and the differences arising thereof.

Further both the home and the foreign applicant are obliged to name that country, parts of country, or places and seaports from which and to which he will convey emigrants.

When the applicant undertakes transoceanic transportation he has to show by means of a certificate how many ships he has at his disposal, what tonnage and what capacity for speed the same have, and how many passengers can be forwarded in each class. In addition, the plan and the detailed description of each single ship are to be enclosed.

Finally, the applicant has to enclose in his application a receipt, issued by the Royal Hungarian public exchequer, showing that he has deposited the security of at least 100,000 K, as prescribed by §9 of the law.

TENOR OF THE TRANSPORTATION LICENSE,

§9. The license can be granted either for conveyance from the entire territory of the country (or for a part of the same only) to certain foreign countries, parts of countries or designated places, but for transoceanic conveyance it can be given for designated seaports only.

A document is to be issued as to the permission.

The permission for transportation on land is especially to be mentioned in the license when the transportation both on land and sea is undertaken by one and the same contractor.

Besides the prescribed stamp tax, a special tax, payable annually in favor of the emigration fund, is to be fixed in the license document. This tax is to be paid for the granting of the license.

§10. The license must contain the following details: The name of the concessionaire and of his representative, those countries, parts of countries, places, and seaports to which the permission refers; the period of time for which the license is valid; the amount of the security to be deposited by the contractor, and the amount of tax to be paid in favor of the emigration fund. Other conditions made in connection with the granting of the license, especially concerning the number of the ship's voyages, the regulations as to the fares, etc., are to be stipulated in a special contract, which also has to contain the proper instructions regarding the return transport of emigrants at favorable conditions.

The grant of the license is to be published in the official gazette at that time at which the license document is delivered.

THE RIGHTS AND THE DUTIES OF THE TRANSPORTATION CONTRACTOR.

§11. On the strength of the license the contractor is entitled to conclude within the limits of the law and this ordinance contracts for conveyance with

emigrants (emigrating by their own free will), and according to these contracts to issue ship tickets for the emigrants, to bring these tickets into circulation, and to sell these tickets as well as railway tickets, either direct or through his representative, to the emigrants.

Further, he is entitled to publish and to send out announcements concerning the time table, the board, and the fares.

It is prohibited, however, to publish or to send out to individuals any other invitation or description regarding emigration. It is also forbidden to the contractor or any of his agents to induce emigration, either by word of mouth or by letters, to encourage emigration or to solicit from door to door; to ask or to accept from the emigrants, besides the fares, any other fees or services, and to give them advances of money.

The contractor or the agents who acts contrary to these prohibitions will be punished in accordance with §44, section 1, of the law, with imprisonment of not more than two months and a fine of not more than K 600.

TARIFF OF FARES.

§12. The contractor is obliged to submit his tariff of fares to the minister of the interior for his approval. The tariff of fares is to be made out for each half year—i. e., from October 1 to March 31, and from April 1 to September 30.

The tariff for the next half year is to be submitted at least 6 weeks before it comes into force.

The approved tariff will be officially communicated to the authorities by the minister of the interior.

A certified copy of the tariff, as well as the publications regarding the time-table, the board, and accommodations, are to be placarded at the cost of the contractor in his office, in the office of his representative and agents, in the houses of emigrants, in the hotels and on the ships.

The publications concerning the time-tables, the board and accommodation are to be submitted to the minister of the interior for his approval.

The contractor who does not submit his tariff for approval or who charges higher fares than those stated in the tariff, will be punished, on the base of §44, sec. 1 of the law, with imprisonment up to two months or to a fine of not more than 600 K.

SECURITY TO BE GIVEN BY THE HEAD OF A TRANSPORT UNDERTAKING.

§13. The security is to be deposited by the contractor in cash, or in Hungarian government bonds, or in other Hungarian securities declared acceptable as business security by the minister of finances.

The security is to be deposited only once, if one and the same contractor applies for permission to be allowed to undertake the conveyance of emigrants both by land and sea.

The security deposited in cash is to be deposited conditionally at a financial institution which is chosen by the minister of the interior. The interest on the security deposited in the manner above described will be handed over to the contractor upon his application every six months "on demand"—the coupons of the securities and bonds on their maturing—on calculation by the bureau of accounts of the ministry of the interior and against a receipt from the contractor.

The security serves as guarantee for all obligations which the contractor has to fulfill in connection with the emigration business toward the authorities and private persons, as well as for fines and costs to which he may be condemned. The sum deducted from the security to be justified by the minister of the interior on the ground of a legal sentence of a court, or of the police authorities, a legal decision of the authorities, or a lawful arrangement.

The contractor is obliged to complete the security, in case the same be reduced by legal deductions, or in case the exchanges of the securities fall, by more than 20 per cent, within 15 days after the issuing of a demand for this purpose, or his concession is cancelled.

RETURN OF THE SECURITY.

§14. If the license granted to the contractor becomes extinct from any cause the security has to be returned to him or to his lawful successors. The delivery can, however, only take place when the claims put in by the emigrants or their

lawful successors or by the authorities against the contractor, his representative, or agent, have been satisfied.

The security may be returned at an earlier date if the lawful successor of the contractor undertakes to guarantee all obligations of his predecessor and offers explicit guarantee with his own security.

The security will be returned and delivered against receipt and return of the deposit receipt.

THE MANAGEMENT OF THE BUSINESS OF THE TRANSPORTATION CONTRACTOR.

§15. Besides the books and copy books, corresponding to the regulations of the commercial laws, the contractor is obliged to keep the following books and lists:

(a) The exhibit proctol, according to Form I,^a in which each application referring to emigration is to be entered according to time and order of arrival. Each year has to appear separately in this protocol.

(b) The genealogical register, according to Form II, which is to be kept separately for each year and according to the current number.

The contracts concluded with the emigrants have to be entered into the genealogical register according to current number and time of issue. The columns of this register have to be filled out exactly and truthfully in accordance with the data contained in the contract.

Supplementary columns for the use of the contractor may be added to the prescribed columns.

If members of a family travel with the head of the family they are to be entered in the register one after another, singly.

(c) The alphabetical register, according to Form III, which is likewise to be kept separate for each year.

(d) A register showing the names of emigrants to be forwarded by each single ship, according to Form IV.

This register is to be kept in two copies; one copy is to be delivered before the embarkation to the appointed official, the other to the master of the ship.

These registers are to be corrected after the embarkation actually took place. The emigrants who have not come on board are to be registered in the columns for remarks, and both copies to be signed by the appointed official and the ship's master. One copy of the register, corrected in the above-described manner, is to be left with the official, the other is to be delivered by the ship's master to the representative of the Austro-Hungarian consul at the port of debarkation.

Should the embarkation take place at a foreign port a copy of the register of names of the embarked persons is to be sent to the minister of the interior; the other, however, is to be handed over at the port of debarkation to the representative of the Austro-Hungarian consulate.

(e) A register, corresponding to Form V, of Hungarian citizens transported back across the ocean.

This list is to be delivered to the appointed official on the arrival of the ship at Fiume, but is to be sent, in case the debarkation takes place at a foreign port, to the minister of the interior.

(f) Finally the contractor is obliged to keep a separate register in which accidents to the ships, accidents, deaths, and births on board, are to be registered.

§16. The business books of the contractor and the genealogical register of the emigrants will be authenticated by the minister of the interior.

The business books, the copy book, and the correspondence are to be preserved during the time fixed by the commercial laws; the exhibit protocol, the genealogical register, and register of names of emigrants are to be kept five years after the last entry, and the other certificates and registers one year.

§17. The contractor is obliged to allow the officials of the minister of the interior, and of the governor of Fiume, as well as the police authorities, to supervise the management of the emigration business and to give them, when desired, an abstract of his books.

Upon instruction from the Royal Hungarian central bureau of statistics he is further obliged to give abstracts of his books for statistical purposes, and if necessary to allow that this office make itself the desired abstracts.

§ 18. The contractor who does not comply with the regulations issued in regard to the management of the business, commits an infringement, and will be punished on the base of § 44 sec. 5 of the law with arrest of not more than two months and a fine of not more than 600 K.

^a Forms not printed.

REFUSAL OR RESTRICTION OF THE LICENSE.

§ 19. The license granted to the contractor may be restricted or withdrawn in accordance with § 21 of the law.

THE REPRESENTATIVE OF THE TRANSPORTATION CONTRACTOR.

§ 20. With permission of the minister of the interior the contractor can carry on his business through a representative, and can establish a branch office, for which he must appoint a representative.

In the application for this permission he has to state the name of the representative; he has further to prove the Hungarian citizenship of same, to name the municipality or the municipalities to which he wishes to extend his activity, and finally to establish that the preveing circumstances, enumerated in § 14, sec. (c) of the law, do not exist.

The representative can not enter upon his duties before the minister of the interior has given the permission and his approval in regard to the person of the representative.

He who employs no representative at his branch office, or who employs such one without the approval of the minister of the interior, and the representative who engages in business without permission or approval, is punishable, according to § 44 and § 46 of the law, with imprisonment up to two months and a fine of not more than 600 K.

§ 21. The representative represents the contractor with full legality and full responsibility towards the authorities and private persons.

The representative has the same rights and duties as the contractor.

The contractor is responsible, according to the civil law, for all actions of his representative concerning the emigration business.

If the representative infringes the prohibitions issued in regard to the contractor, he is responsible therefor as to his own person, and will be punished on account of these infringements on his part, on the basis of § 44 of the law, with imprisonment up to 2 months and a fine of not more than 600 K; but if the representative has committed the infringement with the knowledge of the contractor, or has committed it only because the contractor has neglected the exercise of supervision incumbent upon him, both the representative as well as the contractor will be punished, according to the existing circumstances.

§ 22. The permission granted to the contractor for the employment of a representative and for the establishment of a branch office, as well as the approval as to the person of the representative may at any time be restricted or withdrawn by the minister of the interior.

AUTHORIZED AGENTS.

§ 23. The contractor can employ one or more authorized agents for mediation in concluding transportation contracts. For the appointment of such an agent the permission of the minister of the interior is, however, always required, and before this approval the agent cannot enter upon his duties.

That agent who engages in business without permission of the minister of the interior will be punished, in accordance with § 46 of the law, with imprisonment up to two months and a fine of not more than 600 K.

§ 24. He can only become an authorized agent who is a Hungarian citizen, who resides within the territory of the municipality, or within one of the municipalities, upon which he extends his activity, who is not under guardianship, trusteeship, or who is not declared bankrupt, against whom no criminal proceedings are pending, who is not sentenced to imprisonment, who was never condemned for a crime or offense committed for greediness of gain, or for an infringement of the regulations of G. A. XXXVIII: 1881, or against G. A. IV: 1903, and who never had troubles with the authorities as to his morality and reliability.

Officers of state and magistrates, and local officials and employees, as well as clergymen and school teachers cannot be agents.

§ 25. The sphere of action of the agent can only be extended over the territory of one or more designated municipalities.

The authorized agent who infringes this prohibition is to be considered as having no license, and such agent is liable to a punishment as prescribed by § 46 of the law.

Each contractor can only employ one agent for one and the same territory.

§ 26. The contractor is responsible, according to the civil law, for all actions of his authorized agent concerning the emigration business.

The contractor can give to his agent only a salary, which is to be fixed previously, and which is to be paid for each month, or for a year; it is therefore forbidden to pay the same in proportion to the contracts concluded by him.

The contractor, or his representative, who violates this prohibition is punishable, in accordance with § 44, sec. 3 of the law, with imprisonment up to two months and a fine of not more than 600 K.

§ 27. The authorized agent is entitled to conclude transportation contracts, corresponding to the form issued by the ministry of the interior, with those persons who, by their own free will, intend to emigrate and who apply to him in this connection. It is forbidden, however, to conclude such a contract with persons who have no passport, and the agent who violates this prohibition will be punished with imprisonment of not more than two months and up to 600 K, in accordance with § 45 of this law.

§ 28. The agent can publish announcements referring to the time-tables, to board and fares, or can transmit the same to those who voluntarily apply to him.

It is forbidden, however, for the agent to publish or to send out to individuals any other invitation or description referring to emigration, except the above mentioned; it is further forbidden, either by word of mouth or by letter, to induce persons to emigrate, to encourage emigration, to solicit from door to door, to ask for or to accept from the emigrants any other payment or service except the fare, and to give advances to the emigrants.

This prohibition affects also every employee. The contractor is responsible, however, in every respect, according to the civil law, in case one of his employees should after all infringe this regulation.

The authorized agent is allowed to carry on his business in person only, and neither he himself nor the members of his family, relatives, or employees, are permitted to conclude business concerning conveyance of emigrants for another contractor or for his own account.

The agent who violates this prohibition and this regulation will be punished, according to § 45 of the law, with imprisonment up to two months and a fine of not more than 600 K.

§ 29. The authorized agent is bound to keep bound books, which must be approved by the minister of the interior and correspond to the regulations of the laws of trade, to keep copy books for his correspondence, and to keep the business letters which he receives.

In addition to this, the agent is obliged, according to § 15, to keep the exhibition protocol according to Form I, the genealogical register according to Form II, and the alphabetical register of names according to Form III; finally, he has to keep a list of the communications, prohibitions, and circulars received from the authorities.

The exhibition protocol, the genealogical register, and the register of names, to be kept by the agent, are to be legalized in counties by the vice-governor and in places with a regular magistrate by the mayor.

§ 30. The agent is obliged to submit every eight days, accompanied by a list, a third copy (free from stamp duty) of the contracts concluded by him to the vice-governor of that county or to the mayor of that municipal town in whose district the emigrant who has concluded the contract is residing.

§ 31. The agent who violates the regulations relative to the management of business will be punished, in accordance to § 45 of the law, with imprisonment up to two months and a fine of not more than 600 K.

The agent is bound, at any time, to give to the officials of the minister of the interior, as well as to the police authorities, any desired information as to the management of his business, and at their request to furnish these officials, as well as the royal Hungarian central bureau of statistics, with abstracts from his books.

§ 32. The minister of the interior can at any time restrict or entirely withdraw the license.

The permission granted to the agent is to be withdrawn: (a) If the agent does not comply with the requirements prescribed by § 24; (b) if events occur which show that the agent is not reliable in regard to the management of the business.

CHAPTER III.—*Legal relations between the transportation contractor and the emigrant.*

THE CONTRACT.

§33. The contractor can only carry through the transportation of emigrants on the basis of a written contract concluded with them. The contract can only be concluded with emigrants who are in possession of a passport, and only for conveyance to that country and on that line to which and for which the conveyance was granted.

It is not allowed to conclude a transportation contract with persons who possess no passport, or with those who, according to §2 of the law, are to be prevented from emigrating.

The contractor who violates this regulation will be punished, in accordance with §44 of this law, with imprisonment up to two months and a fine of not more than 600 K. Besides this, the contractor who undertakes the transportation of persons who are not in possession of a passport, or such persons who, according to §2 of the emigration law, are to be prevented from emigration, is obliged to transport these persons home free of charge.

§34. §26 of the law states in detail what data the contract has to contain. The contract is invalid if even only one of these clauses is missing in the contract, and the contractor is responsible, according to the civil law, for the damages which may result therefrom to the persons intending to emigrate.

§35. If the contract is also issued in the mother tongue of the emigrant, i. e., not in the Hungarian language, a contract blank is to be used on which the text, according to Form VI, has to be printed on the left side of the page in the Hungarian language, whereas on the right side a true translation of the Hungarian text in the mother tongue of the emigrant, as well as the corresponding columns, are to be printed.

§36. The contractor is obliged to take care for the printing of the contract formulas, and the true translation. The contractor has to provide the authorized agents with contract-forms.

§37. It is forbidden to use other contract forms than those prescribed by this instruction, or to act contrary to the regulations referring to their use; and in case of an infringement the contractor or his representative will be punished, according to sec. 5 of §44, and the agent, in accordance with §45, with imprisonment of not more than 2 months and a fine of not more than 600 K.

§38. The contract is to be filled out by the contractor, his representative, or his agent in an exact and legible manner, if necessary in the mother tongue of the emigrant (§35); those words which are superfluous in the concluded contract are to be stricken out.

In the first column of the first table are to be registered the full name (family and Christian name, as well as title) of the head of the family, or of the emigrant travelling alone, his age, place of residence (in case the latter is not a municipal town, also the county) and his occupation; whereas in the other columns the Christian names, the age of the members of the family as well as their relationship to the head of the family (wife, son, etc.).

The total sum of the charges to be paid by the emigrant is always to be written in words. The contract is to be signed by the contractor or his representative when it is concluded by the contractor himself, and by the agent when it is concluded by the latter, who has also to affix his stamp on it. The contract concluded and signed by the agent is in the same measure obligatory for the contractor as if he had concluded it himself.

The emigrant signs likewise the contract; in case he can not write, however, he has to make his mark close to his name. The text of the contract is to be explained in their mother tongue to those emigrants who can not write. This fact is to be mentioned especially in the contract.

§39. He who intends to emigrate and whose contract does not correspond with the requirements of the law and this instruction is to be prevented from emigrating, and so far as the lack in the contract can not be corrected at the place of departure, he has to be brought back to his place of residence at the expense of the contractor.

§40. The contract becomes valid for both parties as soon as the same is signed by the emigrant; and the latter is obliged to pay the fare fixed in the contract at least 24 hours before the embarkation. One copy of the contract is to be left with the emigrant after the conveyance has been carried through.

THE DUTIES OF THE TRANSPORTATION CONTRACTOR TOWARDS THE EMIGRANT.

§41. The duties of the contractor towards the emigrant are fixed by §27 of the law. According to this paragraph the contractor is obliged to convey the emigrant and the members of his family enumerated in the contract, as well as his luggage, to the place designated in the contract at the price fixed therein.

In one contract can only be included the head of the family, his wife and minor children, or his grandchildren.

The quantity of the luggage is to be ascertained according to its weight; for its transport, so far as it does not exceed the volume designated in the contract or the weight fixed in the railway tariff, no special charge can be asked for. The regular charges can be made for the luggage exceeding this volume or weight.

The tariff for the transportation by ship of the luggage which exceeds the fixed volume is to be submitted by the contractor to the minister of the interior for his approval.

If the contractor also undertakes the conveyance of emigrants by railway from the seaport, the contractor will be obliged to submit for inspection the power of attorney of the respective railway companies and their tariff of fares. All these fares have to appear separately in the respective columns of the contract. If the contractor takes charge of the emigrant's money he has to give a special receipt, and to return the sum delivered to him in its full value, according to the rate of exchange, in the currency in force at the place of arrival.

§42. During the voyage by sea the contractor is obliged at all times to provide the emigrants with suitable board and accommodation, the price of which is included in that of the ship ticket.

This obligation lasts from the moment of the emigrant's going on board of the ship until his landing. The requirements for board and accommodation, and the control thereof, will be fixed on the basis of §34 of the law, by a special instruction published in agreement with the minister of commerce.

If the contractor undertakes the conveyance on the Continent, he is likewise obliged to provide suitable board and lodging for the emigrants, in case they do not wish to do so for themselves.

The charges for boarding and lodging on land can be collected according to a fixed tariff. This tariff, showing the quality and quantity of the provisions, as well as the mode of accommodation, has to be submitted to the minister of the interior for his approval.

If a group of more than 25 emigrants is to be conveyed by railway the contractor is under obligation to send an experienced guide with them.

§43. In case the emigrant falls ill during the voyage the contractor is obliged to provide medical treatment free of charge, and also to provide him with medicines free of charge, and in case of death to provide for his burial.

§44. The contractor is obliged to insure the luggage of the emigrant against loss or damages; and the emigrating head of a family—he may travel with his family or without—against accident.

The insurance is to be paid by the emigrant, for which reason the insurance fees may be charged him separately; with a view to the control, however, the contractor is obliged to submit the insurance tariff to the minister of the interior for approval, at the same time naming the insurance company and stating the conditions of insurance.

The policy for the luggage insurance has to be delivered to the emigrant, whereas the policy for the insurance against accident is to be kept by the contractor, and in case an accident should have occurred it is to be delivered to the person entitled to receive it.

§45. The contractor is obliged to transport the emigrant at the time stated in the contract.

The emigrant is obliged to arrive at the harbor of embarkation at least 36 hours before the sailing of the ship. If he arrives later, and therefore can not be brought on board of the ship on account of the non-accomplishment of the official measures, he loses his claim to indemnification and, unless he withdraws himself from the contract, in which case he can only claim three-fourths without extra charge until the departure of the next ship.

If the emigrant informs the contractor or his agent eight days before the day of sailing, named in the contract, he is entitled to postpone his journey without extra charge until the departure of the next ship.

In case the ship sails after the fixed time, or if the emigrant can not be taken on board of the ship on account of the overcrowding of the same, the

contractor is obliged to lodge and board him without any extra charge during the time of the delay or during the interval till the sailing of the next ship.

The contractor has the same obligation, in case the passage is interrupted on account of any unavoidable hindrance, in which case the contractor is bound to cause the further conveyance of the emigrant and his luggage after the removal of the hindrance for the price fixed in the contract on the same ship, or if the same could not continue the voyage then by the next suitable ship.

In the latter case the contractor is fully responsible for the conveyance on the other ship.

Except in the case of "vis major" it is not allowed to bring the emigrant on board of any other ship.

If the delay in sailing from the harbor of embarkation or in continuing the passage lasts longer than a week, it is dependent upon the emigrant's choice either to make the passage according to the stipulations of the contract, or to continue the passage or to cancel the said contract.

In both cases he is entitled to claim the damages (deprivation of earnings and traveling expenses) he incurred in consequence of the delay, according to the general regulations of the law.

It is forbidden to make arrangements for the emigrant's paying off the fares either by work during the passage or, in full or in part, after the arrival at the place of destination. It is further forbidden to restrict the emigrant's free choice as to his place of residence or his profession.

The infringement of this prohibition, as well as the violation of the obligations contained in § 27 of the law, are to be punished, according to sec. 4 of § 44 of the law, by confinement up to two months or a fine up to 600 K.

§ 47. In the following cases the emigrant can withdraw himself from the contract and demand the return of the full fare previously paid:

(a) If the departure does not take place within a week after the fixed time.

(b) If the emigrant, or any one of the members of his family accompanying him, should die before sailing, or is prevented from sailing by sickness or any other circumstance beyond his control.

If the emigrant withdraws himself from the contract for any other than the above-mentioned reasons, he can only claim the return of three-fourths of the fare.

Arrangements contradictory to these regulations are invalid.

EQUIPMENT OF THE SHIPS AND INSPECTION OF THE SAME.

§ 48. Both the contractor and the captain of the ship are obliged to provide that the ship destined for transoceanic conveyance be perfectly fit for the intended voyage, fitted out as prescribed, equipped, and supplied with provisions.

According to § 34 of the law, the use of such ships only is allowed for transoceanic conveyance as make voyages to extra-European harbors, and which transport 25 steerage passengers (3rd class) at least, and by their qualities and safety are suitable for sea voyages.

§ 49. The quality of the ships intended for the conveyance of emigrants, their safety, their equipment and accommodations, their supply of provisions, the inspection and control of the same by the authorities; further, the medical examination of the travelers and crew, the prohibition of sick people to embark; finally, the embarkation and the sanitary and moral protection of the emigrants is, according to § 34 of the law, the subject of a special decree issued in agreement with the minister of commerce.

§ 50. The commission upon whose jurisdiction the inspection of the vessels devolves has to forbid the use of such ships as emigrant vessels which do not correspond to the prescribed requirements, and in case of need, to hinder the embarkation of emigrants by assistance of the frontier police.

§ 51. If the contractor or the ship's master does not comply with the regulations concerning the ships contained in § 32 and 34 of the law, or with the ordinances issued in connection therewith, or does not conform with these regulations 24 hours before going to sea, he will be punished, on the basis of § 44 of the law, with arrest up to two months or a fine up to 600 K., even if he should commit these omissions and violations of the prescriptions in a foreign country.

If the ship is found unfit for conveyance of emigrants, the emigrants will be brought to their places of residence or to their places of destination at the expense of the contractor. In this case the emigrants have the right to withdraw from the contract. The amount paid has to be returned to them.

COMPLAINTS AND THE SETTLEMENT OF SAME.

§ 52. The emigrants can make complaints against the contractor or his agent, respectively, the representative, the master of the ship, or against those persons being in charge of the accommodation arrangements, for nonfulfilment of their duties, as prescribed by the law and by the ordinances, or for abuses committed by them:

- (1) To the head of village, the supreme judge, or the captain of police.
- (2) At Fiume to the police authorities and to the authorities of the Royal Government.
- (3) In foreign countries to the Austro-Hungarian consulates.

The complaints can be submitted either by letter or in person; in the latter case the minutes have to be drawn up.

The complaints can be entered into the protocol of complaints, either by the emigrant himself or, if he can not write, by any other person.

The authorities have to settle cases of complaints at once, as far as the same fall within their jurisdiction. If the authorities are not competent, they have to refer the complaint to the authority within whose jurisdiction the same falls.

* * * * *

DUTIES OF THE OTHER GOVERNMENT BOARDS RELATIVE TO EMIGRATION.

§ 62. In general the executive authorities are obliged to follow the matter of emigration within their jurisdiction with vigilance; to ascertain the reasons of emigration and to find out the means which would put an end to or restrict the same; to take measures in their several jurisdictions toward the removal or the moderation of national, economical, moral, and other evils caused by emigration, or to call the attention of the superior or subordinate authorities to the necessary measures.

§ 63. It is the duty of the highest officer of the municipal town to examine the contracts forwarded to him by the contractor, his representative or agent, in accordance with § 26 of the law, as to their being in accordance with the requirements of the law and this instruction. In case of irregularity he has to take the necessary steps.

After examination as above prescribed the contracts are sent, in places with regularly appointed magistrates, by the vice-governor of the comitat to the chief of police, as well as, through the superior presiding judge, to the heads of municipalities; by the mayor of municipal towns to the chief of police, and by the mayor of the capital to the chief of the royal government police.

§ 64. Duties of the police authorities of first instance:

(a) To hinder such persons who possess no passport, or who are not allowed to emigrate on account of a reason stated by law, or by § 2 of this instruction, from emigrating.

For this purpose they are especially obliged to superintend continuously the railway lines and means of communications passing places lying on the frontier, and passing through centres of traffic as well as through neighboring municipalities, to force persons under suspicion of intending to emigrate to prove their identity and to arrest those who possess no passport or who are in trouble with the police.

(b) To punish persons who incite others to emigrate, and to find out and to punish the agents of contractors who are prohibited to undertake transports of emigrants, and to act according to §§ 46-48 of the law and §§ 67-70 of this instruction relative to letters, printed matter, and ship tickets sent out by them.

(c) To control the actions of licensed contractors from time to time or in cases of complaints to examine the management of the business and the books; to issue instructions for settlement of complaints on the basis of the civil law, and to take measures against those persons who violate the regulations.

(d) To make reports on important cases, and on such cases as require the action of the superior authorities.

(e) To examine the contracts submitted to them by the highest officer of the municipal town, in compliance to § 63, from their own point of view, and to open proceedings in case of suspected violation of the regulations; besides this the superior presiding judge (Oberstuhlrichter) has to refer the contracts to the competent head of the municipality, and to keep an eye upon his actions in emigration matters.

The chief of police of municipal towns, as well as of places with regularly appointed magistrates, finally the chief of the royal government police of the metropolis must, besides the duties contained in these paragraphs, also comply with the obligations as prescribed by sec. (a), (d), and (e) of § 65.

§ 65. The head of a municipality :

(a) It is his duty, when application for a passport is made, to ascertain from the statements of the applicant, or from those of other persons examined for this purpose, and after having taken into consideration the circumstances as to whether an intention to emigrate exists, and if this be the case, whether the same is not contradictory to one of the reasons disallowing the same as specified in the law or in this instruction; that is to say, whether the requirements prescribed by them have been complied with.

(b) He has, at once, to report to the superior presiding judge if he learns, or if he suspects, that a member of the municipality entices anyone to emigrate, or intervenes in cases of emigration.

(c) He has to follow the same course when he learns that a member of his municipality intends to emigrate without a passport.

(d) He has to give information to emigrants both regarding the obtaining of passports as well as any other matter.

(e) He has carefully to take charge of the contracts delivered to him.

A special ordinance will regulate the duties of the heads of municipalities as to the conducting of registers relative to emigrants, as well as to the furnishing of statistical data.

CHAPTER VI.—*Criminal procedure.*

§ 66. The criminal procedure, on account of infringement of the regulations fixed by the law and by this instruction, or on account of nonperformance of same, will be fixed in § 44–48 of the law.

The criminal procedure will be prescribed individually, in so far as the same refers to the contractor, his representative, the master of the vessel, and the agent.

Besides this, anyone who incites to emigration at a public meeting by speeches or by distribution or exhibition of printed matter or pamphlets commits an infringement of law, and is to be punished with arrest of not more than two months and by a fine of not more than 600 K. In accordance with § 48 of the law anyone is guilty of a misdemeanor and is to be punished likewise with arrest up to two months and a fine up to 600 K, who publishes by means of the press announcements and notices relating to emigration, contractors and their agents as have no license from the minister of the interior.

§ 67. The Government authorities referred to in § 49 shall have police jurisdiction in cases relating to emigration, in so far as the infringements were not committed by means of the press.

When the infringements determined by the law are committed by means of the press or by printed books notice is to be given to the competent royal office of the public prosecutor.

The Government authorities have to judge the infringements coming under their jurisdiction in accordance with the regulations concerning the police penal court.

The following upon such infringements have to be begun at once and have to be settled as soon as possible :

§ 68. The letters and ship tickets sent out by home or foreign managers of transportation establishments, their representatives, or agents, who have no license shall be seized and confiscated in each single case as "corpora delicti."

The publications and printed matter sent from foreign countries by foreign managers, as well as their representatives and agents, having no license shall be confiscated by the police authorities if it is not possible to prosecute the persons responsible therefor on account of their residing abroad or any other reason. The publications and printed matter confiscated in this way have to be forwarded without delay, for obtaining the consent for confiscation and destruction, to the office of the public prosecutor in whose district the confiscation was effected.

If the infringement by means of the press or by printed matter was committed by a subject of this country, or a foreigner residing in this country, and therefore the press criminal proceedings can be entered upon against a certain person responsible according to the press laws, the matter has to be referred

to the royal office of public prosecutor within whose district the printed matter of the publication in question has been distributed, for obtaining the consent of confiscation of the printed matter or the publication which formed the subject of the infringement, as well as for the purpose of entering upon the prosecution.

In case the interfering police authorities have learned, however, that the printed matter in question has already been confiscated by another authority, or that the royal office of public prosecutor has already been asked to take the necessary steps as to the confiscation and the opening of the proceedings, then they need not forward the printed matter to their own competent office of public prosecutor, or to refer the case to the same, but to that office which is the competent one relative to the territory for the other authorities (which have previously seized the printed matter).

§ 69. It is a strict duty of the police authorities to act on occasions of confiscations and seizures with the greatest care and discretion, and in such a manner that these measures do not degenerate into a molestation or into an unauthorized violation of the secrecy of letters.

It is therefore the duty of the police authorities in suspicious cases, when it is supposed that the letter contains prohibited proclamations, printed matter, or ship tickets, to convince themselves that their suspicion is a reasonable one. The suspicion is a reasonable one if the letter is stamped with the stamp or the imprint of a known contractor, agent, or representative having no license; if the letter externally bears no such a mark but has been posted at a place, municipality, or port from which emigrants are conveyed to transoceanic countries, or where managers, agents, and representatives engaged in emigration business are residing, or when the letters are addressed to persons who are suspected of intending to emigrate, or are addressed to such persons from whom it is not supposed on account of their occupation and their standard of education that they have a regular correspondence, and that therefore the correspondence can only be intended to incite and to encourage to emigration.

If the police authorities have sufficient proofs or facts on hand that a closed cover contains forbidden publications, printed matter, or ship tickets, they shall seize the same, in case it was not yet delivered to the addressee, at the post-office, and if such delivery has been made, at the house of the addressee.

The letter delivered to the authorities by the post-office, as well as the letter seized at the addressee's house, is to be opened in the presence of the addressee, and in case he be not at home, in presence of one of the adult members of his family. Minutes have to be drawn up regarding this proceeding.

In case the letter or the inclosure should not contain argumentative proofs of an infringement of this law or another punishable action, the same shall be returned to the addressee, which fact must be established by statement of date and place at which the letter is posted.

In general the regulations of the instruction No. 130,000/99 b., issued on occasion of the passing into law of the criminal procedure, are to be followed in the carrying out of the seizure.

Budapest, 18th April, 1904.

TISZA.

TRANSPORTATION OF EMIGRANTS FROM HUNGARY.

Mr. Loomis to Mr. Hale.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 13, 1904.

(Mr. Loomis states that complaints of fresh discriminations have been made by the Red Star Line, an American corporation, against the Austro-Hungarian Government concerning the transportation of emigrants from Fiume, and instructs him to investigate the matter and to bring it to the attention of the government, and to suggest at the same time favorable consideration for the application of the company for license to do business in Hungary.)

Mr. Hale to Mr. Hay.

No. 178.]

AMERICAN LEGATION,
Vienna, October 18, 1904.

SIR: I beg to state that the secretary of the Belgian legation, here at Vienna, informed me some time ago that the Red Star Line had made complaint through his mission of the action on the part of the local authorities at the Hungarian frontier in arresting would-be emigrants for the United States en route via Antwerp and bearing steamship tickets by the Red Star Line, confiscating the said tickets, and either forcing their bearers to return to their native villages or sending them direct to Fiume, alleging that embarkation from that port alone was permissible. Thirty such specific cases have been handed to the foreign office here by the Belgian minister.

The German chargé d'affaires also told me in August last that he had protested on the same grounds in the interests of the German shipping companies, and I have learned on reliable authority that the German ambassador himself last week presented 130 such cases to this Government, and also that the Government of the Netherlands has recently taken similar action. I mention these facts to show that the actions of the Hungarian frontier authorities have not been directed against the Red Star Line alone.

Yesterday morning I sent for Mr. Rudolf Strasser, the general representative of the company at Vienna, who only confirmed what I already knew in the matter. I then asked for an interview with Count Goluchowski, the minister for foreign affairs, who received me in the afternoon. Count Goluchowski stated that in regard to the action of the frontier authorities in seizing the steamship tickets of emigrants going by any line he had already protested strongly against such action to Count Tisza, the Hungarian premier, and that the latter had replied that the necessary instructions would be given immediately prohibiting such violence. When I referred to the application made by the Red Star Line for license to do business in Hungary, and suggested, as per instruction, a favorable consideration of the same, Count Goluchowski said he had heard nothing of it, but would inquire into the matter. He added, however, quite frankly that the Hungarian Government's attitude was not favorable to such a petition; that the granting of the same would naturally entail similar concessions to the German lines, and that the refusal to permit any steamship lines to establish themselves in Hungary was a matter well within the right of that government to decide.

Previous to my reception by Count Goluchowski, but after I had asked to be received by him, I received a letter from Mr. Edward Strasser, the manager of the Red Star Line at Antwerp, stating that he had been notified of your cable instruction to me, first above referred to, and that he would come to Vienna any time after the 20th instant that I would name to fully explain the situation. I have just written to him stating that I was received by Count Goluchowski yesterday and am reporting to-day the result of my interview to the Department, and have suggested that unless he feels that the embassy is not fully enough acquainted with the situation that his journey here is not necessary.

I have, etc.,

CHANDLER HALE.

Mr. Hay to Mr. Hale.

No. 111.]

DEPARTMENT OF STATE,
Washington, October 19, 1904.

SIR: I confirm the Department's telegram to you of the 13th instant.

I inclose herewith original papers which the Red Star Line, through its counsel, Mr. S. C. Neale, has submitted to the Department.^a They appear to make out a prima facie showing of discrimination against the Red Star Line in favor of the Cunard Line by the Hungarian authorities, and the Department feels justified in instructing you to use your good offices in behalf of the American interests discriminated against to obtain proper relief for them.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Hale.

No. 116.]

DEPARTMENT OF STATE,
Washington, October 29, 1904.

SIR: I inclose a copy of a letter from the Secretary of Commerce and Labor in regard to the case of Mrs. Maria Horniak, the wife of a citizen of the United States, who was compelled by an official of the Hungarian Government to forfeit her prepaid passage ticket to this country and to purchase another ticket via the Cunard Line from Fiume, Hungary.^a

You will take this case up in connection with the several complaints recently brought to the attention of the Department by the International Maritime Company, concerning which an instruction was sent on the 19th instant. * * *

I am, etc.,

JOHN HAY.

Mr. Storer to Mr. Hay.

No. 184.]

AMERICAN EMBASSY,
Vienna, November 17, 1904.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 111, with its inclosures.

The opinion and attitude of the Austro-Hungarian Government, as stated by the minister of foreign affairs on this subject, was reported to the Department by Mr. Hale's No. 178, bearing date of the 18th of October, 1904, the receipt of which has not yet been acknowledged by the Department.

* * * * *

It would seem that the renewed application to the foreign office of the Austro-Hungarian Government on precisely similar grounds and reasons as has heretofore been made would be fruitless in view of the situation as stated in Mr. Hale's dispatch, referred to above.

I have, etc.,

BELLAMY STORER.

Mr. Storer to Mr. Hay.

No. 186.]

AMERICAN LEGATION,
Vienna, November 29, 1904.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 116, bearing date of October 29, 1904, calling for inquiry into the circumstances under which Mrs. Horniak has made complaint to the Department in regard to her treatment by a Hungarian official at Fiume. * * *

Notwithstanding the fact that the Department has not yet acknowledged Mr. Hale's dispatch No. 178, bearing date of October 18, 1904, with reference to the complaints of the Red Star Line, and also that sufficient time has not elapsed for reply to my No. 184, bearing date of November 17, 1904, I have deemed it advisable to have another personal interview with the Austro-Hungarian foreign office on this subject.

Mr. de Mérey, the chief assistant secretary, is a Hungarian, and therefore I placed, to-day, the general question again before him instead of Count Goluchowski, pointing out the likelihood that some measures of reprisal might be urged before our Congress at its early meeting next month, as had been the case last spring.

Mr. de Mérey was deeply interested in the question, not only from the standpoint of the foreign office, but also as a Hungarian; and asked me to let him make a full exposition of the difficulties the foreign office had to labor under.

It would appear that immediately on the assumption of office of the Tisza ministry in November, 1903, great energy was displayed in putting into operation in a vigorous and rigorous fashion the general law concerning emigration from Hungary, framed, but not put into execution by its predecessor in office next but one—the ministry of Mr. Koloman de Széll.

Full text of the law originally drafted under Széll in the spring of 1903, of the law modified in certain particulars as put into force, and of the several degrees or orders issued by Count Tisza as minister of the interior, under the provisions of the law to give effect to its operation, were transmitted to the Department at the time.

The new ministry, presided over as it is by a man of immense energy, of broad modern ideas of progress, and great self-reliance, set itself naturally to develop the commercial interests of the only seaport Hungary possesses—Fiume—of which the country is very proud, and to improve which expenditures relatively enormous have been made.

As heretofore described to the Department, the Hungarian Government bound itself to furnish 30,000 emigrants from Fiume to the Cunard Company, and the sense of this obligation was felt from the top to the bottom of the Hungarian officialdom. There is no denial or doubt, Mr. de Mérey gave me to understand, that discrimination against all Atlantic lines other than the Cunard Company for Fiume was intended, and that the same was urged upon and expected from all subordinate officials throughout Hungary.

Soon, however, the chances of commercial and political reprisals both on the part of the navigation companies other than the Cunard and of the Government of the United States became visible.

Keen competition by other shipping lines via Trieste, to which the provincial and local governments of the Austrian provinces interested gave welcome, began to threaten; and the session of our Congress last spring, just at its close, was full of warnings for the Hungarian Government.

This latter felt itself compelled to cancel certain features of its contract with the Cunard Company, including the guaranty of the number of emigrants to be at least 30,000, and the widespread outcry against the acts of its officials, emanating from the hostile shipping lines, both through the press of Europe and through the diplomatic representations from the home countries of these rival merchant fleets, compelled the relaxation of the efforts to compel forcibly all emigration to pass through the official channel.

In fact countermanding orders have been issued from the ministry of the interior denouncing and prohibiting any official interference with the route chosen by those intending to emigrate. But, it was added, perhaps not unnaturally, such orders were slower to affect the mind of the under officials, and bring about their hearty and instant obedience, than the original efforts to develop Fiume, to which national pride and popular feeling had given an impulse, apart from official instructions.

Count Tisza has personally urged Mr. de Mérey to send in at once the details of any complaint of the action of any Hungarian officials, and the ministry of the interior will, without the slightest delay, make instant inquiry, hold functionaries to strict measure of account, and see that justice is done.

Here I may interpolate that last week Mr. Strasser, the director of the Red Star Line, called in person at the embassy to bring sundry cases of what is said to have been unjust and tyrannical action of the Hungarian minor authorities as to emigrants intending to go to America via Antwerp and holding tickets for that object.

Mr. Strasser told me that his company had no doubt in the world of the good faith of Count Tisza in seeing the mistakes heretofore made and in trying to remedy them. He knew that orders, as I have described, had been issued by the ministry of the interior. He claimed, however, that up to this time such orders had been of little effect on the subordinate officials, with whom the agents' fee of 18 kronen, paid by the Cunard Company to every person (official or otherwise) who was the means of bringing an emigrant to the vessels of that company at Fiume, was more powerful than the instructions of their own official chiefs.

At the close of this explanation Mr. de Mérey urged me to submit through the foreign office to Count Tisza each and every case of alleged oppressive action or improper interference with the free departure of any one in whom the United States Government had any interest or duty, as it was the request of the Hungarian Government that all such cases be brought to its attention in order to probe them to the bottom.

Accordingly, following your instructions, I shall transmit to the foreign office, for the attention of the Hungarian Government, all cases notified to the embassy either by the Department or the Red Star Line.

I have, etc.,

BELLAMY STORER.

Mr. Hay to Mr. Storer.

No. 121.]

DEPARTMENT OF STATE,
Washington, December 14, 1904.

SIR: Referring to the Department's No. 116 of October 29 last, I inclose a copy of a letter from Mr. John Horniak, post-office box 48, Freeland, Pa., setting forth the circumstances under which his wife, Mrs. Maria Horniak, has made complaint in regard to her treatment by a Hungarian official at Fiume and the damages sustained in being compelled to purchase a ticket to the United States by the Cunard Line, notwithstanding the fact that she held a prepaid ticket by the North German Lloyd.^a

Supplementary to the instructions already received by the embassy in connection with this and similar cases of complaint, you will transmit a statement of the facts set forth in Mrs. Horniak's case to the foreign office for the attention of the Hungarian Government.

Where American citizens are treated by the authorities as were Mrs. Horniak and others whose cases have been notified to the embassy by either the Department or the Red Star Line, at least restitution of the property taken from them and reimbursement of actual additional expenses should be made to them.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Storer.

No. 122.]

DEPARTMENT OF STATE,
Washington, December 14, 1904.

SIR: Referring to the instructions of this date in connection with the case of Mrs. John Horniak and similar cases, I inclose a copy of a letter from Thomas Capek, esq., of 300 East Seventy-second street, New York City, submitting the complaint of Mrs. Sophia Vanco (otherwise Wancho) of treatment received at the hands of Hungarian officials, the seizure of her ticket, etc.^a

You will, in addition to the cases of similar character already transmitted to the foreign office, present Mrs. Vanco's case, with a view to a thorough inquiry into the causes of these complaints and to suitable restitution and reimbursement, as pointed out in the Department's instruction in connection with the case of Mrs. Maria Horniak, above referred to.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Storer.

No. 123.]

DEPARTMENT OF STATE,
Washington, December 15, 1904.

SIR: I have to acknowledge the receipt of your dispatch No. 186, of the 29th ultimo, concerning the complaint of Mrs. Maria Horniak in regard to the seizure of her prepaid ticket and her treatment by Hun-

garian officials and reporting your interview with the under secretary of state on the subject of Hungarian emigration.

The Department is pleased to note the disposition of the Austro-Hungarian foreign office to promptly investigate the complaints made by American citizens and to see that justice is done in each case.

I am, etc.,

JOHN HAY.

MEDICAL EXAMINATION OF EMIGRANTS AT PORTS OF DEPARTURE.

Mr. Adee to Mr. Hale.

DEPARTMENT OF STATE,
Washington, August 19, 1903.

SIR: Under date of the 15th instant the Secretary of Commerce and Labor writes that it is his Department's desire, in its efforts to enforce the act of March 3, last, "to regulate the immigration of aliens into the United States," to prevent by every lawful means the immigration into this country of persons afflicted with loathsome or dangerous contagious diseases. This work would be greatly facilitated and the hardship on the steamship lines would be decreased if permission were given, by the principal countries from which emigrants leave for the United States, to this Government to station at the ports of embarkation officers of the United States Public Health and Marine-Hospital Service to make a medical inspection of all persons intending to emigrate to the United States.

Under these circumstances you may make inquiry of the Government to which you are accredited whether it has any objection to such a course, and the Department would be glad if you would report as soon as possible the answer received by you.

I am, sir, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Hale to Mr. Hay.

No. 156.]

AMERICAN LEGATION,
Vienna, July 19, 1904.

SIR: Referring to the Department's unnumbered dispatch of August 19, 1903, instructing that inquiry be made of the Imperial and Royal Austro-Hungarian Government whether permission would be granted to the United States Government to station at the ports of embarkation of this Empire officers of the United States Public Health and Marine-Hospital Service to make a medical inspection of all persons intending to emigrate to the United States, and thereby facilitate the enforcement of the immigration act of March 3, 1903, I have the honor to inform you that in reply to my note of September 2 last, the foreign office, in a note of recent date, states that it is not possible, in conformity with the existing regulations governing the practice of medicine in this country, to permit foreign sanitary officers not licensed (in Austria) to make such a medical inspection; but

that the Austrian government is disposed, however, to permit American sanitary officials to be present at the medical inspections made by the Austrian authorities of all persons intending to emigrate to the United States and that they (our representatives) may on such occasions, if deemed necessary, express their opinions.

As will be seen from the reply above referred to (a copy of which, together with translation is inclosed herewith), the Austrian government asks a guaranty from the United States Government that in all cases where emigrants may embark after passing the required medical inspection on this side in the presence of an American sanitary official and with the consent of the latter, they will not later be refused admittance by the United States immigration authorities on the basis of the act of March 3, 1903, saving when the reason justifying such refusal has developed after the medical examination at the port of embarkation. Respecting which, as well as in regard to a more detailed statement as to the sphere of action which the United States Government wishes to have granted to its sanitary officers, the Austrian government awaits further correspondence.

As also will be seen from the inclosed note from the foreign office, the Hungarian government's reply is on the same general lines as those of the Austrian government.

I have, etc.,

CHANDLER HALE,

[Inclosure.—Translation.]

Mr. Müller to the American Legation.

IMPERIAL AND ROYAL MINISTRY FOR FOREIGN AFFAIRS.

In the esteemed note, No. 24, of September 2 last, Mr. Chandler Hale, the chargé d'affaires, took occasion to ask whether permission would be granted to the Government of the United States to station at the ports of emigration of the Monarchy officers of the American Public Health and Marine-Hospital Service, whose duty would be to make a medical inspection of all emigrants intending to go to the United States and thus facilitate the enforcement of the immigration act of March 3, 1903.

The ministry for foreign affairs has not failed to communicate this suggestion to the Imperial Austrian and the Royal Hungarian Governments and now begs to inform the embassy of the United States of America of the replies received in answer thereto.

The Austrian Government, which has itself a great interest in preventing emigrants afflicted with loathsome or dangerous contagious diseases from going to the United States by the regularly established emigrant ships, fully appreciates the endeavor of the American Government to enforce the law above referred to in so far as it is its intention to prevent all such persons—viz, those falling within the sanitary regulations—from entering the country, and is, in principle, disposed to do its utmost to cooperate in this endeavor in Austrian territory. The Austrian Government is intending, on the regular emigrant steamship service under its control between the ports of Austria and the United States, to arrange regulations such as will guarantee the careful medical inspection of all emigrants prior to embarkation. It is not possible, however, in conformity with the existing regulations governing the practice of medicine in this country, to permit foreign sanitary officers, not licensed (in Austria), to make such a medical inspection.

The Austrian Government is disposed, however, to admit the presence of American sanitary officials at such medical inspections, undertaken in accordance with the provisions above referred to, and that they may on such occasions, if deemed necessary, express their opinions. This government would be the more willing to comply with the suggestion above referred to, if the American Government could see its way to guarantee that all emigrants who may embark

after medical inspection in the presence of an American sanitary officer and with the consent of the latter will not later be refused admittance by the American immigration authorities, despite of such inspection, on the basis of the section of the law above referred, saving in cases when the reason justifying such refusal has developed after the medical examination made at the port of embarkation. Respecting which, as well as in regard to a more detailed statement as to the sphere of action which the American Government wishes to have granted to its sanitary officers, in conformity with the suggestion above referred to, the Austrian Government awaits further correspondence.

The Royal Hungarian Government is also of the opinion that it is not possible to permit American health officers to act in their medical capacity at the port of Fiume.

But, owing to the purpose which the Government of the United States has in view, the Hungarian Government is likewise willing to comply with its wishes in so far as possible. In this respect it issued, on July 21, 1903, a circular regulation, in which the attention of all the municipalities of the country was called to the regulations of the law of March 3, 1903, restricting immigration, at the same time instructing them to publish the said regulation and make it known that the issuance of passports was forbidden to persons who, in conformity with the provisions of the said law, would not be allowed to enter the territories of the United States.

By another ordinance, which is already in force and which regulates the medical inspection of emigrants and the ships' crews, the exclusion of sick persons, the embarkation and the moral and hygienic protection of the said emigrants, a special official physician has been appointed to supervise the emigration sanitary inspection service, who has received strict instructions based on the regulations of the American immigration law.

How strictly the Hungarian officials have adhered to the regulations of these ordinances will be seen from the fact that out of 8,770 emigrants leaving Hungary since November 14, 1903, of whom 5,814 embarked at Fiume and went to the United States on nine ships, and 2,956 by way of Antwerp and Liverpool, but 15 persons—viz, not quite 0.02 per cent—were not allowed to land by the immigration officials of the United States of America, and the majority of these were not detained on sanitary grounds, but for other reasons, which proportion may be considered quite satisfactory.

As an example of how strictly the regulations (above referred to) have been adhered to, we may mention that as the result of medical inspection before embarking from Fiume the following number, intending to emigrate, were detained: 142 persons by *Carpathia*, on April 19, 1904; 36 persons by *Ultonia*, on May 3, 1904; 179 persons by *Slavonia*, on May 18, 1904, and it is certain that if the performance of this service were intrusted to health officers of the United States of America it could not be more rigorously and carefully undertaken.

But in order to give further proof of its readiness to comply with the wishes of the Government of the United States, the Hungarian Government has willingly agreed that a medical officer attached to the American consular agency at Fiume may be present at the embarkation of emigrants and at the medical inspection taking place prior thereto, who, as a matter of course, would not be empowered to influence or to hinder the Hungarian officials in the discharge of their duty.

For the minister.

MÜLLER.

BELGIUM.

NEUTRALITY OF CHINA IN THE WAR BETWEEN RUSSIA AND JAPAN.

Mr. Hay to Mr. Townsend.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 10, 1904.

(Mr. Hay instructs Mr. Townsend to consult the Belgian Government in regard to the possibility and desirability of an arrangement between the neutral powers to use their good offices with Russia and Japan for the purpose of inducing them to respect China's neutrality and administrative entity as far as possible, limiting and localizing the area of hostile operations to minimize the disturbance and excitement of the Chinese people and the injury to commerce and to the peaceful intercourse of the world. If no opposition to this proposition is offered he is instructed to suggest that the representatives of Belgium at St. Petersburg, Tokyo, and Peking be instructed in this sense.)

Mr. Townsend to Mr. Hay.

No. 215.]

AMERICAN LEGATION,
Brussels, February 11, 1904.

SIR: I have the honor to acknowledge the receipt, at 8 a. m. to-day, of Department's cablegram.

In conformity with instructions, I have just had a consultation with the minister for foreign affairs, in which I outlined the proposition as set forth in Department's cablegram. I took occasion to point out to him how identical were the commercial interests of Belgium and the United States in China, which fact he agreed with.

He refrained, however, from expressing an opinion as to whether his government would or would not accept the proposition for joint action by the neutral powers. He informed me, however, that he would immediately submit the proposition to His Majesty the King and the Government, and would give me a reply as soon as possible.

* * * * *

I will communicate by cable to the Department the reply of the Belgium Government to the proposition transmitted as soon as received.

I have, etc.,

LAWRENCE TOWNSEND.

Mr. Hay to Mr. Townsend.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 15, 1904.

(Mr. Hay informs Mr. Townsend that the representatives of England, Germany, France, and Austria at St. Petersburg and Tokyo have already been instructed by their governments in the sense of our proposals.)

Mr. Hay to Mr. Townsend.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 16, 1904.

(Mr. Hay informs Mr. Townsend that the Government of the United States desires China's neutrality to be respected everywhere as far as practicable in a state of war which must, of course, be carried on in part on the waters or soil of China, but to make a general agreement of the powers possible this Government can not specify metes and bounds. Our general view has been accepted by nearly all the powers, and their representatives at St. Petersburg, Peking, and Tokyo are being instructed in that sense.)

Mr. Townsend to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Brussels, February 16, 1904.

(Mr. Townsend reports that the Belgian Government is prepared to accept the proposition of the Government of the United States, with the understanding that "administrative entity" does not include Manchuria. The Belgian representatives at St. Petersburg, Tokyo, and Peking will be instructed to that effect.)

Mr. Townsend to Mr. Hay.

No. 216.]

AMERICAN LEGATION,
Brussels, February 16, 1904.

SIR: I have the honor to confirm my cable of this day.

The above cable is the result of my consultation to-day with the minister for foreign affairs. He informed me that he was prepared to accept our propositions in principle, but with certain restrictions, as he understood it had been so accepted by the other powers. He desired to know what our position was in relation to Manchuria—whether we excluded that province in contemplating the neutrality of China and its administrative "whole."

I informed him that my understanding of our proposition as set forth in Department's cable of 10th instant was that it contained a general principle promulgated exclusively for the benefit of the world at large, and with the sole desire of preventing the possible spread of war and bloodshed throughout China, and at the same time offering a possible protection to the commerce of the neutral powers of the world. I explained to the minister, who does not speak English, that the wording of the proposition did not show a desire on the part of my Government to define the limits of the Chinese Empire or any of its provinces, that the expression "administrative entity of China" did not necessarily mean the integrity of China, but rather the existant administrative condition of China, that the delicate position of Manchuria being perhaps a "casus belli" was one that naturally my Government would not touch upon.

He accepted this view of the proposition and informed me that instructions in this sense would be immediately forwarded to the Belgian representatives at St. Petersburg, Tokyo, and Peking.

I have, etc.,

LAWRENCE TOWNSEND.

Mr. Townsend to Mr. Hay.

No. 217.]

AMERICAN LEGATION,
Brussels, February 17, 1904.

SIR: I have the honor to acknowledge the receipt of cablegram of 16th instant.

I am glad that my view of the scope of the original proposition in regard to the neutrality of China, as explained yesterday to the minister for foreign affairs and outlined in my dispatch No. 216, of 16th instant, has been thus, in a measure, confirmed by the Department.

I have the honor to be, etc.,

LAWRENCE TOWNSEND.

[NOTE.—On this subject see circular instruction of February 20, 1904, p. 2.]

F R 1904 M—7

BOLIVIA.

TERMINATION OF THE DISPUTE WITH BRAZIL OVER THE ACRE TERRITORY.

Mr. Sorsby to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
La Paz, Bolivia, December 26, 1903.

(Mr. Sorsby reports that on Thursday the Bolivian Congress ratified the treaty with Brazil which provides that three months after exchange of ratifications Brazil is to pay an indemnity of £1,000,000 and in March, 1905, £1,000,000. A small strip of territory, north Marso, Brazilerio, embracing Bahia Negra and a port opposite Coimbra, on Paraguay River, are conceded, and all responsibilities respecting Peruvian contentions are assumed. The disputed Acre territory is conceded by Bolivia. A railroad for the common use of both countries is to be built from San Antonio, on Madeira River, to Cuajar Ameren, on Mamore River, within four years after ratification. Free navigation on the Amazon and its Bolivian affluents is conceded. A mixed commission, with umpire chosen from the diplomatic representation to Brazil, will treat all individual Acre claims.)

[NOTE.—On this subject see under Brazil, p. 104.]

MESSAGE OF THE PRESIDENT TO THE BOLIVIAN CONGRESS.

Mr. Sorsby to Mr. Hay.

AMERICAN LEGATION,
La Paz, Bolivia, August 8, 1904.

No. 144.]

SIR: I have the honor to transmit herewith two copies of President Pando's final message.

A large part of the President's message is devoted to the discussion of the subject of railways for Bolivia, and it is strongly recommended that a thorough examination and study of the country and the several proposed railway lines be made by competent railway engineers before definite arrangements with respect to concessions or contracts for the construction of any of said lines be given, the expenses for such surveys and studies to be paid out of the interests accruing on the £2,000,000 Brazilian indemnity, which indemnity fund, it is generally agreed, shall be wholly employed in the development of railways in the country.

I have, etc.,

WILLIAM B. SORSBY.

[Inclosure.]

[Translation—Extracts.]

Honorable Senators, Honorable Deputies:

The legal period of the mandate which confided the delegate functions of the presidency to my person having matured, I have the honor to present myself once more before the honorable Congress, to give an account of the principal acts of the administration belonging to the last year and to resign to the honorable Congress the functions of the high office exercised.

In fulfilling this honorable duty I salute with respect the honorable representatives of the nation here assembled on the date which commemorates the foundation of the Republic for the highly important object of the change of the personnel of the executive, conformable to the vote expressed by the people in the last electoral contest.

It is for me a cause of great satisfaction to finish my duties in the midst of the tranquillity and confidence which come from the preservation of public order in the interior. In this delicate task I have been aided by the desires and the sentiments of the whole nation.

* * * * *

My Government has developed invariably a policy of tolerance and of justice, adapted to the social state of the country. The liberty of the press, even in its greatest aberrations, has always met with respect and tolerance; the rights and securities of the citizens have been protected with solicitude, and the tendency has been toward cementing internal peace in the absolute power of the constitution to make it stable and fruitful.

* * * * *

Our international relations with the states of the continent and the powers of Europe that honor us with their friendship have been maintained and cultivated with preeminent attention. Their worthy representatives have received from my Government the proofs of courteous cordiality that can facilitate the discharge of the diplomatic steps with which they were intrusted.

The demarcation of boundaries with the Argentine Republic will continue in the current year, except as regards the question relative to the territories next to the town of Yacuiba, by the protocol of January 28 last.

With the advance of the works of the North Central Argentine Railway the commercial relations of both countries must increase, by consolidating the union of the two people upon the foundation of sentiments as cordial and affectionate as they are spontaneous and lasting.

Mr. José Maria Escalier, accredited as envoy extraordinary and minister plenipotentiary on special mission to the Argentine Government to procure, jointly with the minister of Peru, Mr. Osma y Pardo, the acceptance of the arbitration juris stipulated with that nation, communicates to us that he has obtained a satisfactory termination, declaring officially the acceptance of the Argentine Government as arbiter in our questions of boundaries with Peru.

* * * * *

In the fulfillment of the treaty of Petropolis the Government of Brazil has placed at the disposition of that of Bolivia, through the medium of the accredited firm, Rothschild, the sum of £1,000,000, corresponding to the first installment of the fund of indemnification. This sum remains at the disposition of the National Government, earning the interest of 1½ per cent per annum. The honorable Congress will give, within the stipulations of the agreement to which I have made reference, the application that it may judge most pertinent and reproductive.

* * * * *

In execution of the agreement of November 17, 1903, and for the effects of the arbitration stipulated upon the claims resulting from the insurrections and the warlike state of Acre, the Government of Brazil has designated to represent it the distinguished statesman, Mr. Carlos Augusto de Carvalho. The stipulation of a prorogation at the place of the reunion of the court until the 10th day of November next has been authorized.

The organization of the committee of boundaries belongs to the Government, in order that it may proceed to the execution of the works of demarcation of frontiers with Brazil, in conformity with the treaty of Petropolis.

* * * * *

Consistent with the programme adopted by my Government to settle international differences by the peaceful means of diplomacy, whenever the negotiations consult the mutual interests of the high parties that meet for a solution of that nature, every effort has been made to arrive at an agreement with the neighboring Republic of Chile. Causes, independent of the will of our office of chancellor, have deferred this solution, which the convenience of both countries makes necessary. I earnestly desire that the preeminent labor of the Government that has begun may be the prudent and successful settlement of this business in harmony with the aspirations of the Bolivian people under the peculiar idea of the present conditions of the nation.

Mr. Ignacio Calderon, accredited envoy extraordinary and minister plenipotentiary of Bolivia to the Government of the United States of North America, has been officially received by the President, Mr. Roosevelt, on May 27 last.

Mr. Calderon is, besides, charged with promoting the formation of a company of builders of railways, a task that he has undertaken with activity and good results, transmitting the reports that will be submitted to you by the office of the division.

The Government recognized under date of April 20 last the independence of the new Republic of Panama, Mr. Ignacio Calderon being charged with the personal presentation of this document on his passage through the Isthmus. The opening of the canal is a thing that must advantageously influence the commercial currents of the Pacific.

* * * * *

Pending the decision of the President of the Argentine Republic, the arbitration juris stipulated with the Government of Peru, and the acceptance of the arbiter being officially declared, the representatives of each one of the countries that are to be present at the arbitral judgment should be at once established, presenting their allegations of defense within the limits of a year. The Government has a sufficient store of documents for the defense of the rights of Bolivia in the archives of the office of foreign relations, and some other means having been adopted for the acquisition of other elements of defense which are able to reenforce our perfect right over the territories comprised in the court of Charcas.

* * * * *

Conformable to the desires of the honorable House of Deputies, a project of a commercial treaty has been subscribed with Mr. Joseph Belin, chargé d'affaires of France, which yet does not have the approval of the high parties contracting, to be submitted to your consideration.

I am able to announce to you with the greatest satisfaction that our diplomatic relations with the European powers are every day more extended, the legations of Germany, Austria, Spain, England, and Italy existing at present, accredited to the Government of the nation, although without residence in the country.

BRAZIL.

MISUSE OF THE FLAG OF THE UNITED STATES.

Mr. Thompson to Mr. Hay.

No. 109.]

AMERICAN LEGATION,
Petropolis, January 4, 1904.

SIR: I have to report that upon receipt of a letter from Consul Furniss, at Bahia, under date of May 16, 1903 (copy inclosed), informing me of the use by a Brazilian line of sailing vessels of a house flag very much resembling one of the forms of our national ensign, I brought the matter to the attention of the foreign office in an unofficial note of May 25, 1903 (copy inclosed), informing Mr. Furniss of the steps taken in a letter dated May 26, 1903 (copy inclosed). Receiving no answer from the foreign office, I again wrote to Baron Rio Branco under date of September 9, 1903 (copy of letter inclosed), receiving an acknowledgment of the receipt of this note and of my previous one, under date of September 30, 1903 (copy and translation inclosed).

Although I have received no further communication from the foreign office, I learn through the official paper that the minister of justice has now taken the necessary measures to prevent the further use of the flag resembling our national ensign by the line of vessels referred to.

I have, etc.,

D. E. THOMPSON.

[Inclosure 1.]

Mr. Furniss to Mr. Thompson.

AMERICAN CONSULATE,
Bahia, July 16, 1903.

DEAR SIR: Under date of July 18, 1901, I wrote to Minister Bryan relative to a line of Brazilian sailing vessels which were using as their house flag a flag so closely resembling our national ensign that it can not be differentiated at a short distance, and asked his assistance to have its use prevented.

In August of the same year, when Colonel Bryan was passing through this port on the U. S. S. *Atlanta*, he informed me that the matter had been called to the attention of the Brazilian Government, and that he had been assured that its use would be prohibited.

The boats flying the flag are the property of the Bahia-Pelotas firm of Rosa, Carvalho & Co., and are in the "carne secca" trade between the ports mentioned. At present there are three of these vessels in port, and a few days ago my attention was called to the fact that they were flying the objectionable flag at the mainmast.

The flag is an exact facsimile of ours, with the exception that the stars in the blue field are arranged in a circle, in the center of which appear the letters "R. C." arranged as a monogram.

The arrangement of the stars in a circle is permitted by our Government when 13 stars are used, and that, coupled with the fact that the monogram is so small as to be either indistinguishable or not noticed by one even at a short distance, makes its continued use by a Brazilian vessel very undesirable.

This matter is called to your attention that you may give it such action as the matter necessitates.

I am, etc.,

H. W. FURNISS.

[Inclosure 2.]

Mr. Thompson to Dr. Rio Branco.

AMERICAN LEGATION,
Petropolis, May 25, 1903.

MR. MINISTER: I herewith inclose you a sketch of the house flag used by the Brazilian firm of Rosa, Carvalho & Co., of Bahia and Pelotas, and regularly displayed in their ships which are engaged in the coastwise trade, and are registered at Pelotas.

You will observe that this flag is substantially identical with the flag of my country, having 13 stripes alternately red and white, and a blue field in which stars are disposed in a circle in one of the forms authorized by our statutes and frequently used.

The striking resemblance will appear by comparing the lithograph copy of our national ensign which I inclose with the sketch of the house flag of Rosa, Carvalho & Co.

Our consular officers in Brazil have called my attention to the use of this ensign, and I believe you will agree with me that confusion may arise from the similarity of the two flags, and that Brazilian port officials as well as our consular officers might well mistake a Brazilian ship for an American or an American for a Brazilian.

I do not know whether your Government has adopted any regulations in regard to the use of a national ensign as a house flag of a private firm, but I venture to call your attention for such action by the proper officials as may seem to you and them proper.

D. E. THOMPSON.

[Inclosure 3.]

Mr. Thompson to Mr. Furniss.

AMERICAN LEGATION,
Petropolis, May 26, 1903.

DEAR SIR: I have received your letter of May 16, 1903, reporting that the Brazilian shipowning firm, Rosa, Carvalho & Co., of Pelotas and Bahia, are using as a house flag on their ships an ensign which is practically identical with the flag of the United States. Your letter on the same subject of July 18, 1901, to my predecessor, Mr. Bryan, was answered by him on August 10, 1901. He said to you: "I have called the attention of the minister of foreign affairs to the matter and he has suggested such communication with the house responsible therefor as is likely to prevent a recurrence of the abuse in the future." It seems probable that Mr. Bryan meant that you should communicate with the house. There is no correspondence here indicating that he or the Brazilian minister of foreign affairs have taken any such action. I infer from your letter that you have not made a direct protest to Rosa, Carvalho & Co. since receiving Mr. Bryan's letter. If I am wrong, please advise me. I think a request to Rosa, Carvalho & Co. to discontinue the use of the United States ensign as a house flag on Brazilian ships should properly come from the Brazilian authorities. The vessels are directly under their control and not under ours. It seems to me the Brazilian Government would disapprove of Brazilian ships carrying a flag which makes them appear foreign. I have therefore written the minister of foreign affairs, calling his attention to the matter for such action by the proper authorities as he may deem proper.

I am, sir, etc.,

D. E. THOMPSON.

[Inclosure 4.]

*Mr. Thompson to Dr. Rio Branco.*AMERICAN LEGATION,
Petropolis, September 9, 1904.

Mr. MINISTER: On May 25 I had the honor of addressing you a note on the subject of the use, by a line of Brazilian sailing vessels plying between Bahia and Pelotas, of a house flag very much resembling the national ensign of the United States, to which we have as yet received no answer.

I would be pleased if you would be so good as to tell me the conclusion, when it has been reached, of the proper authorities.

I avail, etc.,

D. E. THOMPSON.

[Inclosure 5.—Translation.]

*Doctor Rio Branco to Mr. Thompson.*MINISTRY OF FOREIGN AFFAIRS,
Rio de Janeiro, September 30, 1903.

I have the honor to acknowledge receipt of your excellency's note of the 9th instant, asking for my attention to your note of May 25 last, on the use by a line of Brazilian merchant vessels plying between Bahia and Pelotas of a flag much resembling the national ensign of the United States.

In reply I have to say to your excellency that I have brought your note to the knowledge of my colleague of the navy department, whose reply I am awaiting in order to, in due time, transmit it to you, to whom I have the pleasure of reiterating the protests of my high consideration.

RIO BRANCO.

Mr. Dawson to Mr. Hay.

No. 117.]

AMERICAN LEGATION,
Petropolis, February 9, 1904.

SIR: Referring to the subject of the use by a line of Brazilian sailing vessels of a flag resembling one form of our national ensign, I send inclosed herewith copy and translation of the official note just received confirmatory of the fact reported in Mr. Thompson's No. 109, of January 4, as to the discontinuance of this abuse by order of the authorities.

I have, etc.,

THOMAS C. DAWSON.

[Inclosure.—Translation.]

MINISTRY OF FOREIGN AFFAIRS,
Rio de Janeiro, January 30, 1904.

Supplementing my note of September 30 to Mr. David E. Thompson, I now have the honor to inform you that, according to the declaration of my colleague of the navy, the Brazilian firm of Rosa, Carvalho & Co., of Pelotas, has already ordered the flag used on its ships to be substituted, complying thus with the request contained in the note from your legation of May 25 last.

I avail, etc.,

RIO BRANCO.

**TREATY WITH BOLIVIA TERMINATING THE DISPUTE OVER THE
ACRE TERRITORY.**

Mr. Dawson to Mr. Hay.

No. 114.]

AMERICAN LEGATION,
Petropolis, January 23, 1904.

SIR: I herewith transmit a copy and translation of the text of the boundary treaty between this country and Bolivia, recently submitted to the Brazilian Congress for ratification and only published on January 9.

Opposition to ratification has largely ceased since the exact terms of the treaty have been made public, and the advantages accruing to Brazil demonstrated by Baron Rio Branco's exposition.

A large majority in the Chamber of Deputies is assured for ratification and this is expected to be given within a few days. The treaty will then go to the Senate, where 38 of the 63 votes are, so I am verbally informed, pledged in favor of ratification. A simple majority is sufficient.

I have, etc.,

THOMAS C. DAWSON.

[Inclosure.—Translation.]

Treaty between Brazil and Bolivia.

The Republic of the United States of Brazil and the Republic of Bolivia, animated by the desire of consolidating forever their traditional friendship, of removing the causes for possible discord, and wishing at the same time to facilitate the development of their commercial and neighborly relations, have agreed to celebrate a treaty for exchange of territories and other compensations in conformity with the stipulations of art. 5 of the treaty of friendship, boundaries, navigation, and commerce of March 27, 1867.

And for this purpose have named plenipotentiaries, to wit:

The President of the Republic of the United States of Brazil: Messrs. José Maria da Silva Paranhos do Rio Branco, minister of foreign affairs, and Joaquim Francisco de Assis Brazil, envoy extraordinary and minister plenipotentiary in the United States of America; and

The President of the Republic of Bolivia: Messrs. Fernando E. Guachalla, envoy extraordinary and minister plenipotentiary on special mission to Brazil and Senator of the Republic, and Claudio Pinilla, envoy extraordinary and minister plenipotentiary in Brazil, nominated minister of foreign affairs of Bolivia;

Who, after an exchange of their full powers, which were found to be in good and due form, have agreed on the following articles:

ARTICLE I.

The boundary between the Republic of the United States of Brazil and the Republic of Bolivia shall be established as follows:

1. Starting from lat. 20° 08' 35" south, opposite the outlet of Bahia Negra into the Paraguay River, it shall ascend this river to a point on the right bank at a distance of 9 kilometers, measured in a straight line, from the port at Coimbra; that is, approximately at lat. 19° 58' 05" and long. 14° 39' 14" west of the observatory at Rio de Janeiro (57° 47' 40" west of Greenwich), in accordance with the map of the boundary drawn by the mixed boundary commission of 1875 and it shall continue from this point on the right bank of the Paraguay by a geodesic line which shall extend to another point four kilometers distant, in the true direction of 27° 01' 22", northeast, from the so-called "boundary monuments at

the end of Bahia Negra," the distance of four kilometers being rigorously measured along the present boundary, so that this point shall be, more or less, at lat. $19^{\circ} 45' 36.6''$ and long. $14^{\circ} 55' 46.7''$ west of Rio de Janeiro ($58^{\circ} 04' 12.7''$ west of Greenwich). From there it shall extend, in the direction marked out by the mixed commission of 1875, to lat. $19^{\circ} 02'$, and thence eastward along this parallel to Arroio de Conceição, following this to its mouth on the southern bank of the outlet of Lake Caceres, also called Tamengos River. It shall ascend the river to the meridian cutting Tamarindeiro Point, and thence northward along the meridian of Tamarindeiro to lat. $18^{\circ} 54'$, continuing along this parallel to the west until it meets the present boundary.

2. From the point of intersection of parallel $18^{\circ} 54'$ with the straight line forming the present boundary it shall extend, in the same direction as to-day, to lat. $18^{\circ} 14'$, and eastward along this parallel to where it meets the outlet of Lake Mandioré, along which it shall ascend, crossing the lake in a straight line to a point on the former boundary line equidistant from the two existing boundary monuments, and thence along this former line to the boundary monument of the northern shore.

3. From the northern monument in Lake Mandioré it shall continue in a straight line, in the same direction as to-day, to lat. $17^{\circ} 49'$, and along this parallel to the meridian of the extreme southeast of Lake Gahiba. It shall follow along that meridian to the lake, and shall cross the latter in a straight line to a point equidistant from the two existing boundary monuments on the old boundary line, and thence along this former or present boundary to the entrance of the Pedro Segundo Canal, also known recently as Pando River.

4. From the southern entrance of the Pedro Segundo Canal, or River Pando, to the confluence of the Beni and Mamoré, the boundary shall be the same as that determined upon in art. 2 of the treaty of March 27, 1867.

5. From the confluence of the Beni and Mamoré the boundary shall follow down the Madeira to the mouth of the Abunan, an affluent entering on the left, and shall ascend by the Abunan to lat. $10^{\circ} 20'$. From there it shall extend along parallel $10^{\circ} 20'$ eastward to the Rapirran, and shall ascend the latter to its principal source.

6. From the principal source of the Rapirran it shall extend along the parallel of latitude of the source until it encounters to the west the Inquiry River, ascending along the latter to its origin; whence it shall extend to the "Igarapé Bahia," by the most prominent landmarks or by a straight line, as it shall seem best to the commissioners of the two countries appointed to mark the boundary.

7. From the source of the "Igarapé Bahia" it shall continue down the latter to its confluence on the right bank with the Acre or Aquiry River, which it shall ascend to its source, if the latter is not in longitude farther west than 69° west of Greenwich.

(a) In the case mentioned, that is, if the source of the Acre is in longitude not so far west as that indicated, the boundary shall follow along the meridian of the source to parallel 11° , and thence westward along this parallel to the boundary with Peru.

(b) If the Acre River, as seems certain, crosses longitude 69° west of Greenwich and extends either to the north or south of said parallel 11° , following the latter more or less, the channel of the river shall form the dividing line to its source, along the meridian of which it shall continue to parallel 11° , and thence westward along the same parallel to the boundary with Peru; but if to the west of said longitude 69° the Acre flows entirely south of parallel 11° , the boundary shall extend from that river along longitude 69° to the point of intersection with the said parallel 11° , and thence along it to the boundary with Peru.

ARTICLE II.

The transference of territories resulting from the delimitation described in the preceding article includes all the rights inherent in them and the responsibility flowing from the obligation to maintain and respect the legal rights acquired by citizens and foreigners, according to the principles of the civil law.

The claims arising from administrative acts and events that have taken place in the territories exchanged shall be examined and judged by an arbitration tribunal composed of one representative of Brazil, another of Bolivia, and of one foreign minister accredited to the Brazilian Government. This third arbiter, president of the court, shall be chosen by the two high contracting parties immediately upon the exchange of ratifications of the present treaty. The

court shall perform its functions during one year in Rio de Janeiro, and shall commence its labors within the period of six months, counted from the day of the exchange of ratifications. Its mission shall be: 1, to accept or reject the claims; 2, to fix the amount of the indemnities; 3, to designate which of the two Governments is to pay them.

The payments may be made in bonds issued for the purpose, at par, to draw interest at 3 per cent and sinking-fund charges of 3 per cent.

ARTICLE III.

Because of the fact that the areas exchanged by the two nations are not equal in extent, the United States of Brazil shall pay an indemnity of £2,000,000 (two million pounds sterling), which the Republic of Bolivia accepts with the design of applying it principally on the construction of railroads or other works tending to improve communications and develop commerce between the two countries.

The payment shall be made in two parts of £1,000,000 each, the first within the period of three months, counted from the exchange of ratifications of the present treaty, and the second on March 31, 1905.

ARTICLE IV.

A mixed commission named by the two Governments within the period of one year, counted from the exchange of ratifications, shall proceed to the demarcation of the boundary described in Art. I, commencing its labors within the six months following its nomination.

Any disagreement between the Brazilian and Bolivian commission which the two Governments may not succeed in settling shall be submitted to the arbitral decision of a member of the Royal Geographical Society of London, chosen by the president and members of the council of the same.

If the commissioners appointed by either of the high contracting parties to delineate the boundary fail to present themselves at the place and on the date agreed upon for the commencement of their labors, the commissioners of the other shall proceed of themselves to the marking, and the result of their operations shall be binding on both.

ARTICLE V.

The two high contracting parties shall conclude within the period of eight months a treaty of commerce and navigation based on the principle of the fullest liberty of land and river navigation for each of the nations; a right they shall both recognize in their dealings with each other perpetually, respecting fiscal and police regulations now established or that may in the future be established in their own territory. These regulations must be as favorable as possible to navigation and commerce, and they shall be made as uniform in the two countries as possible. It is, however, understood and declared that in this navigation is not included that from port to port of the same country, or internal river navigation, which shall continue in both countries subject to their respective laws.

ARTICLE VI.

In conformity with the stipulations of the preceding article and for the shipment in transit of articles of importation and exportation, Bolivia may maintain customs agents in the Brazilian custom-houses of Belém do Para, Manaós, and Corumbá, and in the other customs ports which Brazil may establish on the Madeira, and on the Mamoré, or at other points on the common boundary. Reciprocally, Brazil may maintain customs agents in the Bolivian custom-house at Villa Bella or in any other customs post Bolivia may establish on the common border.

ARTICLE VII.

The United States of Brazil obligate themselves to construct in Brazilian territory, themselves, or by means of private enterprise, a railroad from the port of Santo Antonio, on the river Madeira, to Guajará-Mirim, on the Mamoré, with a branch, which, passing through Villa Murтинho or other near-by point (State of Matto-Grosso), shall extend to Villa Bella (Bolivia) at the confluence of the Beni and Mamoré. This railroad, which Brazil shall endeavor to conclude within the period of four years, both countries shall make use of, with the right to the same rates and privileges.

ARTICLE VIII.

The Republic of the United States of Brazil declares that it will canvass directly with the Republic of Peru the question of boundaries of the territory comprised between the source of the Javary and parallel 11°, attempting to arrive at an amicable settlement of the dispute, without responsibility for Bolivia in any case.

ARTICLE IX.

The disagreements which may arise between the two Governments with regard to the interpretation and execution of the present treaty shall be submitted to arbitration.

ARTICLE X.

This treaty, after approval by the legislative power of each of the two Republics, shall be ratified by the respective Governments and the ratifications exchanged in the city of Rio de Janeiro within the briefest period possible.

In faith whereof we, the plenipotentiaries above named, signed this treaty in two copies, one in the Portuguese and one in the Spanish language, affixing thereto our seals.

Done in the city of Petropolis this seventeenth day of November, in the year one thousand nine hundred and three.

[L. S.]
[L. S.]
[L. S.]
[L. S.]

RIO-BRANCO.
J. F. DE ASSIS BRAZIL.
FERNANDO E. GUACHALLA.
CLAUDIO PINILLA.

Mr. Dawson to Mr. Hay.

No. 121.]

AMERICAN LEGATION,
Petropolis, February 15, 1904.

SIR: Referring to the subject of my No. 114 of January 23, the boundary treaty between Bolivia and Brazil, I have the honor to state that the Chamber of Deputies ratified it on January 25 by a vote of 118 to 13, and the Senate on February 12 by 35 to 9. The Bolivian Congress having already ratified the treaty the exchange of ratifications will promptly be made.

After ratifying the treaty the Chamber of Deputies passed a bill providing for the raising of the money necessary to carry out the obligations of the treaty and providing for the administration of the territory. This bill will doubtless shortly pass the Senate.

* * * * *

I send herewith under separate cover two maps showing accurately the old and new boundaries between the two countries.^a

I have, etc.,

THOMAS C. DAWSON.

Mr. Dawson to Mr. Hay.

No. 130.]

AMERICAN LEGATION,
Petropolis, March 18, 1904.

SIR: Referring to the subject of my No. 121 of February 15, 1904, the boundary treaty between Brazil and Bolivia, I have to say that the formal ratifications thereof were exchanged here on the 10th instant.

^a Not printed.

The bill spoken of in that dispatch for the organization of the ceded Acre territory into a national territory became a law.

I have, etc.,

THOMAS C. DAWSON.

MESSAGE OF THE PRESIDENT OF BRAZIL TO THE BRAZILIAN CONGRESS.

Mr. Thompson to Mr. Hay.

No. 144.]

AMERICAN LEGATION,
Petropolis, May 6, 1904.

SIR: I send inclosed herewith a copy of the second annual message of President Rodriguez Alves, read on May 3, at the opening of the second session of the fifth legislature. I also send full translation of certain sections of special interest to the United States.

On the whole the message is of an optimistic tone, especially with reference to the progress of the work of building a modern harbor and dock system at Rio; a part, with the construction of a wide central avenue in the city and the creation of a new National Department of Health, of the plan to make Rio a healthy city, and particularly, to free it from yellow fever, in which much progress is already evident.

The financial situation is dwelt on at length and reflects the generally improved conditions of recent years in the government's finances which since the time of the funding loan agreement in 1898 has apparently nearly paid its way, at the expense, however, of largely increased taxes and customs duties. A gradual recovery from the crisis of 1900 is also apparent in the showings of exports and imports, which, according to the estimates, both record considerable increases over the previous years. The increase in exports is particularly noticeable—the regular annual depreciation in the value of the coffee crop at last has been overcome by the increase of the value of the rubber and cotton exports.

The Peruvian situation is dwelt on at length, this being the only serious foreign complication Brazil has on its hands. Nothing new is, however, said on this point.

I have, etc.,

D. E. THOMPSON.

[Inclosure.—Translation.]

Extracts from second annual message of President Rodriguez Alves, read at the opening of the second session of the fifth legislature.

The people of the Isthmus of Panama constituted itself last year into an independent state under the name of Republic of Panama. This important event was communicated here by the provisional government then organized. I replied to this communication at the same time with Argentina, Chile, the United States and Mexico, the five republics thus recognizing the new republic, for whose prosperity I have the best wishes.

After the denunciation by the Government of France of the commercial modus vivendi we had with that country, the latter renewed it by agreeing to desist from increasing the duties upon coffee, in exchange for the application of our minimum tariff to French products.

To the United States of America, the country which you know is the largest importer of the principal article of Brazilian exportation, and moreover, receives it free of duty into its markets, I have conceded, to be effective within the current fiscal year and beginning April 20 last, the reduction of 20 per cent in import duties of certain articles of their production, availing myself thus of the authority you gave me by article 6 of law No. 1144, of December 30, 1903.

Mr. Joaquim Nabuco, minister on special mission in Rome, commissioned to defend our right in the arbitrament of the boundary question between Brazil and British Guiana, already presented his third and last memorial to his Majesty the King of Italy, on the same occasion in which the English ambassador presented his. The discussion between the parties being thus terminated, we await, with the greatest confidence in the justice of our cause, the sentence of the august sovereign.

Through the initiative of the Argentine Government, which I accepted with the greatest satisfaction, the Governments of the Argentine, Uruguay, Paraguay, and Brazil will be represented in a sanitary congress which will take place in this city, and the opening of which is fixed for the 5th of June next. * * * The preparations in Brazil for the transmissal of the articles destined to the universal exposition at St. Louis, in the United States of America, have been completed. The articles have been sent and the Brazilian commissioners have proceeded thither.

In view of the quantity and quality of the objects sent from almost all the States and from the federal capital the conviction is justified that our country will be well represented, and to this end the State governments have efficiently contributed, as well as the commercial associations and industrial concerns.

Our pavilion is almost completed—it is among the first completed—and according to the opinion of reliable persons it will be particularly prominent among all the other nations at that great fair for its beauty.

PROVISIONAL AGREEMENT BETWEEN BRAZIL AND PERU TERMINATING BOUNDARY DISPUTE, AND CONVENTION FOR THE ARBITRATION OF ALTO JURUÁ AND ALTO PURÚS CLAIMS.

Mr. Thompson to Mr. Hay.

No. 204.]

AMERICAN LEGATION,
Petropolis, July 23, 1904.

SIR: I inclose herewith copy of the provisional accord between Brazil and Peru, formulated as a means of settling in a friendly manner the boundary dispute between the two countries, and of a convention of arbitration entered into at the same time for the purpose of settling equitably and finally the claims of their respective citizens for losses and damages sustained by them in the regions of the upper Juruá and the upper Purús, together with translation of the same.

I have, etc.,

D. E. THOMPSON.

[Inclosure 1.—Translation.]

Protocol of a provisional agreement, concluded in Rio de Janeiro July 12th 1904, between the Governments of Brazil and Peru.

There met in conference on the 12th of July, 1904, in the Palace of Itamaraty, Rio de Janeiro, the minister of foreign affairs, Dr. José Maria da Silva Paranhos do Rio-Branco, and the minister plenipotentiary of the Republic of Peru, Dr. Don Hernán Velarde, duly authorized to conclude an agreement which would prevent any possible conflict between the Brazilians and the Peruvians in the regions of the alto Juruá and the alto Purús, and would permit the two Governments of Brazil and Peru to enter amicably into negotiations of an honorable and

definite agreement on the question of limits between the two countries, and they agreed on the following articles:

1st. The diplomatic discussion for a direct accord on fixing the limits between Brazil and Peru from the source of the Javary to the line of 11° south latitude will commence on the 1st of August, and shall close on the 31st of December of this year, 1904.

2nd. The two governments, desirous of maintaining and tightening more and more their friendly relations as neighbors, declare now their sincere purpose to resort to some other means of solving in a friendly way the international litigations, that is to say, to the good offices or to the mediation of some friendly government or the decision of an arbiter, if within the indicated period of time or within future limitations of time agreed upon they do not reach a direct satisfactory agreement.

3rd. During the discussion the following territories in litigation shall be neutral:

(a) That of the basin of the Alto Juruá from the headwaters of that river, and from its higher affluents, down to the mouth and left margin of the River Breu, and from there to the west along the parallel of the confluents of the same Breu to the western limit of the basin of the Juruá;

(b) That of the basin of the alto Purús from the parallel of 11° to the place denominated Catay, inclusive.

4th. The policing of the two neutral territories shall be done by a mixed commission formed of one Brazilian commission and one Peruvian commission. Each commission shall be composed of a commissary of the rank of major or captain, of a commissary substitute of the rank of captain or lieutenant, and an escort of fifty men, and as many small boats as are necessary.

5th. To the left margin of the confluence of the Breu or at any other point above on the Juruá, as well as in Catay, or in some other near point on the Purús, there shall be established mixed police stations which shall furnish documents in order that the export duties of the products of the two temporarily neutralized regions may be collected in the Brazilian customs house, either of Manaos or of Pará, and shall receive the certificates of the payments of import duties which, in either of the two above-cited Brazilian customs houses of Manaos or Pará, or in the Peruvian customs house of Iquitos, may have been affected in despatching goods to their destination in the said temporarily neutralized territories. The export and import duties shall be the same as those which the Brazilian Federal Government now collects at its fiscal stations, and the half of the same shall fall to each one of the two countries.

6th. The crimes committed by the Brazilians in the two neutral territories shall be tried by Brazilian judges, and those committed by Peruvians by Peruvian judges. Individuals of other nationalities who commit crimes against Brazilians shall be tried by the judges of Brazil, and against Peruvians by the judges of Peru. As to those of other nationalities accused of crimes against individuals who are neither Brazilians or Peruvians, either Brazilian or Peruvian jurisdiction shall be competent to judge them, according to the common agreement of the commissaries of the two republics, after an examination of the case.

7th. Doubts or divergencies which may arise between the commissaries shall be made known to the two governments in order that they may solve them.

8th. The expenses of the respective personnel and material, including those of the escort, shall be charged to the two governments.

9th. Besides the two mixed commissions of administration, each government shall nominate a special commissary for the alto Purús and another for the alto Juruá, with the helpers and escorts that may be necessary, forming thus two other mixed commissions, which shall be charged with making a rapid reconnoissance of the two rivers in neutral territories.

10th. The personnel of the commissions treated of in the foregoing articles shall be designated within thirty days from the date of the present agreement and should reach the indicated regions with the greatest possible brevity.

11th. Both governments, by common agreement, shall formulate the instructions by which the mixed commissions shall govern themselves.

12th. The two governments of Brazil and Peru declare that the clauses of this provisional agreement do not in anywise affect the territorial rights which each of them defends. In the faith of which two copies of this agreement were written, each one of them written in the Portuguese and Spanish language, in the place and date above declared.

[L. S.]

[L. S.]

RIO-BRANCO.

HERNÁN VELARDE.

[Inclosure 2.]

Convention of arbitration between Brazil and Peru for the solution of complaints of their citizens, concluded in Rio de Janeiro on the 12th of July, 1904.

The Government of the Republic of the United States of Brazil and the Government of the Republic of Peru desiring in the interests of the good relations of friendship between the two countries that, owing to facts which took place in the alto Juruá and in the alto Purús, the complaints of their citizens be examined and resolved promptly and equitably, gave for this purpose the necessary instructions to their plenipotentiaries, viz:

The President of the Republic of the United States of Brazil to Mr. José Maria da Silva Paranhos do Rio-Branco, minister of foreign affairs; and

The President of the Republic of Peru to Dr. Don Hernán Velarde, envoy extraordinary and minister plenipotentiary of the same Republic in Brazil;

Who, properly authorized, agree to the following:

ARTICLE I.

The complaints of Brazilian and Peruvian citizens for damages or violences which they may have suffered or pretend to have suffered in the alto Juruá and in the alto Purús since 1902 shall be deferred to the judgment of a tribunal of arbitration, which shall sit in the city of Rio de Janeiro and shall begin its functions six months after the exchange of the ratifications of this compact.

ARTICLE II.

There will be formed a tribunal of two arbiters, one a Brazilian, the other a Peruvian, nominated by the same respective governments one month after the exchange of the ratifications of this convention, and a subarbiter, chosen at the same time by the two governments from among the chiefs of the diplomatic corps accredited to Brazil.

ARTICLE III.

Within the space of a year, counting from the first meeting, or within six months, if possible, the tribunal should examine and resolve all claims, with the power to judge them according to law or "*ex æquo et bono.*"

Only those claims will be examined and judged which are received within six months, counting from the beginning of their work.

ARTICLE IV.

The conclusions of the tribunal will be considered by the high contracting parties as decisive and satisfactory, perfect and irrevocable, obliging also the claimants beforehand to accept them as definite.

ARTICLE V.

The payment of indemnities resolved will be made by one government to the other within the term of a year, counting from the date of the closing of the session of the tribunal, and without interest or any deduction.

ARTICLE VI.

Each of the two Governments will pay the salary of its arbiter and the helpers of same, as well as half of the salary of the subarbiter, which will be fixed opportunely.

ARTICLE VII.

The ratifications of this compact will be exchanged in Rio de Janeiro within the space of four months, or sooner if possible.

In faith of which, we, the plenipotentiaries above mentioned, sign the same on two copies, each one in the Portuguese and Spanish language, putting upon them our respective seals.

Done in Rio de Janeiro the twelfth day of July, one thousand nine hundred and four.

[L. s.]

RIO-BRANCO.

[L. s.]

HERNÁN VELARDE.

BULGARIA.

AGREEMENT BETWEEN TURKEY AND BULGARIA TO MAINTAIN PEACE AND ORDER IN MACEDONIA.

Mr. Wilson to Mr. Hay.

No. 33.
Bulgarian series.]

AMERICAN LEGATION,
Athens, April 15, 1904.

SIR: I have the honor to inclose herewith a copy (London Times, April 11) of the Turco-Bulgarian agreement signed at Constantinople on the 8th instant. A protocol has been added, stating that both parties shall make special arrangements concerning: (1) The measures to be taken to insure the security of the frontier; (2) the regulation of the postal and telegraph service; (3) the reciprocal extradition of criminals and deserters; (4) conditions regarding military service; (5) the powers of their respective commercial agents; (6) arrangements for the future connection of railways, as the interests of the two contracting parties may require.

I have, etc.,

CHARLES S. WILSON.

[Inclosure.—Translation.]

[From the London Times, April 11, 1904.]

Turco-Bulgarian agreement.

The Imperial Ottoman Government and the principality of Bulgaria have agreed upon the following points:

1. The principality of Bulgaria pledges itself to prevent upon its territory, as well as upon the territory of eastern Rumelia, the formation of revolutionary committees and of armed bands, as well as to prevent all acts and conspiracies directed against the Empire, and to punish with all severity such persons as, having committed acts against public peace in the neighboring provinces, have taken refuge in Bulgaria or in eastern Rumelia.

2. The principality shall take the necessary measures to prevent the introduction into the neighboring vilayets of all explosives or poisons, as well as any article prejudicial to public health.

3. The reforms agreed upon between Turkey, Austria, and Russia for the Vilayets of Salonika, Monastir, and Kossovo shall be applied by the Ottoman Government. The general amnesty which the Sultan in his gracious clemency has been pleased to grant will have full effect, and in consequence such persons as have been imprisoned or exiled on a charge of, or for the prevention of, crime, or who have, directly or indirectly, committed revolutionary acts, and all such as have been convicted of political offenses, shall be set at liberty and repatriated, with the exception of persons convicted of dynamite attacks against ships, railways, bridges, and public institutions.

4. The inhabitants of Rumelia who, in consequence of the recent disturbances, have taken refuge in Bulgaria or eastern Rumelia, or who, while remaining in their homes, have had their houses destroyed, will be granted assistance in their villages by the imperial authorities for rebuilding their homes, and will also have their lands returned to them.

5. A special arrangement shall be made for the reciprocal extradition of criminals and deserters. In order to prevent brigands and revolutionary bands from crossing the frontier, mixed corps shall be established on both sides, and a separate agreement shall be made on this subject. A mixed commission shall be established to settle pending questions and shall begin its work at once.

6. The customs restrictions lately imposed exceptionally upon articles from Bulgaria and eastern Rumelia shall be rescinded, and the former facilities shall be reestablished.

7. Railway trains shall be allowed to cross the frontier without hindrance, and no obstacles shall be placed in the way of Bulgarians traveling on their private business from the principality and eastern Rumelia who are furnished with the regulation papers.

8. Civil and judicial posts shall be open to Bulgarians who have the requisite qualifications.

CONDITIONS IN MACEDONIA.

Mr. Jackson to Mr. Hay.

No. 31.
Bulgarian series.]

AMERICAN LEGATION,
Athens, March 7, 1904.

SIR: I have the honor to report that a hopeful feeling continues to prevail with regard to events in the Balkans in the coming spring. It is reported that engagements have been made between the Porte and the Bulgarian agent at Constantinople with a view to preventing trouble between Turkey and Bulgaria, and the Bulgarian military authorities have taken measures, much more serious than those taken last year, to prevent the formation of bands on Bulgarian territory and their crossing over into Turkey. Even the insurgent leaders are said to have announced that they are ready to await the result of the so-called reforms and will do nothing to prevent their being a success.

The Comitadges continue to terrorize the Macedonian peasants, especially those who have recently detached themselves from the Bulgarian exarchate and have gone over to the orthodox patriarchate.

I have, etc.,

JOHN B. JACKSON.

Mr. Jackson to Mr. Hay.

No. 35.
Bulgarian series.]

AMERICAN LEGATION,
Athens, May 14, 1904.

SIR: Although the Comitadges continue to be active on a small scale and there are more or less frequent reports of encounters between small bands and Turkish troops, it can not be denied that the reforms introduced by Russia and Austria and the recent Turkish-Bulgarian agreement have brought about comparative tranquillity in Macedonia, even if both the reforms and the agreement are as yet but partially and imperfectly effective. In returning to Athens from Belgrade I felt no hesitation in traveling by way of Uskub and Salonika. * * * Turkish soldiers (frequently Albanians) were present at every station and at all the tunnels, bridges, etc., but so

far as could be seen from the train the country seemed to be peaceful, the peasants happy and good-natured, and the fields generally under cultivation. It does not seem probable that any general outbreak will take place this year.

Recently Servian and Bulgarian students have exchanged visits—the Bulgarians having been in Belgrade while I was there a few days ago, and having been received with a good deal of enthusiasm—and only a day or two ago there was a meeting between the Prince of Bulgaria on his way to Europe, and the King of Servia at Nisch.

I have, etc.,

JOHN B. JACKSON.

CHILE

MESSAGE OF THE PRESIDENT OF CHILE TO THE CHILEAN CONGRESS.

Mr. Wilson to Mr. Hay.

No. 364.]

AMERICAN LEGATION,
Santiago, June 15, 1904.

SIR: I have the honor to report that upon June 1 the President of the Republic formally opened the regular session of Congress, and read upon the occasion the message which is inclosed herewith, in the original text, a summary in English text accompanying.

The message is noteworthy only in that it depicts very clearly the improved financial condition of the country.

I have, etc.,

HENRY LANE WILSON.

[Inclosure.]

President's speech at the opening of Congress.

SUMMARY.

The foreign relations of the Republic are declared to be on an excellent footing. Negotiations for a treaty with Bolivia are reported to be progressing satisfactorily; while the difficulties in the way of a final arrangement with Peru have not yet disappeared.

The Republic of Panama has been recognized.

TELEGRAPH SERVICE.

A convention is being negotiated with Bolivia, and one has been celebrated with Argentina. The new lines over the Cordillera are nearly completed.

COMMERCE.

In 1903 the commerce amounted to \$348,429,793. Imports amounted to \$146,276,667 and exports to \$202,153,126; that is to say, \$27,000,000 more than in 1902, of which \$17,000,000 correspond to nitrate. The exportation of copper increased \$2,300,000; the agriculture, \$8,000,000.

RAILWAYS.

The following have been opened to the public: From Pueblo Hundido to Ica, from Serena to Rivadavia, from San Diego to Providencia (Santiago), and from Talca to San Clemente, 161 kilometers.

There are 237 kilometers in construction. The railway from Pitrufquen to Loncoche and Loncoche to Antihue (114 kilometers) will be opened to the public. The other 117 kilometers will be finished in 1905.

The following lines are under consideration: Aguas Blancas to Vallenar, Vallenar to La Serena, San Marcos to Illapel, Los Vilos to Rayado, Curico to Hualañé, Cauquenes to Quirihue and Coelemu, San Felipe to Putaendo, Chillan to Tomé,

and Rio Negro to Puerto Montt; and at the beginning of 1905 estimates will be asked for 500 kilometers of railways.

There are also under consideration some local railways of a 60-centimeter gauge, such as that from Artificio to Maquinas de Catemu, from the station of Yungay to the village of Lampa, from Chillan to Las Termas, and from a point on the Central Railway to Villa Rica.

Permission has been granted to construct 150 kilometers of private railways, and several other permits are under consideration.

The Government is studying the proposition for the termination of the Transandine Railway, via Uspallata.

BOUNDARY CONVENTION BETWEEN CHILE AND THE ARGENTINE REPUBLIC.

Mr. Ames to Mr. Hay.

No. 381.]

AMERICAN LEGATION,
Santiago, October 2, 1904.

SIR: I have the honor to inclose herewith copy and translation of two decrees issued by the President of Chile on September 30, promulgating two conventions signed on May 4 last between representatives of this Republic and the Argentine Republic with a view to obviating difficulties which might arise in the actual demarcation of the boundaries established by arbitration.^a

I have, etc.,

EDWARD WINSLOW AMES.

^a Conventions printed under Argentine Republic, p. 40.

CHINA.

DENUNCIATION OF IMMIGRATION TREATY.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, January 25, 1904.

(Mr. Conger reports that he has forwarded by mail a formal notice given him by the Chinese Government that our treaty of immigration will terminate the 7th of December, as provided for in article 6.)

Mr. Conger to Mr. Hay.

No. 1484.]

AMERICAN LEGATION,
Peking, China, January 25, 1904.

SIR: I have the honor to inclose translation of the note this date received from Prince Ch'ing, and to be, sir, etc.,

E. H. CONGER.

[Inclosure.]

Prince Ch'ing to Mr. Conger.

I have the honor to call your excellency's attention to the fact that article 6 of the treaty between China and the United States of the XX year of Kuanghsü, relating to Chinese laborers, provides that "this convention shall remain in force for a period of ten years, beginning with the date of the exchange of ratifications, and if six months before the expiration of the said period neither government shall have formally given notice of its final termination to the other it shall remain in force for another like period of ten years."

I find with reference to said treaty that the period of ten years within which it shall remain in force, reckoning from the date of the exchange of ratifications, will expire on the 1st of the eleventh moon of the XXX year of Kuanghsü; that is, on the 7th of December, 1904. Now, therefore, I send this formal notice that this treaty will terminate immediately upon the expiration of the period mentioned, and shall not continue for another period.

But China and your honorable country are united by friendly ties, and it will be very easy for them to negotiate together in a friendly way and satisfactory manner a new treaty.

This plain announcement is thus made in advance, which I send to your excellency, as in duty bound, that you may transmit the same to your honorable government for its consideration.

A necessary dispatch.

Kuanghsü, XXIX year, twelfth moon, 8th day.
(January 24, 1904.)

[SEAL.]

Prince Ch'ing to Mr. Conger.

[Translation.]

Prince Ch'ing, president of the Waiwu Pu, has the honor to communicate to Mr. Conger, the United States minister, the following notice for transmission to the United States Government:

Whereas article 6 of the supplemental convention of the twentieth year of Kuanghsü (1894) between China and the United States, relating to Chinese immigration, reads as follows:

"This convention shall remain in force for a period of ten years beginning with the date of the exchange of ratifications, and if six months before the expiration of the said period of ten years neither government shall have formally given notice of its final termination to the other, it shall remain in full force for another like period of ten years."

And whereas, on the first day of the eleventh moon, in the thirtieth year of Kuanghsü, corresponding to the 7th of December, 1904, the said convention will have been in force for a period of ten years beginning with the date of the exchange of ratifications:

Now, therefore, in pursuance of the provisions of the said article 6, formal notice is hereby given that the said convention will cease to be operative upon the expiration of the said period, and will not be renewed for another period.

But in lieu of the friendly relations which have always existed between China and the United States, propositions looking to a satisfactory adjustment of the question by a new treaty will be entertained.

Prince Ch'ing avails himself, etc.

CHINESE LEGATION.

Washington, March 3, 1904.

NEUTRALITY OF CHINA IN THE WAR BETWEEN RUSSIA AND JAPAN.

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 10, 1904.

(Mr. Hay instructs Mr. Conger to express to the minister for foreign affairs that it is the earnest desire of the Government of the United States that the neutrality of China and her administrative entity be respected by both parties in the course of the military operations which have begun between Russia and Japan, and that the area of hostilities be localized and limited, so that undue excitement and disturbance of the Chinese people may be prevented, and the least possible loss may be occasioned to the commerce and peaceful intercourse of the world.)

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, February 10, 1904.

(Mr. Conger reports that the representatives of France, Germany, Great Britain, and Italy have asked their respective governments that an agreement be suggested to the belligerents not to send any of their troops into Chihli.)

Mr. Conger to Mr. Hay.

No. 1500.]

AMERICAN LEGATION,
Peking, China, February 10, 1904.

SIR: I have the honor to confirm my telegram of to-day and to inclose a copy of the identic telegram sent by the several ministers to their respective governments.

This action was made known to me by the ministers taking part, but it was not thought best to ask those who had no troops stationed along the line to join therein.

It is believed here that the Japanese will readily agree to the suggestion made. I am sure, however, that such a limitation of the sphere of war would be most beneficial.

I have on several occasions recently improved the opportunity to impress upon the Chinese Government the very serious consequences that would result if at any time the court should become frightened and leave Peking; saying to them that should the court flee from the capital, anarchy would at once be installed here, unless prevented by the foreign legation guards, and that respect for the authority of the court would be very much lessened in all parts of the Empire, and imperial decrees would be much less potent when issued by a fleeing court from another point than its usual seat of government.

The ministers agreed with me, and said that the court had no intention of leaving, and that all the members of the cabinet and grand council would at all times impress this view upon their imperial majesties, and they believed that they could be induced to remain here whatever might happen.

I have, etc.,

E. H. CONGER.

[Inclosure.]

Identic telegram of the representatives of France, England, Germany, and Italy.

The ministers of the powers whose troops occupy various points in Tchili from Peking to Shanhankwan, that is to say, England, France, Germany, and Italy, have been considering the incidents and perhaps conflicts which might eventually arise if the forces of one of the belligerents were to enter Tchili. They have also taken into consideration the fact that China has announced her decision to observe neutrality; that as the occupation resulting from the protocol imposes on China the obligation to keep her own troops at a distance from occupied points, the obligation to insure the neutrality of these points would devolve upon the foreign troops stationed there. Consequently we have agreed to ask our respective governments if they would not deem it advisable, in order to avoid all difficulties, to suggest to the belligerents that they declare that they will avoid sending their troops into Tchili. This step would, moreover, have the advantage of reassuring the imperial court and of preventing the government from fleeing in a moment of panic, a contingency which might easily involve the most serious consequences throughout the whole of China.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, February 11, 1904.

(Mr. Conger reports that Department's telegram of the 10th has been complied with, and that the Russian and Japanese ministers yes-

terday handed declaration of war to the Chinese Government, which will at once issue proclamation of neutrality.)

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, February 13, 1904.

(Mr. Conger reports that the declaration of neutrality was issued yesterday by the Imperial Government.)

Sir Chentung Liang-Cheng to Mr. Hay.

CHINESE LEGATION,
Washington, February 13, 1904.

MY DEAR MR. SECRETARY: I beg to inclose herewith for the files of your Department copies of two telegrams from the Waiwu Pu, dated the 12th instant, relative to the neutrality of China in the present conflict between Japan and Russia,^a the contents of which I communicated to you this morning.

I am, etc.,

CHENTUNG LIANG-CHENG.

Mr. Conger to Mr. Hay.

No. 1502.]

AMERICAN LEGATION,
Peking, China, February 13, 1904.

SIR: I confirm Department's telegram of the 10th instant, and mine of the 11th and 13th.

Immediately on receipt of your instructions I complied therewith by sending to Prince Ch'ing the note, a copy of which I inclose.

I inclose also, 1, note from Prince Ch'ing embodying the Imperial edict declaring China's neutrality; 2, note from Prince Ch'ing emphasizing the desire of China to observe strict neutrality in all the Empire, including Mongolia, but acknowledging her inability to do so in that part of Manchuria still under the military occupation of Russia, and presenting the question of the protection of her territorial sovereignty for the consideration of the other foreign powers; 3, notification by the Chinese Government that foreign troops occupying various localities provided for by the final protocol should continue to observe the original intent of the general agreement, and not concern themselves with the aspect of affairs at present changed by the breaking out of war between Russia and Japan.

It certainly seems most desirable that the zone of hostilities should be limited geographically as much as possible, and it is to be hoped that the efforts of the powers mentioned in my dispatch No. 1500, of

^a Printed under neutrality proclamations, p. 17.

the 10th, but which appear to be along the same line with your own, may prove successful.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Mr. Conger to Prince Ch'ing.

AMERICAN LEGATION,
Peking, China, February 11, 1904.

YOUR IMPERIAL HIGHNESS: I have the honor to inform your imperial highness that I am just in receipt of a telegram from the Secretary of State of the United States, directing me to express to your imperial highness the earnest desire of the United States that in the course of the military operations which have begun between Russia and Japan, the neutrality of China, and, in all practicable ways, her administrative entity shall be respected by both parties, and that the area of hostilities shall be localized and limited as much as possible, so that undue excitement and disturbance of the Chinese people may be prevented and the least possible loss to the commerce and peaceful intercourse of the world may be occasioned.

In communicating these sentiments of my Government to your imperial highness, I avail, etc.,

E. H. CONGER.

[Inclosure 2.]

Prince Ch'ing to Mr. Conger.

I have the honor to inform your excellency that on the 27th of the twelfth moon of the XXIX year of Kuanghsü (February 12, 1904) I received the following Imperial edict:

"Now Russia and Japan, having severed their peaceful relations and appealed to arms, and the court reflecting that both are friendly powers, China ought to observe the laws of neutrality. Let the Tartar generals, viceroys, and governors of the various provinces issue general instructions to the civil and military officials under them, and notify troops and people that all must uniformly and reverently comply so as to strengthen international relations and promote the general welfare. There must be no carelessness. Let this be circulated for general information." "Respect this."

As in duty bound, I have reverently copied the above and send it to your excellency that you may transmit it to your honorable Government for its information.

A necessary dispatch.

Kuanghsü XXIX year, twelfth moon, 27th day.
(February 12, 1904.)

[SEAL.]

[Inclosure 3.]

Prince Ch'ing to Mr. Conger.

At present Russia and Japan have severed their peaceful relations and appealed to arms. China is on friendly relations with both. The court remembers well their neighborly kindness, and has already issued an edict declaring neutrality and instructing the various Tartar generals, viceroys, and governors in the provinces to uniformly and reverently observe the same.

Orders have already been sent throughout the empire commanding a uniform observance of this edict and the strictest instructions have been given to maintain the peace and to give thorough protection to all foreign commerce and mission work, of which there is record.

The "Three eastern provinces" (Manchuria) are Chinese frontier territory; Mukden, the capital of Shengking, and Hsingching are the sites of the graves and temples of the imperial ancestors and the palaces of the secondary capital.

Their importance is therefore very great and it ought naturally to be the duty of the Tartar general of Mukden to carefully and reverently guard them.

The two powers, Russia and Japan, must not injure the cities and public buildings of these "three provinces," nor the lives and property of the people, nor should the Chinese troops stationed there come in conflict with either of them.

The territory west of the Liao River is that from which Russia has already withdrawn her troops, and the Superintendent of Trade for the North has sent military forces there to take charge. Throughout the provinces and along the frontiers, including Inner and Outer Mongolia, the two powers (Russia and Japan) must avoid any invasion of Chinese territory, inasmuch as China is observing the laws of neutrality. But at such places in Manchuria as are still in charge of a foreign power and from which its troops have not yet withdrawn, China's strength is insufficient, and it will be perhaps difficult to strictly observe the laws of neutrality there. No matter which of the two powers may be victorious or defeated the sovereignty of the frontier territory of Manchuria will still revert to China as an independent Government. Neither of the two powers may usurp it. In this earnest effort to protect the general interests we ought to receive the lenient judgment of all the powers, who ought to bear in mind all the circumstances.

Besides sending dispatches to the ministers for Russia and Japan in Peking, as in duty bound, I send this to your excellency that you may transmit it to your honorable Government for its consideration.

A necessary dispatch.

Kuanghsü XXIX year, twelfth moon, 27th day.

(February 12, 1904.)

[SEAL.]

[Inclosure 4.]

Prince Ch'ing to Mr. Conger.

According to the provisions of the seventh and ninth articles of the protocol entered into by the powers on the 25th of the seventh moon, of the XXVII year of Kuanghsü, that is the 7th of September, 1901, of the western calendar, China agreed that the various powers might keep troops in Peking and along the road from Peking to the sea.

It appears therefore that the troops now stationed at Peking, Tientsin, Shan-hai Kuan, and such places are so stationed in accordance with this general agreement. Now that Russia and Japan have unfortunately severed their peaceful relations these troops of the allies retained at said places ought still to observe the original intent of this general agreement and must not concern themselves with the present changed aspect of affairs.

Besides sending dispatches to the ministers of all the other powers, as in duty bound, I have prepared this dispatch for your excellency's information.

A necessary dispatch.

Kuanghsü XXIX year, twelfth moon, 27th day.

(February 12, 1904.)

[SEAL.]

Mr. Conger to Mr. Hay.

No. 1504.]

AMERICAN LEGATION,
Peking, China, February 15, 1904.

SIR: Since writing my dispatch No. 1500, of February 10, 1904, I have received two notes from the foreign office expressing the fixed purpose of the Imperial court to remain in Peking and preserve order. I inclose copies.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

The Foreign Office to Mr. Conger.

We have the honor to state that recently your excellency mentioned in conversation that you had lately heard reports on the effect that in the event of war breaking out between Russia and Japan, Their Imperial Majesties the Empress Dowager and the Emperor would leave Peking.

The one fixed purpose of the court is to remain here and preserve order. Extra care is being taken strictly to prevent the reckless manufacture of idle rumors.

The capital is of great importance and there must not be any journeying of the Imperial chariot. We have therefore to beg your excellency to set your mind at rest.

In sending this information we avail ourselves of the opportunity to wish you the compliments of the day.

Cards inclosed.

Twelfth moon, 26th day.

(February 11, 1904.)

[Inclosure 2.]

Prince Ch'ing to Mr. Conger.

I have the honor to inform your excellency that on the 27th of the twelfth moon, XXIX year of Kuanghsü (Feb. 12, 1904), I received the followning Imperial edict:

"The censor, Wang Feng-ch'ih, has submitted a secret memorial, saying that he had heard it said that owing to the present war between Japan and Russia perhaps the court would move westward on account of the disturbed condition of the East, and that he presumed to trouble the Imperial ear to listen to his words; that if we should make the mistake of listening to such a proposal men would become frightened and the affections of the people would become divided.

"Japan and Russia at present have severed their peaceful relations, but they have no quarrel with China. Both the capital and the Provinces are quiet and peaceful as usual; why, then, should a removal of the court be suggested? The said censor in thus hastily taking up a baseless report has shown carelessness in submitting his memorial; which evidences a lack of intelligence in managing affairs. Wang Feng-ch'ih is hereby warned by our command. Hereafter should anyone recklessly manufacture false rumors confusing and deceiving those that listen to them, let the commandant of the gendarmerie, the prefect of Shun-t'ien (Peking), and the censors of the Five Cities (five divisions of Peking) all use strict measures to seize them and punish them so as to tranquilize the people. Respect this."

As in duty bound, I have reverently copied the above edict and send it to your excellency for your consideration.

A necessary dispatch.

Kuanghsü XXIX year, twelfth moon, 27th day.

(February 12, 1904.)

Mr. Conger to Mr. Hay.

No. 1505.]

AMERICAN LEGATION,
Peking, China, February 15, 1904.

SIR: Continuing the subject-matter of my No. 1502, of the 13th instant, I have the honor to transmit translation of another note received from Prince Ch'ing, embodying an imperial edict of February 12, 1904.

I have, etc.,

E. H. CONGER.

[Inclosure.]

Prince Ch'ing to Mr. Conger.

EDICT.

Although at present Japan and Russia are at war, they have no quarrel with China. The capital and the Provinces ought to maintain their usual tranquillity. To-day we have issued an edict proclaiming neutrality. Now let the Tartar generals, viceroys, and governors of the various Provinces in the territories along the frontiers exercise extra caution in guarding their territories and with watchfulness and firmness maintain them in security and peace. Wherever there are ports for international trade or persons of foreign nationality, or property belonging to foreigners or mission stations, let conscientious efforts be made to give due protection, and let such measures be taken as circumstances may require to prevent trouble.

Should any disorderly persons circulate false rumors and stir up trouble, let them be seized at once and severely punished. As the government of the capital is of great importance, let the yamen of the commandant of the gendarmerie, the general bureau of works and police, the prefect of Shun-t'ien, and the censors of the Five Cities (five divisions of Peking) make secret and strict inspection and thoroughly suppress all attempts at disturbance, so as to cause the people in their shops and homes each to peacefully pursue his own calling. As to the legations of the several foreign countries and the various missions, extra care ought to be taken for their protection. Should any worthless characters recklessly circulate false rumors and take advantage of the situation to stir up trouble, let them at once be seized and tried. If the offense be a light one, let the guilty person be punished accordingly, as the law requires; should the offense be a serious one, let him at once be beheaded, so as to furnish a warning. The yamens in the capital and the provinces are each responsible for its own district, and ought to issue strict prohibitions and thus prevent the first appearance of trouble. Let there not be the least carelessness or neglect, but let assistance be given us in our purpose to promote harmony between China and foreign powers and to tranquilize the peasantry.

Respect this.

As in duty bound, I have reverently copied the above edict and transmit it to your excellency for your information.

A necessary dispatch.

Kuanghsü XXIX year, twelfth moon, 28th day.
(February 13, 1904.)

[SEAL.]

Mr. Conger to Mr. Hay.

No. 1507.]

AMERICAN LEGATION,
Peking, February 17, 1904.

SIR: For the enforcement of the neutrality edict transmitted in my No. 1502, of the 18th instant, the Chinese Government have now published a series of regulations, a copy of which I inclose herewith^a and have the honor, etc.,

E. H. CONGER.

Mr. Conger to Mr. Hay.

No. 1508.]

AMERICAN LEGATION,
Peking, China, February 17, 1904.

SIR: I have the honor to inclose translation of a note received from the foreign office gratefully acknowledging receipt of the kind

expressions of the Government of the United States concerning the neutrality of China and the necessity of limiting as much as possible the zone of hostilities in the war now existing between Russia and Japan.

I have, etc.,

E. H. CONGER.

[Inclosure.]

Note from foreign office to Mr. Conger.

FEBRUARY 15, 1904.

YOUR EXCELLENCY: We have the honor to acknowledge the receipt of your excellency's note saying that you had received a telegram from the United States Secretary of State to the effect that in the war just begun between Russia and Japan it was the one desire of the United States Government that the neutrality of China and, so far as possible, her administrative entity, should be respected by both powers, and that the area of hostilities should be limited and localized as much as possible, lest the Chinese people should become unduly excited and the commerce between China and other countries should suffer injury or the peaceful relations of China with other powers be disturbed. Your excellency forwarded this statement to us for our consideration.

We, the prince and ministers, have read with care this statement and note that it gives evidence of your honorable Government's concern for the public interests and its efforts to the full extent of its influence to support them. For this expression of its sentiments, which are in thorough accord with those of the Chinese Government, we are deeply grateful.

As in duty bound, we send this reply to your excellency that you may forward it to your honorable Government for its information, and in doing so avail ourselves of the opportunity to wish you the compliments of the day.

FEBRUARY 15, 1904.

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 19, 1904.

(Mr. Hay transmits the reply of Russia to the proposal of the United States, which says that the Imperial Government reciprocates in the desire for tranquillity in China, and that it is ready to enter into an engagement with the powers for the maintenance of the neutrality of that Empire provided that China herself strictly observes neutrality, that Japan complies with the agreement between the powers and observes the principles of international law, and that it is understood that Manchuria, in which military operations must of necessity be carried on, is excepted from the neutralization.)

Mr. Conger to Mr. Hay.

No. 1509.]

AMERICAN LEGATION,
Peking, February 23, 1904.

SIR: I have to confirm your telegram of the 19th instant.

I have communicated this information to the Chinese Government in a note, copy of which I inclose.

I have, etc.,

E. H. CONGER.

[Inclosure.]

*Mr Conger to Prince Ch'ing.*AMERICAN LEGATION,
Peking, February 22, 1904.

YOUR IMPERIAL HIGHNESS: I have the honor to inform your imperial highness that I have received a cablegram from my Government, communicating to me the reply of the Russian Government to the note circulated by the United States a few days ago among the powers, which reply is to the effect that the Russian Government is as desirous as other powers for the preservation of peace in China, and is quite willing to enter into an agreement with other governments to secure the neutrality of China, provided that the obligations of a neutral power are carefully fulfilled by the Chinese Government, and provided that the agreement with the powers must be faithfully kept by Japan, which Government must also carefully observe the general principles set forth in the law of nations; but that as Manchuria must be included within the area of hostilities, that territory can not by any means be regarded as within the neutral boundaries. To this statement of Russia the Secretary of State of the United States replied that he regarded the response of the Russian Government as a friendly one, and as in accord with the intent of the circular note issued by the United States and other powers; that the Chinese and Japanese Governments had already agreed to the principles set forth in the said note, and that he would have pleasure in informing them of this response on the part of Russia.

It becomes my duty, therefore, to communicate the above at once to your imperial highness, and in so doing, I avail, etc.

E. H. CONGER.

Mr. Conger to Mr. Hay.

No. 1522.]

AMERICAN LEGATION,
Peking, China, February 27, 1904.

SIR: Referring to my No. 1509 of February 23, in regard to the reply of the Russian Government to the United States concerning the neutrality of China and the limitation of the zone of hostilities, and inclosing copy of the note communicating the information to the Chinese Government, I inclose herewith translation of the reply received this day from the foreign office, and have, etc.,

E. H. CONGER.

[Inclosure.]

The Foreign Office to Mr. Conger.

We have the honor to acknowledge the receipt on the 7th instant (February 22) of your excellency's note, saying that you were in receipt of a cablegram from the Department of State to the effect that the Russian Government had replied to the note of the United States, declaring that Russia was as desirous as other powers for the preservation of peace in China, and was quite willing to enter into arrangement with other countries to secure the neutrality of China and the avoidance by the belligerents of transgressing the borders of China's neutral territory, provided that the obligations of a neutral power should be carefully fulfilled by the Chinese Government, but that Manchuria could not be included in the area of hostilities, and that it could not therefore be regarded as within the neutral boundaries; that the Department of State had replied to this that China had already agreed to the principles of said note, and that it would have much pleasure in announcing to the Chinese Government this reply of the Russian Government.

We, prince and ministers, have carefully noted the contents of your dispatch.

China must, of course, carefully observe the laws of neutrality so as to support the admirable purpose of your honorable Government, by which it has placed China under obligation.

As in duty bound we send this reply that your excellency may transmit it for the information of your honorable Government.

We avail ourselves, etc.,

Cards inclosed.

First moon, 11th day. (Feb. 26, 1904.)

Mr. Conger to Mr. Hay.

No. 1523.]

AMERICAN LEGATION,
Peking, China, March 1, 1904.

SIR: Inclosing translation of a proclamation issued by Viceroy Alexieff, and posted all over Manchuria in the Chinese language, I have the honor to be, sir, etc.,

E. H. CONGER.

[Inclosure.]

Proclamation of Viceroy Alexieff.

Alexieff, by command of the Russian Imperial Government Viceroy of the Far East, issues this proclamation:

Whereas Russia and Japan are at war I give notice that the following six regulations must be uniformly observed by the soldiers, merchants, gentry, and peasantry of the "three eastern provinces:"

1. While the relations between Russia and Japan were still being amicably discussed to our astonishment they (the Japanese) were cherishing the evil purpose of treacherously surprising the Russian fleet by an attack, and in this high-handed way coercing us. It was impossible for us to sit still under such circumstances, and we can not but take a firm stand and appeal to arms to protect our rights and to prevent the invasion of Chinese territory and, through that, the violation of Russian soil.

2. At present Russian and Chinese interests are intertwined, like a cart and its prop mutually dependent, and it is our duty, if the enemy should invade the borders, to join together in restricting and attacking him. But, according to a dispatch from the Chinese Government, it desires to keep its hands in its sleeves and maintain an attitude of neutrality. On this account I must urge upon all the officials of Manchuria that they must not only not hinder, but ought to the utmost of their ability to assist the Russian army to purchase locally whatever supplies of grain or forage they may need upon the march, in camp, or when doing garrison duty.

3. The inhabitants of the "Three eastern provinces," no matter whether scholars, farmers, mechanics, or merchants, must each pursue his own calling. Should Russian troops arrive in your neighborhood, you should meet with mutual sincerity and good feeling. Russian troops will not only not be allowed to oppress, but on the contrary will furnish extra protection.

4. The law-abiding people are responsible for the Chinese Eastern Railway, telegraph and telephone wires in their districts, and must exert themselves to give protection. As to the local officers concerned, together with the gentry and village elders, they must all with united purpose take such measures as will secure them (railway, etc.) against injury. This will be greatly appreciated. Should anyone plan to injure them, not only will the persons who plot such crimes be severely punished, but you also, the officials and people of the vicinity, who sit by and see the injury being planned, will be held responsible.

5. The "Bearded Bandits" (Red Beards) are the greatest evil of Manchuria. The Russian troops day and night are anxious to destroy them, so as to protect the law-abiding people. You must not fear to report them; each ought in every

way to give assistance, pointing out the forests where they assemble, the places at which they rendezvous, that we may earnestly hope to clear out their haunts and dens and exterminate their bands. Should anyone harbor these gangs of bandits, or knowing their trail conspire with them not to reveal it, his guilt shall be regarded as identical with that of the bandits.

6. It is my earnest desire that you, the people of Manchuria, and the Russian troops associate together with mutual good feeling. Should any of the Chinese officials or people look upon the Russian troops with enmity the Russian Government will surely take measures to exterminate such persons; on no account will any leniency be shown them. Should such a time come, the Russian Government will adopt such measures as may be necessary to protect its interests.

A general notification. To be posted on all thoroughfares.

Russian calendar, February 3, 1904.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, March 4, 1904.

(Mr. Conger reports that 18,000 Chinese troops have been sent to the border of Manchuria to preserve order according to Chinese neutrality proclamation. He states that because of Russia's opposition the troops that were originally intended to be sent into that part of Manchuria already surrendered to China will be kept on this side of the Manchurian border.)

Mr. Conger to Mr. Hay.

No. 1528.]

AMERICAN LEGATION,
Peking, China, March 4, 1904.

SIR: I have the honor to confirm my telegram of to-day.

The Russian minister here says the whole of Manchuria must be excepted from the neutrality zone, as even that portion south and west of the Liao River, already turned back to China, may of necessity become a field of hostile operations; hence the Russian objections to sending Chinese troops into this zone. Prince Ch'ing informs me that the Chinese will heed these objections and will keep their troops this side of the Manchurian border.

The 18,000 troops mentioned in the telegram have been sent from Paotingfu and Tungchow, in this province, and are China's best foreign-drilled troops. They are being replaced by smaller numbers of less effective troops from Shantung; others stationed at various places along the Yangtze have been ordered to be ready to come north if necessary.

* * * * *

The case of the Russian war ship *Mandjur*, found in the Shanghai Harbor, is in a fair way to be settled by negotiations between the Russian and Japanese ministers, and she will probably be disarmed and left there during the war.

I have, etc.,

E. H. CONGER.

Mr. Conger to Mr. Hay.

No. 1535.]

AMERICAN LEGATION,
Peking, China, March 11, 1904.

SIR: Referring to my dispatch No. 1507, of February 17 last, transmitting China's published regulations to enforce neutrality, I have the honor to inclose herewith translation of a note from Prince Ch'ing embodying some additional regulations and also lists of articles declared contraband by Russia and Japan.

The statement of Japan regarding flour, mentioned in Prince Ch'ing's note, was a complaint sent to the foreign office by the Japanese minister against certain large shipments of that article reported as being shipped or about to be shipped into Manchuria.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Prince Ch'ing to Mr. Conger.

On the 18th day of the first moon Kuangshü XXX year (March 4, 1904), I received a report from Sir Robert Hart, inspector-general of customs, concerning the matter of observing neutrality, saying that on the 13th day of the first moon (February 28, 1904) he had received the thirty-five regulations adopted by China, whose observance he had been instructed to enjoin; that on the 15th day (March 1) he had received the statement of Japan regarding flour, against the violation of which he was to issue strict orders, and that on the 17th (March 3) he had received the list of contraband articles as prepared by Russia, which he had been instructed to transmit to his subordinates with instructions to make requisite examinations and prohibitions; that he had transmitted these various instructions to all ports with orders for their observance, but that although China was observing neutrality she still maintained friendly relations with both the belligerents and the various neutral powers, and that he noted that in the Russian list of contraband goods there was included not only articles of military equipment, but also food supplies which the Chinese and foreigners had been accustomed to importing and exporting, and that a distinction ought to be made in dealing with these two classes of goods; that aside from the action to be taken in accordance with the eighteenth, twenty-second, and twenty-fourth regulations adopted by China, there were three matters concerning which a declaration ought to be made:

1. In all commercial dealings between China and neutral powers only such articles should be regarded as prohibited, whether imports or exports, as are so prohibited in the treaties; that aside from such prohibited goods China and foreign neutral powers would as usual import and export all manner of goods, and that such action should not be considered a violation of law.

2. That when Chinese or foreign vessels were about to sail for a port in a belligerent country, and when an application should be made at the customs for a permit to load such vessels, the customs should make careful examination and if goods are found to be such as are included in the Russian contraband list they should refuse to issue the permit to load and should institute a careful search and prohibit (such export); that if a vessel should be seized at sea by one of the belligerents (it may be asked), what should be done about the cargo? The courts of the said country must try and decide the case in accordance with the regulations of neutrality; but that no matter whether the place in which they were seized be within the sphere of military operations or not the case would not be one affecting China's maintenance of strict neutrality.

3. As to the transport of rice and other grains between the various open ports, this should be carried on in strict compliance with the provisions of the treaties, but that for the present they should not be allowed to be shipped to the ports of Manchuria, and that flour should be treated in the same way.

I find that the proposals of the inspector-general of customs with regard to the three important matters mentioned are, upon the whole, in harmony with the intent of the regulations adopted by China. Besides instructing the inspector-general of customs to transmit orders to the various customs authorities to act as he has suggested, I, as in duty bound, send this dispatch to your excellency for your consideration.

A necessary dispatch.

Kuanghsü XXX year, first moon, 23d day. (March 9, 1904.)

[SEAL.]

[Inclosure 2.]

Japanese list of contraband articles.

An order of the Japanese navy department has been issued specifying what shall be regarded as contraband of war during the present hostilities. The order is as follows:

1. The following articles shall be treated as contraband of war when intended to pass through the country of the enemy or destined therefor or when destined for the army or navy of the enemy:

Arms, ammunition, explosives, and other materials (inclusive of lead, saltpeter, and sulphur), machines for their manufacture, cement, uniforms of the army and navy, war equipment, armor plates, materials for building warships and other vessels, and equipping vessels, and any other articles which are used for war purposes.

2. The following articles shall be treated as contraband of war only in case they are destined for the enemy's army or navy or being consigned to the country of the enemy can be considered as intended for the use of the enemy's army or navy:

Provisions, liquors, horses, horse equipments, timber, currency, gold and silver bullion, fodder, wagons (sharyo), coal, and the material for the constructions of telegraph and telephone lines and railways.

3. Of the articles referred to in the preceding two clauses those which can be judged from their quantity and nature to be for the service of the ship carrying them shall not necessarily be treated as contraband of war.

[Inclosure 3.]

Russian contraband of war.

Firearms of every description (guns, pistols, cannons, etc.), armor plate (cuirasses), accessories of firearms, ammunition and material used in the manufacture of explosives; accessories of artillery trains, of engineers and of troops in campaign, barbed wire, pontoons, military equipments and uniforms, ships, even under neutral flag, bound for an enemy port for military purposes, marine engines, boilers, coal, petroleum, spirits of wine, railway, telegraph and telephone material; provisions, rice, horses and other animals, and generally all things destined for warlike purposes on land or sea.

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 12, 1904.

(Mr. Hay instructs Mr. Conger to express to the minister for foreign affairs the earnest hope of the United States Government that China will maintain strict neutrality and that it will exercise proper care so that no provocation of any sort be given to either of the belligerents.)

CHINA.

*Mr. Conger to**Mr. Hay*

[Telegram.—Paraphrase.]

FOREIGN MISSIONS LIBRARY,
156 Fifth Avenue, New York.AMERICAN LEGATION,
Peking, March 15, 1904.

(Mr. Conger acknowledges receipt of Mr. Hay's telegram of the 12th, and states that the minister for foreign affairs is pleased with the friendly interest manifested by the United States, and says China is resolved to maintain neutrality and that provocation will not be given to either belligerent.)

Mr. Conger to Mr. Hay.

No. 1541.]

AMERICAN LEGATION,
Peking, March 15, 1904.

SIR: I have the honor to confirm your telegram of the 12th, and my reply of the 15th instant.

On yesterday I called on Prince Ch'ing and complied with your instructions, and endeavored to impress upon him the danger, at all times, of the oppressed Chinese subjects in the hostile zone doing something to provoke either belligerent to retaliation against the Chinese Government for which it would not be, in fact, responsible, etc.

Prince Ch'ing replied that he accepted this action as additional proof of the friendly interest in the welfare of China taken by the United States Government, and that such interest was highly appreciated by his Government, and for which they were very grateful.

He said, also, that the Government of China was firmly resolved to maintain absolute neutrality, and he requested me to telegraph that you need have no doubt whatever of the sincere determination of China to keep from being involved in the war, and that there was no danger of offense being given by her to either belligerent.

He said, further, that the viceroys and governors of provinces had all been ordered by imperial edict, and definitely instructed by the Wai-Wu Pu, to exert themselves to the utmost to secure the strictest observance of neutrality, and to preserve perfect order and peace.

I have, etc.,

E. H. CONGER.

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 26, 1904.

(Mr. Hay informs Mr. Conger that reports here state that Chinese army is extensively officered by Japanese and asks if report is true.)

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, March 29, 1904.

(Mr. Conger acknowledges receipt of Mr. Hay's telegram of the 26th and states that for the past two years a few Japanese officers have been employed with Chinese army as translators and instructors, and he has been reliably assured that the number has not been increased recently and no new commands have been given.)

Mr. Conger to Mr. Hay.

No. 1555.]

AMERICAN LEGATION,
Peking, China, March 30, 1904.

SIR: I have the honor to confirm your telegram of the 26th instant, and my reply of the 29th.

It has been generally known for the past two years that the Viceroy Yuan Shih-k'ai has had a number of Japanese officers employed as military instructors, advisers, and translators, mostly at Pao-ting fu, and they have usually dressed as Chinese. The Pao-ting fu troops have recently all moved to the northeast of this province, near the Manchurian border, and these instructors no doubt went with them, but from sources which I deem reliable I am informed that no additional Japanese have recently been employed, and that none of those now with the army have been given any sort of command, and that altogether there are not more than half a dozen of them.

The Chinese, ever since I have been in China, have had German officers at various places employed as military instructors, and were it not for the present war the presence of these Japanese with the Chinese army would not be remarked at all.

I have, etc.,

E. H. CONGER.

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 29, 1904.

(Mr. Hay states that the Government of Russia is alarmed about the neutrality of China, and directs Mr. Conger, if opportunity presents itself, to renew representation of this Government's desire that strict neutrality be observed by Chinese Government and no occasion for offense given to either party.)

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

Peking, May 14, 1904.

(Mr. Conger reports that by direction of the Japanese Government yesterday its minister again urged upon Prince Ch'ing the necessity of the strictest neutrality being preserved by China. Prince Ch'ing replied that the strictest neutrality could and would be preserved by China, and he would instruct the Chinese ministers by telegraph to so inform foreign governments.)

[Telegram.]

Waiwu-Pu, May 14, 1904.

At the beginning of the conflict between Japan and Russia an imperial decree was duly issued declaring the neutrality of China. This action was communicated to the governments of other countries, and orders were sent to the provincial authorities to maintain the strictest neutrality. Recently reports have been circulated in the newspapers intimating that China is inclined to favor one of the belligerents. Baseless rumors of this character may do a great deal of mischief. It is the fixed purpose of the Imperial Government to maintain the strictest neutrality to the last without the least intention of revoking the decree previously issued. You will please renew the above assurance to the Secretary of State.

CHINESE LEGATION,

Washington, May 14, 1904.

Mr. Conger to Mr. Hay.

No. 1608.]

AMERICAN LEGATION,

Peking, China, May 16, 1904.

SIR: I have the honor to confirm my telegram of the 14th instant.

I inclose copy of a note received from the foreign office on the same subject, and my reply thereto.

This note is evidently the result of the Japanese minister's interview and of the representations made by the other foreign ministers, including myself, information of which has already been communicated to you.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

The Foreign Office to Mr. Conger.

Japan and Russia being engaged in war, this board received on the 12th day of February an imperial edict to the effect that China would observe a

strict neutrality, and a dispatch was sent to the various ministers for transmission to their respective governments, in which China's position was clearly set forth. Moreover, a set of regulations was sent to each of the different provinces, which regulations all were instructed to obey. This is all a matter of record. After making this proclamation China maintained a strict neutrality, and did not change her attitude in the slightest particular in anything that she did. She acted in accordance with the laws of neutrality, and favored neither one side nor the other at all. What is more, this board repeatedly sent telegraphic instructions to the various Tartar generals and governor-generals to the effect that the military and civil officers under their control must earnestly protect foreign commercial and missionary interests, and take strict and secret protectionary measures, in the hope that the attitude of the people will continue the same as in time of peace.

Since China has put herself out to such an extent to guarantee her neutrality, the governments of the various other nations ought certainly to have confidence in her sincerity. But owing to the fact that various newspapers have recently published such alarming and erroneous reports touching this important matter, this board has now prepared this additional declaration in clear language, stating that China is maintaining a strict neutrality; that from first to last she has been firm in her original idea; that her purpose is in accord with what your excellency's Government, so solicitous in our behalf, would have it be.

This communication is sent in the hope that your excellency will take note of the matter, and transmit the information to the Department of State.

A necessary dispatch.

Thirtieth year of Kuanghsü, third moon, 29th day.

(May 14, 1904.)

[SEAL.]

[Inclosure 2.]

Mr. Conger to Prince Ch'ing.

AMERICAN LEGATION,
Peking, May 16, 1904.

YOUR IMPERIAL HIGHNESS: I have the honor to acknowledge the receipt of your imperial highness' dispatch of the 14th instant saying that China has taken great pains to insure the absolute neutrality of her Government during the war between Japan and Russia, and that other governments ought to have confidence in her sincerity; but that, owing to the fact that various newspapers have recently published such alarming and erroneous reports touching this important matter, your board had prepared and sent the dispatch mentioned to make a further declaration in plain language that China was maintaining a strict neutrality; that from first to last she had been firm in her original purpose, in thorough accord with the oft-expressed desire of the United States.

In reply I have the honor to say that this additional assurance of your imperial highness is most gratifying and will give great pleasure to my Government, to whom I have already communicated it.

I avail, etc.,

E. H. CONGER.

Mr. Conger to Mr. Hay.

No. 1615.]

AMERICAN LEGATION.
Peking, China, May 24, 1904.

SIR: I have the honor to inclose herewith copy of an Imperial edict of May 22, 1904, evidently issued for the purpose of inspiring the people with confidence in the ability of the Government to preserve peace, and urging them not to allow any idle rumors to disturb the regular order of business.

I have, etc.,

E. H. CONGER.

[Inclosure.—Translated from the Peking Gazette of May 22, 1904.]

Imperial edict.

Although the country has been favored with favorable rains during the present spring, still the price of grain has not fallen any as yet, and in fact the price of commodities in general has risen. This is doubtless accounted for by the fact that a state of war exists in the Eastern Provinces and there are too many wild rumors prevalent, which cause the commercial classes, in any business transaction, to stand by and look on without doing anything. Commodities therefore can not circulate freely, and this has a very bad effect upon trade and the general interests of the people.

China is on terms of mutual friendship with the various nations, and at the outset of the war between Japan and Russia she declared neutrality. She strictly maintains this neutrality at the present time and has not changed her position from the first to last. Now, therefore, let there be no anxiety either in this province or elsewhere, and let the Tartar generals and the viceroys again issue proclamations to all the people saying that they must conduct business now just the same as in times of peace. They should not take any stock in the idle rumors floating about and which cause them to become suspicious and fear to enter into business transactions. Then (if these words be borne in mind) will the commercial classes be benefited and the interests of the people in general be promoted.

Respect this.

Mr. Conger to Mr. Hay.

No. 1617.]

AMERICAN LEGATION,
Peking, China, May 25, 1904.

SIR: I have the honor to transmit herewith copy of a translation of a Japanese proclamation which is being posted in various places in Manchuria as rapidly as it is occupied by the Japanese army.

I have, etc.,

E. H. CONGER.

[Inclosure.—Translation.]

First proclamation issued by the Japanese after the taking of Antung.

The commanding officer of the First Army Corps of the Empire of Japan, at present warring against Russia, issues this proclamation for the information of the public:

Whereas Russia for years past has occupied Manchurian territory, has collected troops and raised fortifications, has oppressed the people and harassed the magistrates, and this with unbounded tyranny, perpetrating crimes like very highwaymen, under the excuse that they were protecting their railway, but really with the intention of ultimately annexing the three Provinces of Manchuria. It was something intolerable that the sacred tombs of the Chinese Imperial house should be thrown into the hands of aliens, how could the high officials of state stand it? And if the Three Eastern Provinces were annexed by Russia who could know whether Korea would be in peace or in trouble? Japan and Korea have therefore set their teeth, and mutually depending on each other will mutually act. Therefore our Emperor, majestic in his wrath, has issued an Imperial decree ordering the three armies to exert their utmost strength and attack by sea and land. Inspired by a sense of duty and patriotism, what enemy can we not subdue or what barrier can we not overcome? We destroyed noble battle ships at the first battle of Yen-Ch'uan, and in another battle in the eastern sea off Port Arthur the naval strength of the enemy was vanquished.

We wish to leave not a single flag of Russia flying, and we have good reason. If indeed our land army like a myriad of the mythical tiger-killers showing incomparable strategy following the banners with boldness, the rank and file under thorough discipline, then in the forward march to battle their very breath will dissipate the entire Russian army and it may be said that they will subdue the enemy without even fighting.

We have now passed through the Korean boundaries and entered the Liaoyang territory. Our army leaders are men of honor and will not commit the error of an autumn spikelet, but on the other hand will be full of compassion towards the people, like a loving mother nursing her new-born child.

Therefore we trust that all the people will have respect to the sacred edict of our Emperor, and each peacefully follow his avocation, reserving cattle, horses, firewood, grain, and beef, which will be all sooner or later required (by our army). Act thus and without delay use diligence to exert yourselves on our behalf. If anyone is found assisting the enemy as spies, secretly reporting the movements of our troops, daring to act in opposition to us, he shall be apprehended and dealt with sternly, no mercy being shown. Respect this.

Mr. Goodnow to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Shanghai, August 13, 1904.

(Mr. Goodnow reports that the Russian cruiser *Askold* arrived at Shanghai to-day in a badly damaged condition, and that the taotai informed the Russian consul-general that the vessel can not remain at Shanghai for more than twenty-four hours, to which the Russian consul-general objects, claiming that the *Askold* can remain there for repairs, etc., for a reasonable time.)

Mr. Adee to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 22, 1904.

(Mr. Adee informs Mr. Conger that reports from Fowler state Chinese Government has been notified by Russian minister that Russian consulate and wireless-telegraph station at Chefoo is liable to be attacked, and that answer has been received from Chinese Government stating that China is unable to protect wireless station. Mr. Fowler says that the assistance of the United States to have station moved is desired by the local authorities at Chefoo. Mr. Adee answered Mr. Fowler that the Government of the United States relies on the good faith of both belligerents to observe the neutrality of China outside the agreed zone of hostile operations in Manchuria, and can not take any step with either party to prevent Chinese waters from being used as a base of any operations. If collision is threatened between the parties causing damage to the property of Americans, make protest courteously and impartially to both belligerents, reserving all this Government's rights in the premises.)

Mr. Adee to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 22, 1904.

(Mr. Adee states that Mr. Goodnow has reported that the Standard Oil Company has asked for protection of their plant near the Russian cruiser *Askold*. Instructs him to inquire what rules of neutrality China proposes to apply. American interests would be endangered by any conflict in proximity to foreign settlement. Although we could not actively safeguard our properties by coercing either belligerent, all rights should be reserved against the party responsible for any injury.)

Upon request of the taotai, Goodnow has called a meeting of the consular body to consult as to what action neutral powers should take. He has been instructed that he is not competent, in union with the consular body, to give effect to Chinese neutrality, but protest may be made against any act endangering neutral interests.)

Mr. Adee to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 23, 1904.

(Mr. Adee states that the consul-general at Shanghai has been telegraphed that he is not to commit himself to any theory that the United States could be called upon by China or by the foreign consuls to guarantee Chinese neutrality, and that he is to safeguard only as far as possible American neutral interests if threatened, and to avoid all indications of general policy. Utmost circumspection required.)

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 26, 1904.

(Mr. Hay instructs Mr. Conger to use his influence to support the Government of China in its demand for neutrality in its waters. China is unable to force compliance with her rules, and an abuse of neutrality by one of the belligerents will, therefore, naturally provoke reprisal by the other. Abuse of Chinese ports by either belligerent should be prevented by the judicious exercise of neutral influence.)

Mr. Conger to Mr. Hay.

No. 1692.]

AMERICAN LEGATION,
Peking, China, August 26, 1904.

SIR:

* * * * *

I made the inquiry of the Chinese Government, as instructed, and warned them of the danger of any conflict at Shanghai, in a note, a copy of which I inclose, but to which I have not yet received reply. I also explained, in a personal interview with the Japanese minister, the location of the Standard Oil Company's plant, adjacent to the dock where the *Askold* is lying, and the serious international complications which might arise from any conflict in the vicinity of the foreign settlements.

The Russians have consented to the Japanese demand that the two ships should be disarmed, and it is to be hoped the incident is closed, although it is rumored that, because the Russians have delayed so long, the Japanese have withdrawn the demand for disarming and will insist on the ships leaving the harbor. The Russian minister thinks this will bring on a conflict, but I do not believe the Japanese will add another to the Chefoo mistake.

I inclose a copy of the Japanese explanation of the Chefoo incident, which has undoubtedly already been handed you by the Japanese minister in Washington.

When the Russian minister complained to the Chinese Government that the Russian consulate at Chefoo was liable to be attacked, he did not mention wireless-telegraph station, the Chinese replied that the Japanese said if they would remove the wireless-telegraph station there would be no occasion for an attack. Up to this time the Russians had persistently denied the existence of such station, but now, in order to sustain their theory of a threatened attack, they admit its existence, and attempt to justify their use of it, which, however, is rather incongruous, taken in connection with their own order to treat as spies persons using wireless telegraphy at sea.

* * * * *

From recent confidential talks with the ministers of the Wai-Wu Pu I am satisfied that the Chinese Government, so far as its knowledge of international law and precedents and its ability to execute and enforce it are concerned, is doing its best to preserve a strict neutrality, and if it fails it will be on account of unauthorized acts of its provincial or military officials or of unjustifiable proceedings of one or both of the belligerents.

I have noted carefully your telegraphic instructions to Consul-General Goodnow about committing himself to any theory or scheme for international guaranty of, or to give effect to, Chinese neutrality, and had myself previously telegraphed him to take no action in this direction without instructions from the Department or the legation.

* * * * *

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

*Mr. Conger to Prince Ch'ing.*AMERICAN LEGATION, *Peking, August 23, 1904.*

YOUR IMPERIAL HIGHNESS :

I have the honor to call the attention of Your Imperial Highness to the fact that it is reported that the Russian cruiser *Askold* is in dock adjacent to the plant of the Standard Oil Company in Shanghai. This property would be greatly endangered by a conflict with said cruiser in its present location. In fact, very large foreign interests, particularly American, would be jeopardized by any conflict in proximity to the foreign settlements.

I am therefore directed by my Government to inquire what rules of neutrality China proposes to apply in this case

Under all the circumstances it may be impracticable for the United States to actively safeguard American properties by coercing either belligerent, but it will reserve all rights as against any party responsible for all direct or resultant injuries.

Your immediate attention is called to the importance of this matter and an early reply is requested.

I avail, etc.,

E. H. CONGER.

[Inclosure 2.]

Japanese official statement in Ryeshetelni incident.

[The *Ryeshetelni* incident—Official statement of the position of the Japanese Government regarding the incident.]

The status of China in the present struggle is wholly unique. Nearly all military operations are being carried on within her borders. She is no party to the conflict; nevertheless her territories are partly belligerent and partly neutral. Such a condition of things, in view of international law, is an anomaly and a contradiction in this case. It is a creation of a special understanding to which the belligerents have given their support. With a view to limiting the area of hostilities in the interests of international intercourse and the general tranquillity of China, the Japanese Government engaged to respect the neutrality of China outside the regions actually involved in the war, provided the Russians made a similar engagement and carried it out in good faith. The Japanese Government considered they were precluded by the engagement from occupying or making use of for warlike purposes any territory or ports of China outside the zone which was made the theater of war, because it seemed to them that any such occupation or the use of neutral Chinese territory or ports by the Russian forces would give effect to the proviso of the Japanese engagement and justify her considering the territory and the ports so occupied as belligerent.

In other words, the Japanese Government hold China's neutrality imperfect, applicable only to places not occupied by the armed forces of either belligerent, and that the Russians can not escape the consequences of unsuccessful war by moving their army and navy into those portions of China which were made by the arrangement conditionally neutral.

The *Ryeshetelni* escaped from Port Arthur and sought in Chefoo asylum from attack which her home port had ceased to afford her. Taking that step, she is guilty of a breach of the neutrality of China, as established by the agreement of the belligerents, and Japan was fully justified in regarding the harbor of Chefoo as belligerent, so far as the incident in question was concerned. With the termination of the incident the neutrality of the port is revived. The action taken by Japan in Chefoo was the direct and natural consequence of Russia's disregard of her engagements. But it is not alone in this matter, nor alone in Chefoo, that Russia has flagrantly violated the neutrality of China and ignored her own engagements. Shortly after the investment and isolation of Port Arthur began a system of wireless telegraphy was installed between the beleaguered fortress and the Russian consulate at Chefoo. That system is still in operation, notwithstanding the repeated protest of the Japanese Government.

At Shanghai, at the beginning of the war, the Russian gunboat *Mandjur*, in defiance of the neutrality of China, remained in the port for several weeks after receiving notice to leave the port from the Chinese authorities. She finally, after long negotiations, consented to disarmament. Again, the Russian cruiser *Askold* and the destroyer *Grozovoi* have been now in Shanghai more than a week and refuse to leave or disarm. The Japanese Government has no intention of disregarding the neutrality of China so long as it is respected by Russia, but they can not consent that Russian warships, as the result of broken engagements and violated neutrality, shall unchallenged find in the harbors of China safe refuge from capture and destruction.

The statement of the commander of the *Ryeshetelni* that his ship disarmed upon arrival at Chefoo is untrue. The vessel was fully armed and manned when she was visited by Lieutenant Terashima early on the morning of the 12th. But in any event disarmament would not fulfill the requirements of the neutrality regulations of China, and it was for China, not the Russians, to decide whether the alternative of disarmament was acceptable.

It has been suggested in many quarters that the present case may be compared with the case of Florida, among others. But the Japanese Government draw a clear distinction between the two events. The neutrality of Brazil was perfect and unconditional; and the port of Bahia was a long distance from the seat of war; whereas the neutrality of China is imperfect and conditional, and the port of Chefoo is in close proximity to the zone of military operations.

The reports of the Japanese and Russian officers who took part in the Chefoo incident agree that the *Ryeshetelni* was the aggressor, being the first to commence hostilities which resulted in the capture. That fact would, the Japanese Government believes, deprive Russia of any grounds for complaint which she might possess if the lawfulness of the capture were otherwise. In this respect the present case resembles the case of the American privateer *General Armstrong* and the British ship *Anne*. The case of the *Ryeshetelni* is in itself of trifling moment, but it involves a principle of paramount importance. Experience has shown that China takes inadequate steps to enforce her neutrality laws. If in these circumstances the *Ryeshetelni* could make Chefoo harbor a refuge, then great ships of Russia might do the same and nothing would prevent those ships issuing from their retreat to attack Japan. The necessity for guarding against such an eventuality is too commanding and too overwhelming to permit the *Ryeshetelni* to stand as a precedent. This incident in no way affects foreign commerce or disturbs the general situation of China. It merely serves as notice to Russia that she must keep her engagements in future.

. *Mr. Goodnow to Mr. Loomis.*

No. 601.]

AMERICAN CONSULATE-GENERAL,
Shanghai, August 26, 1904.

SIR:

* * * * *

The commissioner of customs had selected an expert, Mr. W. B. Buyers, who inspected the *Grozovoi* and the *Askold*. The taotai decided that many of the repairs specified in Mr. Buyers's report were unnecessary for seaworthiness. Mr. Buyers reported that it would take eighteen days to repair the *Grozovoi* and twenty-eight days to repair the *Askold*. The taotai scrutinized the report and decided upon what he considered as necessary for seaworthiness, and found how long it would take to patch (not permanently repair) the holes in the hull, so that the boat would be capable to go to Vladivostok or Port Arthur. He decided that repairs to the funnels would only increase the speed and therefore the fighting effectiveness of the boat, and therefore were not permissible, and wrote to the Russian consul-general as I have telegraphed above.

* * * * *

I hand you herewith translations of the taotai's two dispatches, which he wrote to me as senior consul, asking me to bring the matter before the consular body.

* * * * *

A Japanese torpedo boat came in here late in the afternoon of the 21st, but simply brought dispatches from their fleet outside and returned the next morning with dispatches and orders to the fleet.

The Standard Oil Company's plant is immediately adjacent, with only a party wall between, to the dock where the *Askold* is being repaired. It is a very valuable plant, which they use as a distributing center for their trade.

* * * * *

It seemed necessary to the consuls that, as the Chinese were attempting to disclaim responsibility, we should agree on the facts of the proceedings up to that time. We found that the *Grozovoi* came in August 12 and anchored; went to jetty August 14, and began repairs August 18. That the *Askold* came in August 12, began repairs on the 13th, and went into dock on the 14th. That on August 17 the commissioner of customs and experts visited both boats and made their verbal report to the taotai on the 18th and written report on the 19th. They reported that the dock company estimated eighteen days for repairs to the *Grozovoi* and twenty-eight days for the cruiser. No copy of this report was sent to the Russian consul-general. That on August 19 the taotai notified the Russian consul-general that the boats had then been in Shanghai seven days, and that he would require the *Grozovoi* to leave within twenty-four hours, and the *Askold* within forty-eight hours should complete repairs and go out within twenty-four hours thereafter. This demand was refused by the Russian consul-general. That on August 20 the taotai wrote to the senior consul for the information and action of the consular body, and disclaimed further responsibility for anything that might happen. That on August 22 the taotai received instructions from the Waiwu Pu, and notified the Russian consul-general that both boats should complete repairs by noon of the 23d and leave immediately thereafter. The taotai wrote this to the consular body for their information and action.

As the taotai in his letter said that "if anything unexpected happens in Shanghai the responsibility must rest with the Russian Government and will be no concern of China," the consular body was unanimously of the opinion that a letter should be sent to the taotai to point out that the Chinese authorities could not, on their own motion, divest themselves of their duties as a sovereign state to maintain neutrality in this port. I hand you herewith a copy of the letter written.

* * * * *

As the Russian consul-general had refused to go out on the 23d, and as the repairs were all being executed by a British company, over which the taotai had no control, the taotai made the request to the British consul-general, who, he had reason to believe, would order the work stopped. Should the dock company have refused to obey the order, the taotai was prepared to forbid all Chinese workmen from further work on the vessels. The British consul-general, after consultation with the Russian consul-general, notified the taotai and the

Russian consul-general that he would stop the work on the 24th, but before that time further action was taken by the Chinese Government.

* * * * *

I had been in constant communication with Admiral Stirling and had given him, for his information, copies of telegrams I sent you, which conveyed the facts as I knew them. I had also duplicated the telegrams I sent you to Minister Conger and have also sent him copies of the various dispatches that I am sending you on this subject. I will also send him a duplicate of this letter.

In thinking over the situation and reading the various documents in connection therewith it seems to me that I had been carrying out, before I received your telegrams, the line which you indicated in them. I had said to the consular body immediately on the opening of the meeting of the 22d that nothing which I should say could be construed as relieving anyone of their just responsibility, and I disclaimed for Admiral Stirling, on his authority, any idea of becoming a guardian of Chinese neutrality by the fleet at Woosung. Since the incident has closed I have received the personal thanks of the taotai, the Japanese consul-general, and the Russian consul-general.

I hand you herewith copy of the taotai's letter of the 24th, conveying to me the information as to the extension of time, and copy of his letter informing me of the final settlement.

I am, etc.,

JOHN GOODNOW.

[Inclosure.]

Yuan Taotai to Mr. Goodnow.

Re RUSSIAN VESSELS OF WAR IN SHANGHAI.

Some time ago I received a dispatch from the Japanese consul-general that he was in receipt of a telegram from the Japanese minister of state instructing him with regard to Russian vessels of war which entered Shanghai, that, twenty-four hours having elapsed, China should at once order them to leave the port, and in case of refusal to comply with the request they should be dismantled and assigned a certain place where they should remain till hostilities had ceased.

If China could not make up her mind to this Japan would take the matter in hand and settle it.

I therefore sent to the Russian consul-general the telegraphic instructions sent me by the Wai-wu-pu ordering the dismantling of these vessels of war and getting from the Russian officers and men a bond that they would not engage in further fighting and hand over the boats to the Chinese Government for safe-keeping. I wrote also to you, the honorable consul-general, about the matter to take note of, which is on record.

Later the Russian consul-general stoutly maintained that since the cruiser *Askold* and torpedo destroyer *Groszovoi* came for the purpose of repairing damages received they had a right to enter the port to complete the repairs and to leave the port, and he would not consent to their being dismantled.

I am aware that in the Waiwu Pu's rules of neutrality the right is granted to repair damages to vessels of war belonging to nations at war with each other, but such repairs should only be to the extent to enable the injured boat to reach the nearest port, and that the limit of time in port should be fixed by the local authorities.

I therefore sent word to the commissioner of customs asking him to send an officer to make an inspection and to make an estimate how long repairs should

take. I have stated this and I state it again, that we have to go according to rule. For the last ten days repairs have dragged on and there is no telling when the repairs will be finished. I have repeatedly communicated with the Russian consul-general and consulted with him about this matter, but so far no reliable estimate has been forthcoming as to when the work will be completed. I can only act according to rule.

This cruiser has been in dock for many days; the steering gear is about finished. Forty-eight hours might be given to complete repairs, after which they should leave the port in twenty-four hours' time. The torpedo boat having already passed the limit of five days as requested by the Russian minister at Peking should not be permitted to go on with repairs, but should leave the port within twenty-four hours, otherwise to be dismantled. I communicated with the Russian consul-general that he should give instructions to comply with my request. The Russian consul-general replied more than once refusing to comply. I was at a loss what further to do and sent my interpreter, Wan, to consult with the consul-general with reference to dismantling the torpedo boat by noon to-day, as the time was up.

The Russian consul-general stoutly maintained that so long as the engineer had not given his estimate with regard to repairs to the boats I could not fix the limit of time (to be granted). He also said that they should not be dismantled, but that each of us should refer the matter to his respective Government, as to what action should be taken. This surely is not bearing in mind the rules of neutrality of my country, which expressly leave the time limit to be determined by the local authorities; under present circumstances this power rests with me, and why should I trifle (or lose time) by reporting to my superiors in office or take the engineer's estimate to act upon?

Since the Russian consul-general will not accept my plan of action, he evidently does not approve of the rules fixed by the Wai Wu Pu and does not wish for our protection, it looks as if he meant to break up our neutrality.

Supposing anyone intended, like the Russian consul-general, to bring to naught our neutrality, or that a Russian man-of-war entering the harbor should meet with the unexpected, it surely will then be no longer any concern of ours. Russia must herself bear the responsibility.

Shanghai being an international commercial metropolis, it will be affected by this not a little. Complications arising therefrom should also be on the shoulders of Russia.

Besides sending a dispatch to the Russian consul-general, I beg to express my lasting gratitude for the good word from the American Government, which I heard when war broke out between Japan and Russia—i. e., that the United States is willing to uphold our neutrality, and the knowledge that its consul-general (Goodnow) is at all times ready to uphold justice.

We have now to deal with the fact that Russian vessels of war refuse to comply with our rules and are unwilling to accept my country's protection, with intent of upsetting our neutrality.

I can not but bring this matter in detail to your notice and send this dispatch to you, the honorable senior counsel, to make it known that if anything unexpected happens in Shanghai the responsibility must rest on the Russian Government and will be no concern of China.

I beg to ask you to bring this to the knowledge of the consular body for their information and action.

A necessary dispatch.

Dated 10th of the 7th moon (August 20, 1904).

[Inclosure 2.—Translation.]

Yuan Taotai to Senior Consul Goodnow.

Re RUSSIAN BOATS IN SHANGAI.

Referring to the Russian torpedo boat which did not leave the port within the prescribed time, nor disarm—intent on breaking our neutrality—I sent you yesterday a dispatch to make it understood that in the event of any unexpected difficulties arising in consequence of the Russian war vessels being in Shanghai, leading to complications or loss to neutrals, the Russian Government should be

held responsible and would be no concern of China. I pressed the Russian consul-general and asked you, the honorable senior consul, to bring the matter before the consular body, which is on record.

I am now in receipt of the following telegram from the viceroy at Nanking:

"The Russian boats having delayed again and again and planned to make repairs which would affect the war and make it difficult for us to keep neutral, order them strongly (force them) to disarm to-day when the time is up. If they refuse to do so, the Russians will themselves be breaking international law, and if Japanese war vessels come in and a fight ensues it will not concern China (any longer). Whatever complications may arise from this, or to whatever extent mischief be done to this neighborhood, China will certainly not bear the responsibility."

The viceroy instructs me again to communicate with the senior consul. While in the act of doing so I had the honor to receive the following telegraphic instructions from the Wai Wu Pu:

"Grant the Russian boats forty-eight hours from noon of the 11th day of the 7th moon (August 21, 1904) to complete repairs; they must then leave port at once. If they refuse to do so, allow no more repairs; disarm them forthwith."

I had further telegraphic instructions from the viceroy at Nanking to again communicate with the Russian consul-general and ask him positively whether the two boats would leave the port or not. In case they meant to leave the port repairs must be made promptly, not to extend beyond noon of the 13th day of the 7th moon (August 23). If they do not mean to leave port no repairs would be allowed, but are to be immediately disarmed.

Besides sending a dispatch to the Russian consul-general to attend to this matter quickly and let me have a reply, I write again to you, the honorable consul-general, in order that you may inform the consular body to take note of and to take action.

A necessary dispatch.

Dated the 11th of the 7th moon, 30th year of Kuanghsü (August 21, 1904).

[Inclosure 3.]

Senior Consul Goodnow to Yuan Taotai.

I have to acknowledge receipt of your letter of August 20 (received August 21) and of August 21 (received August 22), regarding the Russian men-of-war in Shanghai, and stating the time limit the Chinese Government had placed on their stay in Shanghai, and disclaiming responsibility for any unexpected thing happening in this matter hereafter, and saying that you write this to the consuls for their information and action.

The various consuls will at once inform their governments of the facts in this matter, and will then await instructions. I am instructed, however, in the meantime (the Japanese and Russian consuls-general not voting) to point out that the Chinese authorities can not divest themselves of the duty or preserving the neutrality of the port.

[Inclosure 4.—Translation.]

Yuan Taotai to Senior Consul Goodnow.

Re RUSSIAN WAR VESSELS IN SHANGHAI.

At 10 p. m. of the 23d of August I had the honor to receive the following telegraphic instructions from the Waiwu Pu:

"The time limit granted to the Russian war ships will be up to-day. As these ships have not left the port and have not disarmed, they are breaking the rules of neutrality. On inquiry we have learned that they require two or three days more to complete repairs, and that it is difficult for them to leave the port on account of the lowness of the tide. You may extend the time limit four days, from noon of the 23d of August, within which time they must hurry repairs to make said ships seaworthy. They must positively finish repairs by the 27th of

August, and they should leave the port promptly at noon of the 28th August, when the tide comes in. We have written to the Russian minister at Peking and instruct you to inform the consuls.

Besides sending a dispatch to the Russian and British consuls-general, that they may instruct these war vessels and inform Messrs. Farnham, Boyd & Co. as to the extension of time and to push the repairs to the extent of making the ships seaworthy, and that the work on them must be finished by the 27th of August and leave port before noon of the 28th of August, I send this dispatch to you, the honorable consul-general, that you may take note of it and inform the consular body, that action may be taken accordingly.

Dated 14th day of 7th moon, 30th year Kuanghsü (August 24, 1904).

[Inclosure 5.—Translation.]

Yuan Taotai to Senior Consul Goodnow.

On the 14th day of the 7th moon (August 24, 1904) I received a dispatch from the Russian consul-general to the effect that he had received a dispatch from the admiral in command of the war ships in Shanghai, informing him that by Imperial ukase the cruiser *Askold* and the torpedo-boat destroyer *Grosvoivi* are to be disarmed. It is accordingly decided that at 7 o'clock p. m., August 24, the two ships are to take down their flags, when disarmament is to begin and the soldiers are to be removed therefrom.

With regard to repairs, instructions were received from the minister of the admiralty that they should proceed as before, and that the local Chinese authorities be informed on the point and consulted as to the details of disarming.

As to the sailors on these two boats, part of them are at once to be sent home, as was done in the case of the *Mandjur*.

The Russian consul-general therefore asks me at once to take steps for the protection of these two boats and intimates that from the time their flags are taken down and the soldiers removed the safe-keeping of the two ships and the responsibility therefor will entirely rest with the Chinese Government.

The consul-general asks me to inform the commissioner of customs and to ask him to confer with the Russian consul-general as to the procedure in disarming the two boats.

The consul-general has already wired for instructions and as soon as he receives a reply the matter can be settled.

Since the Russian war ships have observed the neutrality determined on by my country, and (begin to) disarm, it is but right that China should take care of the two boats left in this port and protect them, and we will do our utmost to maintain the principles of neutrality.

Besides writing to the Japanese and British consuls-general and asking the commissioner of customs to send an officer (or officers) to the Russian boats to have them properly disarmed and to have the goods stored, I send this dispatch to you, the honorable senior consul, with the request that you will take note of it and to inform the consular body, that they may act accordingly.

A necessary dispatch.

Dated 14th day of 7th moon, 30th year of Kuanghsü (August 24, 1904).

Mr. Conger to Mr. Hay.

No. 1695.]

AMERICAN LEGATION,
Peking, China, August 30, 1904.

SIR: Continuing my No. 1692 of August 26, I inclose herewith copy of Prince Ch'ing's reply to my note of the 23d instant, and have the honor, etc.,

E. H. CONGER.

[Inclosure.]

Prince Ch'ing to Mr. Conger.

On the 13th day of the 7th moon, (August 23, 1904), I received a dispatch from your excellency saying that your excellency had received a cablegram from the (American) Department of State, stating that Russian warships were in Shanghai harbor in close proximity to the premises of the Standard Oil Company, and that in the event of hostilities there was grave danger to their oil warehouses, as well as to property belonging to merchants of other nationalities, and asking what rules of neutrality would be enforced in this case, as in the event of injury to American interests and property those answerable for damages will be held strictly responsible.

Upon inquiry it appears that when the Russian war ships escaped from Port Arthur and entered Shanghai harbor this board at once sent a dispatch to the Russian minister resident at this capital, asking him to in turn inform the commanders of the said vessels that they must quickly execute the necessary repairs and within a prescribed period (specified) leave the harbor or at once have the munitions of war and machinery removed in accordance with the principles of international law and regulations of neutrality.

We have now received a telegram from the Shanghai Taot'ai, saying that the commanders of the Russian vessels have agreed to lower their flags at 7 p. m. on August 25, which is to be considered as equivalent to disarmament. The soldiers will be withdrawn and the sailors will be sent home, in accordance with the precedent established in the case of the *Mandjur*.

This board at once telegraphed to the said taot'ai to see that this is carried out as stated. There will be no damage to the property of the Standard Oil Company or other foreign interests there.

As in duty bound, this board at once communicates this to your excellency for transmittal to the State Department.

Kuang-hsü, 30th year, 7th moon, 17th sun (27th August, 1904).

(NOTE.—For further correspondence relating to the Chefoo and Shanghai incidents, see under Japan, p. —.)

PROTECTION OF JAPANESE INTERESTS IN CHINA.

Mr. Loomis to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 9, 1904.

(Mr. Loomis instructs Mr. Conger to instruct the consul at Niu-chwang to take charge of Japanese interests at the request of that Government in the event of its consul being withdrawn, if China assents thereto. The consul's duties will be confined to the use of his good offices in protecting Japanese subjects and their interests, but he will not be invested with any Japanese consular functions or authority.)

Mr. Conger to Mr. Hay.

No. 1503.]

AMERICAN LEGATION,
Peking, China, February 13, 1904.

SIR: I have the honor to confirm your telegram received February 10.

The Chinese Government have readily consented, and I have sent telegraphic instructions to Consul Miller to take charge of Japanese interests in his jurisdiction in accordance with your instructions.

I have, etc.

E. H. CONGER.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, February 14, 1904.

(Mr. Conger reports that in a telegraphic communication from Consul Miller he is informed that all Japanese people arriving at Niuchwang from the interior and trying to leave Manchuria are arrested and taken to Port Arthur. The Japanese Government is being informed by its minister here in order that the matter may be presented at St. Petersburg.)

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, February 24, 1904.

(Mr. Conger reports that according to telegraphic information the Russian authorities refuse to give information to Mr. Miller concerning Japanese subjects or permission for their representatives to have intercourse with them.)

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, April 5, 1904.

(Mr. Conger reports that yesterday the American correspondents at Niuchwang were released but not their servants of Japanese nationality, who are held as prisoners of war.)

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, April 7, 1904.

(Mr. Conger suggests that the matter of the release of the Japanese servants of Washburne and Little, refused by the Russian authorities at Niuchwang, be referred to St. Petersburg.)

Mr. Conger to Mr. Hay

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, April 28, 1904.

(Mr. Conger reports the release and arrival at Chefoo to-day of the Japanese servants of Washburne and Little.)

VISIT OF PRINCE PU LUN TO THE UNITED STATES.

Mr. Conger to Mr. Hay.

No. 1529.]

AMERICAN LEGATION,
Peking, China, March 5, 1904.

SIR: I have the honor to inform you that His Highness Prince Pu Lun, Chinese commissioner in chief to the Louisiana Purchase Exposition, left here for the United States on yesterday.

He is the bearer of a special message from the Emperor of China to the President of the United States, which he informs me he will deliver before the opening of the exposition. He will spend a little time in Japan en route, but expects to arrive in the United States about April 20.

I appreciate the difficulty of the Government of the United States in paying any great special attention to him at a time when so many important representatives of other countries will also be visiting the United States, but since China is just now beginning to send her young princes abroad I apprehend that public or official courtesies extended to no one will be more gratefully appreciated than by Prince Pu Lun and his Government.

I have, etc.,

E. H. CONGER.

Mr. Hay to Sir Chentung Liang-Cheng.

DEPARTMENT OF STATE,
Washington, April 12, 1904.

MY DEAR MR. MINISTER: The President will have great pleasure in receiving His Imperial Highness Prince Pu Lun at the White House on Monday, the 25th, at half past 2. He will also detail Colonel Symons, of the United States Army, to be in attendance upon His Highness during his stay in Washington.

I am, etc.,

JOHN HAY.

Sir Chentung Liang-Cheng to Mr. Hay.

No. 31.]

CHINESE LEGATION,
Washington, April 22, 1904.

SIR: I have the honor to inclose herewith for your information a translation of the letter from His Majesty the Emperor of China to His Excellency the President of the United States, the original of which Prince Pu Lun will deliver to its high destination on Monday.

Accept, etc.,

CHENTUNG LIANG-CHENG.

[Inclosure.—Translation.]

*The Emperor of China to the
President of the United States of America—Greeting:*

From the commencement of China's friendly intercourse with the United States the relations between the two countries have been growing closer and closer every day. Now the holding at the city of St. Louis of an international exposition to celebrate the one hundredth anniversary of the purchase of Louisiana, the object of which is to bring together from every country on the surface of the globe its products and resources of every description for purposes of illustration and exhibition, gives us a fresh opportunity of manifesting our friendship. We have, therefore, specially appointed Pu Lun, a prince of the imperial house in the third degree, who is nearly related to us by blood, to be our commissioner to the said exposition. Our knowledge of his deep interest in commercial affairs affords us entire confidence that he will satisfactorily discharge his duties connected with China's participation in the said exposition in conformity with the rules and regulations promulgated for the purpose.

We have, moreover, commanded him to proceed to your national capital for the purpose of presenting this letter and conveying to Your Excellency the assurances of our high regard. We trust that Your Excellency will kindly receive him and afford him every facility to carry out the purpose of his mission to the end that great and lasting benefits may accrue to the commerce between the two countries.

Given this 18th day of the 12th moon, in the 29th year of Kwanghsü (February 3, 1904).

Mr. Hay to Mr. Conger.

No. 792.]

DEPARTMENT OF STATE,
Washington, April 27, 1904.

SIR: Your No. 1529, of the 5th ultimo, in regard to the visit of Prince Pu Lun to the United States, has been received.

The prince arrived in Washington on the 24th instant and was received by the President on the following day. During his stay all possible attention comporting with his high station was shown him.

I am, etc.,

JOHN HAY.

*Mr. Hay to Sir Chentung Liang-Cheng.*DEPARTMENT OF STATE,
Washington, May 31, 1904.

MY DEAR MR. MINISTER: I send you herewith, according to the promise made to Prince Pu Lun, a letter from the President to His Majesty the Emperor of China, to be delivered by His Imperial Highness.

Yours, faithfully,

JOHN HAY.

[Inclosure.]

President Roosevelt to the Emperor of China.

I have received with great satisfaction from the hands of His Imperial Highness Prince Pu Lun, Your Majesty's commissioner to the International Exposition now being held in the city of St. Louis, the letter which you were pleased to send me by him.

Your Majesty expressed the hope that the friendly relations which have always existed between our respective countries may continually grow closer. This is

also our earnest wish and the object of our constant care. Nothing can, we think, more contribute to this most desirable end than the extension of commercial relations between the peoples of China and the United States. By them mutual confidence and prosperity will be increased, the happiness of the people greatly advanced, and the aims of benevolent government promoted.

It has given me much pleasure to receive in our national capital a prince of your imperial house. Every facility has been afforded him to carry out the mission which Your Majesty has intrusted to him, and I hope that its result may powerfully tend to the lasting advantage of our countries.

I have given this letter to His Imperial Highness Prince Pu Lun and requested him to present it to Your Majesty, and have also asked him to convey to you the assurances of my high regard and friendship and my sincere wish that Your Majesty's reign may long continue and that the prosperity and happiness of China may continually increase.

Your good friend,

THEODORE ROOSEVELT.

WHITE HOUSE, Washington, May 28.

MINING REGULATIONS IN CHINA.

Mr. Conger to Mr. Hay.

No. 1544.]

AMERICAN LEGATION,
Peking, China, March 22, 1904.

SIR: I have the honor to inclose translation of a set of mining regulations issued for the province of Hu-nan, and which have received Imperial approval.

These appear to me so flagrant a violation of the provisions of our treaty that I have filed with the foreign office a formal protest against them, copy of which I also inclose. The English and German ministers here inform me that they have taken like action.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Regulations of the General Mining Syndicate of the province of Hu-nan.

1. Petition from the syndicate to the governor of Hu-nan, requesting him to memorialize the Throne and ask for the Imperial sanction for the grant of a monopoly of all the mines in Hu-nan to the syndicate.

2. Formation of a syndicate by the fusion of two former mining companies, Fu Hsiang and Yuan Feng.

3. The syndicate to have exclusive management and control over all mines in Hu-nan, with the exception of those already under government control, and all mining operations for which concessions have already been granted, or may be granted hereafter, to be under the control of the syndicate, which is to be the only mining company. The syndicate to correspond direct with the governor, and the governor's instructions to be conveyed to the head mining bureau.

4. All mining operations, including going concerns, whether they be undertaken by private individuals or by companies with a subscribed capital, to be registered by the mining syndicate and to conform with its regulations.

5. The province of Hu-nan to be divided into three mining districts, Changsha, Yochou, and Chang-te, and Fu-li-chou being the central district; Pao-ch'ing-fu, Heng-chou-fu, Yung-chou-fu, Ch'en-chou, Kwei-yang-chou to form the southern district; Ch'en-chou-fu, Yuan-chou-fu, Yung-shun-fu, Ching-chou, and the four subprefectures, Feng-huang, Yung-sui, Kung-sui, Kuang-chou, and Kan-chou, and Kan-chou being the western district.

6. The concession to be granted by the government to the syndicate to be in perpetuity.

7. The monopoly to be granted to the syndicate for mines of every description.

8. The syndicate to act on commercial lines, and not on official principles.

9. The object of the syndicate is to benefit all. No special privileges to be granted, equal treatment to be meted out to all comers.

10. The former companies, Fu Hsiang and Yuan Feng, had capitals of 2,000,000 taels and 200,000 taels, respectively. The capital they agree to put together, after the fusion into one company, is to be 3,000,000 taels at first, divided into 60,000 shares. Chinese of all provinces are entitled to be shareholders, but not foreigners.

SECTION II.

11. The syndicate to engage Chinese mining engineers educated abroad, or well-known foreign engineers, to prospect and inquire into the mineral resources of the whole province. Deputies or members of the gentry to be sent into all the districts to effect purchases of mining land.

12. The syndicate's head office to be situated in Changsha and branch offices at Yochou, Hankow, and Shanghai.

13. The smelting of ore to be carried on by both foreign and by Chinese methods. Native smelting furnaces may be established wherever required; foreign smelting works to be established at places selected with a view to convenience of transport. The existing produce of smelting works to be disposed under the management of the syndicate at Changsha, to avoid confusion of prices.

14. The directors of the three districts to have joint control of the syndicate.

15. Persons of one district wishing to start mining operations in another district must come to an understanding with the syndicate previous to doing so.

16. Appointments to assistant directorships to be made by the head office of the syndicate with the approval of the governor.

17. Directors and subdirectors to be selected in accordance with the general desire of the shareholders. Should they disagree, the candidates to be nominated by ballot at the next general meeting of shareholders. The candidates selected to receive their appointments from the governor.

18. The governor to be requested to appoint an officer to supervise the handling of government grants and dividends, and to control the finances of the syndicate generally.

19. The syndicate to have a seal for its three districts, the old seals of the original companies to be destroyed.

20. The syndicate will create a mining bank, the checks of which shall be current among the various mining companies affiliated by the syndicate. (This paragraph is open to further discussion and amplification.)

21. A school of mines is to be founded, the cost of which shall be refunded from the net profits in a manner to be hereafter defined, whether the outlay be provided out of special funds or out of the capital of the syndicate. Any overplus may be used for extending the business of the syndicate.

22. It is hoped that the capital of the syndicate may hereafter be increased, and such increase shall be sanctioned.

SECTION III.

23 to 28. Details of the management of the shares, with a restriction against their being transferred to foreigners.

29 to 37. General meetings of shareholders.

SECTION V.

38. All the owners of mining property to be notified by the provincial authorities that they must forward to the syndicate samples of their ores for assaying purposes. In case of the distance being very great those samples to be sent to the nearest local official for transmission.

39. A competent member of the gentry shall be sent to the various local authorities to select and examine mining estates with a view to ascertaining whether they are worth working. He shall draw up plans and registers thereof and request the local officials to confer with him and act accordingly.

40. When a mining estate has been registered the syndicate shall inform the local authorities. Such estates thereafter not to be sold to nonmembers of the syndicate.

41. With the exception of the mining estates already in the possession of the syndicate all other estates that have been registered shall be surveyed afresh by a mining expert specially appointed by the syndicate, and shall then be bought up by the syndicate at a price agreed upon.

42. In case the owner of a mining estate is unwilling to sell, his property may be held as his share in the syndicate. The property shall be worked by the syndicate, and a suitable dividend shall be paid to the owner.

43. All mines that have been previously opened up, but where owners have had to suspend operations owing to want of capital, may also be assimilated as a share in the capital of the syndicate. If the owners wish to continue to operate their mines themselves, then the provisions of Section VII shall apply.

44. Should any capitalists in the three districts wish to purchase or lease a mining estate, they must first obtain a written permission from the mining bureau, who will have had surveys made, or a dispatch from the syndicate to the local officials, authorizing them to seal the contract and receive the taxes payable thereon. Failing these documents, and if only the usual threefold land deed with the words "mining property" added thereto is produced in order to obtain tax receipts by fraud, the local authorities, on detection thereof, shall cancel the said deeds. This measure has been submitted to and approved by the Wai Wu Pu.

45. Should owners of mining estates not be willing to sell or to take part in the operations of the syndicate, they must request the provincial authorities to issue a proclamation. In such cases the said owners shall send their title deeds to the authorities of their district to be sealed and entered in the registers to avoid other complications. In case of disobedience to this rule offenders will be punished. Thereafter, unless the owners agree to let the syndicate manage their property, any private rules or other arrangements will not be permitted.

SECTION VI.

46. Mining operations that have been authorized formerly and that have been carried on without stopping up to the present time shall continue to be worked as heretofore, but must be registered by the syndicate.

47. The expenditure and receipts connected with work done at the mines and the method of mining remain under the control of the mine owner, and he may decide whether the ore produced shall be smelted by himself or sold to the syndicate smelting works. If he wishes to sell to outsiders the produce of ore smelted by himself, he must enter into an agreement with the syndicate and obtain a permit.

48. Whenever mine owners refuse to register their property or to take a share in the syndicate or secretly sell their produce to nonmembers and refuse to abide by the rules of the syndicate, it is to be feared that disturbances may occur and frauds be perpetrated. The syndicate shall in such cases apply to the governor to prevent such abuses.

49. Whenever mining concerns actually working wish to change their rules or to increase their share capital they must report the circumstances to the syndicate. The syndicate will then send an inspector to make investigations, and in case of noncompliance with the regulations of the syndicate or of disturbances and fraud, the syndicate shall, if necessary, petition the governor to put a stop to their operations.

50. The above regulations apply to mines actually in operation. Such mines as have not yet been started or that have ceased work or that may be started hereafter must be carried on as per Sections V and VII.

SECTION VII.

51. Merchants or gentry of our own or other provinces wishing to lease any particular mining property from the syndicate, with a view to mining in accordance with the syndicate's regulations, must enter into an agreement with the syndicate and have the company registered as a branch of the syndicate.

52. The name of such company to be registered in accordance with section 1, 4.

53. The rent charged by the syndicate to such a company to be estimated according to the output.

54. In such cases the syndicate may depute a person to manage the branch

company, and he is to have control over the output and to enforce discipline, etc., the costs to be borne by the branch company.

55 to 57. Methods for the financing of branch companies. Any admission of a foreigner to the finances to invalidate the agreement.

SECTION VIII.

58 to 59. The year to be divided into two halves, and accounts to be audited every year.

60. The syndicate and its branches to pay to the Government the royalties provided for by the regulations.

61 to 62. Distribution of profits, etc.

63. The above regulations may be altered, in case they prove unsatisfactory, by a general meeting of the stockholders.

[Inclosure 2.]

Mr. Conger to Prince Ch'ing.

AMERICAN LEGATION,
Peking, China, March 15, 1904.

YOUR IMPERIAL HIGHNESS: I have the honor to address you imperial highness on the matter of the new mining regulations of Hu-nan.

A copy of the regulations has been placed in my hands, and I am informed, much to my surprise, that they have already received the Imperial sanction.

I feel sure that this could only have been done by inadvertence or by some misunderstanding on the part of their imperial majesties and your highness of the present situation, because even a cursory reading of the regulations will show that they are unquestionably in violation of both the spirit and the letter of Article VIII of the new commercial treaty recently entered into with the United States, wherein China concedes that in the matter of developing her mineral resources it is desirable to attract foreign as well as Chinese capital for investment in mining enterprises. In the article mentioned China has agreed that she will offer no impediment to the attraction of foreign capital, nor place foreign capitalists at a greater disadvantage than they would be under generally accepted foreign regulations, and that she will permit citizens of the United States to carry on in Chinese territory mining operations and other necessary business relating thereto, provided they comply with the new regulations and conditions which will be imposed by China on its subjects and foreigners alike, etc.

These Hu-nan mining regulations, however, if allowed to go into operation, would really withdraw the entire province of Hu-nan from the application of the treaty provisions just quoted, inasmuch as all foreigners and foreign capital are by the said regulations definitely and permanently excluded from any and all mining opportunities therein.

It is my duty, therefore, in the name of my Government and in the interest of its citizens to make respectful protest against the enforcement of such regulations. But confiding in the honest intentions of the Chinese Government to at all times observe its treaty obligations, I trust that it may be necessary only to call the attention of your imperial highness to the plain, but I believe unintentional, violation of the treaty with the United States recently ratified to have these Hu-nan mining regulations promptly diavowed and annulled.

I avail myself, etc.,

E. H. CONGER.

Mr. Conger to Mr. Hay.

No. 1607.]

AMERICAN LEGATION,
Peking, China, May 14, 1904.

SIR: I have the honor to transmit herewith a copy of the recently published revised mining regulations for the Chinese Empire. A

cursorry review will show that they are impracticable, not at all in accordance with the letter or spirit of Article VII of our late treaty, and instead of "attracting" will repel foreign capital from embarking in mining enterprises.

Without going into details I have contented myself with notifying the foreign office that these regulations can not be accepted as fulfilling the provisions of the commercial treaty signed on October 8 last, and I inclose a copy of my note herein.

The German and British ministers have each filed similar protests.

I shall await your instructions before taking any further action.

I have, etc.,

E. H. CONGER.

[Inclosure.]

Revised mining regulations.

This memorial is reverently submitted, proposing for temporary adoption the following set of mining regulations, which has been drawn up, and the examination of which by your imperial majesties is humbly requested.

In the memorial proposing for adoption certain railway regulations, which memorial was presented by this board in the tenth moon of the XXIX year of Kuanghsü (November-December, 1903) we said:

"As to mining regulations, we have already received an imperial edict directing Liu K'un-i and Chang Chih-tung to make a selection from the mining regulations of various countries. So far Chang Chih-tung has not yet come to a decision, and this board ought for the present to propose a set of regulations to be put into operation experimentally." In response we received an edict saying, "Let it be as proposed." "Reverently received; let it be reverently obeyed." All of this is a matter of record.

Chang Chih-tung has now returned to his post, and we hear that he has bought a collection of western books on mining, the translation of which will yet require some time. This board having by an imperial edict been given direction of railway and mining affairs, has special responsibility with regard to this matter. The operation of mines is being gradually undertaken, and merchants are clamoring for concessions. If, then, we do not agree upon some regulations, it will be difficult to secure uniformity in our granting or withholding of the concessions asked. Moreover, the matter is one which intimately concerns our foreign relations, and we ought, therefore, the more carefully and minutely to investigate the subject that we may have some definite course to follow. We find that in the tenth moon of the XXIV year of Kuanghsü (November-December, 1898) the general bureau of railways and mines submitted 22 regulations dealing with mines and railways together, and that in the second moon of the XXVIII year (March-April, 1902) the board of foreign affairs in a memorial submitted a set of 19 regulations. An examination of these two sets of regulations shows that under present circumstances there is need of revision and additions, and the members of the board, having consulted together, have prepared a set of 38 mining regulations which we propose for adoption temporarily, and herewith submit the same for the inspection of your majesties. Should your majesties sanction them, this board will circulate them throughout all the provinces for their observance and will also communicate them to the board of foreign affairs that they may be transmitted to the ministers of the various foreign countries in Peking to be placed on file. Afterwards, when Chang Chih-tung shall have compiled a special work upon the subject, it will have to be taken up again in connection with him, so that there may be no lack of uniformity.

As in duty bound, we have reverently set forth the reasons for issuing revised mining regulations for temporary use, and submit this memorial praying that Her Imperial Majesty the Empress Dowager and His Imperial Majesty the Emperor will examine the same and issue instructions.

The above memorial was submitted on the 1st of the second moon, the XXX year of Kuanghsü (March 17, 1904), and on the same day an edict was received saying:

"Let it be as proposed. Respect this."

Regulations.

1. This board has with reverence received an imperial edict directing it to take over the joint management of mining and railway affairs, and has humbly complied therewith, as is a matter of record.

Railway regulations have already been submitted in a memorial by us and adopted. As to mining regulations already in use, the board of foreign affairs in those issued by it in the second moon of the XXVIII year of Kuanghsü (1902) stated clearly that matters not fully treated in said regulations would be provided for as occasion might require by such additions and excisions as circumstances might demand, in the hope that the regulations might be made as perfect as possible. Our board, having now agreed upon these temporary regulations, will not hereafter give its consent to any request for a concession based upon former regulations or methods of mining operation heretofore allowed in various Provinces brought forward as a precedent, except that mines already in operation or concessions for working which have already been granted may continue to be worked according to the agreements already made.

2. All who apply for mining concessions must obtain permits from this board and must not operate the mines before such permits have been obtained. Permits are divided into two classes—(a) prospecting permits—and (b) permits for working mines.

3. Only when mining lands are the property of the State, no matter what the kind of ore produced by them, can a permit be granted. If the lands be private property, an agreement must first be made with the owner as to a price or his consent obtained to taking shares instead, and a report to that effect made and recorded, when only may a permit be requested. If the mining land in question be a place which the Government ought to develop, the officials must buy the land at a fair valuation, and the owner must not oppose.

4. No matter whether the undertaking is to be managed by Chinese or by Chinese and foreigners together, when application is made for a prospecting permit or a permit to work a mine the petition must be prepared in strict accordance with the requirements detailed below, and may be presented directly to this board or through the viceroy and governor of the Province concerned, and after they shall have investigated whether or not local circumstances present any obstacles to the concession, and whether or not these regulations are being violated, this board will take the matter into consideration and grant or withhold the concession asked. The requirements referred to are as follows:

(a) The petition shall state clearly the surname and personal name of each petitioner, and to what Province and district he belongs, the number of the petitioners, and whether the petitioners are really to operate the mine themselves or intend to dispose of it to others.

(b) Should the applicants consist of Chinese and foreigners, who are taking shares together, the application must state clearly to what countries the foreigners belong and the exact number of shares which they hold.

(c) The application must state the location and boundaries of the mine, measurements of these boundaries, and the area of the mine in square li and in mou, and must be accompanied by a map marked with proper explanations, in order to facilitate examination.

(d) The kinds of ore which the applicants intend to work must also be clearly set forth.

5. The mining concession asked must not contain more than 30 square li, and must be comprised in territory which is continuous; the length must not be more than four times the breadth, and should there be graves upon the land some method must be adopted to avoid them in constructing shafts and tunnels; if this should be absolutely impossible then a liberal allowance must be made for removing them.

6. Should the mining concession for which application is made have been granted already to some other person, or should the lands concerned be important to the use of the State, the permit can not be granted. This board, upon thorough investigation, will reject the application.

7. (The following refer to prospecting:.) When an application has been made for a permit to prospect and the same has been granted, it is understood that

permission is not given to work a mine, but merely to examine the surface outcrop of the vein in the locality mentioned in the permit, and such prospecting must not be carried to too great a depth nor over too great extent of ground.

8. A permit to prospect shall be good for one year, at the expiration of which time, if the examination shall really not have been completed, a petition must be prepared making a clear statement of the facts, and if, upon investigation, it shall appear that no false report shall have been made, the permit may be extended for not more than one year in addition.

9. Local officials shall still collect the land tax according to the usual regulation from all private lands affected by the permit to prospect, and public lands concerned shall pay an annual rental of 1 Ku-p'ing taels per mou, which shall be an established rule. A fee of 50 Ku-p'ing taels shall be paid for each permit to prospect, on the issue of which the rental in full for one year on all public land affected must first be paid to the local officials before work will be allowed to begin; and if an extension of time shall be granted, immediately after such grant is made an additional year's rent shall be paid.

10. Every applicant for a permit to prospect must prepare a petition stating the locality, boundaries, and extent of the land to be examined, and present the same, as may be most convenient, either to the viceroy or governor of the province concerned, who shall investigate the locality to determine whether or not such permit will injure the people of the place, whether or not the applicants be reputable persons, whether or not they may have any considerable amount of property, and whether or not there may be in their application anything that violates the regulations, which have been submitted to the Throne and received the imperial sanction, and, if upon such investigation, they shall find that with respect to the foregoing there has been no violation of the regulations and that there are no other objections to be made, they shall communicate the facts to this board for its consideration and action; or the applicants may present the petition, which they shall have prepared, directly to this board and await the communication of it by the board to the viceroy or governor of the province concerned, who shall investigate and report whether or not there be in regard to the matters above-mentioned any reason for refusing the permit, upon the receipt of which report this board will take action, either granting or refusing the permit.

11. If the mining lands shall really be the private property of some other person, whose permission shall not have been given, and the prospector, having fraudulently obtained his permit, proceeds arbitrarily to make examination, immediately upon complaint being made by the owner an estimate of the damage shall be made and compensation required accordingly.

12. Any person who shall have obtained a permit to prospect must within four months after the expiration of his permit completely fill in all excavations that may have been made, and if houses or trees shall have been injured during the time of his prospecting he must also put them in as good condition as before. If at the expiration of four months he shall have obtained a permit to work the mine, the foregoing shall not apply.

13. (The following refer to working mines.) No matter whether a mine is to be worked by Chinese or by Chinese and foreigners jointly, if a permit to work the mine be requested the permit to prospect must first be returned for cancellation and a report submitted stating clearly the exact amount of capital stock raised, what kind of ore it is desired to work, as well as in what reliable banking or exchange establishment the funds have been deposited, and the said banking or exchange establishment must give a guaranty to this effect, which shall be presented for inspection.

14. Should the original applicant for a permit to work a mine, either before or after beginning operations, desire to transfer the permit to some other person, he must first petition this board and wait its sanction or refusal. Should the transfer be clandestinely made, immediately upon its coming to the knowledge of this board the original holder of the permit will be severely punished, the permit canceled, and the property confiscated.

15. Any person who shall have obtained a permit to operate a mine must be permitted to take out ore at the place mentioned in the permit, and in addition to transport to the mine all machinery and materials needed in its operation, and having paid the customs duty on the same according to regulation shall not be required to pay any additional duty at any inland barrier; but if any goods not needed in the working of the mine should be secretly brought in with such machinery and materials, a fine will be imposed according to the regulations.

16. In raising capital for the operation of a mine, generally speaking, the shares owned by Chinese ought to be in the majority, so that the control may

remain with them. If the Chinese-owned shares prove to be insufficient so that it becomes necessary to supplement them with foreign-owned stock, the latter must not amount to more than the number of Chinese-owned shares. And when the petition is presented it must state clearly the exact number of foreign-owned shares; there must be no vagueness. Moreover, it will not be permitted to borrow foreign money in addition to the foreign-owned supplementary shares. Should permission to operate be obtained by misrepresentation, on discovery of the facts the permit will be canceled and the property confiscated.

17. When permission is wanted to work mines, there ought first to be a rough estimate made of the amount of work to be done and the amount, in round numbers, of the capital that will be required. If after examination the mine appears to be promising, subscriptions of stock must be invited until the full amount of the capital estimated as necessary shall have been raised, when only will a permit to work the mine be given. If after the work shall have commenced it shall appear that on account of its difficult character the expenses are much greater than was estimated when the capital was being raised, and that the latter is insufficient, and that it is difficult to raise additional shares, and it be proposed to raise a temporary loan of foreign capital to meet the emergency, if the capital already employed be composed entirely of Chinese-owned shares, then permission should be given to mortgage the machinery and buildings for a term of years as security for a loan, but it will not be allowable to borrow money by mortgaging the mine, and the amount of the loan must not exceed three-tenths of the amount originally estimated as the capital needed. A petition must first be presented to this board clearly stating the number of years which the loan is to run, from merchants of what nationality it is to be borrowed, and containing the words: "Borrowed by merchants to be repaid by merchants; the Government assumes no responsibility." Thereafter this board will take the matter into consideration and give permission to negotiate the loan. When the contract is prepared one copy must be deposited with this board for reference. It must not be clandestinely modified.

18. Hereafter should Chinese merchants make application for permission to conduct mining operations, and should they, without reporting to this board, have already entered into a contract with foreigners to mortgage the mine as security for a foreign loan, and for the time secured their permit by deception, or if after operations shall have begun they shall secretly sell the mining property to foreigners, and the original holder of the permit simply sit down and receive pay for the use of his name, as soon as such evil practice be discovered by the viceroy or governor of the Province concerned or by this board, action will uniformly be taken in accordance with article 14, due consideration being given to the lightness or gravity of the offense.

19. If the applicants for a mining concession are assisted by foreign-owned shares, no matter whether the permit sought be for prospecting or for working a mine, they must not only petition this board and wait for its action, but must also petition the board of foreign affairs, which will consider the application and approve or disapprove of it. As to the foreign merchants, since they are willing to take shares they must cheerfully recognize these regulations and uniformly comply therewith; there must be no transgression of them.

20. If a Chinese corporation, after having brought the mining enterprise mentioned in its permit into successful operation, shall desire to work in addition some neighboring mine, and its capital being insufficient shall propose to enlarge it by securing supplementary shares of foreign capital, it must petition this board, making a careful statement in detail, so that we may be able to decide whether to grant or refuse the petition, and after sanction is given a separate permit must be issued; the Chinese company already existing must not become involved in this new enterprise.

21. Should it be necessary to maintain guards at a mine to protect the works, a petition to that effect must first be presented to the local authorities, who will consider the matter and decide whether or not it may be allowed. Only Chinese must be used for guards. It is still more necessary that all employees, except those in charge of the machinery and those who keep the accounts, should consist entirely of natives of the district in which the mine may be situated. Only when the natives go on strike will it be allowed to employ men from the adjoining districts, but still there must be no foreigners employed. The rations of the guards needed, together with all the expenses of drilling them, must be supplied by the proprietors of the mine, and if they should want to establish a school of mining in order to develop skill the said proprietors will be permitted to consider the matter and take such action as they desire.

22. If it should be desired to construct a small branch railway for the economical transportation of the ore, examination must first be made to learn whether or not the nearest main line of railway of the nearest port is within a distance of 10 li, and whether or not there may be any local objections, which facts may be submitted in a petition to this board, which will consider the matter and decide whether or not the line may be built. If the distance should be more than 10 li the case must be presented and treated as a special one.

23. If the territory covered by the permit to mine contain 10 square li or less, a fee of 100 K'u-p'ing taels shall be paid for the permit, and for every additional square li an additional 10 taels must be paid, 30 square li being the largest concession that may be granted, and after the fixed rent per mou shall have been paid to the local authorities, no matter whether the operators be Chinese only or Chinese and foreigners together, equal protection must be given to all, but the officials must not interfere with the rights of the operators to manage their own business. In case the operators should meet with losses action shall be taken in strict compliance with the imperial statutes; the law does not require the Government to indemnify.

24. After applicants shall have received the permission of this board to work a mine they must commence operations within six months from the date on which the permit shall have been granted, no matter whether the operators be Chinese or foreigners, and they must also report to this board the date of beginning work. If the six months' period shall pass without report the permit shall be canceled and others be invited to operate the mine. Should the delay be caused by some unforeseen difficulty, it will also be necessary for a clear report to this effect to be made to this board, which shall investigate the matter, and only if there shall have been no misrepresentation may the matter of extending the time be taken into consideration.

25. Holders of permits must mark the boundaries of their concessions with stones that their limits may be clearly shown. They must also adopt proper measures to guard against dangers, lest the engineers or workmen should meet with accidents. If, in spite of the precautions taken, any accident should occur, a report must be made as soon as possible to the local official, who will make an investigation. If any of the workmen shall have been killed a satisfactory indemnity must be paid. The amount of the indemnity shall be determined by the circumstances, a generous allowance being made.

26. At present China has very few mining experts, and holders of permits must therefore be allowed to employ foreign engineers. The local officials must give them thorough protection. Should any disregard this injunction they shall be liable to impeachment and punishment. The mining engineers must also themselves observe the rules of propriety. Should any of them show that they are ignorant of restraint the blame must be borne by themselves, and the local official will inform the manager, who will discharge them and engage others. They must not be shielded.

27. The superior officials of those provinces in which mining enterprises are being conducted must direct their subordinates to issue proclamations and suppress all disturbances. Should the natives become contentious on account of any matter or the workmen stir up a row the nearest department or district magistrate will take jurisdiction and deal with the case in a just manner. It is even more necessary for the officials to forbid their yamen clerks to avail themselves of any pretext to extort money. If the local officials do not discharge their duties properly and accusation is made against them, this board will thoroughly investigate the matter and on learning the facts will impeach them and request their severe punishment.

28. When a quarrel arises on account of some matter, if both parties to it are Chinese the nearest local official ought to settle it with impartiality, but if both parties will not accept his decision as just an appeal may be taken to this board, which will consider and deal with the case so as not to cause both sides to suffer injury. If a troublesome complication should occur between Chinese and foreigners each of the two parties should nominate a man, and these two should arrange a fair settlement. But if the two arbitrators should not agree in their opinions, they together should refer the matter to a third arbitrator, no matter whether connected with the establishment or not, and thus the matter may be impartially arranged. The Governments of the two nationalities concerned ought not to interfere.

29. After the petition has been presented and granted and a permit issued the

contract for operating the mine may be drawn up, in which all matters not settled may be provided for in detail, but there must not be the least infraction of these regulations, and when the contract is being made a copy must be sent to this board for its inspection and approval before it may be signed.

30. A permit to work a mine shall be good for thirty years only. Should it be desired to renew it, report to that effect must be made to this board not later than six months before the expiration of the thirty years' period, and the board will consider the application and decide whether or not to renew it. In the case of mining lands for which the State may have some other important use, no renewal of the permit will be allowed, but an estimate will be made of a bonus to be paid for the recovery of the said lands. Otherwise, if the request for the renewal of the permit be granted, the holders of the new permit will pay fees as in the first instance.

31. Although a holder of a permit is allowed to open a mine and take out ore anywhere within certain boundaries mentioned in his permit, yet if there should be within those boundaries any property belonging to another or in which another has an interest, such property must be marked off as not included in the concession, and, moreover, at the time that application for a permit to work the mine is made the facts must be reported to this board that they may be entered on the permit to prevent any quarreling. If by misrepresentation a permit should be obtained for the time, on accusation being made and the facts discovered a penalty will be determined.

32. Of the forests grown on mining lands some are needed by the State, and no one will be allowed to cut trees at will. If at the time that the permit is taken it should be clearly stated that it is desired to cut wood for use in the work, then the operators must wait until this board shall have carefully examined the conditions of the region and decided whether or not such cutting can be allowed, and if permission should be given, the extent of the forest that may be so cut must be plainly stated in the permit, and outside of such limits no one must dare to disturb the timber. All wood cut must be paid for at market price.

33. The rent for mining land having been paid the first year, if no ore shall have been taken out, it must be paid again the second year according to the rate fixed. If ore shall have been taken, then the mine tax shall be paid according to regulation, and no collection of rent in addition shall be made. This is to manifest the Government's consideration for trade. But notwithstanding this, if rent due shall not have been paid within three months after due date, the mine and all property connected with it shall be sealed up until the amount due shall have been paid in full. If within six months after the sealing the debt shall not be cleared off, the permit shall be canceled and the mine taken back.

34. The rate of the tax on the output of various ores will be determined according to the classification of the ores as more or less valuable. It is given in a general way below. Ores not specifically mentioned will be taxed at the rate of that which is nearest in kind to it among those given. In the case of mines for whose working contracts have already been entered into, in which no rate of duty is specified, the tax will be levied according to that here given.

(a) Coal, antimony, iron, alum, and borax, 5 per cent ad valorem.

(b) Petroleum, copper, tin, lead, sulphur, and cinnabar $7\frac{1}{2}$ per cent ad valorem.

(c) Gold, platinum, silver, mercury, and zinc, 10 per cent ad valorem.

(d) Diamond, quartz crystal, and all sorts of precious stones, 20 per cent ad valorem.

35. Ores shipped abroad shall pay export duty according to the customs tariff, and this having been paid, no additional duties shall be collected at any inland barrier. All duties collected from this source must be kept by the customs in a separate fund until orders are issued for appropriation.

36. All mining companies must keep a tabulated account of the ores obtained, which shall present the exact amounts of the various ores obtained and the various amounts of each shipped from various ports, and the various grades of ore, whether excellent or inferior, and shall send report of these items to this board every quarter, that it may be placed on file. This board will either send a deputy to the mines to make examination or will compare the figures sent with those of the customs, and if the two sets of figures do not tally will consider the matter and impose a penalty.

37. When a permit to prospect is issued the receiver of the permit must pre-

sent the bond of some reputable and wealthy firm as security in the amount of 5,000 taels, and the receiver of a permit to work a mine a bond in the amount of 10,000 taels, the bondsmen guaranteeing that the holder of the permit will observe the conditions recorded in the permit and the regulations of this board. In default thereof the sums mentioned will be forfeited as a penalty.

38. If Chinese applicants for a mining concession should be able of themselves to raise capital to the amount of more than 500,000 taels, and it should appear upon examination that they have been successful in their operation of the mine, this board will make a special request for an edict conferring extraordinary rewards as an encouragement.

The foregoing regulations, slightly altered by additions and excisions from those submitted and approved in the XXVIII year of Kuanghsü (1902), are declared to be the temporary regulations for the control of mining operations until a volume of mining laws shall have been compiled and published, when such amendments shall be made as may appear to be necessary.

[Inclosure 2.]

Mr. Conger to Prince Ch'ing.

AMERICAN LEGATION,
Peking, April 15, 1904.

YOUR IMPERIAL HIGHNESS: I have the honor to acknowledge receipt of Your Imperial Highness' dispatch of the 4th instant transmitting a copy of the revised mining regulations, submitted in memorial by the board of commerce on the 17th of March last, and sanctioned by the Throne the same day.

I have carefully perused these regulations, and shall at once transmit a copy of them to my government, which, I am sure, will be greatly disappointed, as I am, in their provisions. Instead of attracting foreign capital to advantageously develop her mineral resources, as China proposed to do in Article VII of the commercial treaty signed on October 8 last, they will, in my judgment, practically prohibit the investment of any foreign capital in mining enterprises, and can not, therefore, be accepted as fulfilling the provisions of the said treaty.

I avail, etc.,

E. H. CONGER.

Mr. Adee to Mr. Conger.

No. 838.]

DEPARTMENT OF STATE,
Washington, September 2, 1904.

SIR: I have to acknowledge the receipt of your dispatch, No. 1607, of May 14 last, requesting instructions in regard to the acceptance of the revised Chinese mining regulations, which, as you point out, do not fulfill the provisions of the treaty with the United States.

In reply I inclose herewith for your information and for your guidance in further correspondence with the Chinese foreign office a copy of a letter from the Acting Secretary of the Interior, inclosing copies of reports from the Acting Director of the Geological Survey and the Acting Commissioner of the General Land Office, embodying such suggestions as they deem practicable, with the view to securing such amendments to the Chinese mining regulations as will bring them more in harmony with our treaty with China and make them more practicable for industrial and commercial purposes.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

*Mr. Ryan to Mr. Hay.*DEPARTMENT OF THE INTERIOR,
Washington, August 27, 1904.

SIR: I am in receipt by reference of the Director of the Geological Survey of your letter of the 6th ultimo, inclosing an original dispatch from our minister at Peking and accompanying inclosures, in regard to the acceptance of the revised mining regulations adopted by edict of the Emperor of China, March 17, 1904, and alleged not to have fulfilled the treaty provisions with the United States, and requesting to be furnished with such suggestions as will tend to bring the regulations in line with the provisions of the British and United States treaties.

In response thereto I have the honor to transmit herewith copies of reports from the Director of the Geological Survey and Commissioner of the General Land Office, embodying such suggestions as they deem practicable, with a view to securing such amendments to the mining regulations above referred to as to bring them more in harmony with our treaty with China, and to render them more practicable for industrial and commercial purposes.

The inclosures accompanying your letter are herewith returned, as requested.

Very respectfully,

THOS. RYAN, *Acting Secretary.*

[Subinclosure 1.]

Mr. Fimple to the Secretary of Interior.

AUGUST 25, 1904.

SIR: I have the honor to acknowledge by your reference the receipt of "suggestions" of the honorable Director of the Geological Survey, regarding the acceptance of the revised mining regulations adopted by edict of the Emperor of China, March 17, 1904, alleged by our minister to China not to fulfill treaty obligations, and I submit, as requested by you, the suggestions deemed appropriate by this office.

The adoption of the mining regulations now under consideration was apparently rendered necessary by the stipulations contained in Article VII of the "treaty between the United States and China for the extension of commercial relations between them," signed October 8, 1903.

* * * * *

Said revised regulations were promulgated subsequent to the ratification of the treaty mentioned and are in number 38, the preamble to which sets forth that they are temporary and to be continued until Chang Chih-tung shall have compiled a special work upon the subject, when it will have to be again taken up with him that there may be no lack of uniformity.

A copy of said regulations prepared by the Department of State is among the papers submitted, and reference is herein made to that copy in order to avoid the insertion thereof, in extenso, in this communication.

Your reference of this subject, in the judgment of this office, calls for the expression of an opinion upon the question whether the regulations now under consideration, taken as a whole, would operate so as to result in any practical encouragement to foreign prospectors, miners, or capitalists, having in view mining operations or the making of investments in mining enterprises in China as contemplated by the treaty.

Entertaining the views above mentioned, I am unable to suggest any radical objection to regulations Nos. 1 and 2. Certainly, as to prospecting for or to working a discovered mine, a permit to be secured by impartial methods does not seem to be unreasonable.

Regulation No. 3, in so far as it relates to mines upon private property, seems to be objectionable in that it does not specifically provide the proceeding necessary to obtain a permit to prospect or mine upon private property in a case where it is impracticable to obtain the owner's consent, and this in a country so densely populated as China is believed to be of great importance.

Subdivision (b) of regulation 4, in that it requires applicants for permits

composed of Chinese and foreigners to disclose the exact number of shares held by the foreigners, appears to be a part of the regulations framed with an evident intention to prevent the operative control of any mining undertaking or enterprise by foreign capitalists, as seems to be contemplated by the treaty, and thus tending to discourage the investment of foreign capital.

Inasmuch as it is not made to appear that foreign investors are limited to purchase shares in more than one association or company receiving concessions, it would not appear that regulation 5 is objectionable, even in coal-mining enterprises, because of limitation of the maximum size of a concession to about 2½ English square miles.

Regulations 7, 8, 9, 10, 11, and 12 relate to applications for permits to prospect for deposits of mineral, the method of procedure, the fees and rentals to be paid, and the rights and privileges to be obtained. These regulations seem to be unnecessarily cumbersome and restrictive, and, in my judgment, they could properly be so modified and simplified as to more readily and effectively conserve the object sought to be attained by both Governments under the treaty provisions relating to this subject. It is, however, conceded that applicants for a permit to prospect—that is, to make careful and effectual search for valuable mineral deposits and the making of such excavations and constructing such mining works only as would reasonably be necessary to determine the locus and boundaries of the property to be described in a subsequent application for a permit to work a mine or for the contemplated mining concession—should be restrained within some proper regulations having in view the protection of the rights of others. Upon the question of fees, rentals, and damages I am not in possession of sufficient data to enable me to judge as to the propriety of the regulations relating thereto.

Regulation 13 and the subsequent ones relate to methods to be pursued in making applications for permits to work mines, the conditions upon which such permits will be granted, and, generally, the duties and liabilities of those who have obtained permits to work mines in China. Special attention is invited to regulation 16.

* * * * *

This regulation seems to have been drafted, perhaps unintentionally, so as to prevent the issuance of a permit to prospect or work a mine in China in any case where a majority of the stock is owned by foreigners. It is believed that the conditions insisted upon in this regulation constitute impediments such as would cause a prudent foreign capitalist not only to hesitate, but would practically force him to decline to embark his means in any enterprise hampered by such unsatisfactory conditions. The reasons for this are so obvious that they need not be stated here. It clearly appears to me that this regulation in effect repels rather than attracts foreign capital, and therefore is not in harmony with the provisions of the treaty.

Regulation No. 24, wherein it provides that the applicants must commence operations within six months from the date on which the permit shall have been granted, would not meet the conditions under which foreign capital would be placed; necessarily in the beginning the mines to be operated would be far from base, and six months would be too short a time for the commencement of operations on the ground.

Regulation No. 29 is at least very vague, but it appears to be objectionable from the treaty standpoint, in that every important contract necessary in the practical mining operations is to be delayed and impeded by the submission thereof to the board of commerce for its action thereon, and possibly its nullification.

Regulation No. 34 is one of importance to those contemplating investments in mining enterprises in China, as the taxes or royalties to be paid directly affect the question of the feasibility of the undertaking. I am not prepared to say that the proposed taxes are exorbitant.

I have not commented upon every one of these regulations, but only upon those by me deemed of sufficient importance. Of these I consider of most importance regulations 16, 24, and 29, but considering these regulations in their entirety and the scope thereof, and all of the surrounding incidents which occur to me, I am constrained to say that in my judgment if these regulations were to be accepted as setting forth the permanent and only conditions upon which citizens of the United States could embark in mining operations in the Empire of China, it would be impossible to induce any of them to invest any considerable portion of their capital therein, and if I am correct in this opinion, it follows that the regulations under consideration were not drafted so as not to offer

impediments to the attraction of foreign capital nor place foreign capital at a greater disadvantage than they would be under generally accepted foreign regulations as provided by the treaty.

Therefore I would suggest that, prior to the acceptance of these regulations, the United States, acting in strict conformity with the provisions of said treaty, should require the Government of China to modify and simplify them so as to eliminate therefrom the objectionable features and conditions hereinbefore indicated.

All of the papers received from the Department are herewith returned.

Very respectfully,

J. H. FIMPLE, *Acting Commissioner.*

[Subinclosure 2.]

Mr. Rizer to the Secretary of the Interior.

Suggestions regarding mining regulations of China.

AUGUST 9, 1904.

SIR: In response to the letter from the Hon. Francis B. Loomis, Acting Secretary of State, in which he asks the Director of the Geological Survey for suggestions touching the revised Chinese mining regulations, I beg to submit the following:

The provisions of the quoted treaty articles appear to cover two main objects: (1) That the mining regulations shall offer no impediment to the attraction of foreign capital; (2) that foreign capitalists should not be placed thereby at a greater disadvantage than they would be under generally accepted foreign regulations.

As the province of his Bureau is confined to mining interests within the territory of the United States, while it may be able to offer general suggestions with regard to the regulations in question that are germane to the first of these objects, those comprised under the second head presuppose a familiarity with foreign customs and regulations that would be possessed in so much higher degree by the members of your department that we would hesitate to offer any definite suggestions with regard to them. On the accompanying pages the proposed regulations are taken up and commented on by paragraphs.

The regulations proposed are open to the general criticism that the many petitions required by the board and the accompanying apparently unnecessary formalities will involve delay that would prove annoying and perhaps discouraging to the proposed investor, but this may be a matter so ingrained in the customs of the country that it can not be dispensed with. Of this your department is the best judge.

From examination of the regulations it would appear that much of the conservatism of the regulations is due to ignorance of mining practice and mining law on the part of the Chinese board. This is accentuated by the fact that they have but a very general idea of the character and value of the mining resources of the country. Satisfactory legislation on this subject can only be obtained when the legislators or councilors are acquainted with the extent and type of the mineral deposits which will be covered by the proposed laws. In view of this fact it might well be proposed to China that she should accept at her own expense the services of such an expert or experts in mining and mining law as the United States can offer; that she should appoint an equal number of qualified Chinese to form with these experts a commission to study the conditions and draft regulations.

This course might be urged upon China as one required by good faith in fulfilling the provisions of the treaty, but a stronger argument might be based on China's weakness toward those who seek concessions. China knows practically nothing of her own resources. She grants concessions without knowing the value of what she is giving. To correct this the plan should contemplate a preliminary reconnaissance of the more important mining districts, from which the foreign experts might gather the most important facts relating to occurrence and development of minerals and regarding Chinese customs and labor; and this reconnaissance should be followed by geological and topographical surveys to be prosecuted under the mining board by foreign, by Japanese, and ultimately by Chinese assistants. This latter work should continue indefinitely.

The preliminary reconnaissance by the American expert or experts might be accomplished in a year, and should if possible be shared by the Chinese commissioner or commissioners, to the end that discussion and observation might develop agreement. The final consideration of regulations by the commission might thus be approached with common understanding of the difficulties and a hope of overcoming them, great as are those which stand in the way of just agreements between Chinese and foreigners.

In addition to the geological and legal aspects of this question, there are those of a financial character. In finance the Chinese are expert, and American representatives should not be less so.

Very respectfully,

H. C. RIZER,
Acting Director.

[Subinclosure 3.]

Comment by paragraphs.

Preamble. It appears from the preamble that these regulations are based on those of 1898 and 1902, and comparison shows that the features which most obviously contravene the treaty of 1903 are taken therefrom. Such modifications as have been made are contrary to the spirit of that treaty rather than in accord with it.

These revised regulations are described as temporary and subject to revision, particularly when Chang Chih Tung shall have completed a study of the subject.

Paragraph 2. Permits for prospecting. It seems a wise provision to issue a preliminary prospecting permit at a less cost than one for actual mining, since actual mining operations can not be advantageously carried on until the ground has been opened sufficiently to determine the character of the deposit, whether it is rich enough to pay for working, and the best methods of working and probable cost of exploitation.

Paragraph 3. Clause 3, which provides that in case the Government ought to develop a property the officials should buy the land and the owner shall not oppose, is vague in that it does not state under what conditions or by whose decision action may be taken. It opens the door for interference by "officials" and leaves the owner no option. The clause may, however, be merely an assertion of the right of eminent domain.

Paragraph 4. In so far as this paragraph provides that the viceroy and governor of a province shall investigate the local circumstances and determine whether or not these regulations have been violated, it establishes duplicate authority and divides responsibility. The viceroy and governor are not necessarily better qualified to secure the facts through their agents than the board may be through its representatives. In order to attract foreign capital and facilitate foreign investment, the authority and responsibility should be centered in the board. This is in accord with Chinese precedent.

Paragraph 4c. The area of a square li and of a mon should be given in terms of metric measure.

Paragraph 4d. It may not always be possible to define in advance the kind of ore. Ores commonly differ in character near the surface and in depth.

Paragraph 5. Thirty square li being the maximum area permitted a mining concession, it is important to ascertain whether this must include all timber which may be cut under the provisions of paragraph 32. Timber is very scarce in a greater part of China and may ordinarily be at a distance from the site of a mine.

The provision that the length may not exceed four times the width appears arbitrary and likely to work hardship on the mine operator and on adjacent landowners. In case the permit be for the maximum area of a claim, 30 square li, the width under this provision could not be less than 2.75 li, or 0.9 English mile, which is more than the mine operator might need and would encroach upon his neighbors. The embarrassment would not be removed if the claim were smaller.

The limitation to a maximum claim of 30 square li, about 2½ English square miles, is calculated to prevent investment in coal lands, such as those of Chansi, because the amount of coal which might be mined on the prescribed area would not pay for the cost of development under Chinese conditions. This clause strikes directly at the development of the most important of China's mineral resources,

Paragraph 7. This seems too restrictive. The owner of the prospecting permit should be allowed to go as deep as he can within the time allotted him, but, that he should not be tempted to take advantage of this permit to extract ore unfairly, there might be a provision that on any ore actually shipped from the mine he should pay the usual royalty.

Paragraph 8. If, as suggested above, the production of ore on a commercial scale be taken as distinguishing mining from prospecting, any violation of the permit to prospect would be readily proved. The investigation here proposed is merely an instrument of delay.

Paragraph 9. The payment of tax and rent on land affected by a permit to prospect before prospecting is begun is not practicable. Prospecting consists of two operations, (1) a search for minerals whose location is unknown, (2) an initial investigation of a mineral deposit to determine if it is worth working. In the former operation no precise limit of search may be set within narrow bounds. In the latter such limits may be set, and only then can rent or tax be levied. In these regulations the second meaning only appears to have been considered.

Paragraph 10. The remarks on the preceding paragraph apply to the requirement that the locality, boundaries, and extent of the area to be prospected should be stated.

As regards the authority vested by this clause in the viceroy and governor the comments on paragraph 4 apply here. A party who had not secured the favor of the local officials could not obtain a concession under these rules.

The manner of application for permit also seems unnecessarily complicated. For the foreigner it would seem unjust to deny his application if he has failed to comply with regulations unknown to him that do not appear in these regulations.

Paragraph 11. Appears unnecessary, since the local magistrate is empowered to adjust damages to property in the case of Chinese.

Paragraph 12. The clause that excavations should be filled up again is likely to prove annoying to foreigners.

Paragraphs 13-14. These seem to involve a vexatious and unnecessary amount of red tape. The issuance of a mining permit ought itself to work the cancellation of the prospecting permit, since it confers broader rights. The right to confiscate property if the transfer has been made without the sanction of the board gives an overarbitrary power to that board.

Paragraph 15. It would be better if mining machinery were admitted either at a reduced duty or entirely free, as is the case in Mexico and other countries that find it advantageous to favor the development of their mineral wealth by foreign capital.

Paragraph 16. The provision that the majority of the stock of a mining property must be held by Chinese is likely to discourage foreign capital. Responsible capitalists are not, as a rule, willing to invest in mining enterprises unless they hold a control of the stock, so that they can assure themselves of intelligent management. It would seem that in their unfamiliarity with large mining operations Chinese control might interfere very disastrously in carrying on a mining enterprise. The restrictions in this clause are less liberal than those of previous regulations.

Paragraph 17. The restrictions as to borrowing money when original capital proves insufficient, as experience shows is very frequently the case in mining enterprises, seem unnecessarily rigid.

Paragraph 19. This clause appears to involve unnecessary expense and delay, placing foreigners at a greater disadvantage than Chinese, since they must apply to the board of foreign affairs as well as to the mining board.

Paragraph 20. This clause stands in the way of development by offering obstacles to what may be a legitimate enlargement of the mining property, should the deposit be found to extend beyond the limit of the concession.

Paragraph 22. It is difficult to understand why the building of a branch railway to a mine should be limited in distance. Previous regulations have allowed them to connect with the nearest trunk line or waterway, which is the more reasonable concession.

Paragraph 23. Whether the costs of permit here provided for are excessive or not needs to be determined by some one familiar with the conditions in China. They do not seem to be excessive for a legitimate enterprise.

The imperial statutes referred to and the conditions under which the Government is not required by law to indemnify should be stated.

Paragraph 24. In view of the difficulties of organizing mining operations in China, of the remoteness of Chinese mining districts from centers where machin-

ery and other necessities may be obtained, and of the slow methods of transportation to the interior, the time limit, six months, for beginning operations is very short. At least one year should be allowed and in case of mines far in the interior two would not be unreasonable.

Paragraph 25. Provides that if workmen be killed, in spite of precautions taken, local officials shall investigate and determine a generous indemnity. This seems to open a way for exactions by local officials. It should first be proved that the killing was the fault of the mine owners and not, as is usually the case, the result of a disregard of the rules on the part of the miner. There should also be a right of appeal to the board.

Paragraph 26. Foreign employees so often prove themselves ignorant of restraint in China that a provision to control them may appear reasonable; but they can not be placed, as in this clause, in the power of the local official for removal.

Paragraph 28. The committee of arbitration, for which this clause provides, would in many cases be of doubtful value, and would seem to be unnecessary in view of the local authority of magistrates and treaty provisions for protection and trial of foreigners.

Paragraph 29. This clause continues the control of the mining board after a permit has been issued and extends it to approval of the contract for operating the mine. Just what is meant by this contract is not clear. There might be no contract or a number of contracts in operating a mine. If the clause gives the board authority over every step of mining operations, it provides conditions under which business like management would be impossible.

Paragraph 32. The scarcity of timber in China, especially in the north and northwest, makes it important that general regulations should be established. It does not seem probable that the interests of the Government or of mine operations would be satisfactorily served or consistently administered by the mining board acting through agents, as it must. The question is important.

Paragraph 33. To "seal up" a mine might in some instances amount to confiscation. At best it would occasion serious damage through the stoppage of pumps and accumulation of water. It is probable that the mining board did not understand this.

Paragraph 34. The variable rates of tax or royalty prescribed in this clause are objectionable. It should first be definitely stated whether this tax is to be levied on ore actually mined, or only on that shipped away from the mine. The latter is more reasonable, since if it is not worth shipping the mine owner should not be called upon to pay for what brings him no return. Furthermore, shipments are more easily determined than amount mined.

The rates prescribed are unnecessarily complicated and rest on no logical basis, hence should be entirely revised. It is generally customary to fix the royalty on bulky materials which require little or no preliminary preparation before shipment, such as coal, earthy salts, iron ore, and petroleum, at so much per ton or other unit of weight or measure. For the metals and other substances mined, which require considerable treatment in order to separate the valuable metals, etc., uniform ad valorem dues are usually fixed, since a number of different metals often occur in the same deposit, and it can not be determined a priori that the ratio of cost of production to value of product is dependent on the intrinsic value of the metal produced. A dollar's worth of gold is likely to cost just as much to produce as a dollar's worth of lead. Antimony, lead, and zinc occur under the same natural conditions, hence it is unreasonable that one should be taxed 5, another $7\frac{1}{2}$, and another 10 per cent. A uniform rate should be made in the case of ad valorem dues.

It is suggested that for coal, iron ore, earthy salts, and petroleum a tax on unit of weight or measure corresponding to 10 or 15 cents per ton or barrel might be levied. For all other substances mined, a tax of 5 to 10 per cent ad valorem on the material shipped away from the mine. If the royalty were collected on the value of the material at point of consumption, the mine owner would be paying royalty on the profits earned by transportation companies.

Paragraph 35. Provides for an export duty. This may be necessary in China, but it seems an impolitic measure, and is onerous on the mine owner. If enforced, the royalty should be correspondingly lowered.

Paragraph 36. Provides for quarterly returns. Semiannual or annual returns might be sufficient. It would be unfair to compare the mine returns with those of the customs, as much ore might be lost in transit in spite of precautions of mine owner.

Paragraph 37. Bond to be given by holder of permit for faithful performance of his duties. The amount provided seems large and the fees already paid constitute a guaranty of good faith. Furthermore, there is no provision for the return of the amount of bond. For the foreigner this seems an onerous and unnecessary charge, and likely to discourage him, because he might unintentionally incur a forfeiture of his bond through ignorance of regulations.

OPENING OF TRADE PORTS IN CHINA.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

PEKING, *May 18, 1904.*

(Mr. Conger informs Mr. Hay that Chi-nan fu, in Shan-tung, is opened to foreign trade by imperial decree 17th.)

Mr. Conger to Mr. Hay.

No. 1609.]

AMERICAN LEGATION,
Peking, China, May 17, 1904.

SIR: I have the honor to confirm my telegram of the 18th instant. I inclose copy of a note from the foreign office by which it will be seen that Wei-hsien and Chou Ts'un are also opened; these two to be considered branches of the port of Chi-nan fu.

Chi-nan fu is the capital of Shan-tung and the present terminus of the German railroad from Tsing-tao, and is likely to become an important business place; we ought, also, to have a consul there at the earliest moment practicable.

Wei-hsien and Chou Ts'un are important stations on the railway. At Wei-hsien the American Presbyterians have a large mission station and an important school.

For more than a year the Germans have had a consular officer stationed at Chi-nan fu, but he has been called an agent of the governor or representative of the railway, or something of that kind, and has not been authorized to perform regular consular functions.

I have, etc.,

E. H. CONGER.

[Inclosure.]

The foreign office to Mr. Conger.

In the third month of the thirtieth year of Kuanghsü (May, 1904), the superintendent of northern trade, together with the governor of Shan-tung, sent in a memorial asking that China voluntarily open up to foreign trade a mart outside of Chi-nan fu, the capital of Shan-tung, and also a village to the east of the capital, called Wei-hsien, as well as Chou Ts'un in the Chang-shan district; the last two to be considered branches of the port at Chi-nan fu.

This board, after due consideration, did, upon the first day of the fourth moon (May 15, 1904), prepare a memorial containing this request, in response to which we had the honor to receive an imperial edict giving the sanction of the Throne to the matter.

As soon as we have formulated satisfactory regulations and decided upon a day for opening the port, we will again write to inform your excellency of the matter; but as in duty bound we also send this letter in advance, that your excellency may be notified of the action taken.

A necessary dispatch.

Thirtieth year of Kuanghsü, fourth moon, 3d day (May 17, 1904).

[SEAL.]

MURDER OF LEWIS L. ETZEL.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, June 8, 1904.

(Mr. Conger reports the killing of Lewis L. Etzel in junk at sea by Chinese soldiers; body is now at Niuchwang. Further information is expected from Miller.)

Mr. Loomis to Mr. Conger.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 8, 1904.

Have cabled Miller that Etzel's relatives desire body sent to this country.

LOOMIS.

Mr. Hay to Mr. Conger.

No. 810.]

DEPARTMENT OF STATE,
Washington, June 16, 1904.

SIR: I inclose herewith a copy of a telegram from Miss Anna B. Etzel, requesting that inquiry be made into the circumstances of the death of her brother, Lewis L. Etzel, war correspondent, who was killed by Chinese soldiers at Niuchwang on the 6th instant.

You will investigate the matter and report your findings to the Department.

I am, etc.,

JOHN HAY.

[Inclosure.]

Miss Anna B. Etzel to the President.

[Telegram.]

DENVER, COLO., *June 13, 1904.*

Will you please cause strict inquiry to be made into circumstances surrounding the death of my brother, Lewis L. Etzel, war correspondent, who was killed by Chinese soldiers at Niuchwang June 6.

ANNA B. ETZEL.

Mr. Conger to Mr. Hay.

AMERICAN LEGATION,
Peking, China, June 25, 1904.

SIR: I have the honor to transmit the report of Consul-General Miller, inclosing coroner's inquiry and giving a detailed account of the death of Mr. Lewis Etzel, who was killed on June 6 by the criminal carelessness of Chinese soldiers while in a Chinese junk, 10 miles off the coast of China, near Erchaiko. Mr. Miller's report is so full and complete that it is not necessary to restate the case.

Yesterday I had a brief conference with Prince Ch'ing, who promised to at once take the case up with his colleagues and have the guilty parties properly punished. He said, however, that until a more thorough investigation was made he could not well say what the punishment should or would be.

He asked me if we would demand pecuniary indemnity. I replied that as Mr. Etzel had left several relatives dependent upon him for support, it was very likely that indemnity would be demanded, but that I had asked my Government for instructions upon this point, and must await its reply.

He then inquired if I did not think it would be better for the Chinese Government to itself, without request, offer some compensation for Mr. Etzel's life. I replied certainly, if China voluntarily tenders a reasonable sum it would be much better and more satisfactory to all than if it were done after demand, and possibly a lot of correspondence thereon.

Inclosing copies of correspondence I have had with the Wai-wu Pu upon this subject,

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Mr. Miller to Mr. Conger.

AMERICAN CONSULATE GENERAL,
Niuchwang, China, June 14, 1904.

SIR: I have to report that Mr. Lewis L. Etzel, a citizen of the United States of America, holding a passport issued by you on February 15, 1904, No. 785, was killed by Chinese soldiers on the afternoon of Monday, June 6, 1904. The address of his nearest relative is Miss Anna B. Etzel, 603 Mack Block, Denver, Colo., United States of America.

Mr. Etzel, in company with a British subject, Mr. Ernest Brindle, engaged a Chinese junk at Niuchwang for a sail along the coast of the Gulf of Pechili. They left Niuchwang on the morning of June 5 by the train on the Imperial Chinese Railway going west, expecting to meet the junk at the Swantaitze River. They left the train at the point where the railway crosses the above river, and on Monday morning they went down the river in a small boat to its mouth. At the railway station they were tendered a guard of Chinese soldiers to escort them down the river, but as the guard did not appear, after a couple of hours waiting they proceeded without them.

In the afternoon they reached the mouth of the river without any mishap, and there found their junk, which they boarded and set sail, going in the direction of Kaichao, Manchuria.

After sailing peacefully in the course down the coast, when about 10 miles from shore, they met four junks, each containing a number of armed Chinese soldiers. This was about 6 o'clock in the evening, some time before sunset.

Messrs. Etzel and Brindle had been walking on deck and had just gone below out of sight to arrange their quarters for the night. The four junks sailed up

quite close and showed signs of firing, and ordered the lodah of the foreign junk to lower sail, which was done. Mr. Etzel asked of the lodah: "Why have you lowered the sail? Put it up and sail on." This was said from his position in the hold of the junk, without knowing the cause of the delay. The lodah of the foreign junk called out to the soldiers, "Don't shoot, we have foreigners on board;" and from one of the junks containing the soldiers he received orders to hoist sail and go on. He gave orders to hoist the sail and his men had just begun hoisting sail, preparatory to proceeding, when the soldiers began firing from one of the boats, which was immediately followed by firing from all of the boats. After a few shots the lodah was wounded by being struck in the back with a bullet. He jumped into the part of the boat occupied by Mr. Etzel and showed his wound. Mr. Etzel then endeavored to get out of the lower part of the boat and was standing with his head and shoulders exposed above the deck looking at a boat containing soldiers, when he was shot by a soldier on a junk from the opposite side; the bullet entering the back of his head at the base of the skull and penetrating the brain, causing a large wound, from which he died immediately.

Neither Mr. Brindle nor Mr. Etzel could speak Chinese, and it is evident that Mr. Etzel had no knowledge that they were going to be attacked until the firing began.

The firing continued for several minutes, and about 100 shots were fired altogether; and as many as 20 shot marks were found on the junk, and several pieces of bullets were picked out of the boat. Some were the old-style, large lead bullets, and others were pieces of smaller, steel-cased, modern Mauser rifle bullets, showing that two kinds of rifles were used.

After the firing ceased the Chinese came out of the hold on deck and again called out to the soldiers, "Dont fire, we have foreigners on board." When asked how many foreigners they replied one, and Mr. Brindle went on deck and showed his passport in Chinese language. The Chinese corporal in charge of the expedition, by the name of Pan, showed his official authority from General Chu. After this exchange of papers the foreign junk was ordered to proceed, which they did. After sailing a short distance they were again ordered to stop, which they did, and the soldiers, coming alongside again, asked if anyone on the junk had been killed, and they replied no. When asked about the blood on the deck they replied that one of the crew had been wounded, but it was of no consequence. They were told that if any of the crew had been killed they would be given a man in his place, as the soldiers had plenty of men. The Chinese on the foreign junk had carefully covered up the body of Mr. Etzel, and when asked if any foreigner had been killed they replied no.

I asked these men why they made this false reply, and they told me that if the soldiers had known that a foreigner had been killed they would have killed all on board and sunk the boat in order that their crime would not have been discovered, and they all assured me that their lives and the life of Mr. Brindle had been saved by this successful deception.

After escaping from the soldiers the junk, by Mr. Brindle's orders, sailed for the nearest port on the coast, which proved to be Erchaiko, about 8 miles from Tien-chuang-tai. Making his way by night to the railway station, he telegraphed to me and others at Niuchwang for assistance. Leaving at once for the scene I met the body at Tien-chuang-tai on the afternoon of the 7th instant. Summoning the only foreigners available I instituted a coroner's investigation, notifying General Chu and inviting him to be present. We examined the body and several witnesses, including Mr. Brindle, the Chinese owner of the junk, and Mr. Brindle's servant, and all there who were on the junk at the time of the killing. Later we examined the lodah of the foreign junk and Liu Heo, one of the lodahs of the junks taken by the soldiers.

A post-mortem examination of the remains was made by Doctor Brander at the port of Niuchwang, and a portion of the bullet was extracted from the brain; and the doctor's certificate was made to the effect that the deceased came to his death evidently by a bullet fired from a gun.

At my request General Chu held an examination of the soldiers on the 13th instant, at Tien-chuang-tai, at which the coroner's jury and myself were present. This investigation was directed by Taotai Liu, of Tientsin, who was sent by the viceroy of Chihli to investigate the matter, and before it was finished Taotai Chang arrived, having been sent by the viceroy at Maukden to make an investigation.

I am convinced that the killing of Mr. Etzel was not due to any desire on the part of General Chu or his soldiers to kill foreigners, nor was it in any way due to any anti-foreign spirit among the people.

It was admitted by the Chinese soldiers that they fired upon this boat. There were ten of these regular soldiers engaged in this expedition on three junks, all belonging to General Chu's command, and sent out to sea by his orders and under the immediate direction of Corporal Pan. I was not able to ascertain the number of armed men on the fourth junk that went with the expedition as volunteers under Corporal Pan, and subject to his orders, but being sent out by the guild at Erchaiko.

It was clearly established by my examinations that all of the soldiers on all of the junks fired upon the foreign junk, but it was not possible to learn from whence came the shot that killed Mr. Etzel. Our examination revealed the fact that one of the crew on the soldiers' junks was wounded by being shot through the leg by one of the soldiers by an accident at the time Mr. Etzel was killed.

The explanation offered by the soldiers for the shooting was, first, that they considered the boat a pirate junk, and, secondly, they insisted that the firing came first from the foreign junk, and they produced a bullet which they all said was fired into their boat by the foreign junk. They all claimed to have been from two-thirds to $1\frac{1}{2}$ miles from the foreign junk during all the firing and before firing began. They claimed to have called out against the wind this distance to the foreign junk, instructing them to lower their sail. If this story were true it would be ridiculous on its face, for not a sound could be heard at such a distance under such conditions. Our examination proves that all the junks were close together and not over a hundred yards away when they were asked not to fire because foreigners were on board.

It is the general opinion that these soldiers sail out upon the sea in this vicinity and attack peaceful merchant junks and levy tribute on them. Whether or not they began the attack on this junk with this purpose in view I have not been able to establish to my satisfaction. I am rather inclined to the opinion that they saw a larger number of Chinese than usual on this junk and concluded it must be a pirate boat, and they concluded to attack it and began firing without knowing that foreigners were on board or without careful investigation. When informed that foreigners were on board they evidently concluded to let them go on, but on not seeing any foreigners on deck they concluded it was a ruse to escape and changed their minds and began firing.

These soldiers returned to the general's quarters on the 8th instant, and why an immediate investigation was not held is a mystery. Taotai Lin urged an immediate investigation and was much annoyed by General Chu's delay. No investigation was held until the 13th, and the inference is that it took this time to prepare the story of defense and charge the first shooting on the foreign junk. For this false story General Chu lays himself liable to a charge of scheming to hide the real facts.

It was plainly evident that the bullet produced by Pan as the one having been fired from the foreign junk was never fired from any rifle, but had been extracted from one of the cartridges belonging to the Chinese troops, as it was of the same kind. It was clearly proven that although they had three guns and two revolvers on the foreign boat, not one could fire the bullet produced. The statements of these soldiers and their boatmen that the talking and firing went on at a distance of from 2 to 5 li away, or from two-thirds to $1\frac{1}{2}$ miles, is evidence of its untruthfulness. The story told, with so many variations, concerning the subsequent attack on the following day on a private boat proves all of these witnesses to be wholly unreliable and in every respect untrustworthy.

The testimony of all the witnesses on the foreign junk that they did not fire a shot from that boat at any time is confirmed by the testimony of the lodah of one of the junks taken by the soldiers.

All of these men were examined separately, without any warning and without any arrangement or opportunity to secure uniform testimony, or without any knowledge as to the questions that would be asked of them, without fear of punishment or promise of reward, and in the main they agree.

There was evidently no cause or justification whatever for the attack of these soldiers upon this craft.

Whether it was inspired by desire to rob or whether it was a mere careless act of criminal carelessness, I have not been able to determine, but in either case it displays a lack of discipline and soldierly conduct detrimental to the

good order of the community and to the proper protection of life and property of both natives and foreigners on both land and sea. Mr. Etzel lost his life because of the desire to rob or the criminal carelessness of regular Chinese troops, and it is plain to my mind that proper punishment should be meted out to the parties directly responsible, and that proper recompense be made to his relatives, in so far as financial consideration can bring recompense for such a loss.

I have, etc.,

HENRY B. MILLER,

[Inclosure 2.]

Mr. Conger to Mr. Ch'ing.

AMERICAN LEGATION,
Peking, June 22, 1904.

YOUR IMPERIAL HIGHNESS: I have the honor to acknowledge the receipt of your imperial highness's note of the 17th instant with regard to the shooting of Mr. Lewis L. Etzel, saying that you were in receipt of a telegram from the superintendent of trade for the north, communicating the report of Taotal Liu on the case, to the effect that on June 6 Corporal P'an Tse, of the Sui Ching army corps, had been detailed to take 10 soldiers and 3 boats and go out from Erh-pa-kou to pursue pirates; that they had met a junk which they suspected of being on a piratical expedition and had opened fire and captured her, not knowing that there were any foreigners on board; that as a result of the attack the American newspaper correspondent, Etzel, had been killed.

Mr. H. B. Miller, the American consul-general at Niuchwang, has also made a thorough investigation of the case and reports to me that Messrs. Etzel and Brindle had engaged a junk at Niuchwang to take them for a sail along the coast of the Gulf of Pechihli; that on June 5 they took train to the Shuang-t'ai River, expecting to meet the junk there, etc.

From both of these reports it is quite clear that Mr. Etzel's death was caused by the criminal carelessness of a party of Chinese soldiers under the charge of a corporal named P'an Tse, who was acting under the orders of Commandant Chu, commanding the troops in the vicinity of T'ien-chuang-t'ai. Mr. Etzel, with an Englishman named Brindle, both having proper passports, was sailing on the high sea, where he had a perfect right to be, when his boat was surrounded by four others, three of which at least were carrying Chinese soldiers, and without warning suddenly fired upon and Mr. Etzel was killed.

It is not charged that the soldiers knew that there were foreigners on the boat, but there was no reason in the world for the attack, and certainly the criminal carelessness which causes such wanton destruction of life deserves most exemplary punishment. The consul-general reports that these soldiers are frequently sent out under the pretense of hunting pirates, and found to be attacking defenseless boats. The military official who continually permits his soldiers to do this is himself culpable and deserves suitable punishment. There are at present in the locality about Niuchwang many foreigners who may have occasion to sail along the coast in that vicinity, and if an example is not made of those responsible for this crime others are likely to be committed which may give rise to serious trouble. It is my duty, therefore, to ask that appropriately severe punishment may be inflicted upon Corporal P'an, Commandant Chu, and such others as may merit it.

Mr. Etzel leaves several relatives in the United States who have been dependent upon him for support, and it is not improbable that pecuniary indemnity may be demanded, but upon this question I await definite instructions from my Government.

Knowing the constant desire of your imperial highness for the preservation of peace and good order, and trusting in your uniform willingness to act fairly and justly, I confidently await information from your imperial highness that the officers and soldiers responsible for Mr. Etzel's death have been promptly and adequately punished.

I avail myself, etc.,

E. H. CONGER.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, China, July 5, 1904.

(Mr. Conger reports that the Government of China proposes to punish with five years' imprisonment the corporal in charge of soldiers who killed Etzel, dismiss district commander, and give family 25,000 Mexican dollars. Mr. Conger recommends acceptance, and asks for instructions.)

Mr. Conger to Mr. Hay.

No. 1647.]

AMERICAN LEGATION,
Peking, China, July 6, 1904.

SIR: Continuing the subject-matter of my telegram of the 5th instant, I have the honor to inclose copies of further correspondence with the foreign office, and to conform my telegram of the 5th instant.

As you have already seen from Mr. Miller's report, the soldiers did not know that there were any foreigners on the boat, hence the killing of Mr. Etzel was neither premeditated nor intentional, and the soldiers were, at most, only guilty of criminal carelessness.

The Chinese Government has no general prisons with provisions for labor, or any sort of humane treatment, and anything beyond a five-year term is practically a death sentence. It seems to me, therefore, that a sentence of five years' imprisonment for the corporal who was in charge of the men and commanded them to fire, and cashiering the commandant of the district who is responsible for the discipline which made the commission of such a crime possible, is all the punishment that can reasonably be demanded.

As to the indemnity, I am of the opinion that, considering all the circumstances, \$25,000 Mexican, voluntarily offered to the family of the deceased by the Chinese Government, in a spirit of friendliness, is a reasonable sum; hence my recommendation that the punishment and indemnity may be accepted in full settlement of the case.

On the 2d instant I received from the executors of Mr. Etzel's estate a request that I demand of the Chinese Government \$60,000 gold as indemnity. I declined to present this claim because of its extreme unreasonableness, and to-day have notified them of the recommendation in my telegram confirmed above.

I inclose copies of the executor's letter and of my reply.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Executors of estate of Lewis L. Etzel, deceased, to Mr. Conger.

TIENTSIN, *June 30, 1904.*

YOUR EXCELLENCY: We, as executors, have duly attested at the United States of America consulate-general, at Tientsin, for the late Mr. L. L. Etzel, an American subject, who was recently killed on the high seas of Niuchwang in

circumstances known to you, desire to ask your excellency's powerful offices in putting before the Chinese Government a claim on behalf of Mr. Etzel's estate for compensation for his death. We should mention that Mr. Etzel had depended upon him an aged mother and two sisters, who are now deprived of this source of income through the unlawful act of Chinese soldiers in Government employment. We respectfully submit that his family are, in justice, entitled to be indemnified.

We respectfully venture to suggest that a sufficient sum (capitalized at 5 per cent) be claimed to bring in a monthly allowance of from \$275 to \$300 gold, which would be, roughly, \$60,000 gold.

We trust your excellency will feel disposed to present this claim to the proper authorities. Thanking you in anticipation,

We are, etc.,

A. H. JAQUES & W. BLANCHARD,
Executors Estate of L. L. Etzel, deceased, Tientsin.

[Inclosure 2.]

Mr. Conger to executors of estate of L. L. Etzel.

AMERICAN LEGATION,
Peking, July 6, 1904.

GENTLEMEN: I have received your communication of June 30 requesting me to present a claim against the Chinese Government for an indemnity of \$60,000 gold, to be paid to the estate of L. L. Etzel.

I regret to say that in my judgment the amount you request is so exorbitant that I am unwilling to file it without direct instructions from my Government, to which, however, I will at once present it.

I ought, however, to inform you that the Chinese Government has already offered to pay to the family of the said Etzel \$25,000 Mexican. I have telegraphed this proposition to the Department of State at Washington and asked instructions thereon.

Very respectfully, yours,

E. H. CONGER.

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 8, 1904.

(Mr. Hay directs Mr. Conger to accept China's proposal in case of Etzel on terms mentioned in Mr. Conger's cable of the 5th instant.)

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

PEKING, *July 12, 1904.*

(Mr. Conger reports that punishment edict has been issued and Ragsdale has been paid the money for transmittal to family of Mr. Etzel.)

Mr. Conger to Mr. Hay.

No. 1659.]

AMERICAN LEGATION,
Peking, China, July 13, 1904.

SIR: I have the honor to confirm your telegram of the 8th instant. I inclose copies of notes exchanged with the foreign office since.

Consul-General Ragsdale informs me that the money has already been paid to him, and he has remitted it to the Department of State to be paid over to the family.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Mr. Lien-fang to Mr. Conger.

I have the honor to address your excellency on the subject of our conversation yesterday, the case of the killing of the American, Mr. Lewis L. Etzel, in settlement of which it was proposed that the district commander, Chu Ch'ing-lan, should be cashiered and the corporal, P'an Tse, should be cashiered and imprisoned for five years, and that a payment of 25,000 dragon dollars should be made to the family of Mr. Etzel by way of indemnity. This proposal I reported to the Prince of Ch'ing, who has agreed to it.

The board of foreign affairs has telegraphed to the superintendent of trade for the north, directing him to memorialize and take action accordingly and to pay the indemnity mentioned to the United States consul-general at Tientsin, to be receipted for by him and by him forwarded. On receiving a reply from the superintendent of trade for the north I shall communicate with your excellency again. In the meantime, as in duty bound, I send this note for your excellency's information and that it may serve to settle the case.

I avail, etc.,

Cards inclosed.

Fifth moon, 20th day (July 3, 1904).

[Inclosure 2.]

Mr. Conger to Prince Ch'ing.

AMERICAN LEGATION, *Peking, July 9, 1904.*

YOUR IMPERIAL HIGHNESS: I have the honor to state that I have received a communication from His Excellency Lien-fang, minister of the board of foreign affairs, saying that your imperial highness had agreed to the proposition of settlement of the Etzel case as proposed to me by him on the day previous. His excellency proposed that the district commander, Chu Ch'ing-lan, should be cashiered and the corporal, P'an Tse, should be cashiered and imprisoned for five years, and that a payment of 25,000 dragon dollars should be made to the family of Mr. Etzel by way of indemnity. His Excellency Lien-fang informs me in his letter that the board of foreign affairs had telegraphed to the superintendent of trade for the north, directing him to memorialize and take action accordingly and to pay the indemnity mentioned to the American consul-general at Tientsin, to be received and forwarded by him.

I have the honor to state that upon the receipt of this letter I at once telegraphed the facts to the Department of State that they might consider the matter and send me instructions. I recommended that this manner of settling the case be accepted, and as soon as I have received a reply to my telegram I shall communicate again with your imperial highness in the hope that we may be able to settle the case up finally and satisfactory without delay.

I avail myself, etc.,

E. H. CONGER.

[Inclosure 3.]

*Mr. Conger to Prince Ch'ing.*AMERICAN LEGATION, *Peking, July 9, 1904.*

YOUR IMPERIAL HIGHNESS: With reference to the proposal of the Chinese Government to settle the case of the killing by Chinese soldiers of the American citizen, Mr. Lewis Etzel, at T'ien Chuang t'ai, I have the honor to inform your imperial highness that I at once telegraphed the proposal to my Government, and have now received a reply saying that such a proposal will be accepted as a satisfactory settlement.

The proposal as accepted is that the district commander, Chu Ch'ing-lan, shall be cashiered, the corporal, P'an Tse, cashiered and imprisoned for five years, and that an indemnity of \$25,000, Mexican, shall be paid to the American consul-general at Tientsin, to be by him receipted for and forwarded to the family of Mr. Etzel, the punishment to be carried out and the indemnity paid at once.

The prompt and satisfactory settlement of this unfortunate case is a matter of mutual gratification, and I wish to thank your imperial highness for the friendly part you have taken.

If your highness will kindly forward me a copy of the imperial edict, when it is published, which decrees the above-mentioned punishment, I shall be obliged.

I improve this occasion, etc.,

E. H. CONGER.

[Inclosure 4.]

Prince Ch'ing to Mr. Conger.

I have the honor to acknowledge the receipt of your excellency's letter of the 9th instant.

* * * * *

I have the honor to state that on the 10th instant the superintendent of northern trade, together with the Tartar general of Shengking, and the department magistrate of Mukden, memorialized the Throne, and upon the same day they received an edict from the Throne saying: "The memorial of Tseng Ch'i and others has been carefully perused. Let the subprefect in command of the garrison, Chu Ch'ing-lan by name, be cashiered at once; also let the corporal, P'an Tse, be cashiered and imprisoned for five years.

The accidental killing of this American citizen, Mr. Etzel, was a most unfortunate affair, and the family shall be indemnified as proposed.

Respect this.

My board at once gave instructions that this edict should be respectfully obeyed, and as a result we have received from the superintendent of northern trade a telegram saying that the twenty-five thousand Dragon dollars (\$25,000 Mexican), being the amount of the indemnity decided upon in the Etzel case, had already been paid over personally to the American consul-general at Tientsin by a deputy and had been counted and received by him, and a receipt given.

It therefore becomes my duty to write and inform your excellency of the matter that you may transmit the information to the Department of State, and close up the case.

I avail, etc.,

Cards inclosed.

Fifth moon, 28th day (July 11, 1904).

Mr. Loomis to Mr. Conger.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 15, 1904.

Etzel money should be transmitted to the Department and not to family. So instruct Ragsdale.

LOOMIS.

PAYMENT OF THE CHINESE INDEMNITY

Mr. Conger to Mr. Hay.

No. 1435.]

LEGATION OF THE UNITED STATES,
Peking, China, November 21, 1903.

SIR: I have the honor to inclose copy and translation of a plan submitted to his colleagues by the Belgian minister, proposing to continue to receive from the Chinese Government payments of the indemnity on a silver basis, but leaving the difference between this and a gold basis to be adjusted later, and granting an extension of time for the payment of this difference.

If all the governments interested agree to this, it is to be offered to the Chinese Government on condition that gold bonds shall be immediately signed and delivered.

I am informed that all the governments have signified their willingness to adopt this plan except Russia, the representative of which has telegraphed his government for instructions.

I have, etc.,

E. H. CONGER.

[Inclosure 1.—Translation.]

*Mr. Joostens to the Dean of the diplomatic corps.*BELGIAN LEGATION,
Peking, October 1, 1903.

MR. DEAN: A question which should have been settled long ago remains still in suspense. I speak of the signing of the national bonds of the indemnity. All the powers which signed the protocol of Peking have the same interest in seeing this settled without further delay. The powers, especially those which have capitalized the portion of the indemnity due to them by issuing a loan, must be put in possession of some instrument by which the settlement of this loan may be guaranteed, and the powers, who at the present time desire to do the same thing, would find themselves much embarrassed by the state of uncertainty in which we remain.

Moreover, several powers have shown the desire to help China in the execution of her obligations, but it has not been possible for them to agree on the manner in which their friendly desire should be manifested.

These various considerations have decided my government to direct me to submit to our honorable colleagues the proposition in the nature of a compromise, the text of which you will find transmitted with this letter.

If this proposition is favorably received by all the powers interested, my government will adopt it on the condition that the total amount of the payments made by China shall be equal to the whole sum of her debt calculated on a gold basis.

I would be very grateful to you, Mr. Dean, if you would kindly bring the preceding to the notice of our honorable colleagues, with the request that they refer it to their respective governments.

I beg of you, Mr. Dean, to accept, etc.,

JOOSTENS.

[Subinclosure.—Translation.]

On the one hand the Chinese Government shall sign immediately the national bonds payable in gold, as provided by the protocol of the 7th of September, 1901,

On the other hand, the undersigned powers, desiring to help China in the execution of her obligations, consent that the payments of the indemnity, when they fall due, shall continue to be made as heretofore; that is to say, in silver, at the rate of exchange of the day of each partial payment, and the said powers

grant to China the time necessary to extinguish in this manner the entire amount of the indemnity which is due to them.

As the true value of the monthly payments made by China depends on the rate of silver, it is agreed that every time that the difference between the sums paid in and the sums due to the undersigned powers shall be in favor of the latter this difference will remain due to the said powers and will bear the same interest as the principal of the indemnity.

On the other hand, whenever this difference shall be in favor of the Chinese Government the sums paid in excess shall immediately be deducted from the total of the sums remaining due by China to the undersigned powers.

As the Chinese Government is required to make monthly payments, the representatives of the undersigned powers shall give instructions to their delegates on the bankers' commission at Shanghai for the latter to fix the rate of exchange at the time of each payment, instead of awaiting the end of the period of six months.

If the total of the payments made by China up to the expiration of the year 1940 does not reach the sum necessary to make up in gold the total amount due to each of the undersigned powers, the Chinese Government shall continue to make monthly payments until the complete amortization of the indemnity, both capital and interest.

In this eventuality the bankers' commission at Shanghai shall draw up for payments to be made after 1940 a new amortization table, unless the Chinese Government prefers to use the liberty, which is conceded to it, of freeing itself immediately by paying at once.

Mr. Conger to Mr. Hay.

No. 1669.]

AMERICAN LEGATION,
Peking, China, July 26, 1904.

SIR: Referring to my No. 1435, of November 21 last, concerning the proposition of the Belgian Government to receive payment of the indemnity, as heretofore, in silver at the rate of exchange at the time of each partial payment, leaving any difference between this and the gold rate to be settled hereafter and adjusted at the time the last regular payment falls due, granting additional time, if necessary, for China to pay any difference that may be due, etc., I now have the honor to report that all the representatives of the signatory powers, except me, have agreed upon a joint note, a copy and translation of which I inclose, which they will at once send to the Chinese Government.

Our position upon this question has heretofore been so fully explained to the Chinese Government and to the powers that I have deemed it unnecessary for me to take any action either for or against this proposition.

I have, etc.,

E. H. CONGER.

[Inclosure.—Translation.]

PEKING, July —, 1904.

YOUR IMPERIAL HIGHNESS: The Chinese Government has always recognized the obligation which it contracted by the terms of the final protocol of the 7th of September, 1901, to pay the indemnity in gold or in a quantity of silver equivalent to the total in gold.

Nevertheless, because of the poverty of the treasury and the rise in gold, it has begged the representatives of the powers to seek some means to make it easier for China to fulfill her engagements.

Referring to this desire, the undersigned, by order of their respective Govern-

ments, have the honor to submit the following proposition in the nature of a compromise:

On the one hand, the Chinese Government shall sign immediately the national bonds, payable in gold, in accordance with the protocol of the 7th of September, 1901. On the other hand, the undersigned powers agree that the payment of the arrears of the indemnity shall continue to be made as heretofore; that is to say, in silver at the current rate of the day of each partial payment, and the said powers grant to China the delay necessary to extinguish by this means the total of the indemnity which is due to them.

As the true value of the monthly payments made by China depends on the rate of silver, it is agreed that every time that the difference between the sums paid and the sums due the undersigned powers shall be in favor of the latter, this difference will remain due to the said powers, and shall bear the same interest as the principal of the indemnity. On the other hand, whenever this difference shall be in favor of the Chinese Government the surplus sums paid shall be immediately deducted from the total of the sums remaining due by China to the undersigned powers.

As the Chinese Government is required to make monthly payments, the representatives of the undersigned powers shall give instructions to their delegates on the bankers' commission of Shanghai, so that the latter may fix the rates of exchange for each payment instead of waiting for the end of each period of six months.

If the total of the payments made by China up to the expiration of the year 1940 does not reach the sum necessary to equal in gold the total of the indemnity due to each one of the undersigned powers, the Chinese Government will continue to make monthly payments until the complete settlement of the indemnity, capital and interest included.

In this case the bankers' commission in Shanghai shall draw up a new amortization table for the payments to be made after 1940, unless the Chinese Government prefers to use the privilege which is granted to it of settling immediately.

The undersigned do not doubt that the Chinese Government, recognizing that this proposition has been inspired solely by the desire to permit it to discharge its obligations more easily, will immediately give to its delegates the order to sign the national bonds in the form which has been drawn up by the commission of bankers.

It will not be possible to go any further in the way of making concessions, and to recommend other plans for the examination of their governments.

The undersigned seize this occasion to renew, etc.

Mr. Conger to Mr. Hay.

No. 1690.]

AMERICAN LEGATION,
Peking, China, August 25, 1904.

SIR: I have the honor to inclose herein copies of a letter of the secretary of the bankers' commission in Shanghai to the dean of the diplomatic corps and its inclosure of a communication from the taotai of Shanghai concerning the payment of the arrears of interest on the indemnity and the question of gold or silver payment.

The representatives of the powers are not agreed as to the kind of answer to be given, or even as to the necessity of one, and therefore no action is likely to be taken by them.

I have, etc.,

E. H. CONGER.

[Inclosure.]

Secretary Bankers' commission to Dean of diplomatic corps.

SHANGHAI, August 8, 1904.

SIR: I have the honor to forward to you herewith copies in English and French of the correspondence which has lately taken place between the com-

mission of bankers and the Shanghai taotai, and also a copy of the statement referred to therein.

In view of the near approach of the close of the period of grace granted to China in which to pay off the arrears of 1901, the commission desires your excellency to place this matter before your colleagues of the diplomatic corps, in order that a definite reply, based on their instruction, may be sent to the taotai.

The question of the gold or silver basis of the indemnity has now been in dispute for nearly three years, and the settlement of this question becomes urgent, since at the end of the present six months the already heavy arrears due by China to the powers will be increased by an amount in gold representing, at the rates of exchange of the protocol, haikwan taels 9,000,000.

I have, etc.,

H. M. BEVIS,

*Delegate for Great Britain and Portugal
and Secretary of the Bankers' Commission.*

[Subinclosure.—Translation.]

His Excellency Yuan Shou-Shung to Mr. Bevis.

MONSIEUR LE SECRETAIRE: I have the honor to acknowledge receipt of the letter recently addressed to me by Mr. G. Henriot, in which he kindly sent me a statement relating to the payment of the indemnity for the first six months of the third year, namely, from the 31st December, 1903, to the 30th June, 1904.

In accordance with the protocol and the table of amortization, the amount of the indemnity to the various powers was converted into silver at the rate of exchange of the 1st April, 1901, per haikwan tael, and an annual sum of taels 18,829,500 (being the amount of the amortization and interest, plus taels 3,000,000, the portion of arrears due for the first period) has been paid in full on account of the first and second years. I informed Mr. Buse and Mr. Perreau to this effect on the 5th of January and the 14th July, 1903.

This year the same sum of haikwan taels, 18,829,500, has to be paid on account of the capital and interest in twelve monthly payments of taels 1,820,000 per mensem. Six of these monthly payments have been made, realizing a sum of taels 10,920,000, so that nothing is wanting to complete the payment for the first six months of this year.

However, I find certain discrepancies in the account rendered to me by the commission, which I have pointed out below:

First. The protocol rate for the haikwan tael has certainly been put at the beginning of the statement, but later on the rate of the date for payment of the coupon, namely, the 30th June, 1904, has been added.

Second. Against the amount of taels 9,000,000, the arrears for the first period, a sum of taels 3,000,000 per annum was paid for the last two years (i. e., the first and second year), and the interest should be reduced "pari passu" with the capital; but in the statement the amount still appears as haikwan taels 9,000,000, so that taels 180,000 is claimed as interest for six months on this sum of haikwan taels 9,000,000.

Third. The amount of the amortization and interest for the last two years (the first and second year), and taels 3,000,000 per annum on account of the arrearages, as well as the capital and interest for the first six months of this year, have been more than paid; but in the statement a sum of over taels 50,000 is claimed for interest at 4 per cent on the amount in arrears on the 30th December, 1903, and a sum of over taels 1,468,000 is claimed as being in arrears on the 30th June, 1904.

These are the three principal points which are not in accordance with the protocol, and I am unable to understand why Mr. Henriot has written to me demanding payment of a difference. I really dare not accede to this request.

I have the honor to beg of you, sir, to kindly give your attention to this reply.

Furthermore, with regard to the payment of taels 3,000,000 per annum on account of the deferred interest which I made for the first and second year, the interest on these arrears should be reduced by interest at 4 per cent on my monthly installments, as I proposed in a detailed account rendered on the 29th December, 1903; and at the same time I sent a sum of taels 139,600, the amount of the balance of interest due on the arrears, to the commission. They, however, returned this sum to me without assigning any reason for their refusal to accept it. I was greatly astonished, and I wrote in July to Mr. Perreau asking for an explanation, but he has not favored me with an answer on this subject.

Now, sir, that you have taken over the duties of secretary to the commission I shall be greatly obliged if you will have the goodness to inform me of what steps I must take in order to act in a regular manner.

YUAN SHOU-SHUNG,
Taotai of the Customs of Shanghai.

JULY 21, 1904.

Mr. Adee to Mr. Conger.

No. 837.]

DEPARTMENT OF STATE,
Washington, September 2, 1904.

SIR: I have to acknowledge the receipt of your dispatch No. 1669, of July 26 last, inclosing a copy and translation of a note which all the representatives, except yourself, of the signatory powers have agreed to send at once to the Chinese Government concerning the proposition of the Belgian Government to receive payment of the indemnity as heretofore, in silver, at the rate of exchange at the time of each partial payment, leaving any difference between this and the gold rate to be settled hereafter and adjusted at the time the last regular payment falls due, granting additional time, if necessary, for China to pay any difference that may be due, etc.

The Department approves your action in not signing the joint note. I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, October 23, 1904.

(Mr. Conger reports the proposal of the Chinese Government concerning the payment of the indemnity.

First. That the rate of exchange hereafter shall be fixed monthly upon the average daily rate, instead of taking the rate of the day of payment.

Second. That interest on the arrears resulting from payments at silver instead of gold rates up to January 1 next shall be canceled.

Third. That interest at 4 per cent per annum shall be allowed on all interest and amortization deposited monthly in designated banks before due.

The Chinese Government promises to pay, in January next, the accrued difference between silver and gold payments, and all succeeding payments when due at a gold rate, if the above proposal is accepted by the powers. Mr. Conger requests to be instructed what course he is to take.)

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 24, 1904.

(Mr. Hay authorizes Mr. Conger to accept the proposal of the Chinese Government when the other powers signify their acceptance.)

Mr. Conger to Mr. Hay.

No 1733.]

AMERICAN LEGATION,
Peking, October 26, 1904.

SIR: I have the honor to confirm my telegram of the 23d instant and your reply of the 24th, concerning the payment by the Chinese Government of the indemnity provided for in the protocol of September 7, 1901.

The Chinese Government has sent a draft of a reply, translation herewith inclosed, which it proposes to formally transmit to the ministers signatory of the joint note of which I inclosed a copy in my dispatch No 1669, of July 26 last, if they will signify beforehand that its terms will be accepted. As you will observe, the Chinese Government proposes to pay the indemnity at gold rates, and promptly sign and deliver the fractional bonds if the foreign powers will concede three things:

First. That the rate of exchange at which payments are made shall be determined by the average daily rate for the whole month, and not the rate of the last day thereof, the date on which payment is made.

Second. That the interest on the arrearages which have resulted from payments heretofore having been made at silver instead of gold rates shall be written off or canceled.

Third. Since interest is due semiannually and principal annually, but is in fact paid over to the banks monthly, interest at 4 per cent per annum shall be allowed the Chinese Government on all sums thus paid before they are actually due.

The Chinese Government prefer this arrangement to the Belgian proposal because they dread the uncertainty of the latter. It appears to me to be a very happy solution of a difficult and long-discussed question. The representatives here are all pleased with it and believe their Governments will instruct them to accept it.

As we have already agreed to accept payment in silver it can not affect us much, unless there should be an unexpected and phenomenal rise in silver. But the allowance of the interest on the advance payments is of quite as much interest to us as to other powers. However when I accept, I shall have it understood that in all payments we shall expect as advantageous treatment as the other powers, which will of course mean that if other governments are paid at gold rates, we must be, and that the arrearages mentioned in proposition 2 shall be paid to us as well as to others.

I have, etc.,

E. H. CONGER.

[Inclosure.—Translation.]

Memorandum.

A dispatch has been received from your excellencies saying that since China pays the indemnity by monthly installments, orders should be given to the bank to reckon according to the rate of gold exchange fixed monthly instead of half yearly. This just proposal of your excellencies is gratefully appreciated and may of course be followed. But it is necessary to state clearly that in reckoning the rate of gold exchange for any month it is not to be taken as that of the day on which the installment is paid, but must be the average rate of gold exchange for the whole month. For instance, the installment to be paid on the 1st of January should be reckoned by taking the rate of gold exchange for

each of the thirty-one days of December and calculating an average rate for the month.

2. From the commencement of the payment of the indemnity, owing to a difference in the interpretation of the text of the protocol, as made by yourselves on the one hand and us on the other, there has been a discussion as to whether the indemnity is payable in gold or silver, and no decision has been reached. On this account China has simply made her monthly payments according to the amounts in silver mentioned in the table of amortization. Now, if the payment is to be reckoned in gold, the installments already paid over will show a shortage when compared with the amounts which ought to have been paid, but the deficit is due to the fact that the point was under discussion and undecided and not to any inexcusable delay, so that the shortages in the payments heretofore made ought to be relieved of interest charges to enable China the more easily to pay them in full.

3. According to the protocol the interest on the indemnity is to be paid every six months and the payments on the principal once a year. Now China is taking the whole amount of the principal and interest due for each year and dividing it into twelve portions, one portion being handed over each month to the bank for receipt and deposit. Thus it would be but just that the sums paid in advance of due date upon principal and interest should be reduced severally month by month by the amount of the interest which would accrue upon them at 4 per cent per annum, i. e., during the time for which each is paid in advance. For instance, the payment on the indemnity made on the 1st of February is one-twelfth of the principal and interest due for that year, but the portion reckoned as interest is not due until the 1st of July, and as it is now paid in advance should therefore be reduced by the amount of five months' interest. The portion reckoned as principal is not due until the 1st of January of the following year and, being now paid in advance, should be reduced by the amount of eleven months' interest thereon, and so on for each of the monthly payments.

4. If all the powers agree to the procedure set forth in the three items given above, China will agree to pay up in full at the end of the year 1904 whatever deficits may appear in the payments made during the three years beginning with 1902, reckoning them at the average monthly rate of gold exchange. And she will further agree, beginning with the year 1905, to clear off in full at the end of each year the amount of the indemnity due for that year, paying in monthly installments at the average monthly rate of gold exchange. Furthermore, after these items have been agreed upon, the separate bonds for the indemnity may be given and signed.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, November 22, 1904.

(Mr. Conger requests to be informed whether the United States will continue to accept payments in silver or whether the same treatment accorded to other powers, in case the proposal of the Chinese Government is accepted, will be insisted upon.)

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 23, 1904.

(Mr. Hay states that the views of this Government on the payment of the Chinese indemnity in silver were stated in Department's telegram of July 11, 1902 (printed below). In accepting the decision reached by the Chinese Government the United States Government expects the same treatment as the other interested powers.

[Inclosure.]

Mr. Hay to Mr. Conger.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 11, 1902.

Our position, payment indemnity in silver, is not attempted new interpretation of terms protocol; but the United States Government has always understood this to be meaning of agreement. The President reserves full liberty of action whatever may be decision reached.

JOHN HAY.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, December 5, 1904.

(Mr. Conger states that the Chinese Government insists that the United States ought to receive payment according to the terms of the bonds signed by China. The Chinese have been very grateful for our just and generous position, and the other powers respect us for it. Suggests that the United States Government, although insisting on its right to demand equal treatment with other powers, should, in view of China's helpless position, waive that right and accept payment as stipulated in the bonds, without regard to the more favorable treatment which China may be forced to accord to other powers.)

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 6, 1904.

(Mr. Hay states that for the present and pending future arrangement of the payment of the indemnity it is preferred that the United States should not be placed in an exceptional position.)

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 20, 1904.

(Mr. Hay states that the United States Government accepts the proposal of the Chinese Government concerning the payment of the indemnity, subject to the conditions set forth in Department's telegram of the 6th instant.)

**NEUTRALITY OF THE UNITED STATES IN THE WAR BETWEEN
RUSSIA AND JAPAN.**

Mr. Hay to Mr. Conger.

No. 862.]

DEPARTMENT OF STATE,
Washington, December 1, 1904.

SIR: In a recent personal conference the Russian ambassador has adverted to the attitude of the military, naval, and civil officers of the United States in China as regards the present contest between Russia and Japan. While indisposed to make specific statements in individual cases, allusion is made to instances of personal and official action on the part of some of these officers, which, when coming to the knowledge of the Russian representatives, cause an impression of unfriendliness.

It seems proper to bring this to your attention to the end that you may advise all officers dependent upon your branch of the service, cautioning them to observe the utmost circumspection and to avoid all action which may in any way suggest departure from the strict rule of impartial neutrality, which is as binding upon the individual officers of this Government as upon the Government itself.

In this relation I append by way of example copy of the circular orders given by the President on March 10, 1904, enjoining "all officials of the Government, civil, military, and naval, not only to observe the President's proclamation of neutrality in the war between Russia and Japan, but also to abstain from either action or speech which can legitimately cause irritation to either of the combatants."

I am, etc.,

JOHN HAY.

[Inclosure.]

Executive order.

WHITE HOUSE, *March 10, 1904.*

All officials of the Government, civil, military, and naval, are hereby directed not only to observe the President's proclamation of neutrality in the pending war between Russia and Japan, but also to abstain from either action or speech which can legitimately cause irritation to either of the combatants. The Government of the United States represents the people of the United States, not only in the sincerity with which it is endeavoring to keep the scales of neutrality exact and even, but in the sincerity with which it deplures the breaking out of the present war, and hopes that it will end at the earliest possible moment and with the smallest possible loss to those engaged. Such a war inevitably increases and inflames the susceptibilities of the combatants to anything in the nature of an injury or slight by outsiders. Too often combatants make conflicting claims as to the duties and obligations of neutrals, so that even when discharging these duties and obligations with scrupulous care it is difficult to avoid giving offense to one or the other party. To such unavoidable causes of offense, due to the performance of national duty, there must not be added any avoidable causes. It is always unfortunate to bring old-world antipathies and jealousies into our life, or by speech or conduct to excite anger and resentment toward our nation in friendly foreign lands; but in a government employee, whose official position makes him in some sense the representative of the people, the mischief of such actions is greatly increased. A strong and self-confident nation should be peculiarly careful not only of the rights but of the susceptibilities of its neighbors; and nowadays all the nations of the world are neighbors one to the other. Courtesy, moderation, and self-restraint should mark international, no less than private, intercourse.

All the officials of the Government, civil, military, and naval, are expected so to carry themselves both in act and in deed as to give no cause of just offense to the people of any foreign and friendly power—and with all mankind we are now in friendship.

THEODORE ROOSEVELT.

CONSERVANCY OF THE WHANGPU RIVER.

Mr. Conger to Mr. Hay.

No. 1603.]

AMERICAN LEGATION,
Peking, China, May 12, 1904.

SIR: On the 3d instant the German minister, by a circular, informed his colleagues that the German consul-general at Shanghai, Doctor Knappe, had been appointed by his Government a permanent member of the Whangpu conservancy board, and that an engineer by the name of Schellhoss had been appointed as a supplementary member or substitute.

This would seem to be the creation of a permanent proxy for the German member, a proceeding for which the regulations make no provision, and for which I apprehend there is no precedent in the general practice of such organizations. I suggest that our member of the board be instructed in accordance with whatever view the Department may take of the question.

In this connection your attention is called to Article VI of the regulations, which fixes the term of office of the members designated by the several governments at one year. Should not, then, the representative of the United States be now reappointed?

The viceroy at Nanking recently promised Consul-General Goodnow that he would select the appointee to be named by the Chinese Government on or before May 13, which is to-morrow; but my experience with several positive promises of the same kind, made me by the foreign office here, does not inspire much faith in the fulfillment of this.

* * * * *

I have, etc.,

E. H. CONGER.

Mr. Conger to Mr. Hay.

No. 1630.]

AMERICAN LEGATION,
Peking, China, June 8, 1904.

SIR: In continuance of my No. 1603 of May 12 last, concerning the Whangpu conservancy commission, I have the honor to report that upon receipt of the proposals of the Nanking viceroy, copy inclosed herewith, transmitted here by the consular body of Shanghai, the dean of the diplomatic corps circulated them among the representatives of the powers signatory of the final protocol. I inclose copies of the indorsements made on the circular by the German and British ministers, with which all the colleagues agreed except the French minister, who says he must ask his Government for instructions.

It seems to me, as I have heretofore written, that the organization

of the commission need not await the Chinese appointment. If, at any time after the organization, a vacancy should occur, the commission would not stop business until it was filled. Why, then, should the failure of the Chinese to avail themselves of the privilege to appoint a member prevent the commission from doing business now? Besides, Article XI of annex 17 of the final protocol provides that four members shall constitute a quorum of the commission.

Unless I am otherwise instructed, I shall advocate this view with my colleagues and advise action in accordance therewith.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Mr. Goodnow to Baron von Wahlborn.

AMERICAN CONSULAR SERVICE,
Shanghai, May 11, 1904.

EXCELLENCY: I am directed by my colleagues to inform you that His Excellency Wie, viceroy at Nanking, has requested us to lay before you his proposal to substitute the hereto attached five rules for annex 17 of the final protocol.

The following motion is now before the consular body: "The consular body of Shanghai decides in accordance with (1) paragraph b, Article II, of the peace protocol signed at Peking on September 7, 1901, and (2) annex 17 of the same protocol, to give notice to His Excellency the viceroy at Nanking that the first meeting of the Whangpu River Conservancy Board will take place on, say, July 1 next."

We respectfully ask instruction of the diplomatic body on the above.

I have, etc.,

JOHN GOODNOW,
Consul-General, United States of America, and senior consul.

[Inclosure 2.—Translation.]

Proposed regulations, in five articles, with respect to the work of improvement of the Whangpu, submitted for the approval of the consular body with a view to the prompt commencement of the work.

I.

The vessels of the great powers having already paid customs dues, China would be embarrassed to call again upon foreigners who come to trade with her for contributions for the expenses of the Whangpu improvements. Therefore the Chinese Government will set aside from the customs revenues the sum of 230,000 taels upon its own account, and will assume the payment of the 230,000 taels which the foreign merchants have agreed to contribute, which will make a sum total of 460,000 taels (Haikwan) to be expended annually until the completion of the work.

II.

The work of the Whangpu improvement will be under the direction of the Tao-t'ai of Shanghai and the commissioner of customs; the commissioner of customs shall have the supervision of police, light-houses, etc., as well.

III.

Three months after the acceptance of these proposed regulations the Chinese Government will ask the representatives of the powers to name one or two engineers specially qualified for the work of river improvement, who will have charge of the work.

IV.

Every three months a statement of the expenses of the work will be prepared and submitted to the consular body.

V.

The Chinese Government binds itself not to levy for the Whangpu improvements any tax whatsoever, either at Shanghai or elsewhere in the neighborhood upon either vessels, cargo, or property.

[Inclosure 3.—Translation.]

Circular No. 100.

PEKING, May 24, 1904.

The dean has the honor to place in circulation a letter from the dean of the consular corps of Shanghai with regard to a proposition on the part of the governor-general of Nanking to change annex No. 17 of the final protocol relating to the work of improvement of the Whangpu and concerning the deliberations of the consular corps of Shanghai on the subject of calling a meeting of the Whangpu Commission.

CZIKAŇŇ.

Indorsement of the German minister.

The question of the improvement of the Whangpu is regulated by Article XI 6 and annex 17 of the final protocol of the 7th of September, 1901, signed by the representatives of China and of the foreign powers at Peking. Consequently it is not the province of the superintendent of southern trade to make new propositions and to submit them to the consular corps at Shanghai. The question in the order of the day is not a change of the provisions of the final protocol, agreed upon with "unanimity" by China and the powers signing this protocol, but the organization of the river commission. All the members of this commission, except the representative to whom China is entitled by virtue of Article IV ext. of the annex above mentioned, having been designated long since, this organization should take place at once. If China does not deem it expedient to name the delegates to whom she is entitled by virtue of her maritime commerce, this should not in any manner prevent the assembling of the commission which may deliberate when four at least of its members shall be present and of which two representatives of the Chinese Government, the taotai, and the commissioner of customs at Shanghai, are already members *ex officio*.

It seems to me that the dean of the diplomatic corps should reply to this effect to the dean of the consular corps, instructing him at the same time to notify the taotai and the other members of the commission to proceed at once to the organization of the river commission.

If after the organization of the commission the Chinese Government deems it expedient to submit to the powers interested amendments modifying the provisions of the final protocol, there is nothing to prevent the Wai Wu Pu from making overtures in this sense to the representatives of the powers signatory of the final protocol or that they should refer the matter to their respective governments. But it should not be lost to sight that until a new agreement may have been concluded with the unanimous consent of all the powers signatory of the final protocol the stipulations of this protocol hold good.

A. V. MUMM.

Indorsement of the minister of Great Britain.

I share entirely the opinion of his excellency the minister of Germany upon the subject of the communication made by the viceroy of Nanking to the members of the consular corps of Shanghai. My Government holds that the Chinese Government should execute the provisions of the protocol touching the improvement of the Whangpu and has given me instructions authorizing me to support every proposition tending to the organization of the commission, even in case the Chinese Government should persist in not naming a representative for her maritime interests. It seems to me little desirable, moreover, to take into consideration propositions presented in such an irregular manner.

ERNEST SATOW.

Mr. Conger to Mr. Hay.

No. 1639.]

AMERICAN LEGATION,
Peking, China, June 22, 1904.

SIR: Referring to my No. 1630 of the 8th instant, I have the honor to inclose copies of a note received from the Waiwu Pu and of my reply thereto.

All the representatives of the signatory powers have received identical notes. The German and British ministers have made replies much the same as mine.

The proposals are the same as those irregularly presented by the Nanking viceroy to the consuls at Shanghai.

Trusting that my action will meet with your approval, and waiting your instructions,

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Prince Ch'ing to Mr. Conger.

It is stated in the eleventh article of the peace protocol of 1901 that a board shall be established to have charge of the various matters connected with the maintenance and improvement of the Whangpu River bed, that the commercial interests of Shanghai may be protected. According to the estimate an expenditure of 460,000 Haikwan taels each year for twenty years will be necessary; of this amount one-half shall be supplied by the Chinese Government and one-half by the foreign nations interested.

This board finds that this excavation of the bed of the Whangpu River will not only open up a free course for the river but will be a great benefit to commerce as well. For this reason the Chinese Government now desires to do this excavating herself and assume the whole expense without the subscriptions of the commercial men of other nations. The whole manner in which we propose to handle the matter is set forth in the following five regulations:

1. The Chinese Government shall itself be responsible for all the expenses. Each year there shall be appropriated from the customs receipts 460,000 Haikwan taels to cover the expense of dredging the Whangpu, and this appropriation shall continue until the work is completed. The duties payable according to the thirtieth section of the seventeenth annex to the protocol shall all be remitted, and there shall be no duties levied on this account.

2. All public work on the Whangpu River will be under the direction of the taot'ai of Shanghai and the customs taot'ai. All marine, quarantine, and other matters of that nature will continue to be conducted according to the old regulations.

3. The plan now proposed is that, if all the ministers residing in Peking are agreeable, the Chinese Government will, after three months, select and appoint one or two engineers thoroughly acquainted with such work, to take charge of the whole affair. But those who wish to undertake any part of the work must first hand in an estimate of the cost, and selection will then be made from all the applicants.

4. A quarterly account of all receipts and expenditures should be kept, and a clear account sent to the various foreign consuls in Shanghai for their inspection.

5. The Chinese Government will itself supply all the funds necessary for the excavation, and hereafter it will not be permissible at any time to quote as a precedent the seventeenth annex of the protocol, nor will it be permissible to levy duties of this kind upon merchants of any nation owning land near the mouth of the river or having goods shipped thereon.

The foregoing five regulations are most advantageous both to China and to the other nations, and it becomes our duty to transmit them in a dispatch to your excellency for your inspection. We trust, too, that they will be sent to the Department of State for their deliberation. A reply to this dispatch is requested.

A necessary dispatch.

Kuanghsü, 30th year, 4th moon, 26th day (June 9, 1904).

[SEAL.]

[Inclosure 2.]

*Mr. Conger to Prince Ch'ing.*AMERICAN LEGATION,
Peking June 21, 1904.

YOUR IMPERIAL HIGHNESS: I have the honor to acknowledge the receipt of your imperial highness's note of the 9th instant, inclosing a proposition for the conservancy of the Whangpu River, which the Chinese Government desires to substitute for the arrangement agreed to by China and the powers in the final protocol of September 7, 1901, and contained in annex 17 thereto.

For three years the Chinese Government has been repeatedly urged by the representatives of the signatory powers to appoint the Chinese member which it has the privilege of appointing under Article IV (h) of annex 17, in order that the work arranged for by the protocol might be begun, and several times I have been personally assured by your highness and other members of the Wai Wu Pu that the said appointment would be speedily made.

Of course, your imperial highness is well aware that a change in the protocol or the adoption of any new plan must be unanimously accepted by all the signatory powers. In their present form I fear the proposals of the Chinese Government will not meet with unanimous approval, and the presentation of them must necessarily cause great delay.

The Chinese Government can hardly expect that the powers will consent to the appropriation for this purpose of any portion of the customs revenue which is already wholly pledged to the payment of foreign loans and indemnities, or agree to its diversion to any other purpose than that stipulated in Article VI of the protocol. Besides, the proposals now made, in my judgment, do not offer the same guaranties for the faithful execution of the necessary works as those which were agreed to by China and the powers in 1901.

Propositions similar to these were some time since made to me verbally by one of the ministers of your board, and I replied that until the Chinese Government evidenced its intention to carry out the provisions of Article IV (h) of annex 17, by appointing its member of the conservancy board, I could not entertain any proposition whatever for a change in the plan already agreed upon.

But, since the proposals have come to me in a formal manner, I will, as your highness requests, transmit them at once to my Government. Under present circumstances, however, I am unable to recommend their adoption.

I improve the occasion, etc.,

E. H. CONGER.

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 25, 1904.

(Mr. Hay informs Mr. Conger that if sufficient guaranties of early action and satisfactory conclusion of work are promptly secured, the proposals of the Nanking viceroy regarding Whangpu conservancy are unobjectionable to this Government.)

Mr. Hay to Mr. Conger.

No. 814.]

DEPARTMENT OF STATE,
Washington, June 29, 1904.

SIR: The Department is in receipt of Consul-General Goodnow's dispatch, No. 579, dated the 23d ultimo, in which he reports that he

found on his return to Shanghai that nothing had been done regarding the conservancy of the Whangpu since he left there, in September last, and inclosing a copy of the proposals which the viceroy at Nanking has made, as the result of representations made to him in the matter by the consular body.

The viceroy's proposals, in brief, are that China shall pay all the cost of the improvement, and relieve foreign-owned property and shipping from any taxation in the matter; that Chinese officials are to superintend the work, and that China will ask the treaty powers to name two or three engineers to be in technical charge.

As Mr. Goodnow says that he has sent you a copy of his dispatch, I do not send you a copy. * * *

The Chinese Government should give sufficient guaranties that the work will be done thoroughly and satisfactorily, and that when the work is once completed it will be kept in good condition.

You should make it clear to your colleagues and also to the Chinese Government that whereas the United States is willing to waive temporarily its right to insist on China complying with the terms agreed to by her in Article VI of the final protocol concerning the improvement of the course of the Whangpu River, it will do so only so long as the Chinese Government promptly and satisfactorily discharges the new obligations which it now wishes to assume. Should it become evident at a later date that the conservancy work is not being done promptly, or that a disposition is evidenced not to carry out the work to the satisfaction of all interests concerned, the United States will insist upon full and strict compliance with the terms of the original agreement.

I am, etc.,

JOHN HAY.

Mr. Adee to Mr. Conger.

No. 817.]

DEPARTMENT OF STATE,
Washington, July 6, 1904.

SIR: I have to acknowledge the receipt of your dispatch, No. 1603, of May 12 last, in which you state that the German consul-general at Shanghai has been appointed a permanent member of the Whangpu Conservancy Board, and one Schellhoss has been designated as his permanent proxy, and request that the American member of the board be instructed accordingly.

In reply I have to inform you that since your dispatch was written the viceroy of Nanking has submitted to the diplomatic representatives at Peking proposals looking to the execution of the work of improving the Whangpu under the sole control and at the sole expense of the Chinese Government, to which proposals a qualified assent has been given by the Department.

The creation of a permanent proxy for the German member of this board does not therefore require further consideration for the time being.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary,

Mr. Hay to Mr. Conger.

No. 830.]

DEPARTMENT OF STATE,
Washington, August 6, 1904.

SIR: I have to acknowledge the receipt of your dispatch No. 1639 of June 22 last on the subject of the Whangpu conservancy commission inclosing correspondence with the Chinese foreign office.

While the Department approves of the remark made by you to Prince Ch'ing in your inclosed note of June 21, that consent can not be given to the diversion of any portion of the customs revenues to any other purpose than that for which they are already pledged under Article VI of the final protocol of September 7, 1901, the Department is not at all disinclined to consider the proposition for China to undertake alone the conservancy work so urgently needed on the Whangpu River.

The Department has already made its position known to you in its cable instruction of June 25, 1904, and its instruction No. 814 of June 29, 1904. You will conform your future action with their terms.

I am, etc.,

JOHN HAY.

Mr. Conger to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Peking, August 6, 1904.

(Mr. Conger asks whether the offer of the Chinese Government to set aside the opium revenue of the Szechuen Province and the Hsi-chou prefecture of the Kiangsu Province, amounting to about 600,000 taels annually, as a guaranty for the Whangpu conservancy scheme is satisfactory.)

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 10, 1904.

(Mr. Hay acknowledges receipt of Mr. Conger's telegram of the 6th and states that this Government can not pronounce on sufficiency of guaranty offered by the Government of China for Whangpu conservancy scheme, and directs Mr. Conger to suggest that banks be asked. Mr. Hay states that as organization of work and plant needed would require twice the amount of revenue Mr. Conger mentions some kind of bond measure seems indispensable.)

Mr. Conger is informed that before this Government can consider the abrogation of the provisions of the final protocol a full programme of the work and maintenance must be submitted by the Chinese Government.)

Mr. Conger to Mr. Hay.

No. 1680.]

AMERICAN LEGATION,
Peking, China, August 12, 1904.

SIR: Continuing the subject-matter of my No. 1639 of June 22 last, I have now the honor to confirm our recent telegraphic correspondence concerning the Whangpu conservancy.

I also acknowledge receipt by our last mail of Department's instruction No. 814, of June 29, and inclose copies of my recent correspondence with His Imperial Highness Prince Ch'ing.

I have in private conference with my British and German colleagues clearly explained your position, and shall do so with others after the Chinese make a definite proposal, or, opportunely, before.

The British and German ministers personally agree with me and are consulting their governments.

The Chinese Government can, if it desires, furnish the funds and do this work promptly and satisfactorily, but it must be done under competent foreign supervision. I am not certain, however, that it is really desirous to have the work done, but am inclined to believe that this last proposal is only made to avoid having the work done under the arrangement provided for in the final protocol, which has always been very objectionable to the Chinese Government.

If it can be delayed by further deliberate negotiations, I apprehend they will be quite pleased.

In my judgment the only way to secure the early commencement of the work, or even to make the Chinese hasten in their efforts to conclude negotiations upon their new proposal, is to make them understand that the powers are in earnest in their insistence that the work shall be carried out in strict accordance with the provisions of the protocol, and that if the Chinese Government will not take hold, as by its terms they have promised, then the powers will at once organize the commission and proceed to its execution without it. Rather than this China will do anything possible.

However, the agreement of the powers is the first essential, and I am sure this can be much more easily secured directly by the home governments than by their representatives here.

Many of the ministers are at present away from the city for the summer, but will probably have returned by the time the Chinese are ready to present the full programme and plan demanded.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

Mr. Conger to Prince Ch'ing.

AMERICAN LEGATION,
Peking, June 27, 1904.

YOUR IMPERIAL HIGHNESS: I have the honor to state that I have received telegraphic instructions from the Department of State directing me to make some inquiries from your imperial highness in regard to China's proposals concerning the Whangpu conservancy matter. My Government would like to know definitely just what guaranties of early action and satisfactory conclusion of the

work China will give in the event of the other powers being willing to accept the new proposals recently made by the Chinese Government.

I have the honor, therefore, to request your imperial highness to send me a definite and detailed reply in regard to the above-mentioned guaranties, that I may transmit the report to my Government for their consideration without delay. The Whangpu conservancy matter is a question of the highest importance, and I am constrained once more to urge the immediate attention of your imperial highness to the consideration of this question, the final settlement of which is of so much consequence and has been so long delayed.

Trusting that I will receive an early reply, I avail, etc.,

E. H. CONGER.

[Inclosure 2.]

Mr. Conger to Prince Ch'ing.

AMERICAN LEGATION,
Peking, July 25, 1904.

YOUR IMPERIAL HIGHNESS: On June 27 last, by direction of my Government, I had the honor to address a note to your imperial highness inquiring what guaranties of early action and satisfactory conclusion of the work China would give in case the signatory powers agreed to accept the new proposals of the Chinese Government concerning the Whangpu conservancy matter. To this I have as yet received no reply.

In order that I may inform my Government, I regret that I am obliged to again ask your imperial highness for the courtesy of an early reply.

I also avail, etc.,

E. H. CONGER.

[Inclosure 3.]

Prince Ch'ing to Mr. Conger.

I have the honor to acknowledge the receipt of your excellency's note, saying that by direction of your Government you had the honor to inquire (on June 27 of this year) what guaranties of early action and satisfactory conclusion of the work China would give in case the signatory powers agreed to accept the new proposals of the Chinese Government concerning the Whangpu conservancy matter. In order that you might inform your Government, your excellency requested the courtesy of an early reply.

I have the honor to state that upon receipt of the above my board at once communicated with the board of revenue, asking them to make a thorough and satisfactory reply as soon as possible. This is on record. Upon receipt of your excellency's second letter, pressing the matter, my board again wrote to the board of revenue urging them to action, and have received a reply from that board as follows:

"In improving the Whangpu River the yearly expenses should be supplied as they come due by China herself. Of these expenses the province of Chiang-nan (Anhui and Kiangsu) will raise 230,000 taels and the remaining 230,000 taels will be supplied in full by this board. This is without doubt an important work, and we trust you will transmit this our report to the United States minister."

It appears, then, that China herself will assume the expenses of improving the Whangpu river, these expenses amounting to 460,000 taels a year, and the board of revenue has guaranteed to be responsible for appropriating the funds. If the signatory powers agree to the plan as proposed by this board this matter will be brought to an early completion.

It becomes my duty, therefore, to make this reply to your excellency's letter, and I trust you will transmit the information to the Department of State. At the same time avail, etc.

Cards inclosed.

Sixth moon, 19th day (July 31, 1904).

[Inclosure 4.]

*Mr. Conger to Prince Ch'ing.*AMERICAN LEGATION,
Peking, August 1, 1904.

YOUR IMPERIAL HIGHNESS: I have the honor to acknowledge the receipt of your highness's note of the 31st ultimo in response to my two notes asking what guaranties of early action and satisfactory conclusion of the work China would give in case the signatory powers would agree to accept the new proposals of the Chinese Government concerning the Whangpu conservancy matter.

It is to be regretted that that communication does not by any means reply to the inquiry of my Government made in my notes. Your highness's statement is practically that the Provinces of Anhui and Kiangsu and the board of revenue will furnish the necessary funds. What my Government wants to know, and what the other governments will unquestionably require, is that ample and sufficient guaranty of some kind shall be given that will, under any and all circumstances, insure the actual furnishing of the money promised, and its expenditure annually upon the work. This can not be considered an unreasonable condition, in view of the fact that nearly four years ago China agreed in the final protocol to an excellent plan for this work, but which, instead of carrying out, she has persistently obstructed by her failure to appoint her member of the commission. I must therefore again ask your imperial highness to kindly reply to my Government's inquiry, and state specifically what guaranty the Chinese Government will furnish to the powers that these funds as promised will be forthcoming. If such satisfactory guaranty can be furnished my Government will not object to the new proposals. Otherwise it will insist that the plain agreement of the protocol be promptly and faithfully executed.

I take, etc.,

E. H. CONGER.

[Inclosure 5.]

The Foreign Office to Mr. Cooper.

We have the honor to acknowledge the receipt on the 12th instant of your excellency's reply, saying that it was to be regretted that our communication did not clearly reply to the inquiry repeatedly made in your excellency's notes regarding the Whangpu conservancy scheme, which was: "If the various powers should consent to the plan proposed by China, what guaranty will China give that the work will be performed?" Your excellency further stated that our reply was nothing more than that the Provinces of the Kiangnan and the board of revenue would supply the necessary funds; and that what your Government wanted to know, and what the other governments would certainly require was that some reliable guaranty should be given that under any circumstances whatever, the necessary funds would certainly each year be promptly appropriated; that you had again to request that a speedy reply be made to this inquiry; that the meaning of your Government's inquiry was that a definite statement should be made as to what surety would be given that each year the funds would be certainly appropriated; that, if such satisfactory guaranty could be given, your Government could not but consent to the new plan proposed, but that otherwise it would insist that the matter be dealt with according to the original terms of the protocol.

Upon the receipt of your excellency's note our board at once communicated its contents to the ministers of the board of revenue, and discussed the matter with them very thoroughly. The annual amount to be furnished for the proposed improvement of the Whangpu is 460,000 taels, all of which China agrees to promptly appropriate year by year. Now, we find that the annual revenues from opium in the province of Szechuen amounts in round numbers to 400,000 taels, and that revenue from opium in the prefecture of Hsü-chou, in Kiang-su Province, amounts in round numbers to 200,000 taels per annum, making together a total in excess and never less than the total amount required for the annual expenditure upon the improvement of the Whangpu, which is 460,000 taels, and we have the honor, in reply to your excellency's inquiry, to submit these two items of opium revenue as the guaranty asked. We hope you will

communicate this to your honorable Government, and hope we may have a speedy reply, for which we shall be grateful.

We avail, etc.

Cards inclosed.

Sixth moon, 24th day (August 5, 1904.)

[Inclosure 6.]

Mr. Conger to Prince Ch'ing.

AMERICAN LEGATION,
Peking, August 11, 1904.

YOUR IMPERIAL HIGHNESS: In reply to your imperial highness's note of the 5th instant stating that the Chinese Government would give as a guaranty for the faithful carrying out of the proposed Whangpu conservancy scheme certain opium revenues, I have the honor to say that I at once telegraphed the substance of your highness's note to my Government and have received a reply to the effect that, while it is not willing to deny the sufficiency of the revenue proposed as a guaranty, yet it thinks that in view of the enormity of the enterprise, the great cost of organizing the work, and of the necessary plant and the long continuance of the work, that some kind of satisfactory bond measure should be arranged.

At any rate, before my Government can consider any abrogation of the provisions of the final protocol, a full programme of the plans for work and maintenance must be submitted.

If, then, China is really desirous of promptly taking up this work and hastening it to a conclusion, I suggest that she forthwith present to the representatives of the powers a full and detailed plan which, secured by the revenues mentioned and supported by some kind of bond measure, will insure the speedy and satisfactory carrying out of the important work and its permanent maintenance in good condition.

If this should be done at once, my Government will not oppose it, and I shall be glad personally to do whatever I properly may for its furtherance.

It should be clearly understood, however, that, whereas the United States is willing to waive temporarily its right to insist on China complying with the terms agreed to by her in Article VI of the final protocol concerning the improvement of the course of the Whangpu River, it will do so only so long as the Chinese Government promptly and satisfactorily discharges the new obligations which it now wishes to assume. Should it become evident at a later date that the conservancy work is not being done promptly, or that a disposition is evidenced not to carry out the work to the satisfaction of all interests concerned, the United States will insist upon full and strict compliance with the terms of the original agreement.

I avail, etc.,

E. H. CONGER.

Mr. Conger to Mr. Hay.

No. 1684.]

AMERICAN LEGATION,
Peking, China, August 20, 1904.

SIR: Concerning the Whangpu conservancy scheme, I have the honor to report that on the 15th instant I received an additional note from the foreign office, of which I inclose a copy.

This note is by no means satisfactory, and is very far from complying with the suggestions of my note of the 11th instant.

Believing a personal conference better than a continuance of correspondence just now, and as Prince Ch'ing is at present out of the city, I sent Mr. Williams on yesterday to the foreign office to explain more fully to the ministers our position, and make them understand, if possible, just what the Chinese Government must do in order to

secure consideration of their proposed new scheme. I gave him, as the basis for his conversation, the memorandum, a copy of which is inclosed, telling him to inform them that I spoke only for myself, and not for my colleagues, and that while I did not pretend to give them a plan in detail, yet they must clearly understand that a plan less comprehensive than the one outlined in the memorandum would not be entertained by my Government, nor, I believed, by the others; that, therefore, it was useless to continue the correspondence unless China was prepared to make to the powers some such comprehensive and detailed proposition as indicated.

Mr. Williams reports a satisfactory conference with their excellencies Na-t'ung and Lien-fang, who readily indorsed all the points in the memorandum except that of making a loan. Mr. Williams told them that that was the most essential of all, as that appeared to be the only way to get the very large amount that must be at once available for the purchase of plant and machinery, and for the early organization of the work and that the 460,000 taels mentioned in the protocol was originally intended as the annual sum necessary for the interest and amortization of a loan which must be made.

They finally agreed that a loan would be necessary unless some equally efficient plan could be devised for realizing the large sum necessary to begin with.

They said, however, that it would be necessary to correspond with the viceroy at Nanking, which they would do at once. They were also given to understand that the proposed plan must come to the representatives of the powers as their own proposition, and not one supplied by me.

The British minister has received instructions to cooperate in support of this plan and he will advise the Chinese along the same line.

If the Chinese Government does propose a plan fully embodying the suggestions of the British minister and myself, I apprehend our colleagues can be induced to accept it, but unless the Chinese do this at an early date I see no other feasible course except that indicated in my No. 1680 of the 12th instant.

I have, etc.,

E. H. CONGER.

[Inclosure 1.]

The foreign office to Mr. Conger.

We have the honor to acknowledge the receipt on the 2d of the present moon of your excellency's note saying that you had telegraphed to your Government the proposal to give the opium revenues of Szechuen Province and of the Hsü-chou prefecture of Kiangsu Province as a guaranty for the appropriations for the improvement of the Whangpu, and that you had just received a telegraphic reply stating that as the work was a large one some sort of bond ought to be given; that, in a word, we ought first to prepare a detailed statement of the plan to be adopted for the improvement and the sort of bond to be given, and that if the work should be done promptly and energetically your Government would make no objection.

We find that the annual expense of dredging the river will amount to 460,000 taels, and the board of revenue has already set aside the opium revenues of Szechuen Province, and the prefecture of Hsü-chou, which, being more than the amount needed and never falling below it, form a thoroughly reliable and bona fide fund. As to the work, we find that Article III of the regulations says:

"The plan now proposed is set forth in these five regulations. Within three

months after the various foreign governments shall have consented to it China will select and appoint a thoroughly qualified riverine engineer to take charge of the work," etc.

We have now definitely appropriated the funds, and within the time specified the superintendent of trade for the south will select and engage a foreign engineer, in accordance with the plan originally proposed. As to the necessary bond and the detailed plan of the work, it will also be necessary to wait, as originally proposed, until three months after the approval of the scheme, when these matters may be taken into consideration and dealt with.

As in duty bound, we send this reply to your excellency and trust that you will forward it to your Government for its examination and approval, so that it may be possible to speedily undertake the work.

We avail, etc.

Cards inclosed.

Seventh moon, 5th day (August 15, 1904.)

[Inclosure 2.]

Memorandum.

The original plan for the improvement of the Whangpu River was set forth in Annex XVII to the final protocol of 1901. Therefore, if China desires to adopt a new plan she must enter into a new protocol with the powers, and she should prepare and submit to their representatives a statement in which she should say:

(a) That China herself will furnish the funds and do the work.

(b) That it will be done under the supervision of foreign engineers, selected by or satisfactory to a majority of the powers.

(c) The original intention of the signatories of the protocol was that a loan should be negotiated to secure funds for the work, and that 460,000 taels per annum would be needed to repay the principal and interest of this loan in twenty years, and not merely that there should be expended 460,000 taels each year upon the work, as this amount would not be sufficient for the first year, when it will be necessary to purchase machinery, etc.

China should therefore issue a series of bonds on which to raise the needed funds, these bonds to be secured by the opium revenues of Szechuen Province and of Hsi-chou prefecture in Kiang-su Province.

(d) That as an essential condition of the agreement, in case of a failure on the part of the Chinese Government to faithfully carry out its obligations under the agreement, reversion shall be had to the plan outlined in Annex XVII to the final protocol, and the commission mentioned therein authorized to at once carry out the work according to the provisions of the said annex, without waiting for the appointment of the Chinese member of the commission.

Mr. Loomis to Mr. Conger.

No. 840.]

DEPARTMENT OF STATE,
Washington, September 29, 1904.

SIR: I have to acknowledge the receipt of your No. 1680, of the 12th ultimo, inclosing copies of your correspondence with the foreign office on the subject of the Whangpu conservancy scheme.

The Department approves your note of August 11 to Prince Ch'ing wherein the views of this Government touching the Chinese offer of certain opium revenues as a guaranty for the faithful carrying out of the scheme are correctly stated. * * *

I am, etc.,

F. B. LOOMIS,
Acting Secretary.

Mr. Hay to Mr. Conger.

No. 858.]

DEPARTMENT OF STATE,
Washington, November 19, 1904.

SIR: I inclose for your information a copy of an instruction I have addressed under to-day's date to the American embassies and legations at London, Paris, Berlin, St. Petersburg, Rome Tokyo, The Hague, Brussels, Vienna, and Madrid, pointing out the importance of an early agreement between the powers which signed the final protocol at Peking, of September 7, 1901, in regard to the proposed abrogation of the provisions of that protocol, relating to the conservancy of the Whang-pu River and to the acceptance of the new obligation which the Chinese Government desires to assume in that respect.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Hay to Mr. ——— ———

DEPARTMENT OF STATE,
Washington, November 19, 1904.

SIR: This Government has taken a profound interest in the various projects for the improvement of the navigation of the Whangpu River, a question of ever-increasing importance for the foreign commerce of Shanghai and China generally. Since the signing of the final protocol of Peking, of September 7, 1901, in which provision was made for this work, which year by year is becoming more urgent, it has on numerous occasions made earnest representations to the Chinese Government to appoint representatives on the conservancy board as provided for by annex 17 of the final protocol and thus complete the organization and enable it to begin the work assigned it by the agreement of China and the powers. Our efforts have not overcome the disinclination of the Chinese Government to make the necessary appointments, nor have we even been able to secure the unanimous and active support of all the diplomatic representatives at Peking in our efforts to conquer Chinese dilatoriness.

Opposition to the provisions of annex 17 of the final protocol, especially to the additional taxes which it imposed, has furthermore steadily increased among a considerable section of the foreign community of Shanghai, and this, coupled with the persistent opposition to the conservancy board of the Chinese viceroy at Nanking and of the Chinese maritime customs, on the ground that the terms of the protocol seriously infringe Chinese sovereignty, forced on this Government the belief that the scheme as therein provided for must be considerably amended if this vital work is to be undertaken at an early date, or at all.

On the 9th of June last the Chinese foreign office addressed a note to the diplomatic representatives of the powers at Peking, asking the repeal of annex 17 of the final protocol of September 7, 1901, and expressing the desire to improve the bed of the Whangpu River under the sole control and at the sole expense of China. With this note was submitted a set of proposals outlining the manner in which it sought to accomplish this end.

The minister of the United States at Peking, having transmitted the suggestions of the Chinese Government to Washington, was informed that they were unobjectionable in principle to this Government if good and sufficient guarantees were given that China would promptly begin the conservancy work, carry it to a satisfactory termination, and maintain it afterwards.

The above reply was duly communicated to the Chinese foreign office, and the latter, on August 5 last, informed the American minister that the Chinese Government offered as guaranty for the carrying out of the work certain revenues aggregating about 600,000 taels annually. The foreign office expressed the hope that this would be accepted by the United States as a sufficient guaranty.

On the 11th of August, the American minister at Peking, under instructions from this Government, addressed a note to the Chinese foreign office in which,

after stating the general acceptance by this Government of the proposals of China, he said that the United States before considering the abrogation of the provisions of the final protocol must insist that China submit detailed plans and a general programme of the way in which it proposed doing the work. It was to be clearly understood, however, that whereas the United States was willing to waive temporarily its right to insist on China complying with the terms agreed to by her in Article VI of the final protocol concerning the improvement of the course of the Whangpu River, it would do so only so long as the Chinese Government promptly and satisfactorily discharged the new obligations which it now wished to assume. Should it become evident at a later date that the conservancy work was not being done promptly, or should there be evidence of a disposition not to carry out the work to the satisfaction of all interests concerned the United States would insist upon full and strict compliance with the detailed plan for the carrying out of the proposed work.

No reply has been received from the Chinese foreign office to the above communication, although it has intimated to our minister that it would submit a detailed plan for the carrying out of the proposed work.

Considering, however, that the abrogation of these provisions of the final protocol of Peking, relating to the conservancy of the Whangpu, can only be brought about by the unanimous agreement thereto of the signatory powers, this Government is of opinion that the universally recognized urgency of the work makes an early agreement among the interested powers imperatively necessary. Such desired agreement can be more promptly reached, it is believed, by direct submission of our views to the interested powers than through the diplomatic representatives at Peking.

You are therefore instructed to submit the above statement of the views of this Government to the attention of the minister of foreign affairs and to urge his serious consideration of them. Should the proposals submitted by the Chinese Government to the signatory powers in June last meet with the general approval of the _____ Government it is hoped that it will see its way to instruct its representative at Peking accordingly, so that this important undertaking may be promptly begun to the satisfaction of all the powers concerned and to the benefit of the vast commercial interests it so vitally affects.

I am, etc.,

JOHN HAY.

ANTIFOREIGN MOVEMENTS IN CHINA.

Mr. Hay to Mr. Conger.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 12, 1904.

(Mr. Hay states that the Russian Government is anxious about reported antiforeign movements in China and has requested the Department to inquire. Instructs him to report on the matter.)

Mr. Conger to Mr. Hay.

No. 1766.]

AMERICAN LEGATION,
Peking, China, December 14, 1904.

SIR:

* * * * *

With regard to the various rumors of an antiforeign movement among the people of China, I have the honor to report as follows: During the past year I have received information at various times of the existence and activity of certain secret societies in the provinces of Shensi, Kansuh, Hupeh Kiangsi, Honan, Chihli, Shantung, Kuangtung, and Kuangsi. Such societies have existed under various names

during the whole period of the Manchu rule. As a result local rebellions occur nearly every year. At present such a rebellion exists in the province of Kuangsi. The aim of these societies is the overthrow of the present Manchu dynasty. At times, however, they have instigated attacks upon foreigners, either with a view to embroiling the central Government in a conflict with the powers, as was attempted in 1891, or to punish foreigners for what was believed to be a systematic planning to partition the territory of China among the Western powers, to exploit her resources, and to subvert her religious, social, and political institutions. Such was the Boxer uprising of 1900.

At present these societies are not unusually active except in the province of Kuangsi, and the movement there is wholly anti-dynastic. I have the honor to state that I was yesterday informed by the board of foreign affairs that recent telegrams from the disturbed region report a considerable battle as having been fought a few days ago, in which the rebels were completely routed, leaving between 400 and 500 dead upon the field. One of the principal leaders is said to have been captured, and his followers driven to their hiding places among the mountains. It was admitted, however, that a whole camp (500 men) had deserted quite recently to the rebels, and had attempted to cross the border of Kueichou. This band I was assured had been surrounded and cut down almost to a man.

The uprising in Kiangsi was confined to one district and was directed against the district magistrate, whose yamen was burned. That in Hupeh was also directed against the Government, and was wholly futile. I was informed yesterday by a minister of the foreign office that three of the leaders had been arrested and that two had already been decapitated. There has been no outbreak at all in Shensi, but the Kolao hui is said to be recruiting there. This is the society which stirred up the Yangtze Valley in 1891. Its aims are revolutionary, and the missionaries in Shensi and Kansuh have naturally been afraid that if an outbreak should occur they might become the objects of hostile attack.

In March last I received a complaint from American missionaries in northern Shantung against a secret society operating in Te-chou, near the border of Chihli, and at once communicated with the board of foreign affairs. On the 7th of April I received a reply, saying that the governor of Shantung had ordered an investigation, but knew nothing of such a society as that mentioned. During the summer rumors began to circulate of a secret society operating in the same region as well as in the adjoining districts of the provinces of Chihli and Honan, and late in August a letter was received from American missionaries at Ta-ming, in this province, saying that an anonymous placard had been posted on the walls of their compound threatening an attack on the 15th of the seventh moon (August 25). The attention of the authorities was immediately called to the affair, and investigation was very promptly made and troops stationed near the mission for its protection. The report of the local authorities, however, was to the effect that the rumors of impending trouble were wholly groundless, and that no society was planning an attack upon the missionaries. About the same time that this report came to hand I received a communication from an American missionary, telling of the revival of a Boxer society in the district of Tung-o, in western Shantung, and not far from the above-mentioned prefecture of Ta-

ming, in Chihli. The letter inclosed a copy of a placard being circulated, which was an exact transcript of one used by the Boxers in 1900. The letter further complained of the persecution of native Christians by the said society. The matter having been reported to the foreign office, steps were at once taken to redress the wrongs of the Christians and to punish the guilty parties. An imperial edict was issued referring to the reports of the plots of secret societies in Shantung, Honan, and Chihli, and directing the provincial authorities to take prompt and effective measures for the suppression of these societies, the protection of the missionaries, and the punishment of the leaders of the movement. The two principals in the Tung-o affair were arrested, and compensation paid to one of the native Christians, who had been wrongfully imprisoned and who had been compelled to pay considerable sums of money to the yamen underlings. The district magistrate, by whose connivance or negligence this injustice had been allowed, was removed, and proclamations were issued warning the people against any disturbance of the peace.

I have the honor to report further with reference to this case that within a few days past I have received a note from the board of foreign affairs informing me that it had been finally disposed of by the release of the two leaders under bonds to avoid any further disturbance of the peace, the bondsmen being respectable and responsible citizens of the district. Rev. F. M. Chapin, the American missionary interested, also writes that the settlement is satisfactory, and has sent me copies of the bonds given.

While this case was pending word was received at this legation of an active enlistment of members by a secret society, known as the Ts'ai Yuan T'ang, in the prefecture of Chang-te, in Honan, and that of Shun-te, in Chihli, both places on the Hankow-Peking Railway, and situated, respectively, southwest and northwest of the above-mentioned prefecture of Ta-ming, distant from the latter, the one 50 and the other about 80 miles. Two Americans, who visited the districts mentioned after these reports had been received, assured me that while the society undoubtedly existed and was rapidly spreading they were everywhere received with the greatest courtesy, and that the movement appeared to be directed against the Manchu government. On October 11 a letter was received from Chang-te inclosing placards circulated by the society and giving further details as to the organization. It reported an attempted uprising about 16 miles to the east of Chang-te a few days before the letter was written. A few hundreds of armed men marched through several towns and villages trying to arouse the people to rebellion, but met with a cool reception and, after trying to raid a fair, dispersed. They had announced it to be their purpose to march on the city of Chang-te, into which they were to be admitted by their confederates in the city. The proclamations issued evidence intense hostility to mission work, railways, telegraphs, steamships, and to foreigners and all their inventions.

I have the honor to state further that before this letter came to hand I had already called the attention of the foreign office to the reports in circulation, and had been assured in a note, dated October 3, that (1) the rumors as to Shun-te were baseless; (2) that a society of bandits had been discovered at Tz'u Chou, in this province

(Chihli), and several of its members arrested. (Tz'u Chou is about 50 miles south of Shun-te and the same distance west of Ta-ming. It is also on the Hankow-Peking Railway, near the border of Honan Province, and some 30 miles north of the prefectural city of Chang-te, above referred to.) The foreign office reported (3) that the governor of Honan had informed them of the arrest and execution of two members of the society at Anyang, in that province. An imperial edict of December 11 says:

Some time ago we received a memorial from Hsü-lin, a supervising censor, with regard to a rebellious society in Ho-shuo (in Honan), the membership in which was rapidly increasing, stating that the local authorities and the constabulary were inefficient. We at once issued a decree, commanding Yüan Shih-k'ai to make a thorough investigation and report to us. We have now received his report, saying that the leaders in the trouble stirred up by the rebellious society at Ho-shuo had all been arrested, and that the band had been scattered, but that the local officials had repeatedly been guilty of carelessness in regard to these cases of pillage, and had not conscientiously exerted themselves to search out and arrest the guilty parties. * * * We hereby decree that Brigadier-General Lang Kuei-lin, of Ho-pei Chen, be removed from office, and that the district magistrate of Hsin-hsiang be cashiered. We also command Ch'en K'uei-lung (governor of Honan) to exercise care in the administration of the civil and military affairs of his province, and to have them thoroughly overhauled and put in order. As for the rest of the memorial, let matters be dealt with as proposed.

An American engineer, who returned to Peking two weeks ago after a journey through the region concerned, informed me that he was everywhere treated with great courtesy, but that one of the officials whom he had met told him that the secret society men were getting arms and drilling, and that their aims were antidynastic.

A recent memorial of the imperial commissioner, T'ieh Liang, sent to central China to investigate financial and military conditions, declares that the Empire is everywhere infested with these rebellious societies, the people being driven to their organization by the extra taxes levied to meet the indemnity due the powers.

In conclusion I have the honor to state that, in my opinion, while more or less disaffection exists throughout the country, it is not unusual in extent or character. The secret societies are chiefly antidynastic in their aims, but are also hostile to foreigners, and, were they able to effect a general rising, would undoubtedly attack foreigners as well as the imperial officers, civil and military. But these societies are scattered over an enormous extent of country, widely separated one from another, and not working in harmony. Every attempt to create a disturbance has been futile so far, except in Kuangsi, and there the rebels hold nothing but their mountain fastnesses. The central Government is alert and determined to prevent any disturbance of the peace, and seems to be abundantly able to repress any outbreak that is likely to occur, and earnest in its efforts to protect all foreign lives and property. I can therefore see no occasion for anxiety.

I have, etc.,

E. H. CONGER.

COLOMBIA.

ATTITUDE OF COLOMBIA TOWARD THE UNITED STATES AND THE REPUBLIC OF PANAMA.

Mr. Snyder to Mr. Hay.

No. 263.]

AMERICAN LEGATION,
Bogotá, January 2, 1904.

SIR: I have the honor to report that while on the surface all appears quiet at present, the excited state of the people and the failure of the Government to decide on any definite policy make it impossible to predict what may happen from one day to the next.

The bitter feeling against Americans, while not so strongly manifested by outbreaks among the people or attacks through the press, has not, however, abated one particle.

* * * * *

Petitions have been widely circulated and enthusiastically signed by the merchants here, the signers agreeing to import nothing more from the United States nor to export any products to the United States.

These and other similar incidents seem to forecast one policy at least.

The Junta Patriótica, organized here under the leadership of Senator Perez y Soto for the purpose of creating and nourishing a feeling against the United States, has been dissolved by order of the Government. The Government claimed that it only advocated, openly, that which was already heartily approved and supported by the whole ministry—to send every man and boy, ready and willing to go, to fight on the Isthmus.

* * * * *

I am, etc.,

ALBAN G. SNYDER.

Mr. Snyder to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Bogotá, January 26, 1904.

(Mr. Snyder reports that in Colombia's official circles a rumor is current, as coming from Reyes, that the Government of the United States has retreated from its position and will permit the landing of Colombian troops at Panama, and states that it is from this motive that Colombian forces are being organized. He requests to be advised as to the situation.)

Mr. Loomis to Mr. Snyder.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 29, 1904.

(Replying to Mr. Snyder's telegram of January 26, Mr. Loomis instructs him that this Government's attitude remains the same since Department's telegram of November 11^a to Minister Beaupré. Nothing written or verbal to General Reyes would in any way retreat from that position. Mr. Snyder is instructed to verify origin of unfounded rumors.)

Mr. Snyder to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Bogotá, January 30, 1904.

(Mr. Snyder reports that one train with about 500 Government troops left Colombia for the coast last Wednesday.)

Mr. Snyder to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Bogotá, February 28, 1904.

(Mr. Snyder reports that he has received information that volunteers are coming back in bad condition; that an expedition on the 9th instant left Department of Santander for the coast.

He states that a feeling of indifference prevails in Colombia with little unfriendly remarks. The Government has again taken up the question of the severing of diplomatic relations, and it will be determined on Monday, 29th.)

Mr. Snyder to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Bogotá, March 10, 1904.

(Mr. Snyder reports that the Government of Colombia has caused a decree to be issued decreasing the standing army from 11,000 to 5,000 men; and another in which peace is again declared in all the Republic, with the exception of the Department of Panama.)

Mr. Snyder to Mr. Hay.

No. 302.]

AMERICAN LEGATION,
Bogotá, March 26, 1904.

SIR: I have the honor to report that nothing of importance has taken place in the last three weeks having bearing directly or indirectly upon the Panama question, unless it is the remarkable subsidence of all public expression on this subject.

This was noticeable early in February, but became particularly apparent shortly after receipt of the news of the ratification by the United States Senate of the treaty with Panama, for it was realized then that nothing more could be done.

It is true that Americans, from time to time, are still subjected to little inconveniences and discourtesies from society, the public, and in business transactions, which may continue indefinitely, but they are of little consequence and hardly worthy of mention.

I am, etc.,

ALBAN G. SNYDER.

Mr. Snyder to Mr. Hay.

No. 311.]

AMERICAN LEGATION,
Bogotá, April 19, 1904.

SIR: I have the honor to send you herewith copies and translations of further correspondence from the Colombian foreign office relative to events connected with the formation of the Republic of Panama.

The minister's note of the 12th instant represents the combined efforts of the entire cabinet, and two months have been spent in its preparation. It has been the subject of general discussion in diplomatic and Government circles for some time, and all persons presenting business matters at the foreign office were informed that this note was in a state of preparation and no other business could be given attention until it was finished.

The Government has ordered an edition of 20,000 copies to be printed for general distribution throughout Colombia.

I am, etc.,

ALBAN G. SNYDER.

[Inclosure.—Translation.]

Señor Rico to Mr. Snyder.

MINISTRY OF FOREIGN AFFAIRS,
Bogotá, April 12, 1904.

SIR: In the note which I addressed to your honorable legation on November 12 last in regard to the separatist revolution on the Isthmus of Panama I stated that as the possibility of the violation or infringement of the treaty of 1846 in any manner whatever had been provided for, I presented to the Government of the United States, through His Excellency Mr. Beaupré, the exposition contained in that note of the acts committed in violation of that treaty, in the conviction that said Government would deal justly by Colombia in accordance with what had been stipulated and with international law. The stipulation to which I referred is section 5 of article 35 of the same treaty, which says:

"If unfortunately any of the articles contained in this treaty should be vio-

lated or infringed in any way whatever, it is expressly stipulated that neither of the two contracting parties shall ordain or authorize any acts of reprisal, nor shall declare war against the other on complaints of injuries or damages, until the said party considering itself offended shall have laid before the other a statement of such injuries or damages, verified by competent proofs, demanding justice and satisfaction, and the same shall have been denied, in violation of the laws and of international right."

Your honor's Government has not only not given justice to Colombia, but to the acts then committed in violation of the treaty of 1846 and of international law, has added those which I will now mention:

1. The formal recognition of the so-called Republic of Panama.
2. The official reception as minister of an agent of the rebellion.
3. The notification of Admiral Coghlan to the general in chief of the army of the Atlantic that he had instructions to prevent the landing of Colombian troops on the Isthmus.
4. The notice given on December 11 to the Colombian minister on special mission that, by the treaty with the revolutionists, notwithstanding that it had not been approved by the Senate, the Government of the United States concluded that it ought to maintain the independence of the Isthmus and preserve the peace and order of Panama; that it would view with the gravest concern any invasion of that Department by Colombian troops, and that it thought that the time had arrived to close the chapter of civil wars there.
5. The repetition of this notification in the note of December 30, in which it was stated that the formal attitude of the American Government will be dictated by circumstances and that it would regret a provocation which would cause the adoption of a hostile attitude,
6. The signing of a treaty with the revolutionary government of Panama for the opening of the interoceanic canal through the Isthmus.
7. The guaranty in that treaty of the independence of the Isthmus in opposition to the engagements contracted with Colombia guaranteeing its property and sovereignty over that territory.

It is unnecessary to insist that the attitude assumed by your Government toward the secession rebellion of the Department of Panama does not conform to the terms of the treaty of 1846 and to the rules of international law. The facts are in such flagrant contradiction to the stipulations of that treaty and to the principles of that law that all new argument in explanation thereof would be superfluous.

Neither in the act of independence of the city of Panama nor in the manifesto of the so-called junta of government do the rebels say that the Isthmus has been an independent state, but that they severed their destinies from Spain and voluntarily joined their fate to that of the great Republic of Colombia. I copy the following from the act of independence of November 28, 1821:

"1. Panama, voluntarily and in accord with the general vote of its people, declares itself free and independent of the Government of Spain.

"2. The territory of the provinces of the Isthmus belongs to the Republic of Colombia, to whose Congress its representatives will go to represent them."

As is seen, the provinces of the Isthmus passed, without intermission, from the rule of the Viceroyalty of Santa Fé to be a Department of the Republic of Colombia. Notwithstanding this to be the historical fact, the Government of the United States informed me through its legation, on November 11 last, that the city of Panama had resumed its independence. An affirmation which aims to insinuate the idea that the Isthmus had been an independent state, thereby giving international importance to internal incidents which could not serve to give autonomy to that state.

Your Excellency's Government, in the treaty made with the agent of the rebellion for the opening of the canal, in addition to having guaranteed the independence of the Isthmus, accepted the stipulations which I mention (having extracted them from that treaty as the American press had published it) as follows:

By article 2 of the treaty the Republic of Panama cedes to the United States the dominion over a zone of 5 miles on each side of the canal, over 3 miles of sea adjacent to each end of it, and also cedes the lands necessary for the construction and preservation of the canal and its dependencies, and at the same time the use, occupation, and perpetual dominion of all islands included in said zone, together with the small islands in the Bay of Panama, called Perico, Naos, Flaminco, and Culebra.

By article 3 Panama gives to the Union the right to exercise over the zone

described in article 2 the same power and authority which the United States would have if it were sovereign, with the exclusion of the exercise of that power by Panama.

According to article 4 the Republic of Panama cedes to the United States the perpetual use of the rivers, creeks, and navigable rivers which may be necessary for the construction and preservation of the canal and for works of sanitation.

By article 5 the Republic of Panama cedes in perpetuity to the United States the monopoly of any system of communication through its territory from the Caribbean Sea to the Pacific Ocean, by canal or by railroad.

These concessions are equivalent to the cession to the United States of all territories to which they refer.

The treaty was written a very few days after the beginning of the secession rebellion, without having given time for it to be organized in any form so as to consult, even for appearance sake, the popular wish. To this haste is added, as I have already said, the fact of having put into force that pact in reference to the guaranty of the independence of Panama before its ratification or exchange; that is, before it is perfected.

This incident will convey to the universal conscience the conviction that the United States have proceeded and are proceeding so as to place the independence of the Isthmus under their open military protection, so as to obtain and preserve the advantages before mentioned, which exceed substantially those Colombia had offered to give, because they imply the complete cession of dominion and government of the zone, the territories, and the territorial waters. This deduction would not have such solid foundation if the treaty in question had not been negotiated at the beginning of the revolution.

If the opinion which I have just stated is not deduced from this arrangement and the fact of not having permitted Colombian troops to land on the Isthmus, then the extreme tone of the diplomatic documents destined to effect the approval, without modifications, of the treaty of January 22, 1903, which I now cite, would make it apparent.

The minister of the United States handed to me the following memorandum on June 13, 1903:

"I have received instructions from my Government by cable in the sense that the Government of Colombia apparently does not appreciate the gravity of the situation. The negotiations for the Panama Canal were initiated by Colombia and were energetically pressed upon my Government for several years. The propositions presented by Colombia, with slight modifications, were finally accepted by us. In virtue of this agreement our Congress reversed its previous judgment and decided upon the Panama route. If Colombia should now reject the treaty or unduly delay its ratification, the friendly relations between the two countries would be so seriously compromised that action might be taken by the Congress next winter, which every friend of Colombia would regret."

In a note of August 5, 1903, His Excellency Mr. Beaupré said:

"I may say that the antecedent circumstances of the whole negotiation of the canal treaty, from official information in the hands of my Government, are of such a nature as to fully warrant the United States in considering any modification whatever of its terms as practically a violation of the pact, such as may involve the very greatest complications in the friendly relations which have hitherto existed between the two countries."

I replied to the said note, memorandum, and other notes from the United States legation, sustaining the right of Congress to modify or reject the treaty without those acts being contrary to the antecedents of the negotiation or violations of the engagements contracted by the Government. My reasonings, however, founded on the constitution of this country and international law, did not seem to change the intention insinuated against Colombia in the said documents—an intention which has taken form in surpassing acts, with the sole variation that these have not proceeded originally from the Senate, but from the executive power of the United States.

It is of great usefulness, in order to appreciate effectively the proceedings of the two Governments in the canal matter, to record some antecedents, very remote, but intimately connected with the latest grave happenings which menace the integrity and sovereignty of this Republic.

On June 14, 1869, a treaty for the digging of the canal which would unite the Atlantic and Pacific oceans by way of the Isthmus of Panama was signed in Bogota by the plenipotentiaries of Colombia and the United States. Article 8 of that project is as follows:

"ART. 8. The United States of Colombia will preserve her political sovereignty

and jurisdiction over the canal and adjacent territory; but she will not only permit, but will guarantee to the United States of America, in conformity with the constitution and the binding laws of Colombia, the pacific enjoyment, government, direction, and management of the canal as it has been previously specified."

Before submitting that treaty to the Colombian Congress the one of January 26, 1870, was substituted, article 10 of which is as follows:

"ART. 10. As soon as the canal with its dependencies or additions is constructed the inspection, possession, direction, and management of it will belong to the United States of America, and will be exercised by them without any foreign intervention, but without jurisdiction or any control over the territory or its people. The United States of Colombia will preserve her political sovereignty and jurisdiction over the canal and adjacent territory, but not only will permit, but will guarantee to the United States of America, in conformity with the constitution and binding laws of Colombia, the peaceful and tranquil enjoyment and the administration, direction, and management of the canal, as stated. But that guaranty does not share in any respects with that which in general the laws of Colombia concede to all persons and interests included in the territory of Colombia; and if any enterprise, in order to obtain greater security, should want or ask for any extraordinary public force, the Government of Colombia will furnish it, at the expense of the same enterprise."

This treaty was not ratified because the Colombian Congress introduced modifications which the executive power of the United States did not accept. However, it is apparent from both treaties signed by the minister of the United States that his Government acknowledges the full sovereignty and jurisdiction of Colombia over the canal and adjacent territories. This acknowledgment was not in the convention signed in Washington on January 22, 1903, but, on the contrary, owing to the persistent demand of said Government, initially stated by the head of the Canal Commission, the restriction of autonomy was accomplished by the establishment of mixed and American tribunals in the zone for the recognizing and trying of certain civil and criminal cases, as well as the use of the same zone for the canal work for periods of one hundred years, at the sole option of the same Government.

This radical change of views on the part of the United States alarmed the legislators of Colombia, and was a greater influence for the rejection of the treaty than the insufficiency of the compensation, notwithstanding the fact that this was notoriously small, because Colombia would renounce, without any indemnification, the right to enter into the possession and control of the work of the canal, together with the public lands granted therewith, the buildings, materials, works, and improvements of the canal and its dependencies, which would come into her possession at the latest within six years. It is well known that the French company was aware of the impossibility of finishing the work, and that the goods and property, which were the only assets which the company could preserve, together with the greater part of the shares of the Panama Railroad, were to be turned over to the American Union for \$40,000,000, while to Colombia, who entertained the hope of acquiring these great values before mentioned, only \$10,000,000 was offered, and this not only without mentioning the said properties, which were in reality those deserving the compensation, but according to that expressed in article 25 of the treaty:

"As the price or compensation for the right to use the zone granted in this convention by Colombia to the United States for the construction of a canal, together with the proprietary right over the Panama Railroad, and for the annuity of \$250,000 gold, which Colombia ceases to receive from the said railroad, as well as in compensation for other rights, privileges, and exemptions granted to the United States, and in consideration of the increase in the administrative expenses of the Department of Panama consequent upon the construction of the said canal."

Colombia, in order to facilitate the negotiation, agreed that it should be given this form, even though the \$10,000,000 was no compensation for the great mass of properties and values given up or denounced, and notwithstanding the fact that said sum and the annual rent of \$250,000 did not represent, in reality, any indemnity for the use of the zone or of the islands of Culebra, Naos, Perico, and Flamenco. But the Republic has had in view, as a guide for its conduct in this matter, not to put obstructions in the way of the execution of this great work, commanding, as it does, the interests of the world's navigation and com-

merce, and has authorized, in fact, the most liberal concessions compatible with its integrity and sovereignty.

The annual rent of \$250,000, which Colombia would not begin to receive for nine years, was in lieu of that which the Panama Railroad Company ought to pay for sixty years, and for this reason it should not figure as part of the compensation during that lapse of time, or afterwards, because Colombia would lose the right to acquire the property of that company at the expiration of the privilege, notwithstanding the fact that it is to be presumed that the railway will continue in service as an auxiliary work of the canal.

Permit me, excellency, to cite other antecedents which led the Government of Colombia to believe that the Government of the United States would adopt a very different course from that which it has adopted in respect to the separatist rebellion of Panama.

In reply to a note of March 30, 1820, from the Colombian chargé d'affaires, in which he proposed to the Secretary of State the loan of a certain number of arms, giving as his reason that upon the unanimous request of the people New Granada and Venezuela had united themselves by a fundamental law of the sovereign congress and formed a sovereign state, free and independent, under the name of the Republic of Colombia, with a provisional constitution and a representative government, and which exercised all the functions corresponding to a state without the least hindrance, His Excellency John Quincy Adams, answered:

"But as the first magistrate of the nation observed and has continued observing the principles of impartial neutrality in this war, he considers it an indispensable obligation that he refrain from lending any aid to either one of the parties engaged in this conflict, which under similar circumstances he should deem it his duty to refuse to the other party. Such is the law of neutrality, and from that assumed and declared position he can make no deviation, according to the precepts of the Constitution of the United States, save that authorized or sanctioned by a legislative act."

You will note, your honor, that it was ten years after New Granada and Venezuela had proclaimed their independence and were fighting for it when the Government of the United States recognized that the law of neutrality prevented its lending any aid to either of the parties in the conflict, which under similar circumstances it was its duty to refuse to the other party, and you will observe also, your honor, that your Government, cutting itself loose from this rule, hastened to recognize the independence of the Isthmus to prevent its submission by Colombia and to put into force before ratification by the Senate a treaty guaranteeing that independence.

A report dated July 14, 1860, from the Department of State to Congress in reference to the commercial relations between the United States and the Spanish-American countries contains the following which I copy:

"With many of them we have established relations by special treaties. The treaty of 1846 between the United States and New Granada contains an article guaranteeing the neutrality of a certain part of the Isthmus in the territory of Colombia and for the protection of the rights of sovereignty and property which appertain to that nation. That treaty is, therefore, a true alliance of protection between the United States and that Republic."

On April 30, 1866, in a note, Mr. Seward, speaking of the sovereignty and independence of Colombia on the Isthmus, stated that "if those great interests were at any time attacked by another power, domestic or foreign, the United States will be ready in union with its ally to defend them."

On June 24, 1861,^a His Excellency Mr. Blaine, Secretary of State, sent an important note to His Excellency Mr. Lowell, minister of the United States in London, from which I take these passages:

"In 1846 a memorable and important treaty was signed between the United States of America and the Republic of New Granada, now the United States of Colombia. By the thirty-fifth article of that treaty, in exchange for certain concessions made to the United States, we guaranteed 'positively and efficaciously' the perfect neutrality of the Isthmus and of any interoceanic communications that might be constructed upon or over it for the maintenance of free transit from sea to sea; and we also guaranteed the rights of sovereignty and property of the United States of Colombia over the territory of the Isthmus as included within the borders of the State of Panama.

"In the judgment of the President this guaranty, given by the United States

^a Mistake in original.

of America, does not require reenforcement, or accession, or assent from any other power. In more than one instance this Government has been called upon to vindicate the neutrality thus guaranteed, and there is no contingency now foreseen or apprehended in which such vindication would not be within the power of this nation.

"There has never been the slightest doubt on the part of the United States as to the purpose or extent of the obligation then assumed, by which it became surety alike for the free transit of the world's commerce over whatever land way or waterway might be opened from sea to sea and for the protection of the territorial rights of Colombia from aggression or interference of any kind. Nor has there ever been room to question the full extent of the advantages and benefits, naturally due to its geographical position and political relations on the Western Continent, which the United States obtained from the owner of the isthmian territory in exchange for that far-reaching and responsible guaranty." (*Foreign Relations of the United States, 1881, pp. 537-538.*)

In reference to the same matter, Mr. Blaine, on the same day, June 24, 1881, sent to Mr. Dichman, United States minister in Bogota, this dispatch:

"Your No. 269, of the 9th ultimo, reports the rumors which reach you, confidentially, to the effect that Colombia is seeking from the European powers some sort of declaration of the neutrality of the Isthmus of Panama, as well as of Colombian sovereignty over the territory thereof.

"In view of like rumors which reached me from various channels, exhibiting a tendency on the part of some of the maritime powers to consider the expediency of uniting in such a guaranty, I have already prepared a circular instruction to the representatives of the United States in Europe, directing them in event of their having cause to believe that this movement is assuming tangible proportions to acquaint the respective Governments to which they are accredited with the view of the President, that the existing guaranties, under the treaty of 1846 between the United States and Colombia, are complete and sufficient and need no supplemental reenforcement from any other source.

"I am not yet prepared to direct the communications of this dispatch in extenso to the Colombian Government, but if the feeling of excitement which arose on Señor Santo Domingo Vilas's return to Bogota and culminated in a request for your recall should have yielded to a better spirit, showing a return of confidence, you may, if proper occasion offers, inform the Colombian secretary for foreign affairs of the stand taken by this Government to check the apprehended movements of the powers of Europe in the direction of a joint guaranty as needless, as offensive to Colombia and to the United States as well." (*Foreign Relations of the United States, 1881, pp. 356-357.*)

The declarations made in the above notes produced the conviction in this country that its territorial rights on the Isthmus of Panama would be protected by the American Union "against all aggression;" and that that for which the guaranty was offered would not require cooperation, consent, or approval of any other power, and much less of that which was represented as a guaranty so complete and sufficient that it would not require the additional force of any other proceeding.

The guaranty was stated in a special clause of the treaty of peace, friendship, navigation, and commerce of 1846. Whether it is considered as only a clause of that pact, as a treaty of guaranty, or better, as an alliance of protection, it is a solemn engagement which obligates the United States, and which it has put aside on this occasion. Such behavior in this guaranty will be judged and qualified by history and the Supreme Judge of the earth, men, and nations.

The plenipotentiaries of north Germany, Austria-Hungary, Great Britain, Italy, Russia, and Turkey declared that "they recognized, as an essential principle of international law that no power could free itself from the obligation of a treaty or modify its dispositions in any way without the assent of the contracting parties, obtained through means of an amicable arrangement." (*Addition to protocol 5, January 12, 1871.*)

By the interpretation given on this occasion by the Government of the United States to article 35 of the treaty of 1846, by its will alone—or, that is, without the assent of Colombia—it is liberated from the obligation contracted of guaranteeing the property and sovereignty of this country on the Isthmus, and takes to itself the power, as has been done, of proceeding in a sense diametrically opposed to that obligation, which is a violation of the essential principle of international law expressly recognized by the said powers. To that principle Colombia intrusted her rights as in an impregnable fortress, and I so stated

recently before the Senate, fears having arisen in that body that the Department of Panama was starting a revolutionary movement.

But that confidence was not only founded on that principle, but on that also which was provided for by the terms of the treaty, the notes of Mr. Blaine, and on the note which the minister of the United States directed to me on August 5, 1903, and in which, among other important things, is read:

"It is to be regretted that the reference to the necessity for the practical reenactment of the treaty of 1846-1848, in the Senate committee's report, should constitute almost a doubt as to the good faith of the intention of the United States in its compliance herewith. I must assure your excellency that unless that treaty be denounced in accordance with its own provisions my government is not capable of violating it, either in letter or spirit; nor should there be any fear on the part of Colombia that, if ratified, the clauses guaranteeing her sovereignty in the pending treaty, couched as they are in still more precise and solemn terms than those of 1846, will ever be disregarded in the slightest degree by the Government of the United States."

I referred tacitly to the passage I have just copied when I also said before that chamber that as long as the treaty of 1846 was in force the property and sovereignty of Colombia on the Isthmus of Panama was not subjected to any danger. The declarations of the honorable representative of the United States and article 4 of the American law of June 28, 1902, communicated to this Government, and which provided for the opening of the canal by way of Nicaragua if the negotiation was not concluded with Colombia, fully justified this Government's secure attitude, notwithstanding certain indications among them, the opinions of the press of the United States and other countries, which either supported or denounced the revolutionary movement which has been accomplished in Panama, because the promise of the minister and the order contained in the law fully deprived such denunciations, opinions, and suspicions of any weight.

If His Excellency Mr. Beaupré had not made these strong statements and the Government of the United States had not communicated the law of June 28, 1902, to this Government precautionary measures would have been taken which would have prevented with all safety the revolutionary actions which have taken place in that State since November 3 last.

The Government of the United States has exercised military sovereignty on the Isthmus of Panama in order to favor the independence of that Colombian department. That being so—and it is undeniable that it is so—what will be the future fate as regards the independence and integrity of the Central and South American nations? It is a logical deduction that it will be what the powerful and for them irresistible Republic of the North cares to mete out to them.

The interoceanic canal will modify the conditions of navigation in the two seas, but in order to dig it in a zone under the dominion of the United States the American solidarity has been subverted, and if the ties of government between the Department of Panama and the Republic of Colombia remain definitely dissolved then the ties of confidence and fraternity which have been the bond of unity between the sovereign people of this hemisphere will also remain broken.

I make this observation as very pertinent, for it has been Colombia's lot to suffer the application of the new régime, which appears as a menace to the integrity, autonomy, and consolidation of the Republics of this continent. It is to be hoped that the people of the United States, notwithstanding the treaty which guarantees the independence of Panama, will not consent to the definite establishment of such régime, and that the solution of the present incident between the two countries may be the reintegration of Colombia and the strengthening of the relations of friendship which ought to exist among the nations of the New World in order to push forward their development in the ways of progress founded on order and law.

We have received in newspapers sent to this ministry from the Colombian legation in Washington the general message which His Excellency the President of the United States sent to the Senate on December 7, 1903, and the special one which he addressed to the same body on January 4, 1903, relative to the interoceanic canal matter and the revolutionary movement in Panama. In said messages I see opinions of greatest importance and references which I feel compelled to take into respectful consideration, since they refer directly to this Republic. It is not my intention to enter into an analysis of each one of these opinions and references, but to make in order a brief exposition of the most

important, so that it should not be thought that Colombia accepts or recognizes implicitly said acts as antecedents, which in whole or in part are contrary to her annals, and because silence would be equivalent to admitting to her injury principles and doctrines contrary to those universally considered as guardians of the integrity and sovereignty of the nations and of the efficacy of public treaties.

The treaty of 1846 does not invest the United States with any substantial right of property curtailing the rights of property and sovereignty which New Granada (now Colombia) had at that time over said territory. Territorial dominion can not be temporarily transferred, according to the universal principles of international law, except by an agreement of repurchase (*pacto de retroventa*); and in the treaty there are no stipulations of that nature, nor of sale in perpetuity, which would be contradictory to the denunciatory character given to that diplomatic document and which has no conditions appertaining to the transfer of dominion, nor to the transfer in perpetuity of use, even when considered as an easement.

Of the disturbances on the Isthmus in the synopsis contained in the message of December 7, which reports from the American consuls make amount to 53 in fifty-seven years, there are 19 which figure respectively under the titles of riots, attempted incendiarism, tumults, or revolts, because they were passing incidents which could not be classed as revolutions, and which, under the same or different names, occur with frequency in the most advanced countries of the New and Old World.

There remain 34 disturbances, of which 8 affected the whole nation and 26 were local, generally of short duration, and the great majority took place during the Federal régime which began on the Isthmus in 1855 and came to an end in 1886. The revolution which began in 1899 lasted three years and has been made to figure in each of the years 1900, 1901, 1902, and is counted as four revolutions.

Notwithstanding the disturbances of public order which have taken place on the Isthmus during the life of the treaty of 1846, if the interoceanic transit has been interrupted at times it has been for a very insignificant period, and I am certain that long intervals have passed without the slightest interruption having taken place.

It is true that the presence of American ships and the landing of troops of that country, although done on rare occasions and without their having to fight, has contributed to the security of transit, which was precisely the object of article 35 of the treaty, and for which the United States has received sufficient compensations. It is notorious that, ordinarily, during the fifty-seven years of the life of the treaty, the institutions have regularly performed their functions and peace has been maintained on the Isthmus, and that, for this reason Colombia has demonstrated her capability of governing that department.

In order to maintain order on the Isthmus it is not sufficient for the United States to insure the independence, but it has to enforce it as sovereign of the territory, because, with a few exceptions, the revolutionary movements which have taken place in that region have been prepared and executed, in whole or in part, by the people of the Isthmus, and have had entirely a political nature, so that foreigners and the oceanic traffic have not been objects of attack by the combatants.

Autonomy would not be a guarantee for the constant peace of the Isthmus, as it has not been for any of the countries of this continent, in which, notwithstanding their disturbances, commence and civilization have prospered and advanced.

Without doubt, in anticipation of the necessity of enforcing the peace on the Isthmus, there was placed in the convention between Panama and the United States the following part of article 7:

"The United States will have the same right and authority to maintain public order in case the Government of Panama should not be able to maintain it in Panama and Colon."

This stipulation is strengthened by another in the same treaty:

"ARTICLE 21. If it should become necessary at any time to employ armed forces for the safety or protection of the canal, or the ships that make use of the same, or the railways and auxiliary works, the United States shall have the right, at all times and in its discretion, to use its police and its land and naval forces, or to establish fortifications for these purposes."

In conjunction with the two preceding articles there was introduced in the constitution of the so-called Republic of Panama article 131, which is as follows:

"The Government of the United States can intervene in any part of the Republic of Panama in order to reestablish the public order and constitutional rule, in case it is disturbed, provided that that nation assumes or has assumed, by means of a treaty, the obligation of guaranteeing the independence and sovereignty of this Republic."

In virtue of the preceding article and the two of the treaty which are related to it, the autonomy of Panama is entirely illusory.

Unanswerable proof that Colombia has not placed itself in an Oriental isolation toward the transit nor adopted unjust proceedings opposed to the general use of the Isthmus of Panama for traffic, are shown in the fact that a third part of the canal is already constructed by contract with her, that a French company is pledged to finish the work by 1910, as well as the fact which I stated on another occasion, that Colombia has declared the passage of persons and merchandise from one sea to the other free, and has maintained this freely and securely for more than half a century, placing thereby her territory and her authorities at the service of the commerce of the world; and this without taking into consideration that from its foundation the Republic, by means of legislative acts and various negotiations, has evinced the greatest desire to facilitate the opening of the isthmian canal, a fact which was one of the points of discussion in the Congress of the Republics of the Continent called by Bolivar in 1826.

"The United States have decided that no other Government ought to build the canal." Such declaration, together with that which your excellency's Government has also made, in the sense that the construction of that work could not be delayed and that they would not open the Nicaragua Canal, foreshadowed the policy which logically had as a result the disavowal of Colombia's sovereignty on the Isthmus, of the treaty of 1846, and of the precepts of international law appertaining to the recognition of new States.

It was stated in the Hay-Pauncefote treaty that the canal could be constructed under the auspices of the United States, but no right is deduced from that for the construction of the work without the consent of the sovereign of the territory by a previous equitable arrangement in which should be taken into account the convenience of universal traffic and the interests of the sovereign. So much greater reason is there for this being so in the case of Colombia, who had not attempted in any manner to close the passage to universal traffic, but on the contrary had tried to facilitate it by means of various negotiations, the majority of which did not become effective from causes not under its control.

The offer made to the American minister by one of the highest men in official circles in Colombia in regard to approving the Herran-Hay treaty by legislative act, or by a new and friendly Congress, never took the shape of a government act; if it had taken such shape, the Administration would have fulfilled its engagements among them, the opportunity arising, that of trying by all legal means to secure the approval of Congress.

As I have already stated, the Colombian Government placed no importance in the notices in the press which announced the revolutionary movement because, as I declared in the Senate, such a movement was not to be feared while the treaty of 1846 was in force, and that the Colombian Government had absolute confidence that that treaty would be strictly adhered to by the United States. Under such circumstances the Department of Panama could not free itself without very powerful foreign aid.

A knowledge of the friendly relations and perfect understanding which has existed between the two Governments would lead to the supposition that the Government of the United States would have advised Colombia that, according to advices from its agents, a revolution to disintegrate the Republic was imminent in Panama, and that it would have taken measures to have its war ships in waters within easy reach of the Isthmus when the movement should break out.

Instead of that friendly action, it issued orders to the commanders of the *Boston*, *Nashville*, and *Dixie*, as follows:

"Maintain free and uninterrupted transit. If interruption is threatened by armed force, occupy line of railroad. Prevent landing of any armed force, either Government or insurgent, with hostile intent, at any point within 50 miles of Panama. Government force reported approaching Isthmus in vessels. Prevent their landing if in your judgment it would precipitate a conflict."

These orders do not coincide with the precedents established by the North American Government which had never in previous disturbances prevented the landing of troops of the Colombian Government, nor their transport on the railroad, as is seen in the same orders transmitted in the message of December 7, and which were dictated in the years 1900, 1901, and 1902, in which it was only

ordered that measures be taken to prevent the interruption or endangering of the transit which might result by converting the line of the railroad into a theater of hostilities. These instructions were fulfilled by transporting the troops in one train and the arms in another, against which proceeding the Colombian legation in Washington protested on the ground that it was not in conformity with the stipulations of the treaty, and the protest was acquiesced in by the American Government.

In September, 1858, the Granadian minister, General Herran, and secretary of state, General Casey, agreed that thereafter when American forces had to be passed over the Isthmus they would be disarmed and as parties of ordinary persons, "without enjoying the exemptions customary when passing as troops through foreign territory, but that they would be subject to the territorial jurisdiction the same as other foreigners." In 1885 the United States sent forces to Panama, and although the line of the railroad was defenseless, and one of the contending parties had adopted the extreme measure of imprisoning the American consul, the Government of the United States did not pretend to exercise these acts of authority or jurisdiction; a simple complaint from Mr. Becerra, Colombian minister, was sufficient for Secretary of State Mr. Bayard to give explanation for the detention of the incendiaries of Colon on the cruiser *Galena* and to order them to be turned over to the local authorities.

Doctor Concha, Colombian minister, in reporting a conference which took place in the Department of State on November 4, 1902, in reference to the negotiations of the canal treaty, states the following relative to the happenings on the Isthmus in September and October of that year:

"Mr. Hay referred directly and willingly to the attitude of Admiral Casey in those events, and stated that he had instructed the United States minister in Bogota to signify to the minister for foreign affairs of Colombia the cordial friendship of the American Government, and the wish that this spirit might avoid every act or proceeding which could wound the Colombian dignity or sovereignty or menace their rights as an independent nation; that he had sent orders in this sense to Admiral Casey to conform his acts to that spirit of his Government, in that public dispatches said the events had changed the aspect of the Isthmus and to-day complete harmony reigned in that territory between the authorities of both countries."

In my note of November 19, 1903, to your honorable legation I said:

"The recognition as a State by a foreign power of a Department which is trying to separate from the nation to which it belongs, does not imply nor legalize the intervention of such power in the conflict which the intended separatist may produce; therefore the Government of Colombia judges that, although the United States has in this emergency laid aside the compliance with the treaty of 1846, in which they are bound to guarantee the property and sovereignty of Colombia on the Isthmus, and supposing they persist in that attitude, it is to be at least hoped that they will remain neutral, will not prevent the submission, and will abstain from recognizing the rebels as belligerents."

I quote the preceding paragraph in order to record that the Government of Colombia did not ask that the Government of the United States subdue the rebels, but only that it would not impede the landing of Colombia's troops destined to subdue them.

The commander of the United States fleet on the 4th of November directed a note to the chief of the battalion "Tiradores" as follows:

"I have knowledge that the situation of affairs in Panama is such that a movement of the Colombian troops which are in Colon toward that place would bring about a conflict and endanger the free and uninterrupted transit of the Isthmus, which the Government of the United States is bound to maintain. I have the honor, therefore, to advise you that I have instructed the superintendent of the Panama Railroad, in Colon, not to transport on his line troops of the Government or the other party.

"Hoping that this action on my part will meet with your cordial approval, I have the honor to be,

"Very respectfully,

"JOHN HUBBARD,

Commander of the United States Fleet."

According to the report of General Tobar, this order was only carried out with respect to the troops of the Government of Colombia. The commanding general of the army of Panama and other military men who were conveyed as prisoners from Panama to Colon by the railroad were guarded by some two hundred rebel soldiers, at whose service the said railroad has constantly been:

in the meantime the superintendent refused to convey the battalion "Tiradores" from the second to the first of those towns, with the consent, it is clear, of Commander Hubbard, who, as has been seen in his note, had assumed the supreme authority over the military transit on the railroad.

In the declaration on November 6 before the military chief of the plaza of Cartagena by the colonel of the "Tiradores" it is stated that on the fourth and fifth of the same month troops and artillery from the American men-of-war were disembarked at Colon; that these troops were quartered in the offices of the railroad and that they constructed trenches; that having questioned the consul of the United States, the latter answered the colonel that he should withdraw his forces from the town in order that the consul might have the American troops reembark, and that one of the reasons which determined the return of the battalion to Cartagena was the threatening attitude of the officers and troops of the United States.

On November 3 Mr. Manuel Amador Guerrero, principal leader of the separatist disturbance, and now president of the so-called Republic of Panama, visited in his prison in Panama the general in chief of the army of the Atlantic, and stated to him, as is evident from the information given by the said chief to the ministry of war of November 20, 1903, which has since been published, that the events consummated the day before were the result of a plan maturely conceived, long discussed in Panama and in Washington, and carried out under the protection and guaranty of the Government of the United States, with whom he had personally just been dealing and from whom he had received \$2,500,000 to be used in the first expenses of the new Republic, and also that there were already some American vessels in Colon to protect the revolutionary movement; on account of which all resistance would be useless, and the said general, for humanity's sake, ought to order the battalion "Tiradores" to reembark.

Messrs. Tomas Arias and Frederick Boyd, who were members of the titular board of government, made analogous declarations to him.

Notice has been received in this ministry that Mr. Amador Guerrero has contradicted the statement of General Tobar, but it is not known that Messrs. Arias and Boyd have done so, either in reference to the statement of General Tobar or to the statement in the same sense made by General Amaya, chief of staff of the army of the Atlantic, who was also a prisoner in Panama; and thus by the opinion which must be inferred and which the second of the messages cast aside, some of the principal chiefs of the separatist movement are responsible.

Although from the explanations contained in the messages it seems that the presence of American vessels in isthmian waters had no object whatever in giving help to the revolutionary movement, it can not be doubted that the presence of those vessels encouraged those who conceived that movement and that the former acts of their commanders have given it formal proportions, because they have paralyzed the action of Colombia to subject the rebels.

That the Panamans wanted to go from the capital city to Colon to attack the Colombian troops to make them leave the town, is a purpose of which Commander Hubbard does not speak in his reports, and it only appears in an article addressed by a correspondent of the New York Evening Post; and if this did not take place, it may have been from lack of intention or from having considered it unnecessary, in view of the attitude assumed by the American forces to prevent Colombia from recovering the Isthmus, an attitude permanently maintained and which at last has been declared in this way: "It is much to be desired that from our side there should be no imprudent behavior which might encourage Colombia to persist in a war which can not result in her dominion over the Isthmus being restored to her, but which might cost much blood and suffering." Only in the case that the United States should take charge, as they have, of the defense of the separatists could the war which Colombia would make with them fail to have as a result the restoration of her dominion over the Isthmus, as the superiority of the military resources of this Republic over those of the small Department of Panama is notorious.

The action of the Isthmians was not taken apparently in any way unanimous. In this point, as in others, the Government of the United States has been badly informed. Native citizens, the most important on the Isthmus, have not accepted the secession, among them Messrs. José Marcelino Hurtado, formerly diplomatic minister; Senator Juan B. Perez y Soto, Representative Oscar Teran, Mr. Belisario Porras, Mr. Carlos Vallarino, and Mr. Alexander V. Orillac. Dr. Pablo Arosemena, former secretary of state in Colombia and who was president of the intended convention, explained through the press that he

was not a partisan of the secession movement, but he accepted it because he considered it irrevocable. On the evening of November 3 the people of Colon did not know that a rebellion was taking place in Panama, and the same holds good in the rest of the territory of the Isthmus. It appears that they have accepted the movement later on for the same reason that Doctor Arosemena accepted it.

Against the supposed unanimity of the revolutionary movement there is, furthermore, the antecedent that Isthmus of high position and in considerable numbers made it known through the press that their opinions were contrary to the approval of the Hay-Herran treaty; and several newspaper publications from the same city were of that opinion.

The Government of the United States declares that in recognizing the independence of Panama it acted against the general rule of not recognizing a new state as independent until it has shown that it is capable of maintaining its independence, and that said rule has its origin from the principle of nonintervention; but holds that its proceedings are justified by three reasons, namely: First, its treaty rights; second, its national interests and its security; third, the collective interests of civilization.

The said Government claims to derive its treaty rights from the part of article 35 of the treaty of 1846 which says:

"The Government of New Granada guarantees to the Government of the United States that the right of way or transit across the Isthmus of Panama upon any modes of communication that now exist, or that may be hereinafter constructed, shall be open and free to the Government and citizens of the United States, and for the transportation of any articles of produce, manufactures, or merchandise, of lawful commerce, belonging to the citizens of the United States; that no other tolls or charges shall be levied or collected upon citizens of the United States, or their said merchandise thus passing over any road or canal that may be made by the Government of New Granada, or by the authority of the same, than is, under like circumstances, levied upon and collected from the Granadian citizens; that any lawful produce, manufactures, or merchandise belonging to citizens of the United States, thus passing from one sea to the other, in either direction, for the purpose of exportation to any other foreign country, shall not be liable to any import duties whatever; or, having paid such duties, they shall be entitled to drawback upon their exportation; nor shall the citizens of the United States be liable to any duties, tolls, or charges of any kind to which native citizens are not subjected for thus passing the said Isthmus."

The American Government interprets the foregoing stipulation in the sense that if the treaty of 1846 did not bind New Granada, under its terms, to grant concessions for the construction of interoceanic means of communication, that was only because it was then believed that at no time those concessions might be denied, and that, as it was expressly stipulated that the United States, as a compensation for their onerous guaranty of the sovereignty of New Granada, would enjoy the right of free and speedy transit of any ways of communication which might be constructed, the clear intention of the treaty made it unnecessary, if not superfluous, to stipulate in words that the permission to construct any such means of communication should not be denied.

This interpretation differs from the generally admitted rules for the interpretation of public treaties. There is no authority for the assertion that a contract expresses what has not been set forth in it, and it is perfectly clear that what the Government of New Granada guaranteed to that of the United States was only the right of way or transit across the Isthmus of Panama, by any means of communication which existed or which might be opened in the future, and that there would not be imposed upon citizens of the United States nor upon their merchandise other charges or tolls for their transit over any road or canal which might be made by the Government of New Granada or with its authority, than those imposed upon citizens of New Granada. Consequently mention is specifically made of a canal which might be opened by New Granada (to-day Colombia) or with its authority, and nowhere is it established that the construction of that work should be the principal idea of the treaty, and much less that the Government of Colombia could not deny the privilege of its construction to the United States.

The interpretation given to this clause by the Government of the United States makes additions to the treaty in such a way that Colombia can not do less than declare that she did not contract the engagements which in this respect the American Government considers superfluous to express, and that said interpretation, on account of its being in every way unjust, initiates a system of deduction of inferred engagements which does not agree with international methods

nor with the good will of the high contracting parties, nor with the rules universally accepted which make of public treaties the fountain and principal basis of the law of nations.

The destiny of the Isthmus for transit comes from its geographical position, and the Government of Colombia has been persistently for many years directing her efforts with the object of improving that route with means of rapid transport, such as railroads and the interoceanic canal, as I have already stated in the present note.

This Government having received advice that the Government of the United States had refused to allow Colombian troops to disembark on the Isthmus, I asked His Excellency Mr. Beaupré verbally to address in my name to his Government by cable the following questions:

"1. If, the Government of the United States having war ships in Colon and Panama, it would not prevent the Colombian Government from disembarking troops and fighting in those ports and if necessary along the line of the railroad.

"2. If, in case the Government of Colombia, through any circumstance whatever, should not be able to restrain the separatist movement, the United States Government would be disposed to cooperate with her in maintaining ownership and sovereignty of Colombia on the Isthmus in accordance with article 35 of the treaty of 1846."

The suggested circumstance that the Colombian Government could not suppress the separatist movement was that the United States might hinder, in which case it is evident that it was the duty of the United States to suppress it according to the stipulations in the last part of article 35 of the treaty of 1846, which is complementary to the one before cited, and contains the compromise of the United States to guarantee the right and sovereignty of Colombia on the Isthmus of Panama.

The theory advanced as the second reason for making the recognition, that it was imposed by the supreme conditions of the interests and the security of the United States, is not founded on any principle of public right. Furthermore, if the carrying out of a treaty which obliges the opposite of recognizing the independence of a Department is contrary to the interests and security of one of the contracting parties, that one has the right to denounce it, but not to proceed in a sense adverse to its stipulations. If the United States, according to section 3 of article 35 of the treaty of 1846, had notified their wish to have it corrected so as to leave out the guaranty, Colombia, advised of the danger which threatened her, would have tried to evade it by means of other negotiations for the opening of the canal.

This agreement was an insurmountable impediment to the United States proceeding by exclusive reasons of interests and security; but even if it had not existed the proceeding which they adopted to prevent Colombia from making use of force to subject the rebellion can only be founded on supreme international domain, which, definitely, is that of conquest and finds itself in open contrast to the principles of liberty and autonomy, for which the great North American country appeared as the standard bearer in America.

The policy which tends to establish the practice that strong powers can modify the boundaries of nations for reasons of convenience or alleged necessities of territorial expansion has its foundation in the judgment that convenience and expansion are above justice.

The alleged necessity of constructing the canal is not so pressing that it may not admit of delay. To show this, I will mention article 24 of the Herran-Hay treaty:

"ARTICLE XXIV. The Government of the United States agrees to complete the construction of the preliminary works necessary, together with all the auxiliary works, in the shortest time possible; and within two years from the date of the exchange of ratification of this convention the main works of the canal proper shall be commenced, and it shall be opened to the traffic between the two oceans within twelve years after such period of two years. In case, however, that any difficulties or obstacles should arise in the construction of the canal which are at present impossible to foresee, in consideration of the good faith with which the Government of the United States shall have proceeded and the large amount of money expended so far on the works and the nature of the difficulties which may have arisen, the Government of Colombia will prolong the terms stipulated in this article up to twelve years more for the completion of the work of the canal. But in case the United States should at any time determine to make such canal practically a sea-level canal, then such period shall be extended for ten years further."

A work which requires two years to commence it, twelve to construct it, twelve to finish it if difficulties should present themselves, and ten more if it is determined to make it a sea-level canal, a total thirty-six years, is not of such an urgent necessity that it should not admit the delay of some months while a new negotiation is being made with the true sovereign of the soil where it is to be constructed.

The report of the Senate committee read in the session of October 14 and which contains, among others, the statement that the negotiation for the opening of the canal should be postponed until the expiration of the prorogation granted to the French company on account of the contract with that company being in force, does not represent the opinion of that chamber, which did not consign the reasons or motives for its decision, and I can inform your excellency that on denying the project of authorization to which it refers, very probably it did so taking into consideration that the executive power has the power to make treaties by the Constitution: and that the proposed law did not exempt that power from the obligation of submitting the one made with the United States to the approval of the Congress.

Exercising that faculty of the Government, I addressed on September 8 to our chargé d'affaires in Washington the following cablegram:

"Tell the Department of State, confidentially, that whether the project presented to the Senate about new authorization treaty Panama Canal be adopted or not the Government of Colombia will propose to the American Government to renew negotiations upon a basis which it judges acceptable by the Congress of July next, the opinion of the present one being taken into consideration and the national opinion."

There is no official act to show that the Government intended to declare or cause to be declared null the prorogation by which the French company was given until 1910 to finish the canal; and Congress not only did not dictate any act with that object, but the said Senate committee presented with its report a project of law which approved in all its parts the contract giving said prorogation. This project, unanimously approved in its first reading, did not become a law because Congress adjourned; however, it was shown that the opinion of said chamber was favorable to the validity of the prorogation.

The second of the messages expresses, in the third place, that the recognition of the Republic of Panama was an act justified by the interests of civilization.

Civilization represents the intellectual, moral, and material progress. From the two first have emerged the principles which rule the conduct of nations, without which humanity would live in perpetual wars. If on account of material interests those principles are postponed or forgotten, or public treaties are not observed, the fundamental bases of modern civilization are undermined and one is set back to ancient times, like those under the Cæsars of the Roman Empire, when such practices took the form of dominion by means of conquests.

It is not to be believed that the North American people and their Government desire to lead a movement that could not be justified for their glory in the present case with Colombia, by the anticipation of some months in the commencement of the interoceanic way, which by its nature requires a long time to be opened and given to the public service; and which, carried on in accord with the true sovereign of the soil, would harmonize with the great interests of navigation and of commerce, as well as the principles of right, which constitute the principle of the progress of civilization.

The fact that several powers of Europe and America have followed the example of the United States in recognizing the independence of the so-called Republic of Panama arises, in the belief of this Government, not from the reason that that independence is so necessary for the civilization, in serving to anticipate for a short time the construction of the canal, but on account of the declaration which the United States themselves have made in order to support it, and so true is this that if the United States would withdraw such declaration and the troops with which the maintain it, those nations would look without surprise at the quick reincorporation of the Department of Panama in the Republic of Colombia and would also see that that nation is ready to facilitate by means of reasonable concessions the opening of the canal.

The Presidential opinion, which no disinterested and prudent observer would fail to understand, that Panama was fully justified when it separated from Colombia is in itself an act of intervention in the internal affairs of a foreign state; an act explained in another part of this message as exceptional, since the principle of nonintervention is the only true one; but that intervention, perfected in several ways, is not included in the cases which are admitted by

international law. The behavior of a Government, no matter how censurable it may be (which Colombia does not admit respecting hers), as long as it does not cause any loss or threaten the rights of other sovereigns, does not give them any right of intervention. (Heffter, *International Right of Europe*, pp. 95-98, Berlin, 1873.)

The conduct of Colombia has neither endangered nor diminished any right acquired by the United States, which Government can not even give the reason why they were suffering or might suffer damages from motives of proximity.

The Isthmus of Panama was in peace until November 3, and it is very probable, almost certain, that the rebels would have accepted the arrangement proposed to them by General Reyes in Colon, and so evaded bloodshed, if the United States had not intervened from the first moment, not allowing the disembarkation of Colombian troops; so that they did not proceed in a way to allow even alleging any reasons of humanity for their intervention.

If, for the Government of the United States, the recognition of Panama as an independent Republic is an accomplished fact, and as such it considers it irrevocable, without stopping to show the illegitimacy of the theory of the accomplished facts when they are contrary to foreign right and to the engagements with third parties, I make the declaration that the recognition of the independence of the Colombian Department of Panama by the United States and other powers does not make void nor does it limit the rights of sovereignty of Colombia on the Isthmus of that name, and that this Republic does not admit, in principle, that that recognition is of an irrevocable character.

Gen. Rafael Reyes, minister on a special mission, presented, in the name of the Government and people of Colombia, on December 23 ultimo, an exposition of injuries to the Department of State. In the answer of His Excellency Mr. Hay to the minister's note there are some opinions, in addition to those expressed in the messages, which I must also take into consideration, making in regard to them observations tending to the defense of the rights of this Republic.

He maintains that treaties, except when they deal with private rights, unless the contrary is stipulated, are binding for the contracting parties from the date of their being signed; and in that case the exchange of ratifications confirms the treaty from that date. "This rule," he says, "necessarily implies that the two Governments, upon the negotiation of the treaty through their representatives duly authorized, bind themselves while waiting the ratification not only not to oppose the ratification thereof, but also not to do anything in violation of its stipulations."

The theory maintained that treaties are obligatory, or that they come into force, in whole or in part, before they are ratified in conformity with the laws of the respective countries, is open to contradiction respecting the extension of the obligation attributed to Colombia by the Government of the United States. Wheaton in his *International Law*, first volume, page 239, expresses himself thus:

"The civil constitution of every particular state must determine in whom is vested the power of ratifying treaties negotiated and concluded with foreign powers, and so make them obligatory for the nation. In absolute monarchies it is the privilege of the sovereign himself to confirm the act of his plenipotentiary for its definite approval. In certain limited or constitutional monarchies the consent of the legislative power of the nation is in some circumstances demanded for this purpose. In some republics, as in the United States of America, the opinion and consent of the Senate are essential to empower the Chief Executive of the state with the compromising of the national honor in that form. In all these cases it is consequently an implicit condition when it is negotiated with foreign powers, that the treaties concluded by the Executive Government will be submitted for ratification in the manner prescribed by the fundamental laws of the State."

In the Herran-Hay treaty the reservation that it should be ratified in conformity with the laws of the respective countries was expressly stated in Article XXVIII. The use of the necessary ratification, which dates from most ancient times; is the same in modern times; and if some doctrines of international law of the United States interprets in another way the precepts of its Constitution, that doctrine does not oblige other nations, who recognize the principle that "the constitution of each particular state determines in whom is vested the power of ratifying treaties negotiated and concluded with foreign powers and so make them obligatory for the nation."

This principle is the one generally observed, and the one which is substantially adopted by the most accredited interpreters, as Vattel, Klüber. G. F. Martens

Despagnet Vergé, and Pradier-Fodéré. The executive power in Colombia can not perfect international agreements because the constitution attributes to Congress the faculty of approving or disapproving public treaties.

The Government of this country not only did not oppose the approval of the treaty for the opening of the canal, but called Congress in extraordinary sessions for the main purpose of taking it into consideration. The Government presented the treaty to the Senate in the first days of the sessions. The rule of that body is that in the first reading the convenience or inconvenience to legislate on the matter of the respective project of law should be discussed. On the first reading of the treaty presented for approval I spoke extensively to impress the great importance of the negotiation and to refute the charges which had been made against the Government on account of having negotiated it. My speech, which is printed, concludes with this paragraph:

“His excellency the vice-president of the Republic has requested me to give to the honorable Senators the explanations which I have just presented. They have shown that the initiation of the treaty arose from a grand conception; that the negotiations were conducted with ability and prudence, and that if the conditions of the agreement do not meet the wishes of the Colombian people in a more ample way, it is because the other high contracting party did not agree to the proposition of improving them. In one word that the Government has behaved in this transcendent affair with the loftiest views and inspired by the most ardent patriotism.”

This speech constitutes an irrefutable proof that the Government not only did not oppose the approval of the treaty, but that the treaty was explained to the Senate in conformity with the object of the first debate on all projects of law, and I remember with regret that I called attention to the memorandum and to the communication which Mr. Beaupré presented to this ministry notifying it of the bad effect which the disapproval of the treaty would produce in the relations between the two countries, and that the modifications introduced here would be considered as a violation of what had been agreed upon. The Senate rejected the treaty in its first reading; and therefore the Government had no opportunity to enter into the explanations of its stipulations. There is, therefore, no contradiction of any kind in the conduct of the two Governments in respect to the treaty.

On June 10, 1903, His Excellency Mr. Beaupré addressed to this ministry a note in which he gave minute account of the objections which his Government had to the note which the ministry of Hacienda sent to the New Panama Canal Company and to the Panama Railroad Company, stating that in order to transfer their contracts to the United States they needed permission of the Colombian Government.

In my answer to the communication of Mr. Beaupré, dated the 27th of the same month, I called his attention to the dates of the notes which the ministry of Hacienda addressed to the companies, which are December 25 and 27, 1902, respectively; in the meantime that the one of the treaty signed by the ministers in Washington for the opening of the Interoceanic Canal was January 22, 1903. Comparing these dates it is seen that the exaction to the companies was nearly a month previous to the signing of the treaty. After this having been signed the ministry did not occupy itself again with the matter, and as the explanation which I made on that point to the legation preceded the separatist movement by four months and my note was published very soon, it is obvious that the said exaction ought not to have been one of the causes which produced it nor of those which can excuse it.

The Government of Colombia did not discover suddenly, after the convention was signed, that it contained stipulations contrary to the sovereignty of the Republic in the zone destined for the construction of the canal. From the time that the Government of the United States had presented its project, the Government of Colombia gave notice that it contained such stipulations, and notwithstanding, ordered the chargé d'affaires in Washington to sign it, with the view of making easy and even of securing the execution of the great work, in the hope that such an important end would induce Congress to make declarations or take measures which would remedy the constitutional defects, which, in their judgment, the agreement had, knowing that the Government of the United States had not seen fit to accept it in any other terms.

The simple change of names of a country does not of itself modify its frontiers, and even less, if, as has happened in this country since it took the name of New Granada in November, 1831, it has fixed them in its respective consti-

tutions, in which the Department of Panama has always been expressly mentioned, having had representatives in the bodies which have framed those constitutions.

If, as His Excellency Mr. Fish said in a note of May 27, 1871, the principal object of New Granada (to-day Colombia) in negotiating the treaty was, as is believed, the conservation of her sovereignty against exterior attacks, the recognition which the Government of your excellency has made of the independence of Panama creates a new legal situation which obliges it to prevent the so-called new Republic from making attacks against the sovereignty and property of Colombia on the Isthmus, because in virtue of such a recognition, those attacks are exterior according to the opinion of the United States; but if, instead of preventing those attacks, it favors them until the destruction of the sovereignty and property of Colombia in that section, the proceeding can not be more contrary to the word, spirit, and interpretation which Mr. Fish gave to the treaty and which the present Government of the United States gives in the mention it makes of the passage of the note of the honorable Secretary of State.

From the preceding observation the inevitable logical conclusion is deduced that the United States can not assume toward Panama the obligations of the treaty of 1846 since the dominion and sovereignty of the Department over itself, and those of the Republic of Colombia over the Department of Panama simultaneously, would exclude one another; for which reason, the Isthmus has not acquired title to enjoy the rights nor is subject to the obligations of the treaty.

On the other hand, Hall's doctrine is not applicable to the point in question, because Colombia had not contracted the local obligation of allowing to the United States the construction of the canal, a work which is in no way related to the adjustment of a river bed, which he cites as an example. For the same reason the opinion of Rivier is not applicable either, because article 35 of the treaty of 1846 does not deal with limits, nor running water, nor ways of communication which did not exist then nor at present.

The interpretation given to the agreement by your excellency's Government does not agree with these doctrines, for it can not carry out with the de facto government of the Isthmus the duties which it contracted with the Republic of Colombia.

The Government of Colombia differs in opinion with the Government of the United States as to its claims being of a purely political nature, and judges that special circumstances place them among those which come under the dominion of judicial decisions.

The claims of Colombia are founded:

First. On the violation of the treaty of 1846 by the Government of the United States.

According to the doctrine explained by Piédelièvre in his *International Public Law*, second volume, page 76, questions of this kind are of judicial character, susceptible of being decided by arbitration, all the more so when others originate from them, such as that of the great direct damages caused to this Republic, which is undeniably of the same nature.

Second. In the violation of the neutrality rules established by international law.

Concerning claims founded on violations of neutrality, the United States themselves contributed in a decisive manner the precedent of which I will make mention. They established the claims known as "Alabama claims," in which Great Britain, represented by its Government, had neglected to carry out the obligations of neutrality which had been placed upon it by international law to such a point that it had given to the United States an ample and just cause for war.

Lord Russell denied the principle of the claims, and refused peremptorily the proposition of arbitration in 1865, but Mr. Seward persevered in maintaining it as prudent and honorable for the two Governments. At the initiation of the English Government the negotiations were renewed, and on May 8, 1871, the treaty was adjusted by which it was agreed to submit said claims to an arbitration tribunal.

Article 6 of this agreement stated that the arbitrators should, in the questions submitted them, be guided by three rules relative to the neutrality, which the Government of the United States proposed and sustained, and which served as a model, notwithstanding the declaration which the same article contains, that "Her Britannic Majesty had requested her high commissioners and envoys extraordinary to declare that her Government could not admit that the preced-

ing rules be considered as an exposition of the principles of international law in force at the moment in which the claims of the United States mentioned in article 1 were set forth; but that, in order to give a proof of its wish to strengthen the friendly relations between the two countries and to take useful measures for the future, Her Majesty's Government consented that when the questions which those claims have caused shall be decided the arbitrators should consider that the English Government has not intended to withdraw from the principles mentioned in the preceding rules."

The high contracting parties bound themselves to observe those rules in their mutual claims in the future, to place them in the knowledge of other maritime powers and to invite them to adhere to them.

The doctrine comprised in the three rules received the very important indorsement of a corporation of representative scientific men. The Institute of International Law approved the resolution which I copy:

"The three rules of the treaty of Washington of May 8, 1871, are only the application of this principle recognized by international law: that the neutral state, wishing to remain in peace and friendship with the belligerents and to enjoy the rights of neutrality, has also the duty to abstain from taking any part whatever in the war there by granting military help to one of the belligerents or to both of them, and to keep watch in order that there should not be committed within its territory any acts by anybody which constitute a cooperation in the war."

The Government of Colombia, relying in such a notorious and in all respects worthy precedent, invokes the very authority of the United States and that of the Institute of International Law in maintaining that violations of neutrality do come under the dominion of arbitration judgments.

Third. In the celebration of a treaty with the titular Republic of Panama, for the opening of the Inter-oceanic Canal, notwithstanding that there is in force a treaty of peace, friendship, navigation, and commerce between New Granada (to-day Colombia) and the United States of America.

The Government of your honor gives an interpretation to article 35 of that treaty which the Government of Colombia judges contrary to the rules of interpretation generally admitted; to which point may be applied the arbitration proceeding which Klüber gives in his Law of Nations, page 235, thus: "When a public treaty presents a doubtful sense, it can not receive authentic interpretation except by a declaration of the contracting parties or of those to whose arbitration they have appealed. The same preliminary question to know if the sense is doubtful, can only be decided by a similar convention."

In the present case the first question arising is the preliminary one as to the doubtful sense of the treaty, notwithstanding that the opinion of Colombia is that its clearness is complete, as understood by both Governments, an interpretation from which the United States have now departed.

The present chargé of the Colombian legation in Washington has informed me by cable that the Senate of the United States has approved the treaty with Panama for the opening of the canal. That treaty, as I have already expressed it, contains in its first clause the engagement of the United States to maintain the independence of Panama, a clause, which is, by itself, a declaration before the world that Panama can not subsist independent of Colombia without military aid from the Government of your Excellency.

As said treaty is in opposition with that of 1846, in the supposition, admitted by the Government of your Excellency and denied by Colombia, that Panama should be a member of international society, the coexistence of the two agreements determines the application of the doctrine which Vattel states that "contrary treaties to those in existence can not be made" and which G. F. Martens in his Law of Nations gives, page 167, first volume, in these terms: "Of two treaties concluded with different nations, if they are incompatible, the oldest ought to be preferred, save the indemnification which ought to be given to the other nation if the collision can be foreseen and if it can be presumed that the contracting party ignores it." If the Isthmus of Panama were really a republic, the United States, who were not ignorant of the clash, would be in position, perhaps, of having to grant an indemnity, because they can not lawfully evade the fulfilling of the treaty of 1846.

If they do not recognize the justice of the preceding doctrine, they would inaugurate the precedent that a nation, making itself judge in its own cause, can withdraw from carrying out treaties by only making an agreement in a different sense with a rebel section of the other contracting country or with a

third power; a practice which would be the beginning of the end of the guaranty of public treaties as a safeguard to right.

The Government of Colombia, considering that the treaty for the opening of the canal which the United States have made with the government de facto established in the Colombian Department of Panama, is in violation of the one celebrated with this Republic in 1846, protests against the validity of the first and claims the observance of the second, especially in the part in which said States bind themselves to guarantee the property and sovereignty of Colombia in the Isthmus of Panama.

I have had the honor to refer to the Presidential messages and to the said note of His Excellency Mr. Hay, who in two later notes addressed to General Reyes confirmed the declaration of his Government and his own arguments. The approval of the treaty with Panama by the Senate, and the ratification and exchange of that document were acts subsequent to the date on which that diplomatic agent left the United States. The observations which he made strengthen in a decisive manner the conclusion that it would be honorable for both parties to adopt an equitable and conciliatory way for the solution of their differences, which would be in true harmony with the wish, many times manifested by the Government of the United States, not to cause any damage to this Republic.

I have the honor, furthermore, to express thanks for the very important offer which the North American Government presents of their good offices to make an arrangement between Colombia and Panama, an offer made doubtless in the belief that this Government would accept as decisive the situation created by the separating rebellion.

Once more I renew, etc.,

LUIS CARLOS RICO.

Mr. Hay to Mr. Snyder.

No. 68.]

DEPARTMENT OF STATE,
Washington, April 28, 1904.

SIR: I have to acknowledge the receipt of your No. 302 of the 26th ultimo, stating that the Panama question has practically subsided.

Your dispatch has been read with much interest.

The Department desires to be kept fully informed of the situation in Colombia, and requests you to advise it promptly as to the successful candidate for the Presidency.

I am, etc.,

FRANCIS B. LOOMIS,
Acting Secretary.

**TRANSFER OF THE NEW PANAMA CANAL COMPANY'S PROPERTY
TO THE UNITED STATES.**

Mr. Snyder to Mr. Hay.

No. 311.]

AMERICAN LEGATION,
Bogota, April 19, 1904.

SIR: I have the honor to send you herewith copies and translations of further correspondence from the Colombian foreign office relative to events connected with the formation of the Republic of Panama.

* * * * *

I am, etc.,

ALBAN G. SNYDER.

[Inclosure.—Translation.]

Señor Rico to Mr. Snyder.

MINISTRY FOR FOREIGN AFFAIRS,
Bogota, April 14, 1904.

SIR: I have to inform your honor that at the beginning of November of last year the Government of Colombia, through its agent in France, informed the New Panama Canal Company that, according to article 21 of the contract celebrated in Bogota on March 20, 1878, between said company and the Colombian Government, it was absolutely prohibited from ceding any of its rights to a foreign nation or government. Therefore the Government of Colombia does not accept the transfer which may be made in violation of that article.

This ministry would be pleased if your honor would inform the Government of the United States as soon as possible that Colombia has not given its consent to the transfer of these rights, and firmly insists on the fulfilling of said article of the treaty of 1878.

I reiterate, etc.,

LUIS CARLOS RICO.

**INAUGURATION OF GENERAL REYES AS PRESIDENT OF
 COLOMBIA.**

Mr. Snyder to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Bogota, July 4, 1904.

(Mr. Snyder reports that General Reyes is declared elected President.)

Mr. Hay to Mr. Snyder.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 12, 1904.

(Mr. Hay instructs Mr. Snyder to convey to General Reyes congratulations on his entrance upon the Presidency.)

Mr. Snyder to Mr. Hay.

No. 357.]

AMERICAN LEGATION,
Bogotá, August 18, 1904.

SIR: Referring to Department's telegram of August 12, 1904, I have the honor to inform you that to-day I personally presented to General Reyes the congratulations therein contained.

He seemed greatly pleased and requested me to convey to you his hearty appreciation of your kind message.

I am, etc.,

ALBAN G. SNYDER.

REESTABLISHMENT OF DIPLOMATIC RELATIONS WITH VENEZUELA AND ITALY.

Mr. Snyder to Mr. Hay.

No. 330.]

AMERICAN LEGATION,
Bogotá, June 2, 1904.

SIR: I have the honor to inclose herewith copy and translation of decree No. 375 of 1904, reestablishing, on the part of the Government of Colombia, diplomatic relations with the United States of Venezuela.

I am, sir, etc.,

ALBAN G. SNYDER.

[Inclosure.]

Decree No. 375 of 1904 (April 30), by which is abrogated the decree which declares interrupted the diplomatic relations with the United States of Venezuela.

The vice-president of the Republic, charged with the executive power, in exercise of his legal functions, considering—

1. That the Republics of Colombia and Venezuela, united by traditional bonds, have the duty to maintain and cultivate their fraternal relations.

2. That for reciprocal convenience and as a homage to the memory of the Liberator Bolivar and the soldiers who founded the great Republic of Colombia, the nations which formed it ought, in cordial intelligence, to attend to the defense of their interests, welfare, and security, decrees:

Sole article, Abrogates decree No. 1287 of 1901 (16th of November), by which the diplomatic relations between Colombia and the United States of Venezuela were declared broken.

Ordered published.

Given in Bogota, April 30, 1904.

JOSÉ MANUEL MARROQUIN.

Minister for foreign affairs.

F. DE B. MATÉUS.

Mr. Snyder to Mr. Hay.

No. 332.]

AMERICAN LEGATION,
Bogota, June 3, 1904.

SIR: I have the honor to transmit herewith copy and translation of the decree issued on the part of the Government of Colombia reestablishing diplomatic relations between the Governments of Colombia and Italy.

I am, etc.,

ALBAN G. SNYDER.

[Inclosure.]

Decree No. 489 of 1904 (May 30), by which is abrogated that which declared interrupted the relations between Colombia and the Kingdom of Italy.

The vice-president of the Republic, in charge of the executive power, considering—

1. That the differences have disappeared which produced the interruption of the friendly relations between Colombia and Italy; and

2. That Colombia as a civilized country, should preserve the best understanding with the other countries, decrees:

Sole article. Abrogates decree No. 37 of 1898, by which the relations between Colombia and the Kingdom of Italy were declared broken.

Ordered published.

Given in Bogota, May 30, 1904.

JOSÉ MANUEL MARROQUIN.

Minister for foreign affairs,

F. DE P. MATÉUS.

SEIZURE OF THE PROPERTY OF THE BOGOTÁ CITY RAILWAY COMPANY.

Mr. Snyder to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Bogotá, December 26, 1903.

(Mr. Snyder reports that the Chapinero line, Bogotá City Railway Company, an American corporation of New York City, was forcibly seized by the authorities of the Department of Cundinamarca on Christmas. Papers will be sent by next mail. Awaiting instructions.)

Mr. Adee to Mr. Snyder.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 31, 1903.

(Mr. Adee, referring to Mr. Snyder's telegram of the 26th, directs him to bring the matter of protecting the rights of this American corporation to the attention of the minister of foreign affairs.)

Mr. Snyder to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Bogotá, January 20, 1904.

(Received January 22, 1904, 9.45 p. m.)

(Mr. Snyder reports that the difficulty between the street railway company and the National Government has been satisfactorily arranged to-day through this legation. Requests that the Bogotá City Railway Company, 55 Liberty street, New York city, be informed.)

Mr. Snyder to Mr. Hay.

No. 295.]

AMERICAN LEGATION,
Bogotá, February 24, 1904.

SIR: Referring to my telegrams of December 26, 1903, and January 20, 1904, in reference to the Bogotá City Railway Company, I have the honor to inform you that papers in this matter were not forwarded to the Department for the reason that before the next mail day prospects presented themselves for a peaceful settlement of the difficulty, and I preferred to be able to so inform the Department rather than forward papers in what promised to be another disagreeable claim.

The Bogotá City Railway Company, which enjoys the disadvantage of existing under two separate concessions, one from the city and one from the Department of Cundinamarca, had been annoyed for some time by petty actions of the departmental authorities, and finally a decree was published by the governor ordering the company to comply with certain conditions. This was refused by the company on the grounds that said decree was contrary to the law and the concession of the company, with the result that on December 25, 1903, the Chapinero line was seized by the authorities. After trying to operate the line themselves for about three days, they gave up the attempt and endeavored to pass the line back to the company, which refused to accept it, and thus matters stood for nearly a month.

Upon receipt of Department's instructions of December 31, 1903, in answer to my telegram of December 26, 1903, I presented the matter to the minister for foreign affairs, who, with the minister of Government, both expressed an earnest desire to see the matter amicably settled in fairness to all parties.

Upon January 17 last I received a verbal request from the vice-president asking me to use my good offices with the governor, and saying he would do the same with the company, so as to have the matter arranged at once, as the public as well as the interested parties were suffering great inconveniences as a result of the suspended service.

On the day following, with full powers to represent the company, I met the secretary of the governor in the office of the minister of Government, and after a conference lasting two days an agreement seemed no nearer than at the beginning until the minister of the Government informed the secretary that he must accept the compromise, which he, the minister of Government, had helped to draw up, and which he considered fair to all parties, or he would so order its acceptance in a decree.

After some further talk it was accepted by the governor, approved by the vice-president, and a legislative decree issued making it a law.

Thus, as reported in my telegram of January 20, 1904, this difficulty and others pending between the company and the Government were settled satisfactorily, at least for the present, to all parties concerned.

I must add here that in the whole affair an earnest desire for a friendly settlement was evinced by all the authorities of the National Government connected with the case, and the only trouble was with the departmental authorities.

I am, etc.,

ALBAN G. SNYDER.

MESSAGE OF THE PRESIDENT OF COLOMBIA TO THE COLOMBIAN CONGRESS.

Mr. Snyder to Mr. Hay.

No. 383.]

AMERICAN LEGATION,
Bogotá, October 25, 1904.

SIR: President Reyes recently sent a message to Congress outlining the policy to be pursued, or which he desired to pursue for the next two years.

I have the honor to inclose herewith copy and translation of that part relating to the foreign affairs of Colombia which I thought might be of interest to the Department.

I am, etc.,

ALBAN G. SNYDER.

[Inclosure.]

Presidential message.

* * * * *

FOREIGN RELATIONS.

The administration proposes to cultivate them in the best manner possible with the countries of Europe and America.

Our situation regarding Panama requires extreme prudence and discretion, as we will be irresistibly brought into antagonism with the United States, to whom we owe the unjustifiable despotism to which we have been made victims. It is possible that the course of events in the interior of the United States as well as on the Isthmus of Panama may facilitate the beginning of negotiations which may satisfy our dignity and preserve our interests. I think it would be opportune for Congress to legislate on the matter, fixing general terms, but leaving to that time sufficient latitude to the executive power in order to cover the variety of incidents which may present themselves, it being well understood that whatever negotiation is arranged ought to be submitted to Congress in extraordinary sessions if necessary. Perhaps this may be the most painful matter in our immediate future; to solve this requires a considerable degree of prudence and justice so as to appreciate the true situation and how far we would be justified in hunting a definite solution to the ambiguity which to-day exists, and which ought not to be put off indefinitely.

The legations which the Government ought now to sustain will be: One in Europe, one in the United States, Mexico, Cuba, and Central America, and another in South America, with the necessary secretaries so that they may be left in these as *chargés d'affaires* in the capitals. In the United States a legation will be opened when the defense of our interests demands it. These legations ought to be sufficiently paid and endowed with the expenses of representation which the dignity and decorum of the country requires.

The consulates we may have in order to manage the large sums in gold resulting from the increased tax on invoices ought to be better paid than now in order that they may be properly served.

To regulate the service of consuls so that those employed may contribute, in addition to the studies and reviews which they will remit periodically, the industrial and economical development of the country.

The Government will work with great interests in order to settle the boundary questions pending with Venezuela, Ecuador, Peru, and Brazil, and in fixing definitely the frontiers. For this it needs competent diplomatic agents and the necessary resources.

* * * * *

CUBA.

TREATY OF AMITY, COMMERCE, AND NAVIGATION BETWEEN CUBA AND ITALY.

Mr. Sleeper to Mr. Hay.

No. 800.]

AMERICAN LEGATION,
Habana, January 9, 1904.

SIR: I have the honor to inform the Department that a treaty of amity, commerce, and navigation between the Republic of Cuba and the Kingdom of Italy was signed at the foreign office on the 29th ultimo by the Cuban secretary of state and justice, Mr. Carlos de Zaldo, and the minister resident of Italy, Mr. Oreste Savina. A copy of the treaty as published in *La Discusión*, the semi-official organ of the government, and a translation thereof are herewith inclosed.

* * * * *

I have, etc.,

JACOB SLEEPER,

[Inclosure.—Translation.]

His Excellency the President of the Republic of Cuba and His Majesty the King of Italy, being desirous to preserve and vigorize the friendly relations and promote commercial traffic between the two countries, have decided to enter into a treaty of amity, navigation, and commerce, and appointed as their plenipotentiaries:

His Excellency the President of the Republic of Cuba, Carlos Zaldo, secretary of state and justice; and His Majesty the King of Italy, Oreste Savina, gentleman of the Order of St. Maurice and St. Lazarus, and of the Crown of Italy, etc., and his minister resident near the Republic of Cuba, who, after having communicated to each other their full powers, found to be in good and due form, have agreed upon the following articles:

ARTICLE I.

There shall be perfect peace and sincere friendship between the Republic of Cuba and the Kingdom of Italy. The high contracting parties shall use their greatest efforts to have this friendship and good harmony maintained constantly and perpetually between the two nations, and between their respective citizens as well, without exception of person or place.

ARTICLE II.

The contracting parties agree that everything relative to commerce and navigation, any privilege, favor, or immunity of every nature whatsoever which either of the contracting parties now grant or may grant in the future to subjects or citizens of any other state, shall be immediately and unconditionally granted the citizens of the other contracting party, the intention being that the commerce and navigation of each country shall be placed by the other, in every respect, on the basis of the most favored nation.

The products and manufactures of the Republic of Cuba that may be imported into Italy, and Italian products and manufactures that may be imported into the Republic of Cuba, whether for consumption, storing, reexportation, or in transit, shall receive equal treatment, and particularly shall they not be subject to other or higher fees, general, municipal, or local, than the products, manufactures, and merchandise of a third nation more favored in this respect. No other or higher fees in the Kingdom of Italy shall be imposed on any merchandise exported to the Republic of Cuba, nor in the Republic of Cuba on any merchandise exported to the Kingdom of Italy, than those imposed on similar articles exported to a country that may be more favored in this respect.

Neither of the contracting parties shall establish, with respect to the other, prohibitions on importation, exportation, reexportation, or transit that are not applicable under like circumstances to a third country which is more favored in this respect. However, this shall not affect the special legislation of each of the two countries with respect to articles the transit of which shall or may be prohibited; and the high contracting parties reserve the right to subject to special authorizations the transit of arms and munitions of war.

In all that refers to local taxes, customs, formalities, brokerage, models or samples imported by traveling agents, and everything relative to commerce, Cuban citizens in Italy and Italian citizens in Cuba shall enjoy the most-favored-nation treatment.

There shall be no importation or exportation prohibitions or restrictions on the reciprocal trade of the two countries unless the same is applied equally to all other nations, but this shall not exclude such prohibitions or restrictions for sanitary reasons or to prevent the propagation of animal diseases or the loss of crops or in the event of war.

ARTICLE IV.

There shall be reciprocally full and complete liberty of commerce and navigation for the citizens and ships of the high contracting parties, in the cities, ports, rivers, or places of either of the two countries and their possessions, entrance into which is now permitted, or may be permitted in the future, to the subjects or ships of any other foreign country.

Cubans in Italy and Italians in Cuba may reciprocally enter, travel, or reside with all liberty in any part of the territory and possessions of the respective countries (however, this shall not affect the right to expel pernicious foreigners, which both Governments reserve), and they shall enjoy to this end, with respect to their persons and properties, the same protection and security as the citizens of the two countries.

They may, throughout the whole of the two territories, carry on industries, engage in trade—retail or wholesale—lease or own buildings, warehouses, stores, or lands necessary to them; they may transport merchandise and money and receive shipments both from the interior and exterior, paying the taxes and licenses established by existing law with respect to the citizens of the two countries. They shall be equally free to make sales and purchases, to stipulate and fix the price of their merchandise, effects, and articles of any class, imported or national, irrespective of whether they sell them in the interior or export them: *Provided*, That they shall obey the laws and regulations of the country. They may personally carry on and manage their business affairs, be represented or assisted by duly authorized persons either in the sale or purchase of their properties, effects, or merchandise, in dealings with the customs service, or in the loading, unloading, or sailing of their vessels. Finally, they shall not be subject to other charges, taxes, fees, or imposts than those to which the citizens of the respective countries are subject.

The citizens of each of the high contracting parties shall have in the territory of the other the same rights as the citizens thereof with respect to patents of inventions, brands, trade-marks, and drawings: *Provided*, That they comply with the requirements of the law. With respect to ownership rights of works of literature and art the citizens of each of the high contracting parties shall enjoy reciprocally in the territory of the other the treatment given the most favored nation.

ARTICLE V.

The habitations, factories, warehouses, and stores of the citizens of each of the contracting parties, and all the adjoining premises used for quarters or carrying on commerce, shall be respected in the dominions and possessions of the other.

No searches or domiciliary visits of or to these habitations and attached premises or examination or inspection of books, papers, or accounts shall be allowed except under the conditions and following the forms prescribed by the laws with respect to natives.

ARTICLE VI.

Citizens of the two countries shall enjoy in the territory of each other the most thorough and constant protection of their persons and properties. They may appeal to the tribunals of justice for the prosecution and defense of their rights in all the instances and stages of jurisdiction established by the laws.

They shall have the power to engage attorneys, defense, or agents of any kind whom they consider fitted to represent them and act in their names; all this in conformity with the laws of the country, and in this respect they shall enjoy the same rights and privileges as are or may be granted citizens of the countries, and in the enjoyment of said franchises they shall be subject to the same conditions as citizens.

ARTICLE VII.

Cubans in Italy and Italians in Cuba shall enjoy the benefit of judicial assistance, and shall act in accord with the laws of the country when assistance by reason of poverty is solicited.

ARTICLE VIII.

Cubans in Italy and Italians in Cuba shall have, the same as citizens, the right to acquire or possess and transmit by inheritance, testament, donation, or in any other manner, real property situate in the respective territories; and they shall not be obliged to pay other or higher inheritance or transfer fees than those paid by citizens in similar cases.

With respect to the acquirement or possession of personal property Cubans in Italy and Italians in Cuba shall receive the same treatment as subjects or citizens of the most favored nation.

Their heirs and legal representatives may inherit said real or personal property and take possession thereof, either personally or through a representative, in the same manner and legal form as is done by the natives of the country.

The citizens of each of the contracting parties residing temporarily or permanently in the dominions or possessions of the other shall be subject to the laws of the country where they are residing, especially those fixing the rights and obligations of foreigners, in the same terms as are citizens or subjects of the most favored nation.

ARTICLE IX.

Cubans in Italy and Italians in Cuba shall be exempt from any personal service in either the land or sea forces or any national guard or militia, and likewise from war requisitions or taxes and enforced loans, pecuniary or in specie, except when said requisitions, loans, or taxes are on the real property of the country, in which case they shall pay them the same as if they were citizens of the country.

In no other case shall they be compelled, with respect to their real and personal property, to pay other charges or imposts than those to which the citizens of the country or of the most favored nation are subject. It is hereby agreed that any person who shall invoke the application of the latter part of this article, may choose between the two treatments that which he deems most advantageous.

ARTICLE X.

The citizens of each of the contracting parties shall enjoy, respectively, in the territory of the other complete liberty of conscience, and they may follow their own worship in the manner allowed by the constitution and the laws of the country.

ARTICLE XI.

It is hereby agreed that if, unfortunately, peace between the two countries shall be interrupted, to the end that the hardships of war may be diminished, the citizens of each of the countries resident in the cities, ports, and territories of the other, and who are there engaged in commerce or other profession, may remain in their places of residence and continue their business: *Provided*, That they shall not make themselves guilty of any violation of the laws of the country. In case their conduct shall cause them to lose this privilege, and when the respective Governments consider it necessary to cause them to leave their territories, they shall be granted a period of time sufficient to arrange their affairs.

In no case of war or collision between the two nations shall the goods or properties of any nature belonging to those who are respectively dependent thereupon be subject to attachment or seizure of any kind or other charges or imposts than those imposed on citizens.

In like manner, during the interruption of peace, shall the sums owed by private individuals, likewise public bonds, and stocks of banks or other kind, be subject to attachment, seizure, or confiscation to the prejudice of the respective citizen and in benefit of the country in which they shall be.

ARTICLE XII.

The contracting parties agree to grant reciprocally to their respective envoys, ministers, and agents the same privileges, favors, and franchises as are enjoyed or may be enjoyed in the future by the envoys, ministers, and public agents of the most favored nation.

Both contracting parties, animated by the desire to avoid discussions which may alter their friendly relations, agree that with respect to reclamations or complaints of private individuals in civil, criminal, or administrative matters their diplomatic agents shall not intervene except by reason of denial or extraordinary or illegal delay of justice, for failure to execute a final decision or after the exhaustion of all legal resorts, for express violation of existing treaties between the contracting parties, or the rules of international law, both public and with respect to individuals, generally recognized by civilized nations.

It is further agreed between the two contracting parties that except in cases in which there shall be guilt or lack of vigilance on the part of the authorities of the country or of its agents, their respective Governments shall reciprocally assume no responsibility for the damages, vexations, or exactions that the citizens of one may suffer in the territory of the other at the hands of rebels in times of insurrection or civil war.

ARTICLE XIII.

In everything that respects the police of ports, loading and unloading of ships, and the vigilance of merchandise and goods the citizens of the two countries shall be subject to the local laws and ordinances.

ARTICLE XIV.

Cuban ships putting into ports of Italy from ports in Cuba with cargo or in ballast shall pay no other or higher tonnage, port, light-house, pilot, or quarantine fees or other fees affecting the hull of the ship than those to which are subject the ships of the most favored nation.

In all that respects local treatment, the placing of vessels, their loading and unloading, as well as any taxes or imposts in ports, basins, roadsteads, coves, and rivers of the two countries, and generally all formalities or dispositions to which merchant vessels, their crews, and cargoes may be subject; the privileges, favors, or advantages which are now granted or may be granted to the ships of the most favored nation, likewise to merchandise imported or exported in said ships shall be equally granted to the ships of the other country and the merchandise imported or exported by said ships.

ARTICLE XV.

Navigation, tonnage, and other fees collected in ratio to the capacity of a ship must be collected, with respect to Italian vessels in Cuban ports, according

to the register documents of the ship. The same rule shall be observed with respect to Cuban ships in Italian ports.

ARTICLE XVI.

The provisions of the present treaty are not applicable to coastwise navigation or coastwise trade, and the same shall be governed by the respective laws of the contracting states.

However, Cuban ships in Italy and Italian ships in Cuba may discharge a part of their cargo in the first port called at and depart forthwith with the rest of said cargo for other ports of the same state, either for the purpose of discharging therein the cargo they shall have brought or of completing therein their return load; and they shall not pay in any of said ports other or higher fees than are paid in equal cases by the ships of the most favored nation.

ARTICLE XVII.

Everything relating to the fishing industry is also excepted from the application of the dispositions of this treaty, and the exercise thereof shall be subject to the laws of each of the contracting states.

ARTICLE XVIII.

Whenever the citizens of one of the two contracting parties shall, in consequence of bad weather or for any other reason, take refuge with their ships in the ports, bays, or rivers of the other contracting party, they shall be friendly received and treated, but without prejudice to the precautionary measures deemed necessary by the interested government to prevent contraband. They shall further be granted every facility and aid to repair damages suffered, supply themselves with provisions, and place themselves in condition to continue the voyage, without obstacle or impediment of any kind.

In the territory of each of the contracting parties the merchant ships of the other party whose crews may be incomplete in consequence of sickness or other causes may enlist the seamen necessary to continue their voyage, obeying, however, the local laws and ordinances, and under the condition that the enlistment shall be voluntary on the part of the seamen.

ARTICLE XIX.

Whenever a war or merchant ship of one of the contracting parties shall become grounded or wrecked in the territory of the other, said ship and all its parts, tackle and appurtenances, all goods and merchandise saved, including those thrown overboard, or the proceeds therefrom if they have been sold, and also the papers found on board the grounded or wrecked ship, shall be delivered to the owners or agents on request by them within the period fixed by the laws of the country; and said owners or agents shall pay only the expenses of preservation of their property and also the salvage or other expenses that a national vessel would have paid in a like case of wreck.

The goods and merchandise saved from the wrecked ship shall be exempt from all customs duties unless they are destined to interior consumption, in which case they shall pay the same duties as if they had been imported in a national vessel.

If by reason of bad weather a ship takes refuge in a port or becomes wrecked or grounded, the consuls-general, consuls, vice-consuls, and consular agents shall be authorized to intervene for the purpose of furnishing the necessary aid to their fellow-citizens: *Provided, however,* That the owner, captain, or other agent of the owner are not present or are present and request such intervention.

It shall further be the right of said consuls-general, consuls, vice-consuls, and consular agents to look after all wrecks and recoveries and repairs of damages according to the laws of their countries: *Provided,* That their citizens alone are interested in the damage. In a contrary case the local authorities shall have jurisdiction.

ARTICLE XX.

Ships navigating under the respective flags of Italy and Cuba and carrying their registers, likewise the documents required by the laws in each of the two states to prove the nationality of merchant ships, shall be considered Cuban vessels in Italy and Italian vessels in Cuba, respectively.

ARTICLE XXI.

The war ships of each of the two nations may enter, remain, and repair their damages in such ports of the other nation as are open to the entrance of war ships of a most favored nation; and there they shall be subject to the same rules and enjoy the same honors, advantages, privileges, and exemptions as are granted to a most favored nation.

ARTICLE XXII.

Vessels charged with performance of postal service belonging to either one of the states, or a company subsidized by either of them, shall enjoy in the ports of the other the special franchises inherent of the public service in which they are engaged and also all the privileges, immunities, and favors granted the postal ships of a most favored nation.

Except in case of a judicial sale the ships of one of the two contracting parties shall not adopt the nationality of the other without a declaration or surrender of flag authorized by the authorities of the state to which the ship belongs.

ARTICLE XXIII.

Cuban citizens shall enjoy in Italian colonies and possessions the same rights and privileges and the liberty of commerce and navigation that are or may be granted to the subjects or citizens of a most favored nation; and the inhabitants of Italian possessions and colonies shall reciprocally enjoy in all their extension the same rights and privileges and the same liberty of commerce and navigation as by this treaty are granted in Cuba to Italians, their commerce and ships.

ARTICLE XXIV.

Until such time as a consular convention is made between the two high contracting parties, they hereby agree that consuls-general, consuls, vice-consuls, and consular agents of the two countries shall enjoy, respectively, the same rights, privileges, and immunities in the terms in which they shall have been granted or may be granted to the consuls-general, consuls, vice-consuls, and consular agents of the most favored nation.

The official archives and documents of consular officers shall be respected as inviolable, and under no circumstance shall the authorities of the country attach them or take information therefrom.

ARTICLE XXV.

Whenever enlistment of Italian immigrants to the Republic of Cuba shall be started either in Italy or another country for account of Italy or in virtue of her concession, by companies or private individuals, the Cuban Government shall direct that contracts offered them shall be equitable and the promises feasible, and that said equitable contracts shall be scrupulously fulfilled. In such cases it shall see that the transportation, disembarkment, and establishment of said immigrants shall be effected in accord with the principles of humanity, security, and hygiene; it shall severely punish those who in any manner deceive an immigrant or abuse him, and shall give said immigrant the greatest protection if he shall have become a victim of deception or abuse, in order that in conformity with the laws of the country he may secure from the persons who shall have injured him a just and proper indemnification.

The Cuban Government shall aid Italian officers traveling in the immigrant service, and shall facilitate their duties both in the ports and the interior of the Republic.

ARTICLE XXVI.

The provisions of the present treaty are applicable to the possessions or colonies of Italy in foreign countries, in favor of whom notice shall be given six months in advance for this purpose by the representative of Italy in Cuba to the secretary of state of the Cuban Republic, during the life of this treaty.

ARTICLE XXVII.

Controversies arising from the interpretation or execution of the present treaty or out of the violation of the same shall be submitted, after all means of direct settlement by friendly agreement shall have been exhausted, to the decision of arbitration commissions, and the result of such arbitration shall be binding upon both Governments.

The two Governments shall, by common consent, appoint the members of these commissions. If no agreement can be reached, each of the parties shall appoint an arbiter or equal number of arbiters, and those so appointed shall designate a third arbiter for cases of disagreement.

The contracting parties shall determine in each case the arbitration proceedings, and the commission shall be empowered to determine said proceeding prior to everything else in case of disagreement between the contracting parties.

ARTICLE XXVIII.

It shall be understood that the stipulations of the preceding articles shall not include the cases in which Cuba shall grant reductions in customs duties on the products of another American State; consequently Italy shall not have the right to claim said concessions as a most favored nation except when they shall have been granted to other than an American State.

ARTICLE XXIX.

The present treaty shall be ratified, and the ratifications shall be exchanged in Habana as soon as all the formalities prescribed by the constitutional laws of the contracting States shall have been fulfilled. It shall take effect on the day on which said exchange of ratifications is effected. It shall be promulgated within two months following that date, and remain in force during ten years from the day of exchange of ratifications.

In case neither of the contracting parties shall have given notice twelve months prior to the expiration of said period of ten years of its intention to terminate the present treaty, the same shall continue in force for the period of one year, counted from the day on which one of the contracting parties shall give this notice to the other.

In witness whereof we, the respective plenipotentiaries, have signed the present treaty and placed our seals on the two original copies in the city of Habana, on December 29 of the year 1903.

CARLOS DE ZALDO. [SEAL.]
O. SAVINA. [SEAL.]

**INDIGNITY OFFERED TO THE UNITED STATES CONSULATE AT
CIENFUEGOS.**

Mr. Squiers to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Habana, February 1, 1904.

(Mr. Squiers reports the receipt of the following telegram from the American consul at Cienfuegos:

When entering the consulate this morning at 6.30 o'clock the janitor called me to the entrance, where I found the door besmeared and the coat of arms literally covered with mud. No other violations were attempted. Have reported

facts to the police, and Acting Mayor Castano ordered immediate investigation. He, in company with other civil authorities, called at the consulate to express their regrets.

Mr. Squiers reports further that he has urged upon the Cuban Government the necessity for measures to prevent further disorders. The President has sent the commander of the rural guard to investigate, and has also instructed the local authorities to make every effort to detect and punish the perpetrators of the outrage. Both the President and Mr. Zaldo have expressed extreme regret over the occurrence.)

Mr. Squiers to Mr. Hay.

No. 853.]

AMERICAN LEGATION,
Habana, February 12, 1904.

SIR: I have the honor to confirm on the overleaf my telegram to the Department reporting an outrage committed against the United States consulate at Cienfuegos, and to inclose copies of correspondence had with the foreign office.

* * * * *

Everybody, from the President down to the lowest official concerned, has been most profuse in apologies and regrets.

Mr. Palma, as a result of my protests, immediately sent General Rodriguez to Cienfuegos to inquire into the situation and, if he found it necessary, to provide for a stronger force of rural guards.

I also sent Captain Hanna to look over the situation, to the end that you might be as closely informed as possible.

* * * * *

I am, etc.,

H. G. SQUIERS.

[Inclosure 1.]

Mr. Squiers to Mr. Zaldo.

HABANA, *January 31, 1904.*

DEAR MR. ZALDO: The following telegram is just received from the United States consul at Cienfuegos:

"When entering the consulate this morning, at 6.30 o'clock, the janitor called me to the entrance, where I found the door besmeared and the coat of arms literally covered with mud. No other violations were attempted. Have reported facts to the police, and acting Mayor Castaño ordered immediate investigation. He, in company with other civil authorities, called at the consulate to express their regrets."

In view of the generally reported state of unrest and disorder now existing in Cienfuegos I must advise that prompt efforts be made toward the detection and punishment of those guilty of this outrage upon the United States consulate.

Ordinarily such acts may not deserve serious attention, but under the existing circumstances it would be very unwise to allow this outrage to pass unnoticed and unpunished.

The news of this will be printed in every American paper to-morrow, and the impression will depend upon the action of your Government in restoring law and order. I beg to request that the local authorities be instructed to make an immediate investigation of the complaint made by Consul Baehr, and that I be informed of the result.

With renewed assurance of my high esteem and consideration,

I am, etc.,

H. G. SQUIERS.

[Inclosure 2.—Translation.]

Mr. Zaldo to Mr. Squiers.

REPUBLIC OF CUBA, DEPARTMENT OF STATE AND JUSTICE,
 DIVISION OF STATE,
Habana, February 1, 1904.

DEAR MR. SQUIERS: I am officially commissioned, in the name of the Government, to present to you our most energetic disapproval of the occurrence which has happened at Cienfuegos, of which you informed me in your letter of yesterday.

We propose that the author of such a low crime, which has greatly pained the Government, shall not remain without punishment.

I shall have the highest pleasure in transmitting to you the results of our investigations at an opportune moment.

Very sincerely, yours,

CARLOS DE ZALDO.

Mr. Hay to Mr. Squiers.

No. 347.]

DEPARTMENT OF STATE,
Washington, March 1, 1904.

SIR: I have to acknowledge the receipt of your No. 853, of the 12th ultimo, regarding the outrage on the United States consulate at Cienfuegos.

In reply I have to say that in view of the apologies made and the precautions taken to prevent a repetition of the insult, the Department is of opinion that the incident may be regarded as closed.

* * *

I am, etc.,

JOHN HAY.

WITHDRAWAL OF UNITED STATES TROOPS FROM CUBA.

Mr. Squiers to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Habana, February 4, 1904.

(Mr. Squiers reports that two batteries from Santiago and two from Habana will leave to-night on the transport *Sumner*. The Cuban Government has shown every mark of respect to the departing troops, and the President and members of the cabinet and other officers were present at the review at which the President made the following address to the troops:

“Under the emotions I now experience it is not an easy matter to express all that I should like to say on this momentous occasion, but the sincerity of the feelings which overflow my heart must supply the deficiency of my words.

“We are in the presence of the most extraordinary fact recorded in the annals of universal history.

“We are here to see off from our shores the remainder of the troops of the United States left in Cuba after helping us in securing our independence and the blessing of freedom.

“They could stay longer under any pretext whatever, they could

serve to impose upon us an unjust demand, but the Government of the United States, identified with the liberal spirit and noble character of the American people, is willing, on the contrary, to prove the disinterest and sincerity of the aid rendered to us, showing, at the same time, that we have, as an independent people, the confidence of one of the most powerful nations on earth.

“The example set forth by the United States in withdrawing the troops from Cuban territory reflects upon them an everlasting glory and causes us to be proud of ourselves, since it means that nobody doubts our competence for self-government, our ability to maintain peace, to keep order and guarantee the property and personal rights of all the inhabitants of the island.

“This is a new service conferred upon us, which, with the others previously received, will bind forever with a strong tie of sincere gratitude the Cuban to the American people.

“Now, I beg you, Honorable Minister Squiers, to be the interpreter of these feelings to the Government and people of the United States, and I beg all present to bid godspeed to the officers and soldiers now leaving us, and to express our wishes for the increasing prosperity and welfare of the American nation.”)

Mr. Squiers to Mr. Hay.

No. 845.]

AMERICAN LEGATION,
Habana, February 5, 1904.

SIR: Confirming on the overleaf my telegram of yesterday, regarding the departure of the United States artillery from Santiago and Cabaña (Habana) on the U. S. transport *Sumner*, I have the honor to say that while in the United States but little attention may be paid to the final withdrawal of our troops from the island the Cuban Government has been strongly impressed by this final act in our Cuban policy.

I wired Mr. Palma's address in full, as he particularly desired that the President be informed of how sincerely grateful he is—speaking for his people—to the United States for its policy of generosity and fair dealing.

That our position here is better than it ever has been is, to my mind, beyond any doubt, and, further, they have a stronger and better government than most people were willing to admit was possible.

I am, etc.,

H. G. SQUIERS.

MESSAGES OF THE PRESIDENT OF CUBA TO THE CONGRESS OF CUBA.

Mr. Squiers to Mr. Hay.

No. 926.]

AMERICAN LEGATION,
Habana, April 23, 1904.

SIR: I have the honor to inclose herewith a translation of the President's message transmitted to Congress on the 4th instant.

I have, etc.,

H. G. SQUIERS.

[Inclosure.]

*The President of Cuba to the Congress of Cuba.**To the Congress:*

The fifth legislature of the National Congress having been inaugurated, it becomes the duty of the Executive to inform the two legislative chambers of the present state of the Republic and the acts of administration from the middle of January last, when the sessions of the last legislature terminated.

* * * * *

The satisfactory state of our diplomatic relations has varied in no wise since my message of November 2, 1903. Since that date the Republic has established diplomatic relations with another new American nation, the Republic of Panama, which was recognized by the Executive on December 23 last, after receiving official notice from the Panama Government that the territory of the Isthmus had been erected in an independent state and after other governments of Europe and America had recognized it. Cuba now has a consular agent in that Republic. In my previous message I mentioned the idea of sending an envoy extraordinary to all the nations of South America for the purpose of greeting them and establishing with them friendly relations. Considering the purpose a good one, I have the honor to recommend to the Congress now that it grant an appropriation for the expenses thereof, estimated at about \$12,000. The treaty relative to recognition by the United States in favor of Cuba of the sovereignty over the the island of Pines, signed July 2, 1903, lapsed by the ratifications not having been exchanged within the stipulated period, caused by the American Senate not having approved it in time. Our minister in Washington and the Secretary of State of the United States have signed a new treaty, exactly the same as the first one, with the sole exception that no date is fixed for exchange of ratifications, so as to avoid a repetition of the original cause for the treaty lapsing. This is the only treaty of those comprised in the appendix to our constitution that is pending with the United States.

A few days ago the American Senate sanctioned the permanent treaty called for by article 8 of said appendix. It was necessary to renew this last treaty because the period for ratification expired without the United States Senate having approved it. It is necessary, therefore, that the Cuban Senate should sanction the new treaty, so that the exchange of ratifications may take place.

In accord with the reasons advanced by the tariff and tax committee in its report to the House of Representatives on December 14, 1903, with regard to the Brussels sugar convention, I recommend to the Congress that it authorize the Executive to adhere to the said convention in behalf of the Republic of Cuba, and to modify paragraphs 293 and 294 of the present tariff so that the import rates on refined sugars shall not exceed 6 francs per 100 kilos or 5½ on other sugars, this in harmony with the provisions of article 3 of the said Brussels sugar convention. The modification of articles 293 and 294 is necessary as a matter of absolute necessity, for the reason that it is possible that the English market be closed to us if we maintain said articles in our tariff. Then the only market open to Cuban sugar would be the United States market, and it would be at the mercy of trust refining companies.

On the reciprocity treaty going into force the following doubts arose: If the benefits of the treaty should be given merchandise imported in bond and not declared for consumption prior to the 27th of December, on which day the treaty took effect; if American or Cuban articles exported to another country and afterwards reexported and imported into Cuba or the United States, respectively, should also enjoy the benefits of the treaty. Both Governments agreed to decide these questions in the affirmative—in the first case because the articles in question could be exported and then reimported into either of the two countries, thus enjoying the benefits of the reduction of tariff rates—in the second case because the terms of the treaty are not subject to a restrictive interpretation on the point in question. However, to avoid that articles of another nation might secure advantage of the benefits the Government has proposed to the United States Government that the two agree to fix indispensable conditions and requisites, so as to thoroughly prove that articles for which the benefits of the reciprocity treaty are claimed in such cases are genuinely products of one of the two contracting countries.

I have previously referred to negotiations under way toward making treaties of amity, commerce, and navigation with some of the nations with which we have mercantile relations. The result has been the signing in this city, on December 29, 1903, of a convention of that kind with Italy, which has already been submitted to the Senate for its approval. Negotiations with respect to the United States, France, and England are well advanced, and we hope to shortly carry them to a satisfactory close. Negotiations have recently been initiated with the Government of Spain for making a treaty of amity, commerce, and navigation, and the department of state is working on a draft of treaty submitted to our consideration by that Government. Other drafts of treaties relative to postal relations and industrial and literary rights of ownership have been presented for our approval, some of which are now under study, others, the terms of which have been accepted, being on the way to final conclusion. Among the drafts of postal conventions there are some on exchange of parcels and postal orders, to which special attention is being given, because such conventions contribute to the aid of small commerce and introduce our home products in foreign countries. The Government has been specially invited by the United States Government to participate in two congresses to be held in St. Louis under the auspices of the exposition. One is a congress of lawyers and jurists, to be held in September of 1904, for the purpose of discussing important questions of international law. The other is a congress of military surgeons, to be held October 10 to 15.

The Postal Union Congress, which was to be held in Rome in April, 1904, has been postponed to the same month in 1905. As the Italian Government had duly invited Cuba to take part in that congress I inform the legislative chambers of the postponement for such action as they deem best.

This country has also been invited by the same Government to take part in an exposition to be inaugurated in Milan in 1905. That exposition will be an international one, and shall comprise transportation and safety methods and artistic manifestations.

Buildings are already under erection for the Liege Exposition, to which the Government of the Republic was formally invited, as I have had the honor to inform the Congress in my two previous messages. It would be well, therefore, if the Congress decides that the nation is to be represented in that exposition, to make an appropriation to cover necessary expenses. I take the liberty to suggest that \$20,000 will be sufficient.

The Republic of Haiti has accredited a diplomatic representative, with the title of chargé d'affaires, near this Government. Cuba's vice-consul will reach said country in a few days, and he will be accredited with equal character as soon as the Senate approves the nomination. So will the consul of the first class now in the Republic of Santo Domingo be accredited as chargé d'affaires before the Government of that country.

* * * * *

I close this message by giving expression to my faith in the growing prosperity of the nation, under the protection of the democratic institutions ruling us, and as a result of the wise measures of the legislative chambers.

T. ESTRADA PALMA.

PRESIDENT'S PALACE, *Habana*, April 4, 1904.

Mr. Sleeper to Mr. Hay.

No. 1116.]

AMERICAN LEGATION,
Habana, November 10, 1904.

SIR: I have the honor to confirm on the overleaf my telegram [not printed] of the 7th instant, relative to the opening of the present session of the Cuban Congress, and to advise you that the session commenced at 3 p. m., with more than two-thirds of the members of each house present.

The President's message * * * was read simultaneously in both the Senate and House, after which an adjournment was taken until the following day.

The message deals with matters of much interest to the United States, salient among which are:

THE PLATT AMENDMENT.

In a short paragraph of seven lines the President thus expresses himself: "The 1st day of last July the ratifications of the treaty signed at Habana on May 22, 1903, were exchanged. This treaty determines the political relations between Cuba and the United States, and as a consequence of this pact the amendment to our constitution containing the provisions of the Platt law are implicitly eliminated."

* * * * *

SANITATION.

The President finds the sanitary condition of the country no worse than last year, and notes the various things that are being done to perfect and extend this most important service. He points particularly to the good work of the sanitary brigades and recommends further appropriation for the continuance of their work. Santiago is especially cited in regard to sanitation. The President says that the sanitation of that city by the General Government, the building of a new customs-house there, and the construction of an aqueduct, are essential to Santiago's well being, and urgently recommends appropriations for these works. He mentions the recent yellow fever case there, explaining that not only was it immediately and successfully taken in hand, but that it must have originated from causes over which Cuba had no control.

The general sanitary board has in preparation many general orders, which the President declares his intention to legalize with his signature, thus obviating much legislation that would otherwise be necessary.

* * * * *

Concerning foreign relations, the President remarks that although Cuba has a remarkably praiseworthy foreign representation, consisting of 100 diplomatic and consular officers, her intercourse with the outside world calls for a more extensive foreign service, and he recommends, in addition, the sending of a special mission to visit all the South American republics.

* * * * *

I have, etc.,

JACOB SLEEPER.

TREATY BETWEEN THE UNITED STATES AND CUBA EMBODYING THE PROVISIONS DEFINING THE FUTURE RELATIONS OF THE UNITED STATES WITH CUBA CONTAINED IN THE ACT OF CONGRESS APPROVED MARCH 2, 1901, MAKING APPROPRIATIONS FOR THE ARMY.

Signed at Habana, May 22, 1903.

Ratification advised by the Senate, March 22, 1904.

Ratified by the President, June 25, 1904.

Ratified by Cuba, June 20, 1904.

Ratifications exchanged at Washington, July 1, 1904.

Proclaimed, July 2, 1904.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Treaty between the United States of America and the Republic of Cuba embodying the provisions defining the future relations of the United States with Cuba contained in the Act of Congress approved March 2, 1901, was concluded and signed by their respective Plenipotentiaries at Habana on the twenty-second day of May, one thousand nine hundred and four, the original of which Treaty, being in the English and Spanish languages is word for word as follows:

Whereas the Congress of the United States of America, by an Act approved March 2, 1901, provided as follows:

Provided further, That in fulfillment of the declaration contained in the joint resolution approved April twentieth, eighteen hundred and ninety-eight, entitled, "For the recognition of the independence of the people of Cuba, demanding that the Government of Spain relinquish its authority and government in the island of Cuba, and to withdraw its land and naval forces from Cuba and Cuban waters, and directing the President of the United States to use the land and naval forces of the United States to carry these resolutions into effect," the President is hereby authorized to "leave the government and control of the island of Cuba to its people" so soon as a government shall have been established in said island under a constitution which, either as a part thereof or in an ordinance appended thereto, shall define the future relations of the United States with Cuba, substantially as follows:

"I. That the government of Cuba shall never enter into any treaty or other compact with any foreign power or powers which will impair or tend to impair the independence of Cuba, nor in any manner authorize or permit any foreign power or powers to obtain by colonization or for military or naval purposes or otherwise, lodgment in or control over any portion of said island."

"II. That said government shall not assume or contract any public debt, to pay the interest upon which, and to make reasonable sinking fund provision for the ultimate discharge of which, the ordinary revenues of the island, after defraying the current expenses of government shall be inadequate."

"III. That the government of Cuba consents that the United States may exercise the right to intervene for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property, and individual liberty, and for

discharging the obligations with respect to Cuba imposed by the treaty of Paris on the United States, now to be assumed and undertaken by the government of Cuba."

"IV. That all Acts of the United States in Cuba during its military occupancy thereof are ratified and validated, and all lawful rights acquired thereunder shall be maintained and protected."

"V. That the government of Cuba will execute, and as far as necessary extend, the plans already devised or other plans to be mutually agreed upon, for the sanitation of the cities of the island, to the end that a recurrence of epidemic and infectious diseases may be prevented thereby assuring protection to the people and commerce of Cuba, as well as to the commerce of the southern ports of the United States and the people residing therein."

"VI. That the Isle of Pines shall be omitted from the proposed constitutional boundaries of Cuba, the title thereto being left to future adjustment by treaty."

"VII. That to enable the United States to maintain the independence of Cuba, and to protect the people thereof, as well as for its own defense, the government of Cuba will sell or lease to the United States lands necessary for coaling or naval stations at certain specified points to be agreed upon with the President of the United States

"VIII. That by way of further assurance the government of Cuba will embody the foregoing provisions in a permanent treaty with the United States."

Whereas the Constitutional Convention of Cuba, on June twelfth, 1901, adopted a Resolution adding to the Constitution of the Republic of Cuba which was adopted on the twenty-first of February 1901, an appendix in the words and letters of the eight enumerated articles of the above cited act of the Congress of the United States;

And whereas, by the establishment of the independent and sovereign government of the Republic of Cuba, under the constitution promulgated on the 20th of May, 1902, which embraced the foregoing conditions, and by the withdrawal of the Government of the United States as an intervening power, on the same date, it becomes necessary to embody the above cited provisions in a permanent treaty between the United States of America and the Republic of Cuba;

The United States of America and the Republic of Cuba, being desirous to carry out the foregoing conditions, have for that purpose appointed as their plenipotentiaries to conclude a treaty to that end,

The President of the United States of America, Herbert G. Squiers, Envoy Extraordinary and Minister Plenipotentiary at Havana,

And the President of the Republic of Cuba, Carlos de Zaldo y Beurmann, Secretary of State and Justice,—who after communicating to each other their full powers found in good and due form, have agreed upon the following articles:

ARTICLE I.

The Government of Cuba shall never enter into any treaty or other compact with any foreign power or powers which will impair or tend to impair the independence of Cuba, nor in any manner authorize or permit any foreign power or powers to obtain by colonization or for military or naval purposes, or otherwise, lodgment in or control over any portion of said island.

ARTICLE II.

The Government of Cuba shall not assume or contract any public debt to pay the interest upon which, and to make reasonable sinking-fund provision for the ultimate discharge of which, the ordinary revenues of the Island of Cuba, after defraying the current expenses of the Government, shall be inadequate.

ARTICLE III.

The Government of Cuba consents that the United States may exercise the right to intervene for the preservation of Cuban independence, the maintenance of a government adequate for the protection of life, property, and individual liberty, and for discharging the obligations with respect to Cuba imposed by the Treaty of Paris on the United States, now to be assumed and undertaken by the Government of Cuba.

ARTICLE IV.

All acts of the United States in Cuba during its military occupancy thereof are ratified and validated, and all lawful rights acquired thereunder shall be maintained and protected.

ARTICLE V.

The Government of Cuba will execute, and, as far as necessary, extend the plans already devised, or other plans to be mutually agreed upon, for the sanitation of the cities of the island, to the end that a recurrence of epidemic and infectious diseases may be prevented, thereby assuring protection to the people and commerce of Cuba, as well as to the commerce of the Southern ports of the United States and the people residing therein.

ARTICLE VI.

The Island of Pines shall be omitted from the boundaries of Cuba specified in the Constitution, the title thereto being left to future adjustment by treaty.

ARTICLE VII.

To enable the United States to maintain the independence of Cuba, and to protect the people thereof, as well as for its own defense, the Government of Cuba will sell or lease to the United States lands necessary for coaling or naval stations, at certain specified points, to be agreed upon with the President of the United States.

ARTICLE VIII.

The present Convention shall be ratified by each party in conformity with the respective Constitutions of the two countries, and the ratifications shall be exchanged in the City of Washington within eight months from this date.

In witness whereof, we the respective Plenipotentiaries, have signed

the same in duplicate, in English and Spanish, and have affixed our respective seals at Havana, Cuba, this twenty-second day of May, in the year nineteen hundred and three.

H. G. SQUIERS. [SEAL.]
CARLOS DE ZALDO. [SEAL.]

And whereas the said Treaty has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the first day of July, one thousand nine hundred and four;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Treaty to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington, this second day of July, in the year of our Lord one thousand nine hundred and four, and of [SEAL.] the Independence of the United States of America the one hundred and twenty-eighth.

THEODORE ROOSEVELT

By the President:

ALVEY A. ADEE

Acting Secretary of State.

SUPPLEMENTARY CONVENTION BETWEEN THE UNITED STATES AND CUBA EXTENDING THE PERIOD WITHIN WHICH MAY BE EXCHANGED THE RATIFICATIONS OF THE TREATY OF MAY 22, 1903, BETWEEN THE UNITED STATES AND CUBA, EMBODYING THE PROVISIONS DEFINING THEIR FUTURE RELATIONS.

Signed at Washington, January 20, 1904.

Ratification advised by the Senate, January 27, 1904.

Ratified by the President, June 25, 1904.

Ratified by Cuba, June 20, 1904.

Ratifications exchanged at Washington, July 1, 1904.

Proclaimed, July 2, 1904.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Supplementary Convention between the United States of America and the Republic of Cuba, extending the time within which may be exchanged the ratifications of the treaty signed May 22, 1903, embodying the provisions defining the future relations of the United States with Cuba, contained in the Act of Congress of the United States approved March 2, 1901, was concluded and signed by their respective Plenipotentiaries at Washington, on the twentieth day of January one thousand nine hundred and four, the original of which Supplementary Convention, being in the English and Spanish languages, is word for word as follows:

The United States of America and the Republic of Cuba, consider-

ing it expedient to prolong the period in which, by Article VIII of the treaty signed by their respective plenipotentiaries on May 22, 1903, embodying the provisions defining the future relations of the United States with Cuba, contained in the act of Congress of the United States approved March 2, 1901, the exchange of ratifications of the said treaty shall take place, have for that purpose appointed their respective Plenipotentiaries, namely:

The President of the United States of America, John Hay, Secretary of State of the United States; and

The President of Cuba, Gonzalo de Quesada, Envoy Extraordinary and Minister Plenipotentiary of Cuba at Washington; who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon the following additional article to be taken as part of said treaty.

SOLE ARTICLE.

The respective ratifications of the said treaty shall be exchanged as soon as possible, and within six months from January 21, 1904.

Done in duplicate at Washington, in the English and Spanish languages, this 20th day of January A. D. 1904.

JOHN HAY [SEAL]
GONZALO DE QUESADA [SEAL]

And whereas the said Supplementary Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the first day of July, one thousand nine hundred and four;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Supplementary Convention to be made public to the end that the same may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington, this second day of July, in the year of our Lord one thousand nine hundred and four, and [SEAL] of the Independence of the United States of America the one hundred and twenty-eighth.

THEODORE ROOSEVELT

By the President:

ALVEY A. ADEE

Acting Secretary of State.

SANITARY CONDITIONS IN CUBA.

Mr. Sleeper to Mr. Hay.

No. 1101.]

AMERICAN LEGATION,
Habana, October 22, 1904.

SIR: I have the honor to transmit herewith to the Department copy of a communication, with inclosures, received from the American

consular agent at Matanzas, Mr. W. W. Handley, reporting on the sanitary condition of that city.

Mr. Handley's letter contains valuable suggestions, and is sent to the Department for its information.

I have the honor, etc.,

JACOB SLEEPER.

[Inclosure 1.]

Mr. Handley to Mr. Squiers.

AMERICAN CONSULAR AGENCY,
Matanzas, October 15, 1904.

DEAR MR. SQUIERS: Having in mind your verbal instructions to keep you informed on the general condition of affairs in this district, I have taken the privilege of personally addressing you on a subject which I am sure you are interested in.

There has been considerable comment among the populace of late as to what steps the General Government proposes to take in remedying the apparent evils of this city. The newspapers have now taken it up. This morning there appeared in one of the local papers here, La Nueva Aurora, an editorial, part of which I have translated and inclose, simply to give you an idea of the local feeling on the matter. Possible comparisons with previous years would serve to explain the situation better than any other way. Up to June 30, 1904, there was appropriated for the sanitary department of Matanzas \$36,000 by the General Government. On July 1 all of this appropriation was cut off, and since that time only \$18,000 of the local funds have been available to carry on a work which heretofore was maintained by twice the amount. With this shortage of funds there has been a consequent reduction in the public works and sanitary force. From January 1 to September 1 of this year there has been a decrease in the number of employees in the sanitary and street-cleaning department from 92 to 50, and only 22 of this number are street sweepers, who are supposed to cover a territory of over 700,000 square yards.

The refuse and garbage is carted to several dumping grounds outside of the city limits, but of late a dump heap has been allowed within the city on the banks of the Yumuri, which divides the city from the district of Versalles. This is considered by the American medical officer here as a menace to the public health. During the American intervention refuse of all classes was either burnt or towed out to sea, and many other precautions were taken to preserve the health of the city. Formerly there was a house-to-house inspection, but since July 1 of this year that also has been abolished. This I consider necessary, as there is an apparent neglect on the part of the doctors to report cases of contagious diseases. Only recently five cases of typhoid fever in the vicinity of this office were not reported to the health office, and consequently no sanitary precautions were taken to prevent its dissemination.

The department of municipal public works was supported by the General Government during the intervention, but since then no allowance has come from this source for the continuation of this most necessary work. An appropriation of the city funds to the amount of \$10,100 was made—\$5,100 devoted to paying the personnel of the office and the balance to public works. This was for the year ending June 30, 1904. Since then the budget has not been approved, and this service has been almost completely discontinued. With the exception of a few repairs to some of the streets, such as filling the holes with crushed stones, etc., no public work of any consequence has been accomplished since the island was turned over to the Cuban Government.

The prevailing opinion here is that a word from you to the proper authorities at Habana, pointing out the urgent need of immediate legislation to remedy the evils of this city, would have more weight and accomplish more good than the combined efforts of the local authorities.

I inclose a clipping of a telegram sent by the mayor to the president of the Senate urging the immediate payment of \$15,000 for maintaining the sanitary department. This amount should have been appropriated by this session of Congress, and through fear Congress will adjourn without doing the needful, much anxiety is manifested.

With highest regards, etc.,

WILLIAM W. HADLEY.

[Inclosure 2.]

Extract from an editorial in La Nueva Aurora, of Matanzas, under heading of "Infected."

This article has been suggested by the discouraging reality now in evidence in this beautiful but unfortunate city of Matanzas through the antihygienic and deleterious condition surrounding its inhabitants, in consequence of the lack of cleanliness and sanitation, which evil seems to have taken a foothold in the principal cities of the Republic. Our higher authorities, whose duty is to look after public health, have tried to maintain a passive attitude toward the towns so injured, and the only results obtained by the three or four municipalities, by their efforts before the Executive of the nation, have been some promises more or less encouraging and remote. Instead of taking action in accordance with the urgent and inexcusable public necessity by applying an immediate remedy, or by compelling those at the head of the Government to take practical proceedings as demanded by a calamity, the dismal effects of which have commenced to be felt, with a tendency to become, before long, devastating and uncontrollable.

It is no longer possible to conceal the disgrace or to silence the cries of indignation arising from all classes of this community because of the suppression or the reduction of the important service of street cleaning and sanitation.

Most of the larger cities in Cuba are gradually retrograding to those uncivilized times when diseases of all kinds had a permanent and favorite prevalence among us by the nonobservance of modern hygiene as recommended by contemporary science.

Cuba was getting rid of the great foci of infection which during long years decimated its population, and hardly had we commenced to reap the benefits derived from the system of sanitation established by the American Government and until recently maintained by the Cuban Government, which was worthy of praise of every inhabitant in Cuba, since everybody was benefited by it, when suddenly this sanitary work has been interrupted through some futility of the administration. The situation has changed, the promising future has become gloomy and frightful, and diseases have reappeared among us. We are under the influence of infectious fevers, scarlet fever, and other diseases, the fatal influence of which conveys to our Cuban homes panic, tribulation, and mourning. And the present gloomy situation is but the outcome of that which will happen in the future, when the invasion of infectious diseases will find a favorable ground to develop into disastrous epidemics, which will not spare the child, the adult, the rich, or the poor.

The people have had many reasons for protest and indignation on this matter. Personal interest of each inhabitant, the spirit of preservation, and the danger to which we are all exposed completely justifies the unanimous protest against the indolence of the administration and against the inefficiency of the higher powers representing the state as regards cleanliness and sanitation, which is comparable to inflicting a rude and criminal blow against the health of the inhabitants of the Republic. The Government is spending enormous sums in other services of less importance and has accumulated many millions of dollars in excess in the public treasury without knowing what use to make of it or having any special object to apply it to, while in our cities are being developed, due to lack of cleanliness, the germs of typhoid fever, scarlet fever, diphtheria, dysentery, and other mortal diseases. We are infected, and it is very urgent that we have sanitation.

[Inclosure 3.—Translation.]

Mr. Ojeda to the president of the Senate.

[Republicano Conservador, October 13, 1904.]

MANTANZAS, CUBA, *October 15, 1904.*

Economic situation this province alarmingly grave, account failure to appropriate \$15,000 gold for sanitary service, as was done in the last budget. Cuban minister in Washington calls the attention this Government to complaints American medical inspector Matanzas bad sanitary condition of city. Urgent that Senate appropriate the sum for municipal sanitation, without which great danger to public health is foreseen.

I. J. OJEDA, *City Mayor.*

Mr. Sleeper to Mr. Hay.

No. 1104.]

AMERICAN LEGATION,
Habana, October 28, 1904.

SIR: I have the honor to inclose herewith copy of the September report from the consulate at Santiago relative to the general conditions existing in that province.

I especially desire to call the Department's attention to the paragraphs on sanitation and water supply.

* * * * *

I have, etc.,

JACOB SLEEPER.

[Inclosure.]

Mr. Little to Mr. Sleeper.

AMERICAN CONSULAR SERVICE,
Santiago de Cuba, October 26, 1904.

SIR: I have the honor to submit the following report of the political and similar conditions in this city for the month ended September 30.

* * * * *

SANITATION.

In regard to the sanitary condition, I can only reiterate that which has already been said in previous reports from this office. Nothing whatever has been done to place the city in a more hygienic condition. The streets are very bad; full of holes where water stagnates and rots. Were it not for the frequent and abundant rains which have served to clean the streets and prevent the accumulation of filth in them they would unquestionably be in a very insalubrious condition, as the force employed for this work is so small that it is impossible for it to keep the streets in the condition which they should be kept.

The garbage is not removed regularly, nor as often as it is supposed to be, and when collected it is not burned, as the city claim that they can not afford to buy petroleum with which to burn it; consequently it is simply dumped on the near outskirts of the city and allowed to rot.

It is the same old story—lots of promises, but no money—so nothing can be done. The alcalde and ayuntamiento are supposed to govern the city, but they are greatly handicapped, as everything must first be approved by the superior authorities at Habana.

* * * * *

The situation with regard to water continues the same. The supply of late has been scanty, in spite of the heavy daily showers. The water has often been turned off several hours in the day in the center of the city without warning. There is no actual work being done toward the construction of a water system, and apparently no prospect of anything being done toward bettering conditions in this respect.

I am, etc.,

C. E. LITTLE.

Mr. Hay to Mr. Squiers.

No. 448.]

DEPARTMENT OF STATE,
Washington, November 25, 1904.

SIR: Referring to Nos. 1101, of October 22, and 1104, of October 28, from your legation, all indicating deterioration in the sanitary condition of certain Cuban ports and districts, and referring also to

the Department's No. 206, of April 13, 1903,^a I inclose for your information copy of a letter from the Secretary of the Treasury.

You will point out to the Cuban Government in unmistakable terms that, unless some efficient system of insuring good sanitary conditions for the cities of Matanzas and Santiago shall be carried out before the beginning of the active quarantine season of the coming year, it may and will probably become necessary for this Government to declare quarantine against Cuban ports.

The reports received by this Government from its consular officers and the officers of the Public Health and Marine-Hospital Service indicate that the sanitary condition of the island is worse than last year, and that the state of affairs is most serious.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Shaw to Mr. Hay.

TREASURY DEPARTMENT,
Washington, November 18, 1904.

SIR: Referring to your letter of October 31, 1904, inclosing copy of a dispatch from the American chargé d'affaires at Habana, and transmitting copy of a confidential communication, with inclosures, received from the vice-consul at Matanzas, Cuba, reporting on the unfavorable sanitary conditions of that city, also to your letter of November 11, 1904, inclosing a copy of a dispatch from the legation at Habana in regard to an alleged case of yellow fever at Santiago, stating that the authorities at Santiago are not capable of handling the matter of sanitation, and that the consul at that place reported that the authorities were well disposed in the matter but did not have enough money to clean the streets of the rubbish, I have the honor to inform you that these papers were transmitted to the Surgeon-General of the United States Public Health and Marine-Hospital Service for his information and consideration.

Your attention is invited to letter from this Department, under date of April 7, 1903, on the same subject, in which it was stated that the Surgeon-General had received a demand from the authorities of Texas, Louisiana, and Alabama for the disinfection of all vessels leaving Cuban ports for ports in the Southern States during the active quarantine season from April to November, 1903.

It was, therefore, urged that the matter be brought promptly to the attention of the sanitary authorities of Cuba in order that quarantine measures, vexatious and expensive, might not be required to be enforced by the United States authorities.

Under instructions from your Department, the American minister at Habana took up the matter with the Cuban authorities, and some efforts seem to have been made to better the insanitary state of affairs at Santiago. I am informed by the Surgeon-General that within the last few weeks two cases of yellow fever have occurred in Punta Sal, a suburb of Santiago, and that the medical officer of this service on duty there, in his reports, agrees with those made by the American consul regarding the bad sanitary condition of the city.

I have the honor to request that a strong statement be made to the Cuban authorities, through the proper diplomatic channels, that unless some efficient system of insuring good sanitary conditions for the cities of Matanzas and Santiago be carried out before the beginning of the active quarantine season of the coming year it may become necessary, as stated in letter on the same subject, dated April 7, 1903, quoted above, to declare quarantine against Cuban ports. The urgent necessity for such action is very apparent when it is considered that sanitary matters in the two cities named above, according

^a Not printed.

to reports both from the consular officers and the officers of the Public Health and Marine-Hospital Service, is worse than last year and the state of affairs is most serious.

Respectfully,

L. M. SHAW, *Secretary.*

Mr. Squiers to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Habana, November 28, 1904.

(Mr. Squiers reports a conference with the President of Cuba, in which the latter stated that he had sent the chief of sanitation to Santiago to make a thorough investigation, and that he had called a meeting of representatives to discuss the sanitary measure proposed in his message, and that he is confident that the necessary money will be appropriated.)

Mr. Squiers to Mr. Hay.

No. 1137.]

AMERICAN LEGATION,
Habana, December 3, 1904.

SIR: I have the honor to forward herewith copies of sanitary reports from the American consul at Santiago and the American consular agent at Cardenas, the former referring to an alleged case of yellow fever at Santiago city and the latter to general sanitary conditions at Cardenas.

I am, etc.,

H. G. SQUIERS.

[Inclosure 1.]

Mr. Holaday to Mr. Squiers.

AMERICAN CONSULATE,
Santiago de Cuba, November 26, 1904.

SIR:

* * * * *

The Cubano Libre of yesterday contained an article stating that a supposed case of yellow fever had originated in Carniceria street, and that the person attacked had been removed to the yellow-fever hospital at Cayo Duan. Immediately upon reading the article referred to I requested Doctor Wilson to make careful inquiry of the sanitary authorities as to the particulars of the case, and also to make an investigation and inspection of the neighborhood where the case was supposed to have originated.

The sanitary condition of the city remains generally bad. Evidences of neglect are visible in the condition of the streets of the outlying districts, and even those of more frequent use in the city. From unconfirmed reports, however, I am led to believe that the streets of the city are models of cleanliness compared with the interior of many of the houses. So far as I have been able to learn no house-to-house inspections have been made for the past six months.

* * *

I am, etc.,

R. E. HOLADAY.

[Inclosure 2.]

*Mr. Webster to Mr. Squiers.*AMERICAN CONSULAR AGENCY,
Cardenas, November 30, 1904.

SIR: In compliance with your request, I have the honor to make the following report as to existing sanitary conditions in Cardenas:

I consider them bad, although at present nothing but "ordinary diseases" prevail. Last week there were three cases of scarlet fever, two brought here, it is claimed, and the other originating here; these, by being isolated, have controlled the disease.

Although there is a sanitary inspector here, there is no adequate sanitary service, and the inhabitants dispose of refuse as they see fit. There is no inspection or disinfection of water-closets and cesspools.

There is no sewerage system here. Most of the houses drain into the streets, and the gutters, in parts of the town, are in a deplorable condition, filled with stagnant water and covered with green slime. In various parts of the town, and near the center, there are pools and lakes of stagnant water, thickly covered with green slime, and breeding places for myriads of mosquitoes with which the town is cursed, and of which, I am told, it is never without. At present they are very troublesome.

The only reason I can give for the town being fairly healthy at present is that the streets are broad and are swept by a good healthy sea breeze, but I believe that if once attacked yellow fever would take a strong hold.

A well-known physician here, with whom I talked to-day, agrees with me in the above, and states that these ponds or pools should be filled in, the gutters cleaned, a house-to-house inspection made, and disinfecting system of water-closets and cesspools rigidly enforced. Radical measures should be taken immediately for effectually draining the town.

I am, etc.,

E. B. WEBSTER.

Mr. Squiers to Mr. Hay.

[Telegram.]

AMERICAN LEGATION,
Habana, December 15, 1904.

Bill allotting \$190,000 for sanitation of Santiago and other cities passed House yesterday.

SQUIERS.

Mr. Squiers to Mr. Hay.

[Telegram.]

AMERICAN LEGATION,
Habana, December 17, 1904.

Senate this afternoon passed bill appropriating \$326,000 for the sanitation of Santiago de Cuba, Cienfuegos, Matanzas, Cardenas, Nuevitas, Trinidad, Caibarien, Isabella de Sagua, Batabano, Camaguey, Santa Clara, Guines, Pinar del Rio, and Guanajay. As House has adjourned, matter can not go before conference committee until after recess, January 9.

SQUIERS.

**MURDER OF E. A. MURRAY.—INVESTIGATION AND PROCEDURE
UNDER CUBAN LAW.**

Mr. Squiers to Mr. Hay.

No. 715.]

AMERICAN LEGATION,
Habana, November 7, 1903.

SIR: I have the honor to transmit to the Department copies of correspondence^a this legation has had up to date with the foreign office and a leader of Americans at Puerto Principe (Camaguey), one Richard Hargrave, over the murder of an alleged American, E. A. Murray, while locked up at the police headquarters there for drunkenness and refusing to pay a cabman in whose coach it appears he had ridden for some hours on the day of his murder, October 18.

From all accounts it appears that this man Murray was locked up in the same cell as was a demented negro named Manuel Fuentes, and the judicial authorities at Camaguey have this man under prosecution as the murderer. It seems to be the belief among the Americans at Camaguey that Fuentes is not the real culprit, and that he has been made the scapegoat for some one else, possibly a Government officer. The Americans at Camaguey engaged the services of an attorney to assist in the prosecution of the case, but his participation was refused on the ground that Hargrave, the leader of the Americans, was not the legal representative of Murray. The ruling of the lower court was appealed against before the audiencia of Camaguey, but I have no information that a hearing by that court has taken place.

Be the murderer who he may, it would appear that the police officers at Camaguey are guilty of criminal negligence in confining a drunken man in the same cell with a demented man, and that the Cuban Government coincides in this is evidenced by an order of the secretary of government here to the civil governor of Camaguey to start an investigation toward fixing upon that responsibility.

I have, etc.,

H. G. SQUIERS.

Mr. Adee to Mr. Squiers.

No. 304.]

DEPARTMENT OF STATE,
Washington, December 16, 1903.

SIR: I inclose copy of a letter from Mr. Wilson A. Murray, in regard to the murder of his father in Cuba.

You will ascertain what steps should be taken to procure counsel to assist in the prosecution of the case, if this should be deemed necessary.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Mr. Murray to Mr. Loomis.

PITTSBURG, TEX., *December 16, 1903.*

DEAR SIR: I am in receipt of your letter of the 23d ultimo, regarding the case against the murderer of my father, E. A. Murray. Kindly inform me what is

necessary to procure counsel to assist the State in the prosecution. My address will be here in Pittsburg, Tex., from now on, so you can address any and all letters to me here and I will receive them.

Yours, very respectfully,

WILSON A. MURRAY.

Mr. Sleeper to Mr. Hay.

No. 790.]

AMERICAN LEGATION,
Habana, December 31, 1903.

SIR: I have the honor to acknowledge receipt of Department's instruction No. 304, of December 16, 1903, inclosing copy of a letter from Mr. Wilson A. Murray in regard to the murder of his father, and requesting this legation to ascertain what steps should be taken to procure counsel to assist in the prosecution of the case.

In reply I beg to inclose herewith translation of a personal note from the director of the state department to this office, giving the desired information and accompanied by a copy, translation of which is inclosed, of the articles of the law of criminal procedure pertaining to the case.

I have, etc.,

JACOB SLEEPER.

[Inclosure 1.]

REPUBLIC OF CUBA,
DEPARTMENT OF STATE AND JUSTICE,
Habana, December 28, 1903.

DEAR MR. SLEEPER: Referring to our conversation of this morning, I take pleasure in stating to you that American citizens who are not residing in this country and desire to bring a private action in this country for crimes committed against the person or property of a relative in any of the cases in which that action is authorized by law should make a power of attorney for that purpose in favor of the attorney or person who, under the guidance of the attorney, is to represent them before the tribunal that is taking or should take cognizance of the punishable act, and furthermore prove, by documents with which the same could be done in their nation, the relationship and the circumstance that in the United States bond is not required of Cuban citizens in similar cases.

If the power of attorney is not made before a Cuban consular officer it should be legalized by one of said officers, and the additional documents to be presented to the tribunal must also be legalized. The signature of the consular officer must be legalized also by this office.

I send you attached a copy of the articles of the law of criminal procedure pertaining to the case.

Very sincerely, yours,

AURELIO HEVIA.

[Subinclosure.]

Law of criminal procedure.

ARTICLE 270. Every Spanish citizen, whether offended by the crime or not, may bring complaint by way of the popular action established in article 101 of this law.

Foreigners may also bring complaint on account of criminal acts committed on their persons or properties or the persons or properties of those whom they represent, but not until they comply with the provisions of article 280, unless they are comprised in the last paragraph of article 281.

ARTICLE 281. The following persons are exempt from compliance with the provisions of the preceding article:

1. The offended person and his heirs or legal representatives.

2. In cases of murder and homicide, the widower or widow; the ancestors or descendants by blood or affinity; collaterals; uterine, by blood or affinity up to the second degree; heirs of the victim, and the natural fathers, mothers, and children to which paragraph 3 of article 261 refers.

The exemption from bond is not applicable to foreigners unless same corresponds to them in virtue of international treaties or by the principle of reciprocity.

Mr. Loomis to Mr. Squiers.

No. 319.]

DEPARTMENT OF STATE,
Washington, January 14, 1904.

SIR: Referring to former correspondence in regard to the killing of E. A. Murray, I have to request that you will ask the foreign office to advise you as to the result of the investigation which Mr. Zaldo on November 9 last stated had been ordered "to find out what responsibility there may be on the part of the police on duty at the police headquarters of Puerto Principe."

You will inform the Department of the result of your inquiry.

I am, etc.,

F. B. LOOMIS.
Acting Secretary.

Mr. Squiers to Mr. Hay.

No. 825.]

AMERICAN LEGATION,
Habana, January 22, 1904.

SIR: Referring to legation's dispatch No. 790, of December 31, 1903, and Department instruction No. 319, of the 14th instant, relative to the murder of E. A. Murray, an American citizen, I have the honor to transmit herewith translation of a note received from the foreign office advising me of a decision which has been rendered by the audiencia at Camaguey, the place where the murder was committed, acquitting Manuel Fuentes Remedios, alias "Jubileo," who had been charged with the murder, on the ground of insanity, and confining him to an asylum for the insane. The proceedings against the police officer, Serafin Monteo, who locked up the murdered man in the same cell with the insane negro, supposed to be harmlessly so, have also been dismissed, but he will be punished for negligence in the discharge of his duties.

I am, etc.,

H. G. SQUIERS.

[Inclosure.]

Mr. Zaldo to Mr. Squiers.

DEPARTMENT OF STATE AND JUSTICE,
Habana, January 13, 1904.

MR. MINISTER: Referring to the murder of Mr. E. A. Murray, in consequence of which the corresponding cause followed before the tribunals of Camaguey, where the murder occurred, I have the honor to inform your excellency that I am informed by the chief magistrate of the audiencia of that city that a decision has been handed down in said cause entirely dismissing Manuel Fuentes

Remedios, alias "Jubileo," principal of the crime, as his state of insanity was demonstrated, and he was, therefore, irresponsible for his acts; and that he has been ordered confined in the insane asylum. Police Officer Serafin Monteo, jailer at the police headquarters, was likewise dismissed (he being the one who, ignorant of the insanity of "Jubileo," put him and Murray both in the same cell), inasmuch as none of his acts constituted either a crime or misdemeanor. However, the municipal mayor was informed thereof, in order that he might be administratively punished for the negligence he has shown in the discharge of his duties.

I avail myself, etc.,

CARLOS DE ZALDO.

Mr. Squiers to Mr. Hay.

No. 1083.]

AMERICAN LEGATION,
Habana, October 1, 1904.

SIR: Referring to my dispatch No. 825, of January 22 last, with respect to the murder of Edward A. Murray, an American citizen, I have the honor to transmit herewith copies and translations of further correspondence regarding the case.^a

I desire to invite the Department's attention to the grossly inadequate punishment of the policeman who, if the Government's contention that Murray was alive at the time he was placed in the cell is true, was guilty of gross neglect of duty as well as criminal carelessness, which resulted in Murray's murder. Five days' arrest in the police barracks for placing a drunken man (Murray) in the same cell with an insane negro, the latter armed. Contrast this punishment with the usual sentence given a drunken American sailor for striking a policeman—one year and eight months.

I do not know what further action there is possible for the legation to take in the matter, and shall drop the case unless otherwise instructed.

I have, etc.,

H. G. SQUIERS.

Mr. Hay to Mr. Squiers.

No. 438.]

DEPARTMENT OF STATE,
Washington, October 10, 1904.

SIR: I have to acknowledge the receipt of your No. 1083, of the 1st instant, inclosing copies of further correspondence regarding the case of the murder of Edward A. Murray.

It appears therefrom that the policeman, from whose negligence of duty and criminal carelessness in placing Murray in a cell with an insane armed negro the murder of Murray resulted, was sentenced to five days' arrest in the police barracks.

The Department concurs in your view that this punishment was entirely inadequate, and desires you to so inform the Cuban Government, and to ask that a punishment commensurate with the offense be imposed in the case.

I am, etc.,

JOHN HAY.

^a Not printed.

DENMARK.

NEUTRALITY OF CHINA IN THE WAR BETWEEN RUSSIA AND JAPAN.

Mr. Hay to Mr. Swenson.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 11, 1904.

(Mr. Hay instructs Mr. Swenson to consult the Danish Government in regard to the possibility and desirability of an arrangement between the neutral powers to use their good offices with Russia and Japan for the purpose of inducing them to respect China's neutrality and administrative entity as far as possible, limiting and localizing the area of hostile operations to minimize the disturbance and excitement of the Chinese people and the injury to commerce and to the peaceful intercourse of the world. If no opposition to this proposition is offered he is instructed to suggest that the representatives of Denmark at St. Petersburg, Tokyo, and Peking be instructed in this sense.)

Mr. Swenson to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Copenhagen, February 15, 1904.

(Mr. Swenson reports that the Danish Government is in favor of Department's proposal and will accept the same as soon as the acceptance of France, England, and Germany is announced.)

Mr. Swenson to Mr. Hay.

No. 329.]

AMERICAN LEGATION,
Copenhagen, February 16, 1904.

SIR: I have the honor to acknowledge the receipt of your telegram of the 11th instant and to confirm mine of the 15th in reply.

On the same day that your telegram reached me I communicated its contents to the minister of foreign affairs in a note, of which you will find a copy herewith. I also called at the foreign office and had a long interview with the minister regarding your proposal. His

excellency began by saying that the proposal did "great honor to Mr. Hay." He liked the moderate and discreet language in which it was couched, and expressed warm admiration of the just, humane, and broad minded views it represented. He was very frank in discussing the matter, assuring me that he approved your suggestions unreservedly, and that he would lay them before the King at the earliest opportunity. On the following day, February 13, my note was read at a council of state, attended by the King and the crown prince. In the evening the crown prince and minister of foreign affairs were present at a dinner which I gave in my apartments, and both took occasion to speak of your proposal and of the Danish Government's attitude with regard to it. I understood that the opinions of the King, crown prince, and the ministry had all been favorable to your plan. * * *

Yesterday, February 15, I again called at the foreign office to ascertain if favorable action had been taken, or would soon be taken, on your suggestion. The minister told me that no instructions had as yet been sent to St. Petersburg, Tokyo, and Peking. He had been informed by Danish diplomatic representatives at the principal European capitals that the governments which had replied to the American proposal had accepted it only in principle. That being the case, Denmark could not well take the lead in so important a matter; but as soon as some of the other powers—for instance, England, Germany, and France—announced their acceptance Denmark would follow without delay. * * *

The Danish proclamation of neutrality was issued on the 10th instant. The neutral obligations are recited, and all concerned are warned to heed the same. The Rigsdag has subsequently passed a law increasing the penalties imposed by the statutes relating to neutrality. Fifteen hundred reserves have been called in to increase the garrisons at the various fortifications. The navy is also put in better readiness for an emergency.

* * * * *

I have, etc., LAURITS S. SWENSON.

[Inclosure.]

Mr. Swenson to Doctor Deuntzer.

AMERICAN LEGATION,
Copenhagen, February 12, 1904.

EXCELLENCY: In a telegram dated the 11th instant, which reached me this morning, anent the present Russo-Japanese war, the Secretary of State instructs me to consult your excellency regarding the possibility and desirability of the neutral powers concurrently using their good offices with Russia and Japan to induce them to respect the neutrality and, in all practicable ways, the administrative entity of China, to localize and limit, as much as possible, the area of hostilities, so that undue excitement and disturbance of the Chinese people may be prevented and the least possible loss to the commerce and the peaceful intercourse of the world may be occasioned.

My Government is animated in this matter by a desire to preserve the peace of the world, an object which I know the Danish Government no less ardently wishes to promote. I shall take the liberty of calling on your excellency this afternoon for the purpose of discussing Secretary Hay's proposal, which I hope will receive your approval.

I avail, etc.,

LAURITS S. SWENSON.

Mr. Swenson to Mr. Hay.

No. 331.]

AMERICAN LEGATION,
Copenhagen, February 24, 1904.

SIR: Referring to my 329, of the 16th instant, I now have the honor to inclose herein a copy of a note from the minister of foreign affairs, dated the 23d instant, in which the Danish Government formally accepts your proposal regarding the neutrality and administrative entity of China.

The diplomatic representatives of Denmark at St. Petersburg, Tokyo, and Peking will immediately be notified that such action has been taken.

I have, etc.,

Laurits S. Swenson.

[Inclosure.—Translation.]

Mr. Deutzler to Mr. Swenson.

COPENHAGEN, *February 23, 1904.*

MR. MINISTER: I have received your note of the 12th instant, in which you were good enough to communicate to me the proposal of his excellency the Secretary of State at Washington relative to concurrent action by the neutral powers in the war between Russia and Japan, for the purpose of requesting the belligerent powers to respect the neutrality of China. In reply, I have the honor to inform you, as I have already done verbally, that His Majesty's Government adheres in principle to the above-mentioned proposal, which has been conceived for a humane purpose and which accords with the ardent desire of the Government that the peaceful relations of the world be disturbed as little as possible.

In approving the principle of the proposal, His Majesty's Government does not, however, intend to obligate itself thereby to cooperate in such measures as the other neutral powers may deem necessary or opportune in consequence of the concurrent action referred to above.

Be pleased, etc.,

Deutzler.

DOMINICAN REPUBLIC.

RECOGNITION OF THE PROVISIONAL GOVERNMENT OF THE DOMINICAN REPUBLIC.

Mr. Powell to Mr. Hay.

No. 680. Santo Domingo Series.] AMERICAN LEGATION,
Santo Domingo City, D. R., December 3, 1903.

SIR: I have the honor to inclose to the Department the correspondence that it has passed between the provisional government and this legation, on the subject of recognizing the present government.

I am, etc.,

W. F. POWELL.

[Inclosure 1.—Translation.]

Mr. Alfau to Mr. Powell.

DOMINICAN REPUBLIC, DEPARTMENT OF FOREIGN RELATIONS.

Santo Domingo, December 2, 1903.

Hon. W. F. POWELL: I have the honor to communicate to your excellency that the revolution initiated in Puerto Plata on October 24 last, having triumphed, and having the support of the whole Republic the Government under the presidency of Gen. Charles F. Morales has been constituted in the following form: Gen. Charles Heynoso, minister of interior and police; Citizen Miguel Emilio Alfau, minister of foreign relations; Citizen Enrique Jimenes, minister of justice and public instruction; Citizen Enrique Pou, minister of finance and commerce; Gen. Eliseo Cabrera, minister of war and marine; Citizen Eladio Victoria, minister of improvement and public works; Gen. Charles Ginebra, minister of posts and telegraphs.

The desire to increase each day the chain of cordial relations that unite the Dominican Republic with the State so highly represented by your excellency, moves me to request in the name of my Government the recognition of this Government as a base upon which ought to rest the relations that have existed and ought to exist always between the Dominican people and the nation that has charged to your excellency its representation in this Republic.

The men who are in charge of the public affairs, being imbued with the salutary purpose of organizing the prosperity of the country upon a solid foundation and bring about more cordial relations with friendly nations, do not doubt that your excellency will effectually contribute toward strengthening the bonds of mutual friendship between my Government and that of the nation so worthily represented by your excellency, and request you specially to inform your Government of the existence of the Government which has recently taken charge of national affairs, with the unanimous support of the country, as a result of the revolutionary movement of October 24 last.

Please accept, etc.,

MIGUEL E. ALFAU.

[Inclosure 2.]

Mr. Powell to Mr. Alfau.

AMERICAN LEGATION,
Santo Domingo City, D. R., December 3, 1903.

SIR: I have the honor to acknowledge the receipt of your excellency's favor of December 2, by which you inform me that Gen. Carlos Morales is the pro-

visional president of this Republic and that he had selected as members of his cabinet certain gentlemen to assist him in conducting the affairs of the present Government, the names of whom I find in your dispatch.

Your excellency also informs me that it is the desire of the new Government to increase the cordial relations of this Republic with that of the United States of North America, of which I have the honor to be its representative.

Further, your excellency informs me that it is the aim and purpose of General Morales, the President, and the members of his cabinet, to organize upon a solid foundation the future prosperity of the country.

Your excellency finally requests that I will bring these facts to the knowledge of my Government, and with a view to the recognition of the present Government.

In reply to your excellency's favor I am very glad to be informed that General Morales is the Provisional President of the Republic and also to receive the names of the members of his cabinet; and lastly, to learn that it is the wish of General Morales to cement the bonds of amity that exist at the present time between the Republic of Santo Domingo and my Government.

In response to your request for recognition, I will be glad to do so when I am informed by your excellency upon the following matters:

That the present Government pledge itself to recognize all the engagements entered into between this legation and the Dominican Republic, and all former engagements made with preceding administrations.

* * * * *

If your excellency's government agrees to the above, I will with pleasure communicate the same to my Government by cable, and upon receipt of reply will communicate the same to your excellency.

Please accept, etc.,

Please accept, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

No. 686. Santo Domingo series.] AMERICAN LEGATION,
Santo Domingo City, D. R., December 15, 1903.

SIR: I have the honor to submit to the Department correspondence that this legation has had with the present Government on the subject of recognition.

I have the honor also to state that a member of the Government desired to know if my Government would lend them, or advance to them, money. I have informed them that my Government could not advance any money for any purpose without the consent of Congress; that no money could be taken from the Treasury of the country without the sanction of Congress, and that it would be useless to make an appeal of this character to President Roosevelt or to the Hon. John Hay.

I have, etc.,

W. F. POWELL.

[Inclosure 1.—Translation.]

Mr. Alfau to Mr. Powell.

DOMINICAN REPUBLIC,
DEPARTMENT OF FOREIGN RELATIONS,
Santo Domingo, December 4, 1903.

HON. W. F. POWELL: I have the honor to acknowledge the receipt of the attentive note of your excellency, dated the 3d instant, by which you submit to my consideration two points, which answer I reserve until all the members of the provisional executive have announced their arrival in this city; that will be very soon.

As soon as their arrival is effected and the Government will be in a majority, I will have great satisfaction in submitting with preference to all other questions the points submitted by your excellency in the note that I have the honor to answer.

Please accept, etc.,

MIGUEL E. ALFAU.

[Inclosure 2.—Translation.]

Mr. Powell to Mr. Machado.

AMERICAN LEGATION,
Santo Domingo City, D. R., December 9, 1903.

SIR: I have the honor to acknowledge the receipt of your excellency's communication of December 7, informing me that General Morales had appointed you to take charge of the department of foreign relations.

Permit me to inform your excellency that while I have the honor to acknowledge your excellency's communication, my Government has not as yet recognized the existence of the present government and can not do so until an answer has been returned to my communication of December 3, upon the receipt of which I will inform my Government.

I remain, etc.,

W. F. POWELL.

[Inclosure 3.]

Mr. Machado to Mr. Powell.

DOMINICAN REPUBLIC,
DEPARTMENT OF FOREIGN RELATIONS,
Santo Domingo, December 12, 1903.

MR. CHARGÉ D'AFFAIRES: Referring to the attentive communication of your excellency of the 9th of this month, I have the honor to solicit from your excellency's courtesy kindly to determine the contracts or agreements previously entered into with the United States Government and which your excellency demands to be accepted by the present provisional government of the Dominican Republic.

As soon as the government of which I am a member shall know from your excellency which are these contracts, the government will try within the limits of its means and faculties to settle in the most satisfactory way possible for the good understanding which should exist in the relations of both governments, which relations the Dominican Government is very much interested to uphold in the best of terms.

I beg to renew, etc.,

MANUEL A. MACHADO.

[Inclosure 4.]

Mr. Powell to Mr. Machado.

AMERICAN LEGATION,
Santo Domingo City, D. R., December 12, 1903.

SIR: I have the honor to acknowledge the receipt of your excellency's communication of December 12, 1903, in which your excellency requests that I would name the agreements to which I have requested your excellency's Government's assent prior to the recognition of the present provisional government, and that your excellency's Government shall consider that these matters are finally and fixedly adjusted and are not to be reopened.

In reply to your excellency's request I have the honor to state: The matters or agreements to which I have referred in a previous communication to your excellency's office are as follows:

First. That your excellency's Government considers as closed and finally adjusted the provisions of the protocol of January 31, 1903, as made by Gen. J. F. Sanchez, minister of foreign relations, and this legation in the adjust-

ment of the existing differences between the Dominican Government and the Santo Domingo Improvement Company.

Second. That your excellency's Government accepts as settled the claim of Mr. Salvador Ros and others against the Dominican Government regarding certain concessions held by them in the port of San Pedro de Macoris.

Third. That your excellency's Government accepts as settled the provisions of the agreement of the claim of Juan Sala & Co., our citizen, against the Dominican Government.

Fourth. That your excellency's Government accepts the provisions as agreed upon by Gen. Juan F. Sanchez and this legation regarding the concession of Messrs. W. P. Clyde & Co. to operate a steamship line between the ports of this Republic and the ports of the United States of America.

The above are the points that I desire to hear from your excellency upon.

I beg, etc.,

W. F. POWELL.

[Inclosure 5.—Translation.]

Mr. Machado to Mr. Powell.

DOMINICAN REPUBLIC,
DEPARTMENT OF FOREIGN RELATIONS,
Santo Domingo, December 14, 1903.

MR. CHARGÉ D'AFFAIRES: It is gratifying to me to inform your excellency that, the matter of recognition of the provisional government being important as well as the acceptance of the agreements entered into by former administrations to which reference is made by your excellency in to-day's dispatch, the Provisional Government has resolved to prove once more the interest it has to uphold on the best footing the friendly relations with the United States of America and to admit within its judicial capacity as a government de facto the following instruments of agreement:

1. The protocol signed on January 31, 1903, which settles the claim of the Improvement Company and its allies;

2. The protocol signed on March 2, 1903, which settles the claim known as the Ros concessions and its rights as concessionee of the wharf and harbor of San Pedro de Macoris;

3. The protocol signed on the 2d of March, 1903, which is the claim known as the Clyde case and its rights as concessionists for the service of navigation to the ports of Santo Domingo; and

4. The protocol signed in April, 1902, which settles the claim known as J. Sala & Co.

The Dominican Government hopes that in view of the difficult economic situation through which the Government is now passing, it will be granted indispensable facilities for the execution of such clauses of the recognized agreements which imply payment of amounts not satisfied and to be satisfied, and entertaining such hope the Government depends on the spirit of cordiality and justice of which your excellency has so frequently given proofs in your official relations with the Dominican Government.

I beg to renew, etc.,

MANUEL A. MACHADO.

[Inclosure 6.]

Mr. Powell to Mr. Machado.

No. 421.]

AMERICAN LEGATION,
Santo Domingo City, D. R., December 15, 1903.

SIR: I have the honor to acknowledge the receipt of your excellency's favor of to-day's date, informing me that your excellency's Government accepts as finally settled and not to be reopened the following agreements made with previous administrations, viz:

First. The protocol signed January 31, 1903, regarding the existing differences between the Dominican Government and the Santo Domingo Improvement Company.

Second. The agreement entered into in the Sala & Co. claim.

Third. The agreement made in the Ros case in regard to certain rights he received from the Dominican Government for wharf privileges, and certain sums of money due by the Dominican Government to him.

Fourth. The agreement made that the Dominican Government shall respect and carry into execution in all its parts in accordance with the terms stated in the said agreement regarding the concession of Messrs. W. P. Clyde & Co. for a line of steamers between the ports of this Republic and those of the United States of North America.

In reply I have the honor to state that I will at the earliest opportunity communicate your answer to my Government, and will inform you as soon as I receive a reply. Your excellency's answer has been delayed so long, and other events have occurred since my propositions were made to your excellency's office, that a reply may be somewhat delayed.

I have also to remind your excellency that my propositions, that I would not make a demand for money on any of the claims above named, is limited to the establishment of a constitutional government, and supposing that said government shall enter upon the functions of office February 27, 1904; if delayed longer than this period it is hereby understood that I am not bound to any extension of time beyond the said date (February 27).

I have, etc.,

W. F. POWELL.

Mr. Loomis to Mr. Powell.

No. 210. Santo Domingo series.]

DEPARTMENT OF STATE.

Washington, January 9, 1904.

SIR: I have to acknowledge the receipt of your No. 686, of the 15th ultimo, inclosing copies of your correspondence with the Morales Government, relative to the question of its recognition by the United States.

Your notes are approved.

This Government holds the question still under consideration, awaiting a more settled state of affairs in the Dominican Republic.

I am, etc.,

F. B. LOOMIS,
Acting Secretary.

Mr. Loomis to Mr. Powell.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,

Washington, January 17, 1904.

(Mr. Loomis states that no definite information has reached this Department as to the prevailing conditions in Santo Domingo, and asks Mr. Powell if the stability of either the provisional or Jiminez government is sufficient to justify formal recognition.)

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,

Santo Domingo, January 20, 1904.

(Received 1.10 a. m., January 23, 1904.)

(Mr. Powell reports that the American legation has this day recognized the provisional government under President Morales, and that the United States consuls and naval vessels in port have been notified.)

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, January 24, 1904.
 (Received 8.10 p. m. January 29, 1904.)

(Mr. Powell acknowledges receipt of Department's telegram of the 17th instant, and reports the situation unchanged. The provisional government has taken Puerto Plata, Moca, and Lavega, but has lost Macoris. The provisional government has been recognized by the United States legation as the de facto government on the 20th. Insurgents are still around the city destroying American property; the cables remain cut. The *Columbia* returned last night from Macoris.)

Mr. Powell to Mr. Hay.

No. 726, Santo Domingo Series.] AMERICAN LEGATION,
Santo Domingo City, D. R., January 25, 1904.

SIR: I have the honor to state to the Department that on the 20th of this month, as I have previously advised, I formally recognized the government of which Gen. Carlos F. Morales L. is the provisional president as being the de facto government.

I also cabled to the Department on the 20th of the month of my action, and to our consuls in the Republic, and the commandants of the naval vessels in these waters (Santo Domingo and Puerto Plata). On the same day I informed my colleagues of the diplomatic corps and the members of the consular corps of my action.

On the next day Captain Miller and officers of the U. S. S. *Columbia* made an official call upon the President. The minister of foreign relations and the minister of war, representing the President, were to call on the next day, but were prevented by the *Columbia* having to leave suddenly for Macoris. As the *Columbia* is now here, the contemplated visit will be made to-morrow (26th).

The French chargé informs me that his Government has instructed him by cable to recognize the present government, and that he would now do so.

I have the honor to inclose the correspondence upon this matter.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

Mr. Powell to Mr. Roman.

AMERICAN LEGATION,
Santo Domingo City, D. R., January 20, 1904.

SIR: I have the honor to inform your excellency that the Government of the United States of North America, through its representative accredited to this Republic, recognizes the Government, of which Gen. Carlos F. Morales is the provisional president, and in view that the said Government is in possession

of the capital of the Republic, the archives, the great seal of state, the arsenals, and the principal ports of the Dominican Republic, as being the de facto government of the Republic.

Allow me, etc.,

W. F. POWELL.

[Inclosure 2.—Translation.]

Mr. Roman to Mr. Powell.

DOMINICAN REPUBLIC,
DEPARTMENT OF FOREIGN RELATIONS,
Santo Domingo, January 20, 1904.

MR. CHARGÉ D'AFFAIRES: I have the honor to answer the very attentive and satisfactory note of your excellency that you have been so kind to remit, on the date of the 19th of the present month, to bring to the knowledge of the provisional government of General Morales that the Government of the United States of North America, through its representative accredited to this Republic, recognizes that the Government of which Gen. Carlos F. Morales is the provisional president, in view of being in possession of the capital of the Republic, of the archives, of the great seal of the state, of the arsenals, and of the principal ports of the Dominican Republic, is the de facto government of the Republic.

The present Government, presided over by Mr. Morales, can not be less than highly grateful to that of the United States of America and to your excellency, that so worthily represents it in this capital, for the act of recognition of which it has received notification, and by which it is capacitated to realize its purpose of affirming and welding the chains of friendship that unite it with the great Republic of North America.

Please accept, etc.,

JOSÉ R. PEREZ ROMAN.

PROTECTION OF THE GERMAN VICE-CONSUL AT SANTO DOMINGO CITY.

Mr. Powell to Mr. Hay.

No. 742, Santo Domingo Series.] AMERICAN LEGATION,
Santo Domingo City, D. R., January 31, 1904.

SIR: I have the honor to state to the Department that the German consul, Mr. Von Krosigh, requested of me, in the absence of a German naval vessel, to ask Captain Miller, of the U. S. S. *Columbia*, to furnish a guard to conduct the German vice-consul, Mr. Thormann, and his family, residing about 2 miles from the city, into the city, as where he was all were in grave danger, and that Mr. Thormann had received orders to remove into the city within forty-eight hours or to suffer the consequences.

Mr. Thormann also sent a similar request to me. I immediately communicated the request to Captain Miller, who at once responded by sending a guard of 40 marines from his ship under the command of Lieutenant Long. They reported to this legation within an hour after the request was made.

Before they left the legation I called in person on the ministers, the cabinet being in session, and made known to them that we would send a guard to conduct the German vice-consul and his family into the city. They informed me that they were very glad that we would do so, as the Government was powerless to render the aid they would like to give.

I requested them to designate the gate through which we should pass, and to remove so much of the barricade as to give to us egress,

and also to give orders to the commandants of the several forts that there should be no firing from them while we were outside of the walls; that if attacked by the insurgents we had ample means to protect ourselves.

The minister of the interior, General Ramon, who is acting as President during the absence of the President, informed me that the necessary orders would be given.

On leaving the city we kept in sight of the *Columbia*, who had guns so trained as to render assistance if needed.

The German consul, Mr. Von Krosigh, and myself accompanied the detachment. We were able to remove Mr. Thormann with family, and as much of the portable property as could be readily taken, and returned to the city without accident.

I have the honor to inclose the correspondence that has passed upon this matter.

I have, etc.,

W. F. POWELL.

[Inclosure 1.]

Mr. Von Krosigh to Mr. Powell.

KAISERLICH DEUTSCHES CONSULAT,
Santo Domingo, January 29, 1904.

SIR: The life and property of Mr. W. Thormann, German subject, and his family, being in danger, and having no German man-of-war at my disposal, I very respectfully ask your assistance and intervention with the commander of the U. S. *Columbia* to help said Mr. Thormann and his family to be escorted into town.

Yours, very respectfully, the German consul,

F. VON KROSIGH.

[Inclosure 2.—Translation.]

Mr. Thormann to Mr. Powell.

SANTO DOMINGO, *January 28, 1904.*

MY DEAR MR. POWELL: At this moment, at 6 p. m., I received a communication, a copy of which I inclose. The chief of the revolution has given me forty-eight hours to move with my family to the capital, so I beg you to give me all necessary help to effect it. I need at least two large boats, one for the baggage and another for the family. Do try to do all you possibly can so that during that time there shall be no shooting on either side.

Your affectionate friend,

THORMANN.

[Subinclosure.—Translation.]

Mr. Pelletier to Mr. Thormann.

ENCAMPMENT OF SAN GERONIMO,
January 28, 1904.

DEAR SIR: Under the turn of the actual circumstances which the political events have taken in the Republic, and on account of the events which may occur in the future, I beg to tell you, a foreign citizen, that the revolutionary committee which I preside over has resolved that as long as the siege and blockade of the capital may last you must change your actual residence and elect another place in which you and your family shall live so you and your family will not run any imminent risk. The committee having to take shortly

some military dispositions, begs me to notify you that after the expiration of forty-eight hours, counting from the moment this communication is delivered to you, you must either go to the capital or come to live at this encampment on the other side of our advance guard. If you should not do so, there will be no legality in fixing any class of responsibility upon any military chief nor upon any moral or political being of the Republic.

The committee holds that from the point of view of international right the Dominican Republic is not responsible for damages suffered by foreigners on occasions of internal war, but in your own interest and those of the revolution, which is represented by the committee over which I preside, this notification is given to you, advising you that it would be best for you to move in the time fixed to the capital.

I salute, etc.

The president of the committee.

[Inclosure 3.]

Mr. Powell to Captain Miller.

AMERICAN LEGATION,
Santo Domingo City, D. R., January 27, 1904.

SIR: I have received a communication from Mr. von Krosigh, the German consul, that the German vice-consul, Mr. Thormann, and family were in danger and that he had been ordered to leave his place within forty-eight hours by General Pelletier, the commander of one section of the insurgent forces. Mr. von Krosigh requests of this legation such aid as we can render to safeguard Mr. Thormann and his family from his house to the city, as he was without such physical aid should the insurgents interfere, and as the *Columbia* was in port would I request of Captain Miller a guard.

In view of this request, I have the honor to ask you, if not contrary to your instructions, if you will kindly send to our legation a sufficient armed guard to afford protection to this gentleman and his family. If you should do so, I would respectfully suggest that a signalman be sent in order that we may be in communication with you if necessary.

I have, etc.,

W. F. POWELL.

[Inclosure 4.]

Captain Miller to Mr. Powell.

TO MINISTER: I shall send a guard to you at 12.30 to escort the Germans to the city.

MILLER.

[Inclosure 5.]

Mr. Powell to Captain Miller.

AMERICAN LEGATION,
Santo Domingo City, D. R., January 29, 1904.

SIR: I have the honor to state that I have been to see the minister of interior and police, General Ramon, and informed him that it would be possible, upon the request of Mr. von Krosigk, that you would send an armed guard to escort to the city the German vice-consul and family, and if the guard should be sent I desired to know from what gate we could leave; also, that from the time we left the city until our return that there should be absolutely no firing from either forts or barricades; that we would amply protect ourselves from the insurgent force and also would see that no portion of such force should take advantage of our presence and advance and make an attack upon the city.

The minister in reply assured me that orders would be given to cease all firing during the time we were outside the city, and that he would direct the chief in command of the Conde gate to give us liberty to leave and enter.

I have also the honor to state that I have informed the minister that I could not permit anyone from the government side to accompany us, as it would only invite attack from their enemies. I shall accompany the detachment if sent.

I am, etc.,

W. F. POWELL.

[Inclosure 6.]

Mr. von Krosigk to Mr. Powell.

KAISERLICH DEUTSCHES CONSULAT.

San Domingo, January 29. 1904.

SIR: I have the honor to thank you for the valuable assistance that you and the commander of the U. S. S. *Columbia* have given by escorting Mr. W. Thormann and his family into town.

I will not omit to communicate to my Government this kind action.

The German consul,

F. VON KROSIGK.

[Inclosure 7.]

Mr. Powell to Captain Miller.

AMERICAN LEGATION,

Santo Domingo City, D. R., January 30, 1904.

SIR: I have the honor to express to you, as the captain of the U. S. S. *Columbia*, the thanks of my legation for the response to my request for an armed guard to bring the German vice-consul, Mr. Thorman, and family from his residence to the city.

I also desire in this connection to commend to you the excellent judgment of Lieutenant Long, in charge of the marine corps, and the perfect discipline of the men in his command.

I shall with pleasure make this statement in my dispatches to the Secretary of State of your ready response and the perfect discipline of your command.

It also affords me further pleasure to say that I am glad that this aid was rendered to one in the consular service of His Imperial Majesty the German Emperor.

I have, etc.,

W. F. POWELL.

ARBITRATION OF THE CLAIM OF THE SAN DOMINGO IMPROVEMENT COMPANY AGAINST THE DOMINICAN REPUBLIC.

Protocol of an agreement between the United States of American and the Dominican Republic, for the submission to arbitration of certain questions as to the payment of the sum hereinafter agreed to be paid by the Dominican Government to the Government of the United States on account of the claims of the San Domingo Improvement Company of New York, a corporation under the laws of the State of New Jersey and a citizen of the United States and its allied companies.

Signed at Santo Domingo City, January 31, 1904.

Whereas, differences exist between the Dominican Government and the "San Domingo Improvement Company" and its allied companies; and

Whereas, as the result of those differences, the interests of the Improvement Company and its allied companies, viz: "The San Do-

mingo Finance Company of New York," "The Company of The Central Dominican Railway," both being corporations created under the laws of New Jersey, and the National Bank of San Domingo, a company originally organized under a French charter, the two latter companies being owned and controlled by the San Domingo Finance Company, are seriously affected; and

Whereas, it is agreed, as the basis of the present settlement, that the Improvement Company and its allied Companies shall withdraw from the Dominican Republic, and that they shall be duly indemnified by the latter for the relinquishment of their rights, properties and interests.

The United States of America and the Dominican Republic through their respective representatives, W. F. Powell, Chargé d'Affaires, and Juan Fco. Sanchez, Secretary of State for Foreign Relations, have agreed upon the following articles:

I.

It being hereby agreed that the Dominican Government shall pay to the Government of the United States the sum of \$4,500,000 (four millions five hundred thousand dollars, in American gold, on terms to be fixed by the arbitrators, said payment to be made and accepted as full indemnity for the relinquishment by the companies above-mentioned of all their rights, properties and interests, and in full settlement of all accounts, claims and differences between the Dominican Government and the said companies; the terms on which the indemnity thus agreed upon shall be paid shall be referred to a board of three arbitrators, one to be named by the President of the United States, one by the President of the Dominican Republic, and the third by the President of the United States and the President of the Dominican Republic jointly; but if, within sixty days after the signature of the present protocol, the third arbitrator shall not have been so named, he shall then be selected by the Dominican Government from members of the United States Supreme Court or the United States Circuit Court of Appeals, from names presented

In case of the death, absence or incapacity of any arbitrator, or in the event of his ceasing or omitting to act, the vacancy shall be filled in the same manner as the original appointment, the period of sixty days to be calculated from the date of the happening of the vacancy.

II.

The arbitrators shall meet in the city of Washington, within sixty days after the date of the appointment of the third arbitrator.

The vote of the majority shall suffice for the decision of all questions submitted to the tribunal, including the final award.

III.

Within six months after the signature of this protocol, each party shall present to the other and to its agent, and also to each of the arbitrators, two printed copies of its case, accompanied with the documents and evidence on which it relies, together with the affidavits of their respective witnesses.

Within a further period of two months, either party may, in like manner, present a counter-case, with additional documents and evidence and affidavits, in reply to the case, documents and evidence of the other party.

If the other party shall, in its case or counter-case, refer to any document in its exclusive possession without annexing a copy, it shall, upon the request of the other party, furnish the latter with a copy; and either party may call upon the other through the arbitrators, to produce the originals or certified copies of any papers adduced as evidence.

IV.

Within two months after the expiration of the term allowed for the filing of counter-cases, each Government may, by its agent, as well as by additional counsel, argue its cause before the arbitrators, both orally and in writing. Each side shall furnish to the other copies of any written arguments, and each party shall be at liberty to make a written reply, provided that such reply be submitted within the two months specified.

V.

The Companies above mentioned shall cede and transfer to the Dominican Government, and the latter shall acquire from the Companies, the properties mentioned herein, the times, terms and conditions of the delivery of which shall be fixed by the arbitrators:

1. All the rights and interests which they may possess in the section of the Central Dominican Railway already constructed, as well as all rights and interests which they may have in the extension of the railways from Santiago to Moca, and from Moca to San Francisco de Macoris.

2. All rights and interests which they may have in the National Bank.

3. All bonds of the Republic of which they may be the holders, the amount of which shall not exceed £850,000, nominal (eight hundred and fifty thousands sterling pounds), nominal and shall be no less than £825,000 (eight hundred and twenty five thousands sterling pounds nominal).

It is understood that all these bonds are of the class bearing four per cent, annual interests excepting as to £24,000 (twenty four thousands sterling pounds) two and three-quarter per cent bonds, which shall be accepted at the rate of sixteen $2\frac{3}{4}\%$ bonds for eleven 4% bonds. A list of the bonds shall accompany the case of the United States.

VI.

It is agreed, as the basis of the award to be made by the arbitrators, that the sum specified in Article I hereof shall be paid in monthly instalments, the amount and manner of collection of which shall be fixed by the tribunal. The award shall bear interest from the date of its rendition at the

The Dominican Government having, in its recent negotiations with the American Companies, proposed to pay, on account of its indebted-

ness to them, a minimum sum of \$225,000 (two hundred and twenty five thousands dollars) per annum, which was to be increased on a sliding scale, it is agreed that the Dominican Government shall, pending the present arbitration, and beginning with the 1st of January 1903, pay to the Government of the United States for the use of the American Companies, the sum of \$225,000 (two hundred and twenty five thousand dollars) per annum, in equal monthly instalments, the aggregate amount so paid, at the date of the award, to be taken into account by the arbitrators.

VII.

The award of the tribunal shall be rendered within a year from the date of the signature of the present protocol. It shall be in writing, and shall be final and conclusive.

VIII.

Reasonable compensation to the arbitrators for their services and all expenses incident to the arbitration, including the cost of such clerical aid as may be necessary, shall be paid by the Governments in equal moieties.

Done in quadruplicate, in English and Spanish, at San Domingo City, this 31st day of January 1903.

[SEAL]

JNO FCO SÁNCHEZ
Ministro de Relaciones Exteriores

[SEAL]

W. F. POWELL,
Chargé d'Affaires.

AGREEMENT TO THE NAMING OF ARBITRATORS

It is hereby agreed, on the part of the Dominican Government, through Juan Francisco Sanchez, Secretary of State for Foreign Relations, and the Chargé d'Affaires of the United States of North América, in the person of W. F. Powell, each acting for his respective Government, agree that neither of the signatory parties to this Protocol for International Arbitration, to which has been referred certain disagreements existing between the Dominican Government on the one side, and the Santo Domingo Improvement Company on the other, shall name its Arbitrator as stated in said Protocol, until after a period of ninety (90) days from the date of signing the same, in order to allow the Dominican Government to come to an agreement with the Santo Domingo Improvement Company, and the date referred to in the appointment of the third Arbitrator shall bear same as that expressed above.

To the above we agree, and with good faith to carry the same into effect, have here-unto affixed our names and attached thereto the Seals of our respective Offices.

Done this 31st Day of January, 1903

[SEAL]

JNO FCO SÁNCHEZ
*Secretary of State for Foreign Relations
of the Republic of San Domingo*

W. F. POWELL. [SEAL]
Chargé d'Affaires of the United States of North America

AWARD OF THE COMMISSION OF ARBITRATION UNDER THE PROVISIONS OF THE PROTOCOL OF JANUARY 31, 1903, BETWEEN THE UNITED STATES OF AMERICA AND THE DOMINICAN REPUBLIC, FOR THE SETTLEMENT OF THE CLAIMS OF THE SAN DOMINGO IMPROVEMENT COMPANY OF NEW YORK AND ITS ALLIED COMPANIES.

WHEREAS, by a Protocol of Agreement between the United States of America and the Dominican Republic, concluded at Santo Domingo City, January 31, 1903, it was agreed that the Dominican Government should pay to the Government of the United States the sum of four million, five hundred thousand dollars (\$4,500,000.) in American gold, as full indemnity for the relinquishment by The San Domingo Improvement Company of New York, The San Domingo Finance Company of New York, The Company of the Central Dominican Railway and the National Bank of San Domingo, of all their rights, properties and interests and in full settlement of all accounts, claims and differences between the Dominican Government and the said Companies, and that the terms, on which the indemnity thus agreed upon should be paid, should be referred to a board of three arbitrators, one to be named by the President of the United States, one by the President of the Dominican Republic and the third by the President of the United States and the President of the Dominican Republic jointly, or, in case they should fail to so name him, by the President of the Dominican Republic from certain specified members of the United States Supreme Court or the United States Circuit Court of Appeals;

WHEREAS, for the purpose of carrying into effect the said Protocol, the undersigned arbitrators were appointed, viz: By the President of the United States, John G. Carlisle; by the President of the Dominican Republic, Don. Manuel de J. Galvan; and, as third arbitrator, by nomination of the President of the Dominican Republic, George Gray, one of the specified members of the United States Circuit Court of Appeals; and .

WHEREAS, the said arbitrators, duly organized under the said Protocol as a Board of Arbitration, have received and considered the cases and countercases and the arguments filed thereunder by the contracting parties through their respective agents and counsel;

The Board of Arbitration does now adjudge and award, as the terms on which the indemnity above mentioned shall be paid and the times, terms and conditions on which the aforesaid Companies shall relinquish all their rights, properties and interests, mentioned in Article V of said Protocol, and withdraw from the Dominican Republic, thus constituting a full settlement of all accounts, claims and differences between the Dominican Government and the said Companies, the following:—

ARTICLE 1. TIME OF DELIVERY OF PROPERTIES.

(a) Within ninety days from the making of this award, all rights and interests which the said Companies have in the National Bank of San Domingo, consisting of Six thousand three hundred and thirty-eight (6,338) shares of the capital stock thereof, shall be delivered by said Companies to the Dominican Government, on said Gov-

ernment giving to the Companies a release by the Bank of all claims against them.

(b) When the Dominican Government shall have paid to the United States the sum of One Million Five hundred thousand dollars (\$1,500,000), part of said principal debt, the said Companies shall deliver to the Dominican Government all the shares of the Company of the Central Dominican Railway, which shall represent, include and carry, all the rights and interests in said Railway referred to in paragraph 1 of Article V of said Protocol, and will simultaneously deliver over the full possession of said Railway, which shall be free of all debts, fixed or floating, of the said Companies, and which shall be at least in as good condition physically as it now is, less wear and tear and damage by accident or acts of God or public disturbance or the foreign enemy.

The cost of restoring the Railway from damage occurring in the meantime from any of such causes, shall be first chargeable upon the net profits of the year, and any excess of such cost shall be paid by the Dominican Government out of its Treasury in the same manner as hereinafter described in Article 4.

If such payment of One Million Five hundred thousand dollars (\$1,500,000), or any part thereof, shall be made by the Government, other than by the monthly installments hereinafter provided, such monthly installments shall nevertheless continue as herein provided.

(c) When the principal of said debt of Four Million Five hundred thousand dollars (\$4,500,000) shall have been reduced to Two Million Seventy-six thousand Six hundred and thirty-five dollars (\$2,076,635), then shall begin the delivery of the bonds of the Dominican Republic mentioned in paragraph 3 of Article V of the Protocol of the amount of Eight hundred and thirty thousand Six hundred and fifty-four pounds Sterling (£830,654). The bonds to be delivered shall not include any of the Three hundred and fifty-one thousand Four hundred pounds sterling (£351,400) of Unified Scrip, admitted by the Companies to be the property of the Dominican Republic and heretofore tendered by the Companies to the Dominican Government, under the provisions of Article 6 of the contract of April 18, 1900; and the said Three hundred and fifty-one thousand Four hundred pounds sterling (£351,400) of Unified Scrip shall be delivered to the Dominican Government within thirty days from the date of this Award. With regard to the delivery of the amount of Eight hundred and thirty thousand Six hundred and fifty-four pounds sterling (£830,654) of bonds, exclusive of the Three hundred and fifty-one thousand Four hundred pounds sterling (£351,400) admitted to be the property of the Dominican Republic, this is understood to constitute a guarantee on the part of the Companies that there are outstanding not more than One Million One hundred and forty-eight thousand Six hundred pounds sterling (£1,148,600) of 4 per centum obligations, including French-American Reclamation Consols (stamped and unstamped), Unified 4 per centum Scrip, and the 4 per centum bonds embraced in the Eight hundred and thirty thousand Six hundred and forty-four pounds sterling (£830,654) of bonds to be delivered under this award, and that, if any bonds of the issues of 1888, 1890 or 1893, shall hereafter be presented for conversion, the Companies will protect the Dominican Government. The delivery of the bonds by said Companies to the Dominican Government shall be in

monthly installments *pro rata* to the payments of principal made to the United States, so that One thousand dollars (\$1,000) or Two hundred pounds sterling (£200) of bonds shall be delivered for each Five hundred dollars (\$500) of principal debt paid.

ARTICLE 2. RATE OF INTEREST.

The principal sum of Four Million Four hundred and eighty-one thousand Two hundred and fifty dollars (\$4,481,250) and any and all balances thereof due and payable to the United States by the Dominican Government shall bear interest from the date of this award, at the rate of four per centum per annum. All payments made shall be applied first to the interest accrued.

ARTICLE 3. AMOUNT OF MONTHLY INSTALLMENTS.

Said principal and interest shall be payable in monthly installments of Thirty-seven thousand Five hundred dollars (\$37,500) each, during the first two years, and of Forty-one thousand Six hundred and sixty-six dollars and sixty-six cents (\$41,666.66) each, thereafter, to the Financial Agent of the United States, on the first day of each month, beginning with the month of September, 1904, and shall be made in gold coin or currency of the United States, or in such good bills of exchange as shall be acceptable to said Agent. In the former case, the cost of shipment to New York, and in the latter case the discount to maturity and charges incident to the collection of such bills of exchange, shall be added to the amount of the monthly installment.

The net profits of the operation of said Railway, until its delivery under Article I hereof, during each year, beginning from the first day of July, 1904, as shall annually be stated by its General Manager, shall be and constitute a further credit upon said principal debt.

ARTICLE 4. SECURITY AND MODE OF COLLECTION.

Security: The said debt and interest and the monthly payments thereof, as herein determined, shall be secured as follows:—

The Customs Revenues and Port Dues of the ports of entry or custom houses of Puerto Plata, Sánchez, Samaná and Montecristy, and of all other ports of entry or custom houses now existing or which may hereafter be established, on the coast or in the interior, north of eighteen degrees and forty-five minutes of North Latitude, and east of the Haitian boundary, are hereby assigned and designated as security for the payment of the debt and interest herein mentioned.

Until payment of said debt and interest, the tariff of Customs Duties and Port Dues now prevailing shall not be reduced in any case or to any person more than twenty per centum, without the consent of the United States.

The said debt and interest shall also constitute a first lien upon the Central Dominican Railway, until its delivery to the Dominican Republic as provided in this award.

Mode of Collection: The United States shall appoint a Financial Agent, who shall establish an office in the Dominican Republic.

In case of failure to receive during any month the sum then due, the said Financial Agent shall have full power and authority by him-

self or by his appointees, to forthwith enter into possession of the Custom House at Puerto Plata in the first instance, and to assume charge of the collection of the Customs Duties and Port Dues at that port, and, to that end, shall fix and determine those Duties and Dues and enforce their payment, possessing and exercising all the present powers of the "Interventor de Aduana" and of the "Administrador de Hacienda" and of all other officials authorized by law to participate in the collection and determination of Duties and Dues and the enforcement of their payment.

Said Financial Agent shall have power from time to time to appoint subordinate officials and employees. The Customs Duties and Port Dues shall be paid to him or to his appointees directly by the exporters and importers or other persons liable therefor in cash or in *pagarés* drawn to the order of said Financial Agent or his appointees, and such payment, and such payment alone, shall operate as a release of the goods and as a discharge of such importers and exporters and other persons from the liability for payment of such Customs Duties and Port Dues.

The Dominican Government may appoint such officials as it may deem proper for the purpose of inspecting the collection of duties.

Out of the sums collected by the Financial Agent and his appointees the said Agent shall pay in the following order:

(a) The expenses of collection.

(b) The Special Apartados, as follows:—

PORT OF PUERTO PLATA:

Wharf Concession;

Freight Concession;

Personal duties;

Old Foreign Debt, one and one-half ($1\frac{1}{2}$) per centum of import duties;

Colon, one-half ($\frac{1}{2}$) per centum of import and export duties.

PORT OF SAMANÁ:

Wharf Concession;

Old Foreign Debt, one and one-half ($1\frac{1}{2}$) per centum of import duties;

Colon, one-half ($\frac{1}{2}$) per centum on import and export duties.

PORT OF SÁNCHEZ:

Wharf Concession;

Samaná-Santiago railway concession, seven (7) per centum of import duties;

Macoris branch railway concession, two (2) per centum of customs receipts;

Old Foreign Debt, one and one-half ($1\frac{1}{2}$) per centum of import duties;

Colon, one-half ($\frac{1}{2}$) per centum import and export duties.

PORT OF MONTECRISTY:

Improvement River Yaque Concession;

"Gobernación;"

Old Foreign Debt, one and one-half ($1\frac{1}{2}$) per centum of import duties;

Colon, one-half ($\frac{1}{2}$) per centum of import and export duties.

(c) The sums due under this Award.

(d) "Deuda Flotante Interior" and "Deuda Flotante Vicini," each five (5) per centum.

The excess, if any, after said payments, shall be paid over by said Financial Agent to the Minister of Hacienda of the Dominican Government at the time recognized by the United States or to his order. And the said Financial Agent shall render monthly an account of his collections and disbursements to the said Minister of Hacienda. He shall not be obstructed in the peaceful exercise of his duties under this Award.

In case the sums collected at Puerto Plata shall at any time be insufficient for the payment of the amounts due hereunder, or in case of any other manifest necessity, or if the Dominican Government shall so request, the said Financial Agent or his appointees shall have and exercise at Sanchez, Samaná and Montecristy, and at any or all of the ports of entry or custom houses within the territorial limits above described, all the rights and powers vested in him or them by this Award in respect of the port of Puerto Plata.

This possession, power and duty shall continue until six months after all arrears hereunder shall have been paid, and further, until the Dominican Government requests the restoration of the *status quo ante*; but said Financial Agent and his appointees shall re-enter said custom houses and resume the exercise of all the powers and authority as above described, at any subsequent time when a like default in payment shall be made by the Dominican Government.

To the end that the capacity of the Dominican Republic punctually to make the payments required by this Award shall not hereafter be impaired, the Financial Agent herein mentioned shall act as Financial Adviser to the Dominican Government, in all matters affecting its ability to pay this Award.

ARTICLE 5.

In the month of January in each year the Dominican Government shall make up, in accord with the Financial Agent herein mentioned, a statement showing the total fiscal revenues of the Republic for the preceding year.

ARTICLE 6.

The salaries and necessary traveling and other expenses of the Financial Agent and his appointees shall be paid by the Dominican Government in monthly installments in the same manner and with the same security as the monthly installments of debt provided herein by Article 4.

ARTICLE 7.

In addition to the monthly installment of Thirty-seven thousand five hundred dollars (\$37,500) provided for in Article 3, there shall be paid to the Financial Agent, during the month of August, 1904, a sum sufficient to pay an equal moiety of the compensation of the arbitrators, and an equal moiety of all expenses of this arbitration, being the amount for which the Dominican Republic is liable, under Article VIII of the Protocol, which amounts shall be certified to the Domini-

can Government, by the Department of State of the United States of America.

And in case of the failure to pay said amount, or any part thereof, during the said month of August, the Financial Agent shall have and exercise in the collection thereof, the same powers as hereinbefore conferred upon him in case of default in the payment of the said monthly installments on the principal and interest of said debt.

This Award is given and rendered at Washington, on this fourteenth day of July, in the year one thousand nine hundred and four.

In witness whereof, we have hereunto affixed our hands and seals.

GEO. GRAY [SEAL.]

President

JOHN G. CARLISLE [SEAL.]

MANUEL DE J. GALVAN [SEAL.]

Mr. Hay to Mr. Dawson.

No. 18.]

DEPARTMENT OF STATE,
Washington, August 9, 1904.

SIR: By the award rendered on the 14th ultimo by the commission of arbitration under the protocol of January 31, 1903, between the United States and the Dominican Republic, it was provided that the United States should appoint a financial agent to collect the sums due under the award.

I have to inform you that Mr. John T. Abbott has been appointed by the Department as financial agent under the provision of the award in question, and to request you to notify the Dominican Government of such appointment.

I am, etc.,

JOHN HAY.

Mr. Dawson to Mr. Hay.

No. 27.]

AMERICAN LEGATION,
Santo Domingo, August 29, 1904.

SIR: Referring to your No. 18, of August 9, in regard to the appointment of Mr. John T. Abbott as financial agent of the United States under the provisions of the arbitral award of July 14, 1904, I have to report that I have complied therewith and notified this Government as instructed.

Inclosed is a copy of my note to the minister of foreign affairs.

I have, etc.,

T. C. DAWSON.

[Inclosure.]

Mr. Dawson to Mr. Sanchez.

AMERICAN LEGATION,
Santo Domingo, August 29, 1904.

Mr. MINISTER: By the award rendered on the 14th day of July, 1904, by the commission of arbitration under the protocol of January 31, 1903, between my

Government and that of this Republic, it was provided that the United States should appoint a financial agent to collect the sum due under the award.

Pursuant to instructions from the Department of State I now have the honor to inform you that Mr. John T. Abbott has been appointed as financial agent under the provisions of the award in question.

I improve the opportunity to renew, etc.,

T. C. DAWSON.

Mr. Dawson to Mr. Hay.

No. 42.]

AMERICAN LEGATION,
Santo Domingo, September 27, 1904.

SIR: Referring to the subject of former correspondence, the recognition of the financial agent of the United States appointed under the award of July 14, I herewith inclose copies of letters from the financial agent to the minister of hacienda and to myself.

The letter addressed to me reports an interview had by Mr. Abbott with President Morales, in which the latter stated that the amounts due under the award for the current month could not be met by the Dominican Government, and suggested that Mr. Abbott's formal demand for possession of the custom-house at Puerto Plata might as well be made at once. The letter to the minister of hacienda constitutes such demand.

I have further to report that on the 23d instant the minister of foreign affairs requested an immediate interview with me, in the course of which he said that the President and himself and other members of the cabinet, although that body was not unanimous, were of the opinion that it was best to accept the award in spite of the fact that constitutional and other objections might be urged against its provisions. One of their reasons for this conclusion was the guaranty that would be afforded against revolutionary seizure if one or more custom-houses should be in the hands of a financial agent appointed and protected by and responsible to the American Government. He added, however, that the revenues from all the custom-houses would not be sufficient to pay the running expenses of the administration, the \$450,000 under the award, and the other yearly obligations to creditors, and that therefore the Dominican Government felt that it was necessary to receive a guaranty as to the amount required for its budget before allowing the financial agent to take actual possession. He suggested that 60 per cent of the gross revenue be set aside for the Government's ordinary running expenses, and gave me to understand without saying so categorically that otherwise they would not put Mr. Abbott in possession on October 1, and would present reasons to the American Government why the award seems to the Dominican Government unconstitutional and not capable of being executed in its present form.

I answered that I was not authorized to discuss the validity of the award, and that I regarded it as conclusive and binding; that the arbitral commission must be presumed to have considered the facts bearing upon the adequacy of custom-house receipts to meet the expenses and other requirements of the Dominican Government to which he had just called my attention; that a collateral agreement such as he proposed would be in effect a modification of the award, and that I could not hold out to him any hopes that my Government

would enter upon negotiations having as their object that or any other modification. I added, however, that I thought the Dominican Government need have no fears lest a financial agent of the United States would execute the award in such a way as to take away the revenue necessary for the maintenance of the administration, and if when put into practical operation it should be found impossible to pay the full amount without crippling the Government and endangering its ability to maintain order the question of reducing those payments might reasonably be raised, but not at the present time. With this assurance he did not appear satisfied, but it seems to me, and I so said to him, that a more definite one is not possible.

Later I discussed with Mr. Abbott the practicability and advisability of his giving in his private capacity as representative of the improvement company an assurance that a certain minimum sum should be turned over to this Government out of the revenues of the ports mentioned in the award. He deems it unwise, and his reasons for so thinking seem to me good.

In an interview to-day the minister of foreign affairs asked me to use my good offices with Mr. Abbott in securing his consent to delay the execution of the award for two months or even one. I answered that such an arrangement would be a modification of the award which neither Mr. Abbott nor myself would be authorized to make.

* * * * *

I have, etc.,

[Inclosure 1.]

T. C. DAWSON.

Mr. Abbott to Mr. Dawson.

SANTO DOMINGO, September 26, 1904.

SIR: I beg leave to report, for your information and for that of the Department of State that on the 21st instant I had an interview with President Morales relative to the award rendered under the protocol of January 31, 1903, between the United States and the Dominican Republic for the settlement of the claims of the San Domingo Improvement Company and its allied companies.

The interview was nearly two hours in length, during which the situation was quite fully discussed. The President's manner was gracious and cordial, and, while he expressed no gratification at the terms of the award, he said nothing whatever which indicated hostility to them or a desire to escape from their performance.

The result of the interview was that the President informed me that the amounts now due and payable under the award will not be paid during this month; that it was, therefore, his intention to have his Government begin to fulfill the terms of the award by delivering to me, as financial agent under the award, the possession of the custom-house at Puerto Plata on October 1 next. He refrained from making a positive promise to do this, on the ground that he must have a consultation with his cabinet; but he made it perfectly plain that such was his intention and that he did not doubt his ability to secure the adhesion of the cabinet.

I then said to him that I thought that perhaps the time had arrived when I should demand the payment to me by the Dominican Government of the \$11,850, due in August, and of the \$37,500, due September 1, under the award, or, in default of such payments during this month, the possession of the custom-house of Puerto Plata on October 1 next; that I had refrained from making any demands up to that time because of his absence from the capital; that I would be pleased to have him state whether he would prefer to have such demands made before he consulted with his cabinet or to have them delayed until a decision had been made by his Government, bearing in mind that a favorable decision would render any demands unnecessary, except, possibly, as a matter of form. He replied that he would prefer to have the demands made at once and before he consulted with his cabinet.

It was therefore agreed between us that I should make the demands immediately and that he would undertake to have the Dominican Government comply with the award and put it in execution by delivering to me the custom house at Puerto Plata on October 1 next, for the purpose stated in the award.

In accordance with that understanding, I sent to the minister of hacienda, on September 21, a letter, of which I inclose a copy.

I am, etc.,

JOHN T. ABBOTT.

[Subinclosure.]

Mr. Abbott to Señor Velásquez.

SANTO DOMINGO, *September 21, 1904.*

SIR: I. Article 7 of the award of the commission of arbitration under the protocol of January 31, 1903, between the Dominican Republic and the United States for the settlement of the claims of the San Domingo Improvement Company and its allied companies reads as follows:

"In addition to the monthly installment of thirty-seven thousand five hundred dollars (\$37,500) provided in article 3, there shall be paid to the financial agent during the month of August, 1904, a sum sufficient to pay an equal moiety of the compensation of the arbitrators and an equal moiety of all expenses of this arbitration, being the amount of which the Dominican Republic is liable under Article VIII of the protocol, which amounts shall be certified to the Dominican Government by the Department of State of the United States of America.

"And in case of the failure to pay said amount, or any part thereof, during the said month of August the financial agent shall have and exercise in the collection thereof the same powers as hereinbefore conferred upon him in case of default in the payment of the said monthly installments on the principal and interest of said debt."

In pursuance with the provisions of said article the Department of State of the United States of America, through the Hon. Thomas C. Dawson, minister resident of the United States at this capital, has certified to the Dominican Government that the amount of said compensation and expenses is \$23,700. Under the terms of the award one-half of that sum, or \$11,850, is now due and payable to me by the Dominican Government. No part of the same has been paid.

I therefore have the honor to demand that the Dominican Government pay me the sum of \$11,850, in discharge of its obligations under Article VIII of the protocol and article 7 of the award.

II. The first part of article 3 of the award reads as follows:

"Said principal and interest shall be payable in monthly installments of thirty-seven thousand five hundred dollars (\$37,500) each during the first two years and of forty-one thousand six hundred and sixty-six dollars and sixty-six cents (\$41,666.66) each thereafter, to the financial agent of the United States, on the first day of each month, beginning with the month of September, 1904," etc.

The first installment of \$37,500, being the installment due and payable on the 1st day of September, 1904, has not been paid.

I therefore have the honor to demand that the Dominican Government pay to me the sum of \$37,500, being the installment due and payable, under the award, on September 1, 1904.

III. A part of article 4 of the award reads as follows:

"In case of failure to receive during any month the sum then due, the said financial agent shall have full power and authority, by himself or by his appointees, to forthwith enter into the possession of the custom house at Puerto Plata in the first instance, and to assume charge of the collection of the customs duties and port dues at that port," etc.

In case that the two sums above mentioned be not paid to me before the expiration of this month I have the honor to demand that the Dominican Government deliver to me or to my appointee, on the 1st day of October next, the possession of the custom house at the port of Puerto Plata, in execution of the provisions of the award in that particular, and that proper instructions be seasonably given to the competent Dominican authorities to make the delivery as requested.

IV. Another part of article 4 of the award reads as follows:

"Said financial agent shall have the power from time to time to appoint subordinate officials and employees."

I have the honor to inform the Dominican Government that, in accordance with the power thus conferred upon me, I have appointed Mr. Joseph C. Strickland as my "deputy financial agent at the port of Puerto Plata," to whom the possession of the custom house at that port, on October 1 next, may be made by the Dominican Government, with the same effect as if the same were delivered to me in person; and in complying with my request for such delivery I ask that orders be issued to the proper authorities to make delivery to me or to Mr. Strickland, as the case may be.

V. I do not at this time make any demand under article 6 of the award, which relates to the salaries and expenses of the financial agent and his appointees, but I reserve all my rights in this particular.

I am, etc.,

JOHN T. ABBOTT, *Financial Agent.*

Mr. Dawson to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, September 30, 1904.

(Mr. Dawson reports that the Dominican Government refuses to recognize the award unless 60 per cent of the custom receipts are reserved for administrative expenditures.)

Mr. Hay to Mr. Dawson.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 4, 1904.

(Mr. Hay acknowledges Mr. Dawson's telegram of the 30th ultimo, and states that the United States Government must insist upon the recognition of the award, that it can not review and undo the unanimous decision of the arbitrators, and that the point raised by the Dominican Government was fully covered in the arguments presented before the arbitrators. Any representations the Dominican Government desires to make may be presented after the award has been put into operation.)

Mr. Dawson to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, October 14, 1904.

(Mr. Dawson reports verbal acceptance of the award by the minister for foreign affairs, and that the financial agent will be requested to administer all four ports.)

Mr. Dawson to Mr. Hay.

No. 58.]

AMERICAN LEGATION,
Santo Domingo, October 17, 1904.

SIR: Concerning the subject of the delivery of the shares of the Banque Nationale de St. Domingue under the provisions of the award of July 14, I have the honor to report that the Dominican Government did not accept the said shares. Accordingly, on the 13th instant, Mr. Abbott in his capacity as attorney for the San Domingo Improvement Company and its allied companies requested me to receive the shares on deposit.

I accepted the shares and received for them.

To-day I received a letter from Mr. Abbott in which he sends me a copy of a letter he sent to the minister of finance on the 13th, notifying the latter that the shares had been deposited with me pending the decision of the Dominican Government.

I have also the honor to report that on August 13 Mr. Thormann, representative of the San Domingo Improvement Company and its allied companies made a similar deposit with me of the unified scrip ordered to be delivered to this Government by the award but which was refused by this Government.

I have, etc.,

T. C. DAWSON.

Mr. Dawson to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, October 21, 1904.

(Mr. Dawson reports that the financial agent was put in actual possession of Puerta Plata last Thursday.)

Mr. Dawson to Mr. Hay.

No. 60.]

AMERICAN LEGATION,
Santo Domingo, October 22, 1904.

SIR: Continuing the subject of former correspondence, the delivery of the shares in the Banque Nationale and of the unified scrip, I have the honor to report that the minister of finance has notified me that this Government would accept them. * * *

Accordingly, on October 21 I delivered the said shares and scrip to Amadeo Rodriguez, contador-general, who was empowered to receive them on behalf of the Dominican Government, taking from him receipts and also the document releasing the San Domingo Improvement Company and its allied companies, which had been sent by Mr. Abbott as inclosure in his letter to the minister of finance of October 7.

Neither Mr. Abbott, attorney for the companies, nor myself saw

any reason why I should not comply with Minister Lamarche's request that I receive the shares and bonds back from the Dominican Government and keep them as its depository. This Government will probably not ask for them until the termination of the negotiations it proposes to initiate looking toward a modification of the award.

* * * * *

I have, etc.,

T. C. DAWSON.

Mr. Dawson to Mr. Hay.

No. 76.]

AMERICAN LEGATION,
Santo Domingo, November 22, 1904.

SIR: This morning the President informed me that he had changed his mind and determined not to make the request, which he has the privilege of making under the award, that the American financial agent take charge of the custom houses at Monte Christi, Sanchez, and Samana.

He was brought to this decision by the threat of the minister of finance to resign, by the pressure of ex-President Vasquez and other Horacistas, who virtually notified him that they would withdraw their support, and by the fact that Governor Arias at Monte Christi has agreed to the appointment of a Horacista collector in preference to turning the custom house over to Mr. Abbott.

* * * * *

I have, etc.,

T. C. DAWSON.

Mr. Loomis to Mr. Dawson.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 26, 1904.

(Mr. Loomis asks whether the refusal of the Dominican Government to put the financial agent in charge of the custom houses at Monte Christi, Sanchez, and Samana is final.)

Mr. Dawson to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, November 28, 1904.

(Mr. Dawson reports that under certain contingencies the President of the Dominican Republic will renew the request that the financial agent take charge of the four ports.)

VIOLATION OF THE UNITED STATES COMMERCIAL AGENCY AT
SAMANA.

Mr. Powell to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Santo Domingo, February 9, 1904.
(Received February 16, 1904—12.03 a. m.)

(Mr. Powell reports that the consular agent at Samana has informed him that an armed force entered his place on February 9, and took out two refugees.)

Mr. Powell to Mr. Hay.

No. 766, San Domingo series.] AMERICAN LEGATION,
Santo Domingo City, D. R., February 12, 1904.

SIR: I have the honor to inclose to the Department the correspondence relating to the Villain incident.

I am, etc.,

W. F. POWELL.

[Inclosure.]

Mr. Villain to Mr. Powell.

AMERICAN COMMERCIAL AGENCY,
Samana, February 9, 1904.

SIR: The disorder reigning in this part of the Republic of Santo Domingo has come to such a pitch that no respect is entertained for foreigners, and not even to the representatives of foreign governments.

On the 1st of February I was asked by the delegate of the Government here to deliver up the late governor, Mr. Charles Anderson, who had taken refuge in my office against the persecutions of his political opponents.

I refused to deliver up Mr. Anderson to his enemies as there were strong and public menaces of shooting political prisoners.

My action was based purely from a standpoint of humanity, as in these moments of political effervescence the friendly intervention of consuls is calculated to avoid many misfortunes.

In view of my reiterated refusal to deliver Mr. Anderson the delegate of the Government, with an armed force of several men, invaded my house and violently took away the political refugee against my protest that I at that moment made in his presence.

This act of violence to an office of the United States of America constitutes, according to my manner of seeing, an insult and disrespect to the American flag, and I hastened to telegraph you the facts since the 4th instant, not having found an opportunity before, as communications of all sorts are interrupted since over a week.

The Italian consulate was also raided and 11 refugees taken out and sent to prison.

I wrote to Consul Simpson on the 4th, communicating to him what had happened, and asking him to see the commander of the United States ship at Puerto Plata and ask him to give me some protection, as I do not see any guaranty of order in this district, and that, according to my appreciations, the worst is still to come.

The Jiminez faction has its stronghold at Sanchez, while the Morales people are in possession of Samana. Undoubtedly before long there will be a terrible encounter between the two parties, the disastrous consequences of which no one can foresee.

I am, etc.,

J. M. VILLAIN.

[Inclosure 2.]

*Mr. Lithgow to Mr. Powell.*AMERICAN CONSULATE,
Puerto Plata, February 6, 1904.

SIR: Yesterday I received a letter from Mr. J. M. Villain, United States commercial agent at Samana, inclosing a copy of his protest to Mr. D. Shepard, delegate of the Government, against the violation of his office. He requested me to inform the commander of the United States ship here.

The *Hartford* arrived yesterday, and the commander, after seeing that his presence was not needed, decided to return to Guantanamo, Cuba.

It was after taking this determination that I received Mr. Villain's letter, but I was able to get on board before he left.

He advised me to see President Morales personally and tell him that he must not violate our consulates, for it would bring ill will toward himself by our Government.

I saw President Morales, who is here, and he tells me that he did not take Mr. Charles Anderson from Mr. Villain's consulate, but from his country house, called "La Pascuala," and that he took all the legal steps to enter the house.

The giving of asylum to political refugees in the consulates is destined to give serious trouble in the present unsettled state of the country, for the Dominican Government does not recognize this right, nor, do I believe, does our Government allow it, but if anyone asylums himself in the consulate I do not see how the consul can very well refuse it, knowing that whoever is caught has a very small chance of being tried and receiving justice.

I am, etc.,

A. W. LITHGOW.

[Subinclosure.]

*Mr. Villain to Mr. Shepard.*AMERICAN COMMERCIAL AGENCY,
Samana, February 1, 1904.

SIR: The act perpetrated this morning by yourself, accompanied by an armed force in the name of the Government of Santo Domingo, entering my premises against my protest and carrying off, to be incarcerated on board of the gunboat *Presidente*, Mr. Charles Anderson and other parties, who were by the fact of being in my house, where I had temporarily established my office, under the protection of the United States Government, constitutes an open violation to established rules and an insult and disrespect to both the American flag and the Government of the United States of America.

I, therefore, in the name of the United States of America, as its legal representative here in Samana, protest, and by these presents do protest against the act aforementioned, reserving the right of asking further redress from the Government of Santo Domingo through the intermediary of the American diplomatic agent.

I am, etc.,

J. M. VILLAIN.

[Inclosure 3.]

*Mr. Powell to Mr. Villain.*AMERICAN LEGATION,
Santo Domingo City, D. R., February 12, 1904.

SIR: I have your favor of February 9, 1904, informing me of the disordered condition of affairs in your section, and am very sorry to hear that your agency has been violated by the Government forcibly taking therefrom persons who sought your protection. I shall send to the Department the account of this matter, as it involves a question as to whether consular and commercial agencies are clothed with the "right of asylum." As this Government disputes the same, it is a question the Department alone should settle and not this legation. * * *

I remain, etc.,

W. F. POWELL.

[Inclosure 4.]

Mr. Powell to Mr. Lithgow.

AMERICAN LEGATION,
Santo Domingo City, D. R., February 12, 1904.

SIR: I have your favor of February 6 inclosing a copy of a "protest" lodged at your office by Mr. Villain, the United States commercial agent at Samana, stating that his premises had been violated by the provisional Government by making a forcible entry and taking therefrom certain persons who had come to him for protection.

I am very sorry that this has occurred, as the Government by this act has clearly violated the sanctity of this commercial agency. The Government has not the slightest right to enter Mr. Villain's home for such a purpose, or to take anyone from there. This question of right of asylum I have referred to the Department, and within a few weeks I hope to receive an answer as to your rights in the matter in regard to accepting refugees, and how far the consular flag covers you. Upon the receipt of this information I will be pleased to communicate it to our consuls.

I remain, etc.,

W. F. POWELL.

Mr. Hay to Mr. Powell.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 16, 1904.

(Mr. Hay acknowledges Mr. Powell's telegram of the 9th instant, and states that under custom prevailing in the Dominican Republic, military authorities are not justified in invading consular offices and capturing refugees. Instructs him to make proper representations.)

Mr. Hay to Mr. Powell.

No. 221.
San Domingo series.]

DEPARTMENT OF STATE,
Washington, February 17, 1904.

SIR: Referring to your telegram of the 9th, received on the 16th instant, in regard to the entrance of the United States commercial agency at Samana by the armed forces of the Morales government, and the capture of two political refugees from that agency, I inclose copy of a dispatch from the vice-commercial agent at Samana^a reporting that Mr. Charles Anderson had been forcibly taken by the military authorities from his agency, notwithstanding the protest made by Mr. Villain.

While the vice-commercial agent was perhaps overzealous he was probably justified, under the peculiar custom which prevails in the Dominican Republic, in extending shelter to the refugee. (See Foreign Relations, 1873, p. 473, for a somewhat similar case arising in Haiti.)

The authorities clearly went beyond their right in forcibly invading the office of the commercial agent and capturing the refugee.

You should therefore make proper representations in the case, which you will doubtless have already done, in accordance with the Department's telegram of the 16th instant.

I am, etc.,

JOHN HAY.

^a Not printed.

**TERMINATION OF THE REVOLUTION IN THE DOMINICAN
REPUBLIC.**

Mr. Dawson to Mr. Hay.

No. 9.]

AMERICAN LEGATION,
Santo Domingo, August 9, 1904.

SIR; I inclose herewith copy and translation of the peace treaties signed June 3 and June 10 between Demetrio Rodriguez and Desiderio Arias, commanding the revolutionary forces in Monte Christi, and General Cespedes, representative of the Morales government.

This agreement was reached through the mediation of Captain Dillingham. It put an end to the only serious armed opposition to the Government. Its essential provisions are that Arias is recognized as governor of Monte Christi, and he and Rodriguez agree to maintain order and peace there and to collect all arms in the hands of revolutionists. Your attention is especially called to the fourth paragraph of the June 10 agreement, by which Arias and Rodriguez hold themselves responsible for peace and order, "particularly before the representative of the American Navy, who has intervened in the matter and signed this agreement."

On July 3 Governor Arias told Admiral Sigsbee and myself that he proposed to abide by the agreement and wished for American support in so doing. * * *

On my arrival here President Morales told me he asked nothing better than to keep the agreement in force. I believe him to be sincere.

* * * * *

I have, etc.,

T. C. DAWSON.

[Inclosure.—Translation.]

FIRST TREATY.

In order immediately to put an end to the present civil war, which has been decimating the Dominicans and ruining the country, it has been agreed between General Jesus Maria Cespedes, representing the provisional government presided over by General C. F. Morales, on the one part, and General Demetrio Rodriguez, chief of the present revolution, on the other part, as follows:

1. The provisional government extends ample guaranties to General Demetrio Rodriguez and all the other chief officers and citizens who are fighting or who have fought in the ranks of the revolution, as well for the persons as for their interests, giving them the assurance that in no manner will they be molested on account of their opinions nor for acts which have happened previous to this agreement.

2. The account of expenses incurred by the revolution will be recognized by the Government, and will be paid in due season in the same privileged form as the accounts for expenses incurred by the triumphant revolution represented by the provisional government.

3. All the authorities of the district of Monte Christie will be named in accord with General Demetrio Rodriguez, and persons of proved probity and honor shall be chosen in order not only that they may have the offered guaranties, but at the same time may represent the government honorably and properly.

4. It is agreed that both the contracting chiefs shall take the steps necessary in order that hostilities may cease completely within the district during three

days, in which General Rodriguez shall agree with the other revolutionary chiefs that they shall adhere to this arrangement, and General Cespedes shall obtain the ratification of the provisional government.

5. General Demetrio Rodriguez undertakes to cause to be collected all the arms which are in the hands of the revolutionists as soon as this agreement shall be definitely accepted, leaving only in each place those arms necessary for the garrisons which shall be judged proper for the maintenance of order; the Government shall dispose of the rest in the manner it may deem convenient.

6. General Cespedes proposes, and General Demetrio Rodriguez has accepted, the offer of the governorship of the district of Monte Christi to General Desiderio Arias.

7. When the pacification of this district shall have been secured General Rodriguez shall go on working to obtain the adhesion of the revolutionaries in other Provinces, to the end that all shall accept the conditions stipulated in clauses 1 and 2 of this agreement.

Done in good faith in duplicate at the port of Monte Christi, on board the American cruiser *Detroit*, the 3d of June, 1904.

DEMETRIO RODRIGUEZ.

J. M. CESPEDES.

F. A. MARCIACQ,

Consul of Haiti.

VALENTIN BONAVENTE,

Spanish Vice-Consul.

I. F. PETIT,

Consular Agent of the United States of America.

F. LEMBECKE,

German Consul.

A. C. DILLINGHAM,

Commander, U. S. Navy.

SECOND TREATY.

In addition to the contract of the 3d of this June, celebrated in this port on board the American cruiser *Detroit*, between the Government of the nation, represented by Mr. J. M. Cespedes, and Mr. Demetrio Rodriguez, chief of the present revolution, the following has been agreed to:

1. The deputies of the district to the National Congress shall be named by the people in conformity with a decree which shall be made calling an election for this purpose in the course of the present month.

2. The Government votes the sum of three thousand dollars gold, half in cash and half in notes, as a donation made to the troops of the revolution, which sum shall be placed at the disposition of General Desiderio Arias in Monte Cristy within five days.

3. Clause 3 of the former contract is ratified in the sense that the authorities of the district shall be named by Generals Demetrio Rodriguez and Desiderio Arias.

4. Generals Demetrio Rodriguez and Desiderio Arias obligate themselves to reestablish order and peace in the district, being responsible for this before the high contracting parties, the mediators whose signatures are hereunto attached, and particularly to the representative of the American Navy who has intervened in these negotiations and signed this agreement.

The contracting parties who sign below express their agreement and sign in good faith in triplicate in Monte Cristy this the 10th of June, 1904.

DEMETRIO RODRIGUEZ.

J. M. CESPEDES.

DESIDERIO ARIAS.

I. F. PETIT,

United States Consular Agent.

F. A. MARCIACQ,

Consul of Haiti.

F. LEMBECKE,

German Consular Agent.

A. C. DILLINGHAM,

Commander U. S. Navy.

IMPRISONMENT OF FRANCISCO MARTINEZ, A PORTO RICAN.

Mr. Dawson to Mr. Hay.

No. 14.]

AMERICAN LEGATION,
Santo Domingo, August 13, 1904.

SIR: I have the honor to inclose correspondence relative to Francisco Martinez, a Porto Rican, who was imprisoned without bail at Macoris, under circumstances which convinced the consular agent and myself that it was more an attempt to collect a debt than a bona fide effort to punish a crime.

Upon representation being made, he was promptly released (August 5) on bail by the Dominican Government.

I have, etc.,

T. C. DAWSON.

[Inclosure 1.]

*Mr. E. C. Reed to Mr. Juan A. Read.*AMERICAN CONSULAR AGENCY,
Macoris, July 20, 1904.

SIR: On the 18th instant the wife of Francisco Martinez, a Porto Rican, appealed to me for protection of her husband, who, she claimed, was unjustly held in prison here by the local authorities.

On the 19th instant I called upon the acting governor of this place, Mr. Presbiterio Hernandez, asking him the cause of the imprisonment of the aforesaid Martinez.

To-day I received an official communication from the acting governor, I hereby beg to inclose, in which he tells me that the said Martinez was held in the public prison of this city on a charge of "abuse of confidence," as you will see by the inclosed communication. Not knowing the laws of this country well enough, whether a foreigner can be imprisoned upon an accusation of that kind, I beg to refer this case to you for instructions regarding my actions in the future, merely adding that the man Martinez has been already six days in jail, and no action has been taken so far in his case.

I remain, etc.,

E. C. REED.

[Subinclosure.—Translation.]

*Mr. Hernandez to Mr. Reed.*THE CIVIL AND MILITARY GOVERNMENT OF
SAN PEDRO DE MACORIS,
San Pedro de Macoris, July 20, 1904.

SIR: The citizen judge of instruction, giving the information solicited by the dispatch relating to the incarceration of the American subject, Francisco Martinez, communicates the following:

Mr. Francisco Martinez finds himself detained in the public prison of this city not only for having made a false sale of his commercial establishment, having creditors as to whom there were formalities to comply with, but also on account of a formal complaint made by Mr. Pedro Geautrean, who accuses him of abuse of confidence.

This is all I have to present to you regarding the information solicited by you in our interview of yesterday.

Greetings, etc.,

PRESBITERIO HERNANDEZ.

[Inclosure 2.]

*Mr. Dawson to Mr. Reed.*AMERICAN LEGATION,
Santo Domingo, July 26, 1904.

SIR: I have to acknowledge receipt of yours of the 20th instant in which you state that the wife of one Francisco Martinez, a Porto Rican, had applied to you for protection for her husband, who, she claimed, was unjustly held in prison by the local authorities.

I gather from the governor's letter to you that Mr. Martinez is held for a crime recognized as such by the laws of all civilized countries, and that his being a foreigner would not exempt him from trial therefor.

I would suggest that you see the honorable governor and ask him to give Mr. Martinez a speedy trial. It would be well also that you attend the trial and satisfy yourself as to the merits of the case, reporting the facts to me.

Yours, respectfully,

T. C. DAWSON.

[Inclosure 3.]

*Mr. Reed to Mr. Dawson.*AMERICAN CONSULAR AGENCY,
Macoris, July 30, 1904.

SIR: Your letter of instruction regarding the affair of Francisco Martinez at this place, dated the 26th instant, came to my hands late yesterday afternoon, and the contents of the same have had my respectful attention.

I note what you state, that the crime Mr. Martinez is held for, according to the governor's letter to me, is recognized as such by the laws of all civilized nations, and that his being a foreigner does not exempt him from a trial for the same and that you desire me to ask the governor to give Martinez a speedy trial and my attendance at the latter when it does take place.

In reply, I beg respectfully to report that I called upon the governor this morning, telling him that I had received instructions from you to see him and request his good offices for the speedy trial of Francisco Martinez. He replied that he could not very well interfere with the action of the court of justice, since each official at the head of the different departments of the government here was responsible for his action to the minister of that department at the capital; but upon my expressing a doubt—not officially, but as a private person—about the legality of the arrest of the man and the probable claim for damages from the injured party in the future, he gave me his promise to do his best to have the man released from jail pending his trial, with which, of course, I had to be satisfied.

Regarding your desire for my presence at the trial to satisfy myself as to the merits of the case, I beg to say that in this country, in a case like the one in question, there is no such a thing as a trial, since neither plaintiff, defendant, nor witnesses, if any, are allowed to come into court, the two lawyers of the respective parties submitting their briefs to the judge, who, after due consideration of the same, gives judgment.

This cause, though of itself a bagatelle, is, in my opinion, of very serious concern to foreign merchants doing business here, because the investigating judge upon the mere statement of a lawyer ordered the arrest and imprisonment of the man, who has now been some three weeks in jail and is suffering from fever to-day, while his wife and children are suffering.

I will take the liberty during a personal interview to explain the case more fully to you, and remain, etc.,

E. C. REED.

[Inclosure 4.]

*Mr. Dawson to the Minister of Foreign Affairs.*AMERICAN LEGATION,
Santo Domingo, August 3, 1904.

Mr. MINISTER: Referring to the subject of our conversation of yesterday, the case of Francisco Martinez, a citizen of Porto Rico who has been confined in the jail in San Pedro de Macoris for three weeks without trial, I have the honor to ask your excellency's good offices with your colleague, the minister of justice, to secure for said Martinez an immediate trial, or in default thereof his release and restoration to his family pending a trial.

The unfortunate individual is sick with fever and the accusation made against him arose in connection with a debt it is claimed he owes.

I will be grateful to your excellency for procuring an immediate telegraphic communication to the proper authorities in Macoris.

Your favorable action will be appreciated as an instance of that disposition to act fairly by Porto Ricans already so often shown by your Government.

I have, etc.,

T. C. DAWSON.

[Inclosure 5.]

*Mr. Sanchez to Mr. Dawson.*DOMINICAN REPUBLIC, MINISTRY OF FOREIGN AFFAIRS,
Santo Domingo, August 12, 1904.

Mr. MINISTER: Referring to the conversation which I had with your excellency on the 5th instant and in which I showed you the telegram that I had received from Macoris, I now have the honor to confirm the same and to assert that Mr. Martinez was prosecuted for abuse of confidence; but for the sake of complying with your excellency's wishes, and in view of his being sick, Mr. Martinez has been given his liberty under bond.

They are using all diligence necessary to hasten the procedure as much as possible, and, in the event of their not being able to discontinue the action, to adjudge him the least possible punishment.

Greeting, etc.,

JUAN FRANCISCO SANCHEZ.

Mr. Adee to Mr. Dawson.

No. 20.]

DEPARTMENT OF STATE,
Washington, August 31, 1904.

SIR: I have to acknowledge the receipt of your dispatch No. 14, of the 13th instant, inclosing correspondence in relation to the imprisonment of Francisco Martinez, a Porto Rican, at Macoris, and to inform you that your course in the case is approved by the Department.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

ECUADOR.

TREATY OF FRIENDSHIP, NAVIGATION, AND COMMERCE BETWEEN ECUADOR AND ITALY.

Mr. Sampson to Mr. Hay.

No. 374.]

AMERICAN LEGATION,
Ecuador, January 4, 1904.

SIR: A treaty between Ecuador and Italy has recently been published, and I send you a copy of the same and a hasty translation, substantially correct.

I have, etc.,

ARCHIBALD J. SAMPSON.

[Inclosure.—Translation.]

His Excellency the President of the Republic of Ecuador and His Majesty the King of Italy being animated by the wish of conserving and strengthening the friendly relations now existing, and desiring to encourage the commercial traffic between the two countries, have resolved to conclude a treaty of friendship, navigation, and commerce and have appointed to this effect their plenipotentiaries as follows:

His Excellency the President of Ecuador, Señor Dr. Don José Paralta, minister of foreign relations of the Republic; and his Majesty the King of Italy, Señor José Pirrone, knight of the Royal Orders of San Maurizio and San Lázaro and of the Crown of Italy, his envoy extraordinary and minister plenipotentiary to the Republic of Ecuador.

These ministers, after having communicated their respective full powers and finding them in good and proper form, have agreed on the following articles:

First.—The high contracting parties guarantee, reciprocally, a treaty of the most-favored nation in all that concerns the interests of citizens, as much in the matter of commerce and navigation as in the importation, exportation, and the transit of merchandise, and in all that refers to the customs duties, to commercial operations, to the enjoyment of trade and industry, and payment of reciprocal duties.

Second.—There is excepted from the stipulations of article 1, coasting trade, the regulation of which remains subject to the respective laws of the two countries.

Third.—The present convention will be ratified in Rome or Quito as soon as possible; it will take effect fifteen days after the exchange of its ratification, and will remain in force one year, counting from the day in which either one of the high contracting parties may give notice of its termination.

In testimony whereof the respective plenipotentiaries have signed and sealed the present treaty.

[SEAL.]

J. PERALTA.

[SEAL.]

G. PIRRONE.

**MESSAGE OF PRESIDENT LEONIDAS PLAZA G. TO THE NATIONAL
CONGRESS OF ECUADOR.**

(Sent to the Department by Mr. James C. Hallock, director-general of public works of Ecuador, September 8, 1904.)

[Translation.—Extracts.]

AUGUST 10, 1904.

Fellow-citizens of the Senate and of the Chamber of Deputies:

You have convened to exercise the most important of political functions, viz, the legislative; and on this occasion I extend to you a cordial greeting and express the ardent desire that, being inspired by patriotism, your labors may prove fruitful in benefits to the Republic.

* * * * * * *

There remains the international question to complete the array of political factors which play a part in the government.

It has just been seen that we still do not quite know what course to pursue with regard to some of the problems which confront the internal policy of the country, and it will be still less possible for us to exercise sufficient influence in order to direct the external policy in a manner favorable to our interests, and especially to the already threatened South American interests. Our international bearing is one of mere passivity; to guard what is ours, observe strict neutrality, and act with honor and good faith in all our dealings with other countries and with fidelity in our diplomatic relations; that is all.

However, times are changing and it is seen that the more prosperous nations are pursuing a policy of aggression in the name of commerce; commercialism to-day governs the world and commercial interests open a way for themselves by means of gold or violence, whether the latter be open or disguised. This tendency comes to us in a wave from the North, and we South American countries can not offer a sufficient resistance to counteract it because racial selfishness and petty disputes entirely prevent a union for safety.

This commercialistic policy is already affecting South America, and we citizens of Ecuador may even soon be the ones to suffer its violence.

Our islands of the archipelago of Colon, formerly Galapagos, already feel the impulse of the tide and this is a vital question for us. Traditions and customs, our haughty character and chivalrous spirit, preclude from us all idea of commercialism or gain, and we would rather consent to lose all than to have ourselves characterized as venal. Inasmuch therefore as this is the national sentiment, we ought at least to consider the means of making room in our islands for universal commercial interests without diminution of our sovereignty over them.

Meditate deliberately on this subject and evolve whatever plan you deem expedient; and, at all events, do not forget to enact a special law of colonization for the archipelago which shall apply both to citizens of Ecuador and to foreigners, and provide for the maintenance of daily and constant traffic between our coasts and said islands. Since it is obvious that we can not accomplish this with vessels of our own, because our resources do not enable us to acquire them, I am of opinion that you should appropriate a sum to subsidize some steamship company which shall obligate itself to keep up the traffic in question.

What occurred in Panama a few months ago is, in my judgment, an awful lesson by which we should profit.

Without pausing to consider the motives which induced the separation of the Isthmus, or to investigate the measures which might have prevented or postponed the lamentable event, I deem it a duty, as head of this nation, to sincerely deplore it and to express to the Chief Magistrate of Colombia the feelings of brotherhood and sympathy of our people, for I can not look with indifference upon the disintegration of our sister Republic.

The fact is that the territory of the Isthmus of Panama proclaimed itself independent, and that several nations have recognized this independence.

For my part, I did not consider that there was any hurry in the matter, firstly, because we owed deference to our neighbor and sister of the north, and, secondly, because I wished to wait and consult you as being the branch of the government upon which such recognition devolves.

The case is not contemplated in our laws, not being, as far as I can see, included among the powers attributed to the Executive in directing diplomatic negotiations and concluding treaties. These negotiations presuppose recognition, and owing to the important consequences which the latter implies, it should be given in a legislative decree. I await your decision in order to know what rule is to be followed in this matter.

I have said that we owed consideration to Colombia, apart from the fact that the event of Panama, in view of the assistance given the latter and the motives which led to the event, implied a disregard of South American interests; for these reasons, I repeat, I hastened to express to the head of the Columbian nation that we citizens of Ecuador all feel a profound regret at an occurrence so unfortunate for that Republic and for Latin America in general.

This expression of regret caused a vote of thanks to be sent by the illustrious matrons of Bogotá and by the President of Colombia.

Not only in order to respond to these demonstrations, but also in order to continue the negotiations initiated by Doctor Baquerizo, I accredited Gen. Julio Andrade as minister plenipotentiary of Ecuador to Columbia, who was given a most brilliant and enthusiastic reception.

* * * * *

The Republic of Peru has sent us the distinguished Mr. Mariano H. Cornejo in place of His Excellency Mr. Melitón F. Porras, who retired as minister plenipotentiary to Ecuador.

Our minister of foreign relations and His Excellency Mr. Cornejo signed the protocol which you will find among the annexes to the report of the ministry of foreign relations. This protocol, it must be candidly confessed, did not win the favor of the people of Ecuador, doubtless because the latter did not duly appreciate it.

It is for you to study it, and I hope that you will judge it in a different manner than did the press, taking into account the reasons which the minister of foreign relations will explain to you.

The death of the President of Peru was a genuine calamity for that Republic as well as for our own. The illustrious Mr. Manuel

Candamo had given great impetus to the prosperity of Peru, and as regards ourselves, he was resolved to compose all differences in a liberal spirit and without delay.

Perhaps if his death had not occurred our frontiers would be better respected than they are at present, for the prefect of Iquito is continually advancing over our eastern territory and obliging our frontier forces to remain constantly arm in hand. It is superfluous to mention that energetic protest has been made to the Peruvian Government and that the reply was, as usual, a demonstration of friendship, cordiality, and good understanding, coupled with a declaration that the said prefect had not received instructions from his Government to commit the acts complained of. This reply, apparently satisfactory, and the recent withdrawal of the atrabilious prefect, do not guarantee us, it is painful to admit, against the risks of future invasions which may easily lead to the dreaded international conflict, unless the Government of Peru, acting with honesty, will take effective means to prevent the frontier authorities from committing excesses in violation of rights which we consider ours.

As will be perceived, our eastern territory needs careful attention, not only as regards the international question which I have just mentioned, but also regarding internal and purely national ones. The first necessity in this latter regard is the opening up of short and expeditious routes which will place us in communication with that region and tend to attract capitalists and manufacturers toward a territory promising such excellent remuneration for labor. With this object in view the minister of public instruction, to whose department this subject pertains, called a meeting of the most prominent persons of the capital in order to deliberate on the measures necessary in behalf of our national interests in the east; and it was resolved to open the road via Baños with the greatest diligence. Moreover, the idea was conceived of appealing to the patriotism of the citizens of Ecuador for the purpose of obtaining voluntary contributions for this work; as for myself, however, I am not in favor of this plan and hope that you will appropriate sufficient funds for the opening of the road in question.

In Brazil, another of the countries contiguous to our own, we have a minister plenipotentiary, having designated for this purpose Dr. Carlos R. Tobar, who was received in Petropolis with marked demonstrations of friendship and enthusiasm by the Government and the illustrious Brazilian people.

LEONIDAS PLAZA G.

ETHIOPIA.

TREATY BETWEEN THE UNITED STATES AND THE KING OF ETHIOPIA, TO REGULATE THE COMMERCIAL RELATIONS BETWEEN THE TWO COUNTRIES.

Signed at Addis-Ababa, December 27, 1903.

Ratification advised by the Senate, March 12, 1904.

Ratified by the President, March 17, 1904.

King of Ethiopia notified of ratification, August 2, 1904.

Proclaimed, September 30, 1904.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a treaty of commerce between the United States of America and His Majesty Menelik II, King of Kings of Ethiopia, was concluded on the twenty-seventh day of December one thousand nine hundred and three, the original of which treaty, being in the Amharic and French languages, is word for word as follows:

(Translation.)

TREATY OF COMMERCE.

His Majesty Menelik II, King of Kings of Ethiopia, and the United States of America, having agreed to regulate the commercial relations between the two countries and develop them, and render them more and more advantageous to the two contracting Powers:

His Majesty Menelik II, King of Kings of Ethiopia, in the name of the Empire, and Robert P. Skinner, in the name of the United States of America, have agreed and stipulated that which follows:

ARTICLE I.

The citizens of the two Powers, like the citizens of other countries, shall be able freely to travel and to transact business throughout the extent of the territories of the two contracting Powers, while respecting the usages and submitting themselves to the tribunals of the countries in which they may be located.

ARTICLE II.

In order to facilitate commercial relations, the two Governments shall assure, throughout the extent of their respective territories, the security of those engaged in business therein, and of their property.

ARTICLE III.

The two contracting Governments shall reciprocally grant to all citizens of the United States of America and to the citizens of Ethiopia, all the advantages which they shall accord to other Powers in respect to customs duties, imposts and jurisdiction.

ARTICLE IV.

Throughout the extent of the Ethiopian Empire, the citizens of the United States of America shall have the use of the telegraphs, posts and all other means of transportation upon the same terms as the citizens of other Powers.

ARTICLE V.

In order to perpetuate and strengthen the friendly relations which exist between Ethiopia and the United States of America, the two Governments agree to receive reciprocally, representatives acceptable to the two Governments. These representatives shall not however, be maintained at their posts, unless they are agreeable to the receiving Power, in such cases, they shall be replaced.

ARTICLE VI.

The duration of the present treaty shall be ten years. It is understood that at the expiration of these ten years the two Governments shall be able to modify all or any part of this treaty. The Government which shall request at that time the modification, shall make its proposal to the other Government one year before the expiration of the treaty.

ARTICLE VII.

The present treaty shall take effect if ratified by the Government of the United States, and if this ratification shall be notified to His Majesty Menelik II, King of Kings of Ethiopia, within the period of one year.

His Majesty Menelik II, King of Kings of Ethiopia, in the name of his Empire; Robert P. Skinner in virtue of his full powers, in the name of the United States of America, have signed the present treaty, written in double text, Amharic and French, and in identical terms.

Done at Addis-Ababa, this seventeenth day of December, one thousand eight hundred and ninety-six in the year of grace (corresponding to December twenty-seventh, 1903).

[Seal of MENELIK II.]

(Signed) ROBERT P. SKINNER.

And whereas it is provided by the said treaty that it shall take effect "if ratified by the Government of the United States of America and if this ratification shall be notified to His Majesty King Menelik II, King of Kings of Ethiopia, within the period of one year";

And whereas the said treaty has been duly ratified on the part of the United States of America and notification of such ratification was

given to His Majesty Menelik II, King of Kings of Ethiopia, on the second day of August, one thousand nine hundred and four;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said treaty to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington, this thirtieth day of September, in the year of our Lord one thousand nine hundred and four, and of the Independence of the United States of America the one hundred and twenty-ninth.

[SEAL]

THEODORE ROOSEVELT

By the President:

FRANCIS B. LOOMIS.

Acting Secretary of State.

FRANCE.

NEUTRALITY OF CHINA IN THE WAR BETWEEN RUSSIA AND JAPAN.

Mr. Hay to Mr. Porter.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 8, 1904.

(Mr. Hay instructs Mr. Porter to consult the minister for foreign affairs in regard to the possibility and desirability of neutral powers concurrently using good offices with Russia and Japan (in case a state of war should unfortunately be created), to induce them to respect the neutrality of China and in all practicable ways her administrative entity, to localize and limit as much as possible the area of hostilities, so that undue excitement and disturbance of the Chinese people may be prevented and the least possible loss to the commerce and the peaceful intercourse of the world may be occasioned. If this proposition is acceptable, suggest that instructions be sent to the French representatives at St. Petersburg, Tokyo, and Peking. All the signatories of the protocol of Peking will then be consulted.)

Mr. Porter to Mr. Hay.

No. 1295.]

AMERICAN EMBASSY,
Paris, February 12, 1904.

SIR: Upon receiving your cable of February 8, suggesting that the powers take concurrent action in an effort to insure the neutrality of China, etc., I went to see Mr. Delcassé the same day to place the matter before him. He received it in the best spirit and I am sure he feels that our Government in taking this step is actuated by a friendly desire to limit the evils threatened by a state of war. He discussed the subject for some time. A little anxiety was expressed to know the exact significance of the phrase "Administrative entity," but as this and the phrase "Entité administrative" in French are identical, I think no doubt can remain in his mind as to the scope of the meaning. * * *

The issuing of the circular has certainly been very timely and is directly in the interest of all the powers. It has again brought the practical diplomacy of America to the front and given it very great prominence.

Mr. Delcassé himself takes the common-sense view of your circular, and while he does not yet express any decided opinion he will explain its provisions to his colleagues of the cabinet, and after they consider the subject I hope we may before long receive a satisfactory reply.

I have, etc.,

HORACE PORTER.

Mr. Porter to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Paris, February 13, 1904.

(Mr. Porter states that Mr. Delcassé gives adherence to our proposition in the following words:

Like the Government of the United States, the Government of the French Republic thinks that it is very desirable that the neutrality of China be respected. But it is of the opinion that Manchuria, which is the field of military operations, ought to be excepted. It thinks, also, that it follows of itself that Chinese neutrality ought to include the leased Chinese territories and foreign concessions.)

Mr. Hay to Mr. Porter.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 15, 1904.

(Mr. Hay directs Mr. Porter to express the gratification of the President for the prompt and hearty cooperation of France in the matter of China's neutrality.)

Mr. Hay to Mr. Porter.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 19, 1904.

(Mr. Hay transmits the reply of Russia to the proposal of the United States, which says that the Imperial Government reciprocates in the desire for tranquillity in China, and that it is ready to enter into an engagement with the powers for the maintenance of the neutrality of that Empire provided that China herself strictly observes neutrality, that Japan complies with the agreement between the powers and observes the principles of international law, and that it is understood that Manchuria, in which military operations must of necessity be carried on, is excepted from the neutralization.)

TRANSFER OF THE NEW PANAMA CANAL COMPANY'S PROPERTY TO THE UNITED STATES.

Mr. Porter to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Paris, April 2, 1904.

(Mr. Porter states that the Assistant Attorney-General and Mr. Russell request that the Attorney-General be informed of an inter-

view they have had with the president of the company, and that they find the company's views satisfactory. They expect speedy conclusion.)

Mr. Porter to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Paris, April 17, 1904.

(Mr. Porter sends the following from Messrs. Day and Russell to the Attorney-General:

General deed conveying totality of property has been executed and delivered before our consul-general. Deed drawn to suit us, and we are guaranteed all further deeds we may want later. We are to pay transfer charges, if any. Have no expectations of having to pay any. We shall take possession here and shall cable Walker at Panama to take over properties there, sending copy of deed and other papers.)

Mr. Vignaud to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Paris, May 2, 1904.

(Mr. Vignaud sends text of letters and substance of contract exchanged to-day by Messrs. Day and Russell.

PARIS, April 28.

Mr. J. P. MORGAN, *Hotel Bristol, Paris.*

DEAR SIR: AS representatives of the Government of the United States, having full power so to do, we have the honor to say that the Government desires to, and does hereby, appoint your firm, J. P. Morgan & Co., its agents, to see to and to effect the transfer and payment by the United States at the Bank of France, Paris, of the \$40,000,000, constituting the price of the New Panama Canal Company's property.

Upon delivery of the property by the latter company to the representatives of the United States, the Government will place such \$40,000,000 with your firm as such agents, to be transferred and paid to the company, or upon its order to the liquidator of the old Panama Canal Company, at the Bank of France, in gold coin, or such other form as may be agreed upon between your firm and the company, as speedily as may be convenient.

It is understood that your firm will see to, and pay for, insurance, and take all other reasonable precautionary measures, and that it will charge the United States nothing, and pay no interest, and shall not be accountable for any profits made under agreements it may make with third parties. Please signify your acceptance.

Morgan's answer addressed to us bearing same date:

We beg leave to acknowledge the receipt of your valued favor of this date, addressed to our senior, in behalf of the United States, and constituting us as fiscal agents of the United States for the purpose of and with the powers mentioned in your said communication. We accept said appointment, under the terms and powers indicated, and hereby express our complete accord with the understanding you state. We are, dear sirs,

Very truly, yours,

J. P. MORGAN & Co.

Substance of contract between company and United States.

[Agreement 28th April.]

Company will make delivery of property covered by general conveyance of April 16, upon execution and delivery of this agreement. Payment of 40 millions gold to be made after delivery of said property in Bank of France through agents hereafter mentioned, as follows: Upon call and order of company, at such time or times as it may designate to said agents, in following order and manner: Twenty million francs to credit Jean Pierre Gautron, liquidator; five million francs to credit of company; remainder, 40 per cent to company and 60 per cent to Gautron, proportionately. United States, upon such delivery of property having been made, will pay through Morgan & Co., in gold coin, in Bank of France, in manner aforesaid, and shall remain obligated until full amount paid in manner aforesaid, and the United States agrees that payment shall be so made without regard to any suits, attachments, injunctions, or causes of any nature whatsoever. All expenses incident to carrying out agreement of even date between United States and Morgan, shown by copies of letters attached, shall be borne by company, United States to be protected from all costs whatever, of transmitting and paying at Paris. Agreed that phrase "third parties" in letter to Morgan, includes company, and that company may make agreements with Morgan Company, not inconsistent with provisions of said letters. This agreement not to be construed to change or be inconsistent with agreements and conveyances heretofore made between company and Government.)

TREATY BETWEEN THE UNITED STATES AND FRANCE FOR THE DETERMINATION OF THEIR RELATIONS IN TUNIS.

Signed at Washington March 15, 1904.

Ratification advised by the Senate March 24, 1904.

Ratified by the President May 6, 1904.

Ratified by France April 3, 1904.

Ratifications exchanged at Washington May 7, 1904.

Proclaimed May 9, 1904.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the French Republic acting in its own name as well as in that of His Highness the Bey of Tunis, to determine the relations between the United States and France in Tunis and to define the treaty situation of the United States in the Regency, was concluded and signed by

their respective Plenipotentiaries at Washington, on the fifteenth day of March, one thousand nine hundred and four, the original of which Convention, being in the English and French languages is word for word as follows:

The President of the United States of America and the President of the French Republic, acting in his own name as well as in that of His Highness the Bey of Tunis, desiring to determine the relations between the United States and France in Tunis, and desiring to define the treaty situation of the United States in the Regency, have named for that purpose the following plenipotentiaries:

The President of the United States of America, John Hay, Secretary of State of the United States; and

The President of the French Republic, J. J. Jusserand, Ambassador Extradordinary and Plenipotentiary of France at Washington;

Who, after communicating to each other their full powers, which were found in good and due form, have agreed upon the following Articles:

ARTICLE I.

The Government of the United States declares that it renounces the right of invoking in Tunis the stipulations of the Treaties made between the United States and the Bey of Tunis in August 1797, and in February 1824, and that it will refrain from claiming for its Consuls and citizens in Tunis other rights and privileges than those which belong to them in virtue of international law or which belong to them in France by reason of treaties in existence between the United States and France.

The Government of the French Republic agrees on its side to assure these rights and privileges in Tunis to the Consuls and citizens of the United States and to extend to them the advantage of all treaties and conventions existing between the United States and France.

ARTICLE II.

The present convention shall be ratified and the ratifications shall be exchanged at Washington as soon as possible.

In witness whereof, the respective Plenipotentiaries have signed the foregoing Articles and have affixed their seals.

Done in duplicate at Washington, in the English and French languages, the 15th day of March, in the year 1904.

JOHN HAY [SEAL.]
JUSSERAND [SEAL.]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the seventh day of May, one thousand nine hundred and four;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington, this ninth day of May, in the year of our Lord one thousand nine hundred and four, and [SEAL.] of the Independence of the United States of America the one hundred and twenty-eighth.

THEODORE ROOSEVELT

By the President:

JOHN HAY
Secretary of State.

DECORATION CONFERRED UPON SECRETARY OF STATE JOHN HAY, BY THE FRENCH REPUBLIC.

Mr. des Portes to Mr. Hay.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
Narragansett Pier, July 14, 1904.

MR. SECRETARY OF STATE: On this 14th of July, date of the national French holiday, I have the honor to inform your excellency that the Government of the Republic, animated by the desire to show to your excellency its high appreciation, not only of your merit as a statesman and scholar, but also of the services rendered by you, during your administration, in devoting your efforts to the maintenance of the peace of the world, has decided to confer on your excellency the dignity of the Grand Cross of the National Order of the Legion of Honor.

Allow me to assure your excellency how agreeable it is to me to be, on this occasion, the spokesman of my Government and to find myself the first to address to you my respectful congratulations.

Accept, etc.,

DES PORTES.

Mr. Hay to Mr. des Portes.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 14, 1904.

I have just received your note of to-day's date informing me of the action of the Government of the Republic in conferring upon me the Grand Cross of the Legion of Honor. Waiving all individual considerations, I sincerely appreciate the sentiment which has moved your Government to take this signal method of testifying in my person its appreciation of the efforts which, in the name of my country and as the exponent of the earnest wishes of the President and of my fellow-citizens in behalf of peace, it has been my duty and privilege to exert in furtherance of international concord and good will.

I shall take immediate occasion to instruct the American ambassador at Paris to advise the Government of the Republic of the grati-

tude with which I accept this honor, subject to the superior sanction of the Congress as prescribed by our Constitution and statutes, and of my high sense of this tribute to the endeavors of the American Government and people to promote the ends of peace.

JOHN HAY.

Mr. Hay to Mr. Porter.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 14, 1904.

This morning I received a note from the chargé d'affaires of France informing me of the action of the Government of the Republic in conferring upon me the Grand Cross of the Legion of Honor. I have replied that, waiving all individual considerations, I sincerely appreciate the sentiment which has moved the French Government to take this signal method of testifying in my person its appreciation of the efforts which, in the name of my country and as the exponent of the earnest wishes of the President and of my fellow-citizens in behalf of peace, it has been my duty and privilege to exert in furtherance of international concord and good will.

In advising you of this I have to request you to express to the Government of the Republic the gratitude with which I accept this honor, subject to the superior sanction of the Congress as prescribed by our Constitution and statutes, and of my high sense of this tribute to the endeavors of the American Government and people to promote peace among the nations.

JOHN HAY.

ABDUCTION OF ION PERDICARIS BY BANDITS IN MOROCCO.

(Note.—See also under Great Britain, p. 338, and Morocco, p. 496.)

Mr. Hay to Mr. Porter.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 28, 1904.

(Mr. Hay instructs Mr. Porter to request the good offices of the French Government in the Perdicaris matter.)

Mr. Porter to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Paris, May 30, 1904.

(Mr. Porter advises that he has complied with Department's instructions of the 28th instant, and that the minister for foreign

affairs at once instructed the French minister at Tangier to cooperate by all possible means in the rescue of Perdicaris, to urge the Sultan to action, and to engage the services of certain religious families of influence who have heretofore been useful in similar affairs.)

Mr. Hay to Mr. Porter.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 25, 1904.

(Mr. Hay instructs Mr. Porter to convey to the minister for foreign affairs the deep appreciation of the President of the kindly and efficient cooperation of the French Government in effecting the rescue of Mr. Perdicaris.)

GERMANY.

ARBITRATION OF THE PREFERENTIAL TREATMENT OF CLAIMS AGAINST VENEZUELA.

[See under the Netherlands, p. 505.]

NEUTRALITY OF CHINA IN THE WAR BETWEEN RUSSIA AND JAPAN.

Mr. Hay to Mr. Tower.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 8, 1904.

(Mr. Hay instructs Mr. Tower to consult the minister for foreign affairs in regard to the possibility and desirability of neutral powers concurrently using good offices with Russia and Japan (in case a state of war should unfortunately be created) to induce them to respect the neutrality of China and in all practicable ways her administrative entity, to localize and limit as much as possible the area of hostilities, so that undue excitement and disturbance of the Chinese people may be prevented and the least possible loss to the commerce and the peaceful intercourse of the world may be occasioned. If this proposition is acceptable suggest that instructions be sent to the German representatives at St. Petersburg, Tokyo, and Peking. All the signatories of the protocol of Peking will then be consulted.)

Mr. Tower to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Berlin, February 9, 1904.

(Mr. Tower reports that he has communicated to the German minister for foreign affairs Department's telegram of February 8 concerning the neutrality of China, and asked him whether this proposition of the United States is acceptable to the Imperial German Government. In reply he stated that the proposition is entirely

agreeable to the German Government, and that Germany is ready, on receipt of further information from Washington, to instruct in this sense its representatives at St. Petersburg, Tokyo, and Peking. He said further that the German Government sympathizes fully with the purpose of the United States on behalf of humanity, the protection of foreigners in China, the maintenance of order, and the safeguarding of the commerce of the world. He added that Germany believes that to attain these purposes the support of the neutrality of China would be the most available means; and the German Government is prepared to act in harmony with the United States and the other neutral powers to assure the neutrality of China in so far as this may be compatible with the respective military interests of the belligerent powers.)

Mr. Tower to Mr. Hay.

No. 294.]

AMERICAN EMBASSY,
Berlin, February 10, 1904.

SIR: I have the honor to acknowledge the receipt, on Tuesday morning, the 9th of February, of your dispatch in regard to the maintenance of the neutrality of China during the war between Russia and Japan.

Immediately upon the receipt of this message I proceeded to the Imperial German ministry for foreign affairs, where I had a personal interview with Baron von Richthofen, imperial secretary of state for foreign affairs, and communicated to him the contents of your telegram. I handed to Baron von Richthofen a memorandum, a copy of which is herewith respectfully inclosed.

Upon leaving the ministry for foreign affairs I telegraphed to you the reply of the German Government in a dispatch, a copy of the text of which, as well as a copy of the text of your dispatch to me, is hereto attached.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure.]

A copy of a memorandum handed by Mr. Tower to Baron von Richthofen, imperial secretary of state for foreign affairs, on Tuesday, February 9, 1904, at 12 o'clock noon.

I am to consult his excellency as to the possibility and desirability of a joint action of the neutral powers to use their good offices with Russia and Japan, in case of actual war, in order that the neutrality of China may be respected and her administrative entity maintained in so far as possible; and also that the area of hostilities may be limited as far as it may be possible to do so and localized so as to prevent undue excitement and disturbance of the Chinese people, and to attain the least possible loss to the commerce and the peaceful intercourse of the world.

If this proposition seems acceptable to his excellency I am instructed to suggest to him that instructions may be sent in this sense to the German representatives in St. Petersburg, Tokio, and Peking.

And all the signatories of the protocol of Peking will then be consulted.

I am also to intimate to his excellency in confidence that this circular is sent at the suggestion of the German Government.

Mr. Hay to Mr. Tower.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 10, 1904.

(Mr. Hay acknowledges Mr. Tower's telegram of the 9th instant and states that, in view of the cordial and satisfactory response of the German Government, the Department will at once communicate the views of the United States to all the neutral signatories of the protocol of Peking, and instruct our representatives at St. Petersburg, Tokyo, and Peking in the same sense.)

Mr. Tower to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Berlin, February 11, 1904.

(Mr. Tower reports that Department's telegram, announcing that instructions have been sent to the United States representatives at St. Petersburg, Tokyo, and Peking, has been communicated to the German minister for foreign affairs, and he replied that the necessary instructions will be sent at once to the German representatives in those capitals. He was also informed that the views of the United States will be communicated immediately to all the neutral signatories of the protocol of Peking.)

Mr. Hay to Mr. Tower.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
February 15, 1904.

(Mr. Hay instructs Mr. Tower to convey to the Emperor the President's profound appreciation of his generous initiative and powerful cooperation in the matter of Chinese neutrality.)

Mr. Tower to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Berlin, February 17, 1904.

(Mr. Tower reports that he has conveyed to the Emperor the profound appreciation of the President of his initiative and cooperation in the matter of Chinese neutrality, and that the Emperor was exceedingly gratified and expressed most friendly sentiments toward the President.)

Mr. Tower to Mr. Hay.

[Telegram.—Pharaphrase.]

AMERICAN EMBASSY,
Berlin, February 20, 1904.

(Mr. Tower reports that Department's telegram conveying the reply of the Russian Government has been communicated to the German minister for foreign affairs, who said that the German Government is gratified that the proposal of the United States concerning the neutrality of China has been so generally accepted in principle by the powers. In the course of the conversation he intimated that he considers it to be of moment that China be made aware how important it is that she should scrupulously respect the laws of neutrality herself, and he intimated also that a message to this effect has already gone to China from Germany.)

PASSPORT APPLICATION OF ROBERT ALBERT BÖKER.

Mr. Hay to Mr. Dodge.

No. 179.]

DEPARTMENT OF STATE,
Washington, April 26, 1904.

SIR: The Department is in receipt of the card from your embassy dated April 14, 1903, showing that the ambassador refused to issue a passport to Robert Albert Böker, who was born in Leipsic May 25, 1885, of native American parents, on the ground that he was unwilling to swear to an intention to go to the United States to live.

The Department has repeatedly ruled that a person born abroad of American parents, being born a citizen of the United States under the law (section 1993, Revised Statutes of the United States), is entitled to the protection of this Government's passport until he shall have reached the age of 21 years, when he may elect another nationality if he choose. Until that age he is not competent to make such election and retains the status which his birth conferred. (See Foreign Relations, 1879, p. 815; 1901, p. 421; also Van Dyne on Citizenship, p. 32 et seq.)

The facts being as set forth on the card, it would appear that a passport should have been granted Mr. Böker, and you will accordingly recall the embassy's refusal to issue one in his favor and recall the cards announcing such refusal which may have been sent to other embassies and legations.

I am, etc.,

JOHN HAY.

Mr. Tower to Mr. Hay.

No. 358.]

AMERICAN EMBASSY,
Berlin, May 13, 1904.

SIR: I have the honor to acknowledge the receipt of your dispatch No. 179, of the 26th of April, 1904, in regard to the issuing of a passport to Robert Albert Böker.

Application was made in March, 1904, by Mr. Böker, through the United States consulate at Leipzig for a passport. The facts of the case, as they are reported to me by the applicant himself and by the consul at Leipzig, are as follows:

Robert Albert Böker was born in Leipzig on the 23d of May, 1885; he has lived in Leipzig all his life; he does not speak English; he has no connection with the United States, and to all intents and purposes he is a German.

His grandfather went to America in 1823, and resided there until 1853, when he returned to Germany and lived in Bonn until his death in 1884, having returned to his original domicile, therefore, and continued to reside there for thirty-one years after leaving America. It is not stated by the consul whether he was ever naturalized as an American citizen.

The father of the present applicant, Robert Anton Gescheid Böker, who is the son of Mr. Böker above referred to, was born at New York City on the 25th of January, 1845, but returned to Germany with his father at the age of 8 years, in 1853. He has continued to reside in Germany ever since, though he declares that he returned to America once upon a visit, in regard to which, however, Mr. Warner, the consul at Leipzig, writes to me, "when it was and how long he remained there he does not remember."

In forwarding to me the application of Mr. Böker for a passport the consul at Leipzig wrote to me on the 11th of March: "Neither the said applicant nor his father speaks English. The father can not say that he ever intends to return to the United States for the purpose of residing there. It is my opinion that he never will do so. The applicant can not say how long he will live in America. His idea in going there would seem to be solely for the purpose of evading military service." And in a subsequent letter, dated the 18th of March, the consul further declares in regard to the applicant Böker: "He should hardly be regarded as an American citizen, but rather as a child born of German parents temporarily residing in the United States."

It appears, therefore, that the father of the applicant, although born in the United States, abandoned his claim to American citizenship very early in his life, and has never made any effort or indication of his intention to resume it. His son, the present applicant, occupies indeed the position of a child born abroad of a father born in America, and I did not lose sight of this fact in considering his application for a passport.

I wrote to the consul at Leipzig on the 16th of March as follows: "The claim of this young man to American citizenship is slender at best. It is true that under our laws he may claim American citizenship by the fact that he is the son of an American, but on the other hand the burden is upon him to show that he has not abandoned his rights, and that while he is to all intents and purposes a German, intending to spend his life in Germany, with all his interests here, he seeks to escape the performance of his military service and his obligations as a German by clothing himself with a fictitious immunity under the guise of an American passport. The only way in which he can assert his determination to avail himself of his rights in America is by going to the United States, not only to make a visit to his elder brother" (of which he had declared his intention in order

to strengthen his application for a passport), "but to remain there, and absolutely in good faith to perform his duties as an American citizen."

A few days later the young man in question, Robert Albert Böker, came to this embassy, accompanied by his father, and I discussed this matter with them personally. I informed the applicant Böker that under the laws of the United States he is considered to be an American citizen by reason of his having been born abroad the son of a father who was born in the United States, and that he would have the right, upon coming of age to elect whether he would continue his American citizenship or become a German subject, and I told him that he could prove such election of American citizenship only by going to the United States to perform there his duties as an American citizen. He admitted, however, that he had no intention of going to the United States, either to live or to reside for any length of time, though he reiterated his statement that he intended to go to New York to visit a brother who lives there and is engaged in business there. I made an effort to obtain from him a declaration of a reasonable intention upon his part to reside in America and perform his duties there as an American citizen, but I failed in this, for he would not make any such declaration.

The young man appeared to me to be seeking a passport, as the consul had already intimated to me, solely for the purpose of evading military service in Germany, and I declined, therefore, to issue a passport to him, lest by so doing I should enable him to use the privileges of American citizenship, which he evidently does not deserve, and through them, while not rendering any service to the United States, to escape his obligations in Germany, where he was born and has been raised and intends to live.

I have the honor to request your further instructions in regard to this case.

I have, etc.,

CHARLEMAGNE TOWER.

Mr. Hay to Mr. Tower.

No. 192.]

DEPARTMENT OF STATE,
Washington, May 31, 1904.

SIR: The Department has received your No. 358, of May 13, relative to the rejection by your embassy of the application for a passport of Robert Allen Böker.

From the facts set forth by you it appears his father was an American citizen by birth, but he left this country permanently when he was 8 years of age, in 1853, and when the applicant was born had lived in Germany thirty-two years; and apparently he never performed the duties of an American citizen.

The Department has ruled: "If born after the father has in any way expatriated himself, the children born abroad are to all intents and purposes aliens, and not entitled to protection from the United States" (For. Rel. 1873, pt. 2, p. 1191); and again: "If the father has, at the time of the birth of a son, abandoned his citizenship in the

United States, the son can make no claim to such citizenship." (For. Rel. 1885, p, 396.) See Van Dyne on Citizenship, page 34.

It seems, therefore, that as the applicant's father had forfeited his right to protection as an American citizen when his son was born, the son is for this reason not entitled to receive such protection, and the rejection of the son's application for a passport appears to be proper; but not, however, for the reasons given by the embassy in its letter to the consul at Leipzig and in the card announcing the rejection sent to this Department, since, as the Department's No. 179, of April 26, 1904, stated, if the applicant was born an American citizen his intent to come to this country would be immaterial during his minority.

I am, etc.,

JOHN HAY.

PASSPORT OBTAINED FRAUDULENTLY BY JOSEF HENRY TETZ.

Mr. Dodge to Mr. Hay.

No. 531.]

AMERICAN EMBASSY,
Berlin, November 12, 1904.

SIR: I have the honor to inclose herewith the passport of one Josef Henry Tetz (Department of State No. 9279, of June 24, 1904), as well as copies of letters from the consul-general at Hamburg, dated the 20th ultimo, and from the police authorities of that city, dated the 18th ultimo, the latter also with an English translation. From these letters this man appears to have made the following statements:

He was born at Memel, East Prussia, on March 5, 1881, of a father who has never been to the United States. In 1885 or 1886 he emigrated with relations to the United States, where he remained until 1890. He then returned to Germany and remained here continuously until the end of April, 1904, when he again went to the United States, remaining there until July last. While in the United States, during these three months, he claims to have been naturalized an American citizen, and he obtained the inclosed passport. When questioned by the consul-general as to how he obtained this passport, he was not able to give any precise information; neither was he able to give any information as to how he became naturalized, but declared that he had left his naturalization certificate with relations in Holland. I accordingly immediately requested the consul-general at Hamburg to secure and forward to the embassy, if possible, the naturalization certificate mentioned, and to-day I have been informed by him that Tetz declares that he has been unable to find this document in Holland. The consul-general adds: "So far as I am able to judge, he has never been in possession of one." Under these circumstances, as it would seem that Tetz has no right to the passport in question, it is herewith returned for such further investigation and instructions in regard to this matter as may seem proper.

I have, etc.,

H. PERCIVAL DODGE.

[Inclosure 1.]

*Mr. Pitcairn to Mr. Dodge.*AMERICAN CONSULATE-GENERAL,
Hamburg, October 20, 1904.

SIR: I have the honor to transmit herewith a copy of a letter which I have this day received from the Hamburg police department, stating that a passport issued to Josef Henry Tetz by the Department of State on June 24, 1904, bearing No. 9279, appears to have been obtained illegally.

Josef Tetz states that his father is not an American citizen, he never having been in the United States. He himself has only been in the United States from his third to seventh year, and when he was 23 years of age he went the United States from May to July, 1904, during which time his uncle, whose address he is no longer aware of, aided him to procure the passport, which I herewith inclose.

I have also cross-examined Tetz, and he has made the same statements to me as he has done to the police department. He says that he does not know what statements his uncle made in order to procure him the passport, he using as an excuse that he is not fluent with the English language.

I would respectfully request that the embassy instruct me as to what steps I am to take in the matter.

I have, etc.,

HUGH PITCAIRN.

[Subinclosure.—Translation.]

*Director of Police Doctor Roscher to Mr. Pitcairn.*HAMBURG, *October 18, 1904.*

The merchant Joseph Henry Tetz, born on the 5th of March, 1881, at Memel, in East Prussia, has reported himself here as a citizen of the United States of America, showing the inclosed passport as identity.

The person named is, according to investigation, a son of the native Russian merchant Moritz Tetz, who has lived in Memel uninterruptedly since the year 1865, and who has never lived in North America. Josef Henry Tetz, when questioned, stated that in the year 1885 or 1886—that is, at the age of 4 or 5 years—he went to New York with relations, remaining there until 1890. From 1890 until April of this year he has, according to his own statement, always lived in Germany. Then from May to July of the present year he says he was again in New York, and that during this time he acquired American citizenship. He states that he has left his naturalization certificate with relations in Holland.

Since doubt has arisen here whether Tetz has acquired American citizenship in a regular and legal manner, I have the honor to request that the consulate-general will kindly inform me whether Tetz is to be considered an American citizen.

DOCTOR ROSCHER.

Mr. Hay to Mr. Tower.

No. 280.]

DEPARTMENT OF STATE,
Washington, December 2, 1904.

SIR: The Department has received Mr. Dodge's No. 521, of the 12th ultimo, relative to the case of Josef Henry Tetz, to whom this Department issued passport No. 9279 on June 24, 1904.

The application upon which the passport was issued showed that Tetz was a native citizen of the United States, and, as the passport was obtained by fraud, as appears from the information conveyed in Mr. Dodge's dispatch, you are instructed to notify the proper authorities in Germany that Josef Henry Tetz is not a citizen of the United States, and that his passport has been withdrawn for the reasons set forth in this instruction.

I am, etc.,

JOHN HAY.

**FINE IMPOSED UPON EMIL VIBERT FOR NONPERFORMANCE OF
MILITARY SERVICE.**

Mr. Tower to Mr. Hay.

No. 331.]

AMERICAN EMBASSY,
Berlin, April 5, 1904.

SIR: I have the honor to call to your attention the case of one Emil Vibert, a naturalized American citizen now residing in New York, who has recently expressed a desire to return to Germany upon a visit.

It appears that Mr. Vibert was born in St. Quirin, Lorraine, on the 1st of February, 1874, and emigrated to the United States with his father in 1886, having resided in America ever since. He was naturalized in the United States district court for the southern district of New York on the 22d of November, 1895, as is shown by his naturalization certificate, which was duly presented at this embassy.

The case was brought to my attention by the United States consul at Kehl on the 18th of December, 1903, by a letter in which the consul informed me that Mr. Vibert's father now resides at St. Quirin, in Lorraine, and Mr. Vibert "would like to have permission to visit his old home for a period of six months, namely, from April 1 until September 30, 1904."

Upon receipt of this letter and upon due proof of the naturalization of Mr. Vibert, I addressed a note, on the 28th of December, 1903, to the imperial German ministry for foreign affairs, asking that Mr. Vibert might be allowed to visit his father, in accordance with his request.

I have now received a note verbale, under date of the 27th of March, 1904, from the ministry for foreign affairs, a copy and a translation into English of which are herewith inclosed, in which the ministry announces that Emil Vibert is still a German subject and was condemned by the court in Zabern, on the 5th of April, 1897, to pay a fine of 600 marks or to undergo an imprisonment of forty days, with the costs, for nonperformance of military duty, which sentence has as yet not been carried out.

Mr. Vibert's American citizenship is not recognized in Germany, under the old contention that the treaties with the United States in regard to naturalization do not apply to the imperial provinces of Alsace and Lorraine, and therefore the ministry for foreign affairs announces that as a German subject he does not require permission to return to his own country, but that if he comes back to his home the sentence now pending against him will be carried out and he will be forcibly enrolled in the army.

But the ministry further announces that, in view of the intervention of the embassy of the United States in behalf of Mr. Vibert, the authorities of Alsace and Lorraine have declared themselves willing, upon payment by him of the fine imposed upon him and the costs, to grant a request, if made by him, for his release from German nationality and then to give him permission to make a visit to Alsace-Lorraine.

A copy of the entire correspondence relating to this case is herewith respectfully inclosed.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure 1.]

*Mr. Brittain to Mr. Dodge.*AMERICAN CONSULATE,
Kehl, December 18, 1903.

SIR: I beg to inclose the citizenship papers of Emil Vibert, who wishes to return to Germany for the purpose of a visit.

He would like to have permission to visit his old home for a period of six months, namely from April 1 until September 30, 1904.

Mr. Vibert went to the United States with his father in 1886, at the age of 12 years. His father resides now at St. Quirin, Lorraine, near Saarburg.

I am, etc.,

JOSEPH I. BRITTAİN.

[Inclosure 2.]

*Mr. Dodge to Mr. Brittain.*AMERICAN EMBASSY,
Berlin, December 19, 1903.

SIR: The embassy returns herewith the naturalization certificate of Emil Vibert, and informs you that it will take proper action with a view to obtaining the desired permission for this gentleman if you will submit to it further details concerning him, and especially the place and date of his birth, whether he has made former visits to Germany, etc.

I am, etc.,

H. PERCIVAL DODGE.

[Inclosure 3.]

*Mr. Brittain to Mr. Dodge.*AMERICAN CONSULATE,
Kehl, December 26, 1903.

SIR: In response to your letter of the 19th instant I herewith return the citizenship papers of Emil Vibert, and beg to state that he was born February 1, 1874, and emigrated to the United States in 1886, and has never returned to Germany.

He was born in St. Quirin, Lorraine, near Saarburg.

I am, etc.,

JOSEPH I. BRITTAİN.

[Inclosure 4.]

Note verbale from the American Embassy to the Imperial Ministry for Foreign Affairs.

BERLIN, December 28, 1903.

The embassy of the United States of America has the honor to request, if it be found to be perfectly convenient and proper, that one Emil Vibert, an American citizen of German origin, may be allowed to visit his father at his former home at St. Quirin, near Saarburg, Lorraine, for about six months, namely from April 1 until September 30, 1904.

The embassy is informed that Vibert was born at St. Quirin in 1874, and emigrated to the United States in 1886, becoming duly naturalized there an American citizen in the United States district court for the southern district of New York, November 22, 1895, as is shown by the naturalization certificate in his possession. Vibert has not returned to Germany since his emigration, and is at present in the United States.

[Inclosure 5.]

Note verbale from the Imperial Ministry for Foreign Affairs to the American Embassy.

BERLIN, March 27, 1904.

In reply to the note verbale of the 28th of December, 1903, the ministry for foreign affairs has the honor to inform the embassy of the United States of America that an investigation has shown that Emil Vibert is still a German subject, and was sentenced, on the 5th of April, 1897, by the court at Zabern, to pay a fine of 600 marks or undergo an imprisonment of 40 days and pay the costs. The sentence has not yet been carried out. As a German subject, Vibert would not require special permission to visit Alsace-Lorraine; but if he returned to his native country he would have to submit to the execution of the sentence pending against him and would be forcibly enrolled in the army.

In view of the intervention of the embassy of the United States of America in Vibert's behalf, the authorities have expressed their willingness to release him from his German nationality, if he so desires, upon his paying the fine now outstanding against him and the costs; and permission will then be granted him to make a visit in Alsace-Lorraine.

Mr. Hay to Mr. Dodge.

No. 182.]

DEPARTMENT OF STATE,
Washington, May 5, 1904.

SIR: I have to acknowledge the receipt of Mr. Tower's No. 31 of the 5th ultimo, in regard to the case of Emil Vibert, for whose return to Germany to visit his father for a period of six months permission was sought by the embassy and refused by the German Government, on the ground that as the naturalization treaties of the United States do not apply to the Imperial provinces of Alsace and Lorraine, Vibert is still a German subject, and was condemned by the court in Zabern, on April 5, 1897, to pay a fine of 600 marks or to undergo an imprisonment of forty days, with the costs, for non-performance of military duty, which sentence has as yet not been carried out.

It appears from your dispatch that Vibert, who was born in St. Quirin, Lorraine, February 1, 1874, emigrated to the United States in 1886, since when he has not once returned to Germany, but has lived continually in this country, where he was naturalized as a citizen of the United States in November, 1895.

Mr. Vibert has, therefore, been absent from Germany for a period of from seventeen to eighteen years, and would seem to have lost his German allegiance, according to the North German law of June 1, 1870 (extended to Alsace-Lorraine by the Imperial law of January 8, 1875), by a residence of more than ten years abroad.

It was apparently on this account that in the somewhat similar case of Casimir Hartmann (Foreign Relations, 1897, pages 230 and 231) Hartmann was recognized as a foreigner and released from military service; and while this Government does not concede the contention of the German Government as to the nonapplicability of the naturalization treaties to Alsace-Lorraine, but leaves that question open to discussion, the Department is of the opinion that intervention in Vibert's behalf, both as to his return to his native place for a visit and for a rescission of the fine and sentence against him.

would be successful if, in addition to his American citizenship, such intervention was based on the forfeiture of his German allegiance under the law alluded to, by his absence of more than ten years.

For information on this point the Department invites your perusal of the instructions sent by Mr. Olney to Mr. Jackson on March 3, 1896, and printed in the volume of Foreign Relations for that year.

I am, etc.,

JOHN HAY.

Mr. Tower to Mr. Hay.

No. 368.]

AMERICAN EMBASSY,
Berlin, May 27, 1904.

SIR: I have the honor to acknowledge the receipt of your instruction No. 182, of the 5th of May, 1904, in regard to the case of Emil Vibert, whose request to return to Germany to visit his father was refused by the German Government on the ground that as the naturalization treaties of the United States do not apply to the Imperial provinces of Alsace and Lorraine the said Vibert is still a German subject, and that if he returns to Germany he will be subject to pay the fine of 600 marks which was imposed upon him for nonperformance of military duty.

In accordance with your instructions, I had an interview, immediately upon receipt of your dispatch, with His Excellency Doctor von Mühlberg, acting Imperial German secretary of state for foreign affairs, to whom I presented again the subject of this case. I called to the attention of Dr. von Mühlberg the fact that Mr. Vibert emigrated to the United States in 1886, when he was but 12 years of age, and that he has been absent from Germany for a period of about eighteen years, in consequence of which he has lost his German allegiance under the German law of 1870; and I reminded Doctor von Mühlberg that Mr. Vibert has in the meantime been duly naturalized a citizen of the United States.

In regard to the fine which was imposed upon Vibert, Doctor von Mühlberg replied that it would not be affected by the fact of his having been absent from Germany for more than ten years, because it had been kept alive and been renewed from time to time under due process of law, and that it would accordingly apply to Vibert if he returned to Germany. The case resolves itself, therefore, into a question as to whether the German Government will recognize the citizenship of Mr. Vibert under the treaties of naturalization between Germany and the United States. The German Government does not consider these treaties as extending to the provinces of Alsace and Lorraine, largely because of a great variety of difficulties as to the application of the local treaties between the various German States themselves, which arose from the formation of the German Empire, and as no means have as yet been discovered to compose these questions of internal administration the position of the provinces of Alsace and Lorraine has been left until the present time undefined in this regard, whilst still forming a portion of the Empire. There is evidently no intent upon the part of the German Government to create any difficulties in connection with the application to Alsace and Lor-

rairie of its naturalization treaties with the United States, although this application has been held in abeyance up to the present time for the reasons which I have just mentioned; but I judge from the conversation which I had with Doctor von Mühlberg that if the Government of the United States wishes to open negotiations the Imperial German Government would be inclined so to extend the provisions of the naturalization treaties with the United States that they should apply also to the provinces of the Reichsland.

In the meantime, however, I presented to Doctor von Mühlberg the case of Emil Vibert and called to his attention as forcibly as possible the fact that Vibert has legally acquired American citizenship and is entitled under it to the rights and privileges which such citizenship carries with it; and I asked him to have Vibert's citizenship duly recognized, permission granted to him to return to Lorraine upon a visit to his father, and the fine of 600 marks removed.

Doctor von Mühlberg very courteously examined the details of the subject and promised me to give it his personal attention.

I have, etc.,

CHARLEMAGNE TOWER.

Mr. Tower to Mr. Hay.

No. 382.]

AMERICAN EMBASSY,
Berlin, June 11, 1904.

SIR:

* * * * *

Regarding the case of Emil Vibert, a naturalized American citizen, who has asked for permission to return to Lorraine upon a visit to his father, I have received a note from Doctor von Mühlberg, a copy and a translation into English of which are hereto attached, in which the acting secretary of state says, in answer to my request that the fine imposed upon Mr. Vibert for nonperformance of military duty should be removed, that, "the annulment of the fine and costs could be obtained only as an act of grace," and, therefore, he suggests that Mr. Vibert shall address to the Emperor a petition for the annulment of the fine with costs and for his release from German allegiance.

If Mr. Vibert chooses to avail himself of this proposition and will send to me accordingly a petition addressed to the Emperor, I shall transmit it, with your approval, to the imperial ministry for foreign affairs, and shall support it, in so far as may be proper for me to do so. I am inclined to believe that such a petition would be granted.

I have, etc.,

CHARLEMAGNE TOWER.

[Inclosure.]

Doctor von Mühlberg to Mr. Tower.

IMPERIAL MINISTRY FOR FOREIGN AFFAIRS,
Berlin, June 3, 1904.

In reply to the note of the 27th of May, the undersigned has the honor to inform His Excellency, Mr. Charlemagne Tower, ambassador extraordinary and

plenipotentiary of the United States of America, that the ten years residence abroad by which a German loses his allegiance to Germany, in accordance with paragraph 21, clause 1, of the imperial law of June 1, 1870, does not apply to minors, but only to such as have attained their majority. In the case of Emil Vibert, who was born on the 1st of February, 1874, this term can only be reckoned from the 1st of February, 1895, and has therefore not yet been concluded. Under these circumstances Vibert is still a German subject, as was stated in the note verbale of the imperial ministry for foreign affairs, dated March 27, 1904.

In that note verbale it was stated that, in view of the intervention of his excellency the ambassador in Vibert's behalf, the proper authorities would be willing to release him from his German allegiance upon his making such a request and paying the fine outstanding against him, together with the costs. The annulment of the fine and costs could only be brought about by an act of grace. Vibert's interests would, therefore, probably best be served by his addressing a petition to His Majesty the Emperor, praying for the annulment of the fine and costs imposed upon him in consequence of his having evaded his military duties, and for his release from German allegiance. If the ambassador will support such a petition in having it sent to the imperial ministry for foreign affairs, the undersigned will gladly lend his good offices, in view of the special interest in this case taken by the ambassador, to the end that the petition may reach its high destination.

The undersigned avails himself, etc.,

MÜHLBERG.

Mr. Hay to Mr. Tower.

No. 207.]

DEPARTMENT OF STATE,
Washington, June 13, 1904.

SIR: I have to acknowledge the receipt of your No. 368, of the 27th ultimo, respecting the military case of Emil Vibert.

Your action is approved, and the Department will await the formal presentation of the case to the German Government.

In the meantime the Department has under consideration your observations concerning the application to Alsace and Lorraine of our naturalization treaties with the German Government.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Tower.

No. 215.]

DEPARTMENT OF STATE,
Washington, June 23, 1904.

SIR: I have to acknowledge the receipt of your No. 382, of the 11th instant, reporting the result of your formal presentation to the German Government of the military case of Emil Vibert, a naturalized American citizen, who has asked for permission to return to Lorraine on a visit to his father.

The Department is of opinion that you may inform Mr. Vibert of the suggestion from the foreign office that the only means for Mr. Vibert to obtain release from German allegiance and the annulment of the fine imposed on him in 1898 for nonperformance of military service is by favorable action on a petition to be addressed by Mr. Vibert to His Majesty the Emperor.

Should Mr. Vibert send such a petition to the embassy you may

transmit it to the German foreign office. But in order that such course may not be construed as a tacit admission, at least, of the German contention that Vibert is still a German subject, which is opposed to the contention of this Government that the naturalization treaties existing between the two countries are applicable to Alsace-Lorraine, and that under such treaties Vibert is and should be recognized as a citizen of the United States, you will, in transmitting the petition, state to the imperial ministry for foreign affairs that in doing so the embassy's action is not to be understood as conceding the German contention that the naturalization treaties do not apply to Alsace-Lorraine.

I am, etc.,

JOHN HAY.

**NEUTRALITY OF GERMANY IN THE WAR BETWEEN RUSSIA
AND JAPAN.**

Mr. Dodge to Mr. Hay.

No. 440.]

AMERICAN EMBASSY,
Berlin, August 17, 1904.

SIR: I have the honor to report to you that I was informed yesterday by Doctor von Mühlberg, imperial acting secretary of state for foreign affairs, at the usual weekly diplomatic reception, that the Russian ships which had taken refuge at Tsingtau, including the battle ship *Cesarevitch* and three torpedo boats, had been disarmed by the German authorities and would not be allowed to repair. No reason had been given for this step, contrary to what had been reported in some of the newspapers. Doctor von Mühlberg then said that the position of neutrals in regard to allowing the ships of belligerents to repair in neutral ports was a very difficult one. The principles of international law in regard to this were very difficult of application. Of course it could not be laid down that Germany would under no circumstances allow belligerent ships to repair in her ports, but in the present case it had been decided not to allow this to be done. He had reason to believe that the British Government would act in a similar case as the German Government had done. In regard to the officers and men belonging to these ships and numbering about 1,000, the Japanese Government had been asked whether it had any objection to their being sent to Russia under proper safeguards.

I am, etc.,

H. PERCIVAL DODGE.

GREAT BRITAIN.

ARBITRATION OF THE PREFERENTIAL TREATMENT OF CLAIMS AGAINST VENEZUELA.

(See under the Netherlands, p. 505.)

DELIMITATION OF THE ALASKA BOUNDARY.

Sir Mortimer Durand to Mr. Loomis.

No. 15.]

BRITISH EMBASSY,
Washington, January 29, 1904.

SIR: I have the honor to inform you that I have received a communication from His Majesty's principal secretary of state for foreign affairs stating that the Canadian government are quite ready to enter into arrangements for the delimitation of the boundary between the Dominion of Canada and the Territory of Alaska, in conformity with the award of the Alaska Boundary Tribunal.

The Canadian government propose to appoint Mr. King as their representative on the Delimitation Commission. Mr. King will be ready to meet the expert named by the United States Government as soon as the appointment of the latter is made.

I have, etc.,
(For Sir Mortimer Durand.)

ARTHUR S. RAIKES.

Mr. Loomis to Sir Mortimer Durand.

No. 28.]

DEPARTMENT OF STATE,
Washington, February 5, 1904.

EXCELLENCY: Referring to your note, No. 15, of the 29th ultimo, by which you informed me of the purpose of the Canadian government to appoint Mr. King as their representative on the Commission to delimitate the boundary between Alaska and the Dominion of Canada, I have the honor to inform you that Mr. O. H. Tittmann, Superintendent of the Coast and Geodetic Survey, has been designated by this Government as its expert representative on the Delimitation Commission for the tracing of the said boundary in conformity with the award of the Alaska Boundary Tribunal.

Owing to the brief season in which work can be done to advantage I venture to suggest to your excellency the expediency of an early conference between Messrs. Tittmann and King in order that work may be begun without undue delay.

I have, etc.,

FRANCIS B. LOOMIS,
Acting Secretary.

Sir Mortimer Durand to Mr. Loomis.

No. 176.]

BRITISH EMBASSY,
Lenox, Mass., October, 1, 1904.

SIR: I have the honor to inform you that I have received a dispatch from the Marquess of Landsdowne forwarding the recommendations of Messrs King and Tittmann, the commissioners appointed to carry out the delimitation of the Alaska boundary in so far as it was left undefined by the London Tribunal.

A copy of the report drawn up by Messrs. King and Tittmann is inclosed herewith.

The Canadian government are satisfied with the proposed line, which they consider follows sufficiently closely the straight line joining the points designated as "T" and "P" in the Alaska boundary award and on the maps accompanying it, and which is approximately parallel with the coast; and they have expressed the wish that the United States Government should be approached with a view to obtain their formal agreement to that line as an international boundary.

I have therefore been directed by the Marquess of Landsdowne to inform you that His Majesty's Government are ready to accept this line as satisfactory and at the same time to inquire whether the United States Government also agree to it.

In the event of your Government's concurrence it will apparently be necessary to arrange for a formal agreement between the United States and Great Britain, either by means of a convention or by an exchange of notes. I should be glad to know the wishes of the State Department on this point.

I have, etc., etc.

H. M. DURAND.

[Inclosure.]

We, the undersigned Commissioners on behalf of His Britannic Majesty and of the United States, respectively, having met to discuss the demarcation of the boundary line between Alaska and Canada, have considered the part lying between the points P and T mentioned in the award of the tribunal of 1903.

We respectfully recommend that the boundary between these points be marked by the summits whose geographical coordinates are given in the attached table, with the proviso that between the points 7 and 8, and 8 and T, where the distances between the peaks given in the table exceed the probable limit of intervisibility, power be granted to the commissioners after they have secured sufficient data, to select additional and intermediate peaks, no such peak to be more than twenty-five hundred meters from the straight line joining peaks 7 and 8, or 8 and T of the attached table.

W. F. KING,
His Britannic Majesty's Commissioner.

O. H. TITTMANN,
United States Commissioner.

WASHINGTON, D. C., April 12, 1904.

Table showing the positions and distances of peaks.

The latitudes and longitudes are taken from maps Nos. 10 and 12 of the surveys made by the British commission under the convention of 1892. The successive peaks are designated by consecutive numbers counting southward from point P.

Point.	Latitude.			Longitude.			From—	To—	Distances.
	°	'	"	°	'	"			
Sheet 1.....	58	36	29	133	41	55	P	1	<i>Meters.</i> 15,840
Sheet 2.....	58	31	01	133	33	14	1	2	12,800
Sheet 3.....	58	24	40	133	26	09	2	3	13,680
Sheet 4.....	58	22	35	133	27	09	3	4	4,000
Sheet 5.....	58	16	10	133	21	08	4	5	13,200
Sheet 6.....	58	13	24	133	16	48	5	6	6,960
Sheet 7.....	58	09	07	133	11	10	6	7	9,700
Sheet 8.....	57	29	47	132	32	52	8	T	36,800
Sheet 10.....							7	8	81,440

Mr. Hay to Sir Mortimer Durand.

No. 143.]

DEPARTMENT OF STATE,
Washington, December 2, 1904.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 176 of October 1 last, with which is inclosed a copy of a report by Messrs. Tittmann and King, the commissioners appointed to carry out the delimitation of the Alaskan boundary, so far as it was left undefined by the London tribunal.

In this report the commissioners recommend that the boundary between the points "P" and "T," mentioned in the award of the tribunal, "be marked by the summits where geographical coordinates are given in the attached table (also inclosed with your note), with the proviso that between the points 7 and 8, and 8 and T, where the distances between the peaks given in the table exceed the probable limit of intervisibility, power be granted to the commissioners, after they have secured sufficient data, to select additional and intermediate peaks, no such peak to be more than twenty-five hundred meters from the straight line joining peaks 7 and 8 or 8 and T of the attached table."

You state that the Canadian government are satisfied with the proposed line, which they consider follows sufficiently closely the straight line joining the points designated as "T" and "P" in the Alaska boundary award and on the map accompanying it, and which is approximately parallel with the coast; and that they have expressed the wish that the United States Government should be approached with a view to obtain their formal agreement to that line as an international boundary.

You, therefore, by direction of the Marquess of Lansdowne, inform me that His Majesty's Government are ready to accept this line as satisfactory, and inquire whether the Government of the United States also agree to it; and, if so, whether the formal agreement between the two countries should be arranged by means of a convention or by an exchange of notes.

In reply I have the honor to state that the Government of the United States is likewise ready to accept the proposed line as satisfactory, and considers that it will be sufficient for the two Governments to accept formally the recommendation of the commissioners by an exchange of notes.

I have, etc.,

JOHN HAY.

PROTECTION OF THE BRITISH VICE-CONSULATE AT SANTO DOMINGO.

Sir Mortimer Durand to Mr. Loomis.

No. 19.]

BRITISH EMBASSY,
Washington, February 2, 1904.

SIR: His Majesty's principal secretary of state for foreign affairs has received a dispatch from the British vice-consul at Santo Domingo reporting that during the recent disturbances in the Dominican Republic a guard for the British vice-consulate was courteously offered by the captain of the U. S. S. *Baltimore*.

Mr. Gosling did not at first think it necessary to avail himself of this offer, but when the ex-President, Wos y Gil, took refuge in his house, he informed the United States minister that he would be glad to take advantage of it, and a guard was sent from the U. S. S. *Newport*.

Mr. Powell, moreover, assisted in arranging for General Gil's escort to the wharf, on his departure for Porto Rico.

His Majesty's Government highly appreciates the courteous assistance rendered to Mr. Gosling by the American minister and naval authorities, and I am instructed to convey their thanks to the Government of the United States.

I have, etc.,

H. M. DURAND.

NEUTRALITY OF CHINA IN THE WAR BETWEEN RUSSIA AND JAPAN.

Mr. Hay to Mr. Choate.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 8, 1904.

(Mr. Hay instructs Mr. Choate to consult the minister for foreign affairs in regard to the possibility and desirability of neutral powers concurrently using good offices with Russia and Japan (if a state of war should unfortunately be created) to induce them to respect the neutrality of China and her administrative entity in all practicable ways, to limit and localize the area of hostilities as much as possible, in order that undue excitement and disturbance of the Chinese people may be prevented and the least possible loss may be occasioned to the commerce and the peaceful intercourse of the world. Further instructs him to suggest, if this proposition seems acceptable, that instructions in this sense be sent to the British representatives at St. Petersburg, Tokyo, and Peking.)

Mr. Choate to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
London, February 9, 1904.

(Mr. Choate states that Lord Lansdowne asks whether Manchuria is within the phrase "neutrality of China" and whether it is under-

stood that Japan should preclude herself from activity in that province of China in spite of Russia's occupation and of which the latter might make use as a base of military operations.)

Mr. Hay to Mr. Choate.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 10, 1904.

(Mr. Hay states that by its proposal this Government is not contemplating a definition of neutral limits, but seeks to secure the smallest possible area of hostilities and the largest possible area of neutrality compatible with the military necessities of the belligerents.)

Mr. Choate to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
London, February 11, 1904.

(Mr. Choate reports that he has communicated to Lord Lansdowne Department's telegram of the 10th instant and the instructions to the United States ministers at St. Petersburg, Tokyo, and Peking, and that he was given the following memorandum:

"The Imperial Government cordially approve in principle the communication which the United States Government has made and will gladly join them in recommending it to the belligerents for acceptance. It seems to them, however, that it will require some qualification in regard to the description of the area to be neutralized. In their opinion it is unlikely that Japan will agree to the neutralization of Manchuria, which, although forming a part of the Chinese Empire, is now in the occupation of Russia, and should the Japanese Government object to include that province in the neutralized area His Majesty's Government could not press them to do so.")

Mr. Hay to Mr. Choate.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 12, 1904.

(Mr. Hay informs Mr. Choate that Japan accepts the principle of neutrality of China provided Russia does so. He states that it would be unwise to attempt to delimitate the area of hostilities, and that it is unnecessary that the neutral powers should join in an identic note. Each power should present in its own way the request for the neutrality of China and all practicable limitation of the field of hostilities.)

Mr. Choate to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
London, February 13, 1904.

(Mr. Choate reports that Lord Lansdowne has informed him that the British representatives at St. Petersburg, Tokyo, and Peking have been instructed to present the request for the neutrality of China on the lines laid down in the memorandum of the 11th instant.)

Mr. Hay to Mr. Choate.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 15, 1904.

(Mr. Hay instructs Mr. Choate to express to Lord Lansdowne cordial appreciation for the prompt and energetic cooperation in the matter of the neutrality of China.)

**AGREEMENT BETWEEN FRANCE AND GREAT BRITAIN RELATING
TO THE NEWFOUNDLAND FISHERIES.**

Mr. White to Mr. Hay.

No. 1346.]

AMERICAN EMBASSY,
London, April 13, 1904.

SIR: I have the honor to inclose herewith two copies of a parliamentary paper, which has been issued this day, containing a dispatch from the Marquess of Lansdowne to the British ambassador at Paris, forwarding the agreements between the British and French Governments, which were signed on the 8th instant, for the settlement of the questions at issue between the two countries.

I have, etc.,

HENRY WHITE.

[Inclosure.]

Convention signed at London, April 8, 1904.

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and the President of the French Republic, having resolved to put an end, by a friendly arrangement, to the difficulties which have arisen in Newfoundland, have decided to conclude a convention to that effect, and have named as their respective plenipotentiaries:

His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, the Most Honorable Henry Charles Keith Petty-Fitzmaurice, Marquess of Lansdowne, His Majesty's principal secretary of state for foreign affairs; and

The President of the French Republic, His Excellency Monsieur Paul Cambon,

ambassador of the French Republic at the court of His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India ;

Who, after having communicated to each other their full powers, found in good and due form, have agreed as follows, subject to the approval of their respective Parliaments :

ARTICLE I.

France renounces the privileges established to her advantage by Article XIII of the treaty of Utrecht, and confirmed or modified by subsequent provisions.

ARTICLE II.

France retains for her citizens, on a footing of equality with British subjects, the right of fishing in the territorial waters on that portion of the coast of Newfoundland comprised between Cape St. John and Cape Ray, passing by the north ; this right shall be exercised during the usual fishing season closing for all persons on the 20th October of each year.

The French may therefore fish there for every kind of fish, including bait and also shellfish. They may enter any port or harbor on the said coast and may there obtain supplies or bait and shelter on the same conditions as the inhabitants of Newfoundland, but they will remain subject to the local regulations in force ; they may also fish at the mouths of the rivers, but without going beyond a straight line drawn between the two extremities of the banks where the river enters the sea.

They shall not make use of stake nets or fixed engines without permission of the local authorities.

On the above-named portion of the coast, British subjects and French citizens shall be subject alike to the laws and regulations now in force, or which may hereafter be passed for the establishment of a close time in regard to any particular kind of fish, or for the improvement of the fisheries. Notice of any fresh laws or regulations shall be given to the Government of the French Republic three months before they come into operation.

The policing of the fishing on the above-mentioned portion of the coast, and for prevention of illicit liquor traffic and smuggling of spirits, shall form the subject of regulations drawn up in agreement by the two Governments.

ARTICLE III.

A pecuniary indemnity shall be awarded by His Britannic Majesty's Government to the French citizens engaged in fishing or the preparation of fish on the "treaty shore," who are obliged either to abandon the establishments they possess there, or to give up their occupation, in consequence of the modification introduced by the present convention into the existing state of affairs.

This indemnity can not be claimed by the parties interested unless they have been engaged in their business prior to the closing of the fishing season of 1903.

Claims for indemnity shall be submitted to an arbitral tribunal, composed of an officer of each nation, and, in the event of disagreement, of an umpire appointed in accordance with the procedure laid down by Article XXXII of The Hague convention. The details regulating the constitution of the tribunal and the conditions of the inquiries to be instituted for the purpose of substantiating the claims shall form the subject of a special agreement between the two Governments.

ARTICLE IV.

His Britannic Majesty's Government, recognizing that, in addition to the indemnity referred to in the preceding article, some territorial compensation is due to France in return for the surrender of her privilege in that part of the island of Newfoundland referred to in Article II, agree with the Government of the French Republic to the provisions embodied in the following articles :

ARTICLE V.

The present frontier between Senegambia and the English Colony of the Gambia shall be modified so as to give to France Yabutenda and the lands and landing places belonging to that locality.

In the event of the river not being open to maritime navigation up to that point, access shall be assured to the French Government at a point lower down on the river Gambia, which shall be recognized by mutual agreement as being accessible to merchant ships engaged in maritime navigation.

The conditions which shall govern transit on the river Gambia and its tributaries, as well as the method of access to the point that may be reserved to France in accordance with the preceding paragraph, shall form the subject of future agreement between the two Governments.

In any case, it is understood that these conditions shall be at least as favorable as those of the system instituted by application of the general act of the African conference of the 26th February, 1885, and of the Anglo-French convention of the 14th June, 1898, to the English portion of the basin of the Niger.

ARTICLE VI.

The group known as the Iles de Los, and situated opposite Konakry, is ceded by His Britannic Majesty to France.

ARTICLE VII.

Persons born in the territories ceded to France by articles V and VI of the present convention may retain British nationality by means of an individual declaration to that effect, to be made before the proper authorities by themselves, or, in the case of children under age, by their parents or guardians.

The period within which the declaration of option referred to in the preceding paragraph must be made, shall be one year, dating from the day on which French authority shall be established over the territory in which the persons in question have been born.

Native laws and customs now existing will, as far as possible, remain undisturbed.

In the Iles de Los, for a period of thirty years from the date of exchange of the ratifications of the present convention, British fishermen shall enjoy the same rights as French fishermen, with regard to anchorage in all weathers, to taking in provisions and water, to making repairs, to transshipment of goods, to the sale of fish, and to the landing and drying of nets, provided always that they observe the conditions laid down in the French laws and regulations which may be in force there.

ARTICLE VIII.

To the east of the Niger the following line shall be substituted for the boundary fixed between the French and British possessions by the convention of the 14th June, 1898, subject to the modifications which may result from the stipulations introduced in the final paragraph of the present article.

Starting from the point on the left bank of the Niger laid down in Article III of the convention of the 14th of June, 1898, that is to say, the median line of the Dallul Mauri, the frontier shall be drawn along this median line until it meets the circumference of a circle drawn from the town of Sokoto as a centre, with a radius of 160,932 mètres (100 miles). Thence it shall follow the northern arc of this circle to a point situated 5 kilomètres south of the point of intersection of the above-mentioned arc of the circle with the route from Dosso to Matankari via Maourédé.

Thence it shall be drawn in a direct line to a point 20 kilomètres north of Konni (Birni-N'Kouni), and then in a direct line to a point 15 kilomètres south of Maradi, and thence shall be continued in a direct line to the point of intersection of the parallel of 13° 20' north latitude with a meridian passing 70 miles to the east of the second intersection of the 14th degree of north latitude and the northern arc of the above-mentioned circle.

Thence the frontier shall follow in an easterly direction the parallel of 13° 20' north latitude until it strikes the left bank of the river Komadugu Waubé (Komadougou Ouobé), the thalweg of which it will then follow to Lake Chad. But, if before meeting this river the frontier attains a distance of 5 kilomètres from the caravan route from Zinder to Yo, through Sua Kololua (Sua Kololoua) Adeber, and Kabi, the boundary shall then be traced at a distance of 5 kilomètres to the south of this route until it strikes the left bank of the river Komadugu Waubé (Komadougou Ouobé), it being nevertheless understood that, if the boundary thus drawn should happen to pass through a village, this village with its

lands shall be assigned to the government to which would fall the larger portion of the village and its lands. The boundary will then, as before, follow the thalweg of the said river to Lake Chad.

Thence it will follow the degree of latitude passing through the thalweg of the mouth of the said river up to its intersection with the meridian running 35' east of the centre of the town of Kouka, and will then follow this meridian southwards until it intersects the southern shore of Lake Chad.

It is agreed, however, that, when the commissioners of the two governments at present engaged in delimiting the line laid down in Article IV of the convention of the 14th of June, 1898, return home and can be consulted, the two governments will be prepared to consider any modifications of the above frontier line which may seem desirable for the purpose of determining the line of demarcation with greater accuracy. In order to avoid the inconvenience to either party which might result from the adoption of a line deviating from recognized and well-established frontiers, it is agreed that in those portions of the projected line where the frontier is not determined by the trade routes, regard shall be had to the present political divisions of the territories so that the tribes belonging to the territories of Tessoua-Maradi and Zinder shall, as far as possible, be left to France, and those belonging to the territories of the British zone shall, as far as possible, be left to Great Britain.

It is further agreed that on Lake Chad the frontier line shall, if necessary, be modified so as to assure to France a communication through open water at all seasons between her possessions on the northwest and those on the southeast of the lake, and a portion of the surface of the open waters of the lake at least proportionate to that assigned to her by the map forming annex 2 of the convention of the 14th June, 1898.

In that portion of the river Komadugu which is common to both parties the populations on the banks shall have equal rights of fishing.

ARTICLE IX.

The present convention shall be ratified, and the ratifications shall be exchanged, at London, within eight months, or earlier if possible.

In witness whereof his excellency the ambassador of the French Republic at the Court of His Majesty the King of the United Kingdom of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India, and His Majesty's principal secretary of state for foreign affairs, duly authorized for that purpose, have signed the present convention and have affixed thereto their seals.

Done at London, in duplicate, the 8th day of April, 1904.

[L. S.]

LANSDOWNE.
PAUL CAMBON.

CONTRABAND IN THE WAR BETWEEN RUSSIA AND JAPAN.^a

Mr. Hay to Mr. White.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 20, 1904.

(Mr. Hay states that the Russian ambassador has given notice to the Department that correspondents communicating war news by wireless telegraph off the coast of Kwantung or within the zone of operations of the Russian fleet will be treated as spies, and that vessels with such apparatus will be seized. In taking note of this declaration the Department adds that the United States Government does not waive any right it may have in international law should any American citizen be arrested or any American vessel be seized.)

^a See also under Russia, p. 727.

Mr. White to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
London, April 27, 1904.

(Mr. White reports that Lord Lansdowne has addressed a note to the Russian ambassador in London embodying a reservation similar to the reply of the United States to the Russian declaration respecting wireless telegraphy which Mr. White communicated to him yesterday.)

Mr. Choate to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
London, June 3, 1904.

(Mr. Choate states that Lord Lansdowne desires to exchange views with the United States Government on the Russian order issued February 28 last, concerning contraband, where it makes, by rule 6, clause 8, "every kind of fuel, such as coal, naphtha, alcohol, and other similar materials," unconditionally contraband, especially concerning coal, in which a total change has taken place in Russia's views since 1884.)

Mr. Hay to Mr. Choate.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 13, 1904.

Instructions on subject your telegram 3d instant, mailed to you and other ambassadors in Europe June 10.^a

HAY.

Mr. Loomis to Mr. Choate.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 29, 1904.

(Mr. Loomis states that Mr. Griscom reports that the crew of the *Knight Commander* testify that the vessel was sunk for want of coal to proceed to Vladivostok, and that the United States Government considers that the sinking of the vessel was not justified by the bare fact that there was contraband of war aboard. Cites as authorities Note to Dana's Wheaton, eighth edition, page 485, and Hall, Twiss, and Lawrence.)

^a See circular of June 10, 1904, printed on page —.

Mr. Choate to Mr. Hay.

No. 1420.]

AMERICAN EMBASSY,
London, August 2, 1904.

SIR: I have the honor to confirm my cable of June 3, 1904.

* * * * *

Upon the receipt of your instruction setting forth your views, which came to hand on the 19th of June, I addressed a note to His Majesty's secretary of state for foreign affairs communicating the substance of the same to him and stating that I should be glad to receive and transmit to you the views of His Majesty's Government on the same question as soon as his lordship should have formulated them, of which note I inclose a copy.

On Saturday last I received from Lord Lansdowne a note in reply, setting forth the views of His Majesty's Government on the same subject, which you will perceive are in substantial concurrence with your own.

* * * * *

You will observe that a considerable time elapsed between the date of my note to him of June 24 and his reply, which bears date July 19, but this arose from no hesitation or doubt in his mind or in that of his Government upon the subject treated of, but as he told me at our last interview his note was prepared very promptly after the receipt of mine, but its delivery to me was accidentally delayed.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 1.]

Mr. Choate to Lord Lansdowne.

AMERICAN EMBASSY,
London, June 24, 1904.

MY LORD: Referring to our recent interviews, in which you expressed a desire to know the views of my Government as to the order issued by the Russian Government on the 28th of February last, making "every kind of fuel, such as coal, naphtha, alcohol, and other similar materials, *unconditionally contraband*," I am now able to state them, as follows:

These articles enter into great consumption in the arts of peace, to which they are vitally necessary. They are usually treated not as "absolutely contraband of war," like articles that are intended primarily for military purposes in time of war, such as ordnance, arms, ammunition, etc., but rather as "conditionally contraband," that is to say, articles that may be used for or converted to the purposes of war or peace according to circumstances. They may rather be classed with provisions and food stuffs, of ordinarily innocent use, but which may become absolutely contraband of war when actually and especially destined for the military and naval forces of the enemy.

In the war between the United States and Spain the Navy Department, General Orders, No. 492, issued June 29, 1898, declared, in article 19, as follows: "The term contraband of war comprehends only articles having a belligerent destination." Among articles absolutely contraband it declared ordnance, machine guns, and other articles of military or naval warfare. It declared as conditionally contraband "coal, when destined for a naval station, a port of call, or a ship or ships of the enemy." It likewise declared provisions to be conditionally contraband "when destined for the enemy's ship or ships, or for a place that is besieged."

The above rules as to articles absolutely or conditionally contraband of war were adopted in the Naval War Code, promulgated by the Navy Department, June 27, 1900.

While it appears from the documents mentioned that rice, food stuffs, horses, beasts of burden and other animals which may be used in time of war are declared to be contraband of war only when they are transported for account of or in destination to the enemy, yet all kinds of fuel, such as coal, naphtha, alcohol, are classified along with arms, ammunition, and other articles intended for warfare on land or sea.

The test in determining whether articles *incipitibus usus* are contraband of war is their destination for the military uses of a belligerent. Mr. Dana, in his Notes to Wheaton's International Law, says: "The chief circumstance of inquiry would naturally be the port of destination. If that is a naval arsenal or a port in which vessels of war are usually fitted out, or in which a fleet is lying, or a garrison town, or a place from which a military expedition is fitting out, the presumption of military use would be raised, more or less strongly according to circumstances."

In the wars of 1859 and 1870 coal was declared by France not to be contraband. During the latter war Great Britain held that the character of coal depended upon its destination, and refused to permit vessels to sail with it to the French fleet in the North Sea. Where coal or other fuel is shipped to a port of a belligerent, with no presumption against its pacific use, to condemn it as absolutely contraband would seem to be an extreme measure.

Mr. Hall, International Law, says: "During the West African conference in 1884 Russia took occasion to dissent vigorously from the inclusion of coal among articles contraband of war, and declared that she would categorically refuse her consent to any articles in any treaty, convention, or instrument whatever which would imply its recognition as such."

We are also informed that it is intended to treat raw cotton as contraband of war. While it is true that raw cotton could be made up into clothing for the military uses of a belligerent, a military use for the supply of an army or garrison might possibly be made of food stuffs of every description which might be shipped from neutral ports to the nonblockaded ports of a belligerent. The principle under consideration might, therefore, be extended so as to apply to every article of human use, which might be declared contraband of war simply because it might ultimately become in any degree useful to a belligerent for military purposes.

Coal and other fuel and cotton are employed for a great many innocent purposes. Many nations are dependent on them for the conduct of inoffensive industries, and no sufficient presumption of an intended warlike use seems to be afforded by the mere fact of their destination to a belligerent port. The recognition in principle of the treatment of coal and other fuel and raw cotton as absolutely contraband of war might ultimately lead to a total inhibition of the sale by neutrals to the people of belligerent states of all articles which could be finally converted to military uses. Such an extension of the principle, by treating coal and all other fuel and raw cotton as absolutely contraband of war, simply because they are shipped by a neutral to a nonblockaded port of a belligerent, would not appear to be in accord with the reasonable and lawful rights of a neutral commerce.

I shall be glad to receive and transmit to my Government the views of His Majesty's Government on the same question as soon as your lordship shall have formulated them.

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure 2.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, July 29, 1904.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 24th ultimo, containing the views of the United States Government with regard to the Russian regulations of the 28th February last, in which every kind of fuel, such as coal, naphtha, alcohol, and other similar materials is declared to be absolutely and unconditionally contraband of war.

I have the honor to inform Your Excellency, in reply to your request to be furnished with the views of His Majesty's Government on this subject, that the views of the United States Government, as expressed in Your Excellency's note, are generally in accord with those which have been held and acted upon from time to time by His Majesty's Government. With reference, however, to

the statement made in paragraph 7 as to the attitude of Great Britain in 1870 in regard to coal, I would observe that Her late Majesty's Government refused in that year to permit vessels to sail with coal to the French fleet, not merely because they held that the character of the coal depended on its destination, but because they held that steamers engaged to take out cargoes of coal to the French fleet in the North Sea would be in reality acting as storeships to that fleet.

It is, however, right that I should add that in the altered conditions of modern maritime warfare, and the ever-increasing importance of the part played therein by coal, His Majesty's Government propose to submit the whole question to careful and exhaustive examination at an early date, with the object of determining whether, and in what respects, the British rules, as hitherto acted upon, are in need of revision.

In these circumstances His Majesty's Government do not propose to make any formal protest at the present stage against the Russian declaration in so far as the question of coal is concerned. They have, however, already entered a protest against the treatment of food stuffs as absolutely contraband, and they have pointed out that they observe with great concern that rice and provisions will be treated as unconditionally contraband, a step which they regard as inconsistent with the law and practice of nations.

In that protest it was stated that His Majesty's Government do not contest that in particular circumstances provisions may acquire a contraband character, as, for instance, if they should be consigned direct to the army or fleet of a belligerent, or to a port where such fleet may be lying, or if facts should exist raising the presumption that they are about to be employed in victualing the fleet or forces of the enemy. In such cases it is not denied that the other belligerent would be entitled to seize the provisions as contraband of war, on the ground that they would afford material assistance toward the carrying on of warlike operations.

They could not, however, admit that if such provisions were consigned to the port of a belligerent (even though it should be a port of naval equipment) they must, on that ground alone, be of necessity regarded as contraband of war.

In the view of His Majesty's Government the test appeared to be whether there are circumstances relating to any particular cargo to show that it is destined for military or naval use.

His Majesty's Government further pointed out that the decision of the prize court of the captor in such matters, in order to be binding on neutral States, must be in accordance with recognized rules and principles of international law and procedure.

They therefore felt themselves bound to reserve their rights by protesting at once against the doctrine that it is for the belligerent to decide that certain articles, or classes of articles, are, as a matter of course, and without reference to the considerations above referred to, to be dealt with as contraband of war regardless of the well-established rights of neutrals; nor would they consider themselves bound to recognize as valid the decision of any prize court which violated these rights, or was otherwise not in conformity with the recognized principles of international law.

I have, etc.,

LANSDOWNE.

Mr. Choate to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
London, August 3, 1904.

(Mr. Choate reports that Lord Lansdowne desires to know the views of the United States Government on the sinking of the *Knight Commander* and the depredations of the volunteer fleet on neutrals, and generally concerning the dealings of belligerents with neutrals to enforce the right of search for contraband.)

Mr. Hay to Mr. Choate.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 6, 1904.

(Replying to Mr. Choate's telegram of the 3d instant Mr. Hay states that, as the Department is not sufficiently advised of all the facts and circumstances connected with the sinking of the *Knight Commander*, it is not prepared to express an opinion on the case, nor can it say that, in case of imperative necessity, a prize may not be lawfully destroyed by a belligerent captor. It is deemed inadvisable for the Department to express an opinion concerning the volunteer fleet, as that would involve a proper construction of a treaty to which the United States is not a party. In regard to the general subject of the right of search for contraband and the mode of visitation for that purpose, it seems to be quite well regulated by international law, and an opinion could only be expressed on a concrete question.)

Mr. Hay to Mr. Choate.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 9, 1904.

(Mr. Hay requests Mr. Choate to obtain, if possible, a copy of the representations to the Russian Government by the British Government on the subject of contraband of war, as indicated by press reports, and forward it to the Department.)

Mr. Choate to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
London, August 10, 1904.

(Mr. Choate reports that Lord Lansdowne verbally protested emphatically to the Russian Ambassador on the 10th instant against treatment by his Government as absolutely contraband, without considering destination, articles which are generally considered so only conditionally, aggravated by their harsh mode of enforcing their contention by sinking neutral ships carrying such articles without giving them a hearing.)

ABDUCTION OF ION PERDICARIS BY BANDITS IN MOROCCO.^a*Mr. Choate to Mr. Hay.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
London, May 27, 1904.

(Mr. Choate states that he is informed by the British foreign office that the British minister at Tangier reports on the request of the American consul-general at Tangier the conditions for the release of Perdicaris and Varley insisted upon by the brigand as follows:

- I. The release of a large number of Moorish prisoners.
- II. The dismissal of the governor of Tangier.
- III. The recall to Fez of the Government troops which had been sent out to keep order.
- IV. The payment of a ransom of £11,000, this amount to be obtained by the sale of the properties of the governors of Tangier and Fez. Money obtained from any other source will be refused by Raisuli.
- V. Two small districts to be ceded absolutely to Raisuli by the Sultan.
- VI. Demand for the arrest and imprisonment of two Sheikhs and the two sons of one of them.

VII. Free ingress and egress to and from town markets for turbulent tribesmen, among whom Raisuli now is.

Raisuli would, in order to save time, accept our guaranty that the Sultan will fulfill the conditions imposed. He will probably add to the above conditions immunity for the past. In rejecting our counter proposals he declares that negotiations to reduce the conditions will be useless, as he has stated his minimum terms. Our proposal for free pardon upon immediate release of the captives and abandonment of above conditions remains unanswered, and we do not expect that it will be accepted.

Mr. Gummeré, the consul-general of the United States at Tangier, would appreciate the communication of the above terms to his Government, as he has no safe means of sending them.)

Mr. Hay to Mr. Choate.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 31, 1904.

(Mr. Hay instructs Mr. Choate to thank the foreign office for communicating information from Tangier, and advises him that the ambassador of the United States at Paris reports that the French Government is giving its aid in the Perdicaris case as far as possible by way of urging the Sultan to act, and engaging the services of influential official and religious families who have proven their usefulness in similar affairs. The Morocco Government must understand that Raisuli's life will be demanded if Perdicaris is murdered.)

^a See also under France and Morocco, pp. 307, 496.

PROTECTION OF SEALS IN THE NORTH PACIFIC OCEAN.^a*Mr. White to Mr. Hay.*

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
London, July 13, 1904.

(Mr. White reports that he is informed by Lord Lansdowne that, at the request of the Russian and Japanese Governments a gunboat has been sent to the region of the Commander Islands for the protection of seals. All British vessels encountered poaching will be seized, and all Japanese vessels similarly engaged will be reported. No action is contemplated against American vessels found so engaged, but hope is expressed that the United States Government will be in sympathy with the above action.)

Mr. White to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
London, July 14, 1904.

(Mr. White states that the British foreign office desires to know what measures, if any, the United States Government proposes to take to protect seals in Russian waters against American raiders as provided for in the act of Congress of 1897, which prohibits American citizens and persons belonging to American vessels from killing or capturing seals in the North Pacific Ocean, including Bering Sea and the Sea of Okhotsk.)

Mr. Hay to Mr. Choate.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 18, 1904.

(Mr. Hay instructs Mr. Choate to ascertain whether the British Government would agree to the proposition that if an American vessel be detailed to patrol the high seas in the neighborhood of the Commander Islands, and also the territorial waters about those islands, if the Russian Government agree thereto, to arrest any American poachers found there, the commander of the British patrol ship should report to the American commander any seal poaching by American vessels which might come under his notice, and vice versa.)

^a See also under Russia, p. —.

Mr. Choate to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
London, July 21, 1904.

(Mr. Choate reports that the minister for foreign affairs, to whom Department's telegram of the 18th instant was communicated, has informed him that His Majesty's Government agrees to the proposed arrangement, that the British commander on patrol duty may advise the American commander should any seal poaching by American vessels come to his notice, and vice versa, and that instructions to that end have been sent to the vessel selected for patrol duty.)

Mr. Hay to Mr. Choate.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 1, 1904.

(Mr. Hay informs Mr. Choate of the acceptance by Russia of the proposal that the Russian territorial waters of the prohibited zone, as laid down by the Russo-American arrangement of 1894, be patrolled by American vessels for the purpose of protecting seals in those waters from marauders.)

Mr. Choate to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
London, August 3, 1904.

(Mr. Choate reports that Lord Lansdowne has informed him that an agreement has been arrived at with Russia that any Japanese vessels found poaching shall be reported to Japan and that British and American poachers shall be mutually reported to each other by the patrol boats, but that the Russian suggestion that British offenders should be reported to Russia has not been accepted.)

Mr. Choate to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
London, August 5, 1904.

(Mr. Choate reports that he has learned that, under the agreement between Great Britain and Russia, the operations of the British patrol boats extend over the whole prohibited zone which was established by the Anglo-Russian agreement of 1893, and are not to be con-

fined to the 30 miles around the Commander Islands, including thereby the Russian territorial waters as well as the other portions of the prohibited area.)

Mr. Hay to Mr. Choate.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 6, 1904.

(Mr. Hay states that it is understood that the United States vessel is authorized to patrol all the pelagic area of the north Pacific and the agreement with Russia extends this area to the prohibited zone around the Russian territories—an area too great to be effectively patrolled by one vessel—but her commander will be instructed in regard to the area within the confines of which he may use his discretion in his operations.)

Mr. Adee to Mr. Choate.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 25, 1904.

American cruiser *Buffalo* ordered patrol waters Commander Islands.

ADEE.

Mr. Choate to Mr. Hay.

No. 1452.]

AMERICAN EMBASSY,
London, October 15, 1904.

SIR: With reference to my telegram of the 13th of July last and to subsequent correspondence relative to the protection of the seals in the region of the Commander Island, I have the honor to inclose herewith a copy of a note from Lord Lansdowne, dated the 13th instant. * * *

I have, etc.,

JOSEPH H. CHOATE.

[Inclosure.]

Lord Lansdowne to Mr. Choate.

FOREIGN OFFICE, October 13, 1904.

YOUR EXCELLENCY: I have the honor to inform Your Excellency that a telegram has been received from the officer commanding His Majesty's ship *Algerine*, the vessel deputed to visit the Commander and Robber islands with a view to the protection of the Russian seal herds, to the following effect:

No British schooners have been seen, but 18 Japanese schooners have been found seal hunting near the Commander Island and their names taken. The rookeries appear to have been raided to a small extent.

On the passage to Hakodate the *Algerine* visited the river Tinel, latitude 58°, and there took on board the crew of the American steamer *Mineola*, which sank after striking on an unknown rock. The crew consisted of 31 persons, including a Russian official, a passenger. The commander of the *Algerine* proposed to land them at Hakodate.

I have, etc.,

LANSDOWNE.

DECLARATION SIGNED AT ST. PETERSBURG NOVEMBER 25, 1904, FOR REFERENCE OF NORTH SEA INCIDENT TO INTERNATIONAL COMMISSION OF INQUIRY.^a

ARTICLE I.

The international commission of inquiry shall be composed of five members (commissioners), of whom two shall be officers of high rank in the British and imperial Russian navies, respectively. The Governments of France and the United States of America shall each be requested to select one of their naval officers of high rank as a member of the commission. The fifth member shall be chosen by agreement between the four members above mentioned.

In the event of no agreement being arrived at between the four commissioners as to the selection of the fifth member of the commission, His Imperial and Royal Majesty the Emperor of Austria, King of Hungary, will be invited to select him.

Each of the two high contracting parties shall likewise appoint a legal assessor to advise the commissioners and an agent officially empowered to take part in the labors of the commission.

ARTICLE II.

The commission shall inquire into and report on all the circumstances relative to the North Sea incident, and particularly on the question as to where the responsibility lies, and the degree of blame attaching to the subjects of the two high contracting parties or to the subjects of other countries in the event of their responsibility being established by the inquiry.

Mr. Hay to Sir Mortimer Durand.

DEPARTMENT OF STATE,
Washington, December 1, 1904.

DEAR EXCELLENCY: I have the honor to inform you that the President has designated Rear-Admiral Charles Henry Davis, of the United States Navy, an officer of great learning and high distinction, to serve on the court of inquiry.

Very sincerely, yours,

JOHN HAY.

^a See also under Russia, page 796.

Sir Mortimer Durand to Mr. Hay.

No. 205.]

BRITISH EMBASSY,
Washington, December 6, 1904.

SIR: With reference to your letter of the 1st instant, in which you were so good as to inform me that the President had designated Rear-Admiral Charles Henry Davis, of the United States Navy, to serve on the court appointed to inquire into the North Sea incident, I have the honor to state that I have received instructions from His Majesty's principal secretary of state for foreign affairs to convey to the President and to the Government of the United States the thanks of His Majesty's Government for the prompt manner in which their request has been complied with. I am to add that His Majesty's Government regard with much satisfaction the appointment of so distinguished an officer as Rear-Admiral Davis to be the United States member of the commission.

I have, etc.,

H. M. DURAND.

GREECE.

VISITS OF UNITED STATES SQUADRONS TO GREECE.

Mr. Loomis to Mr. Jackson.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 7, 1904.

(Mr. Loomis informs Mr. Jackson that Admiral Barker's fleet will arrive at the Piræus on the 30th instant.)

Mr. Jackson to Mr. Hay.

No. 193, Greek Series.]

AMERICAN LEGATION,
Washington, July 6, 1904.

SIR: Rear Admiral Albert S. Barker, U. S. Navy, in his flagship, the U. S. S. *Kearsarge*, and accompanied by the *Alabama*, the *Maine*, and the *Iowa*, and the collier *Abarenda*, arrived off Phaleron on the afternoon of the 30th ultimo. The U. S. S. *Missouri* joined these vessels on July 3. All sailed this afternoon.

On the morning after their arrival Admiral Barker, accompanied by Captains Davis, Leutze, Mansfield, and R. P. Rodgers, and other officers, called at the legation and subsequently I went with them to call on the Greek minister of marine and to leave cards on the acting minister of foreign affairs, the court officials, the chiefs of the foreign diplomatic missions, and others. The same afternoon I returned Admiral Barker's visit, being received on board the *Kearsarge* with the customary honors, and later I visited all the battle ships.

The minister of the marine detailed a Greek officer, Lieutenant Hepites, to attend the admiral during his stay here, and at the admiral's request I have duly thanked him for his courtesy in the admiral's name and my own. Admiral Barker ordered Lieut. J. H. Holden, U. S. Navy, to report to me as an attaché during the stay of the fleet, and that officer performed such services as were required of him in an entirely satisfactory manner.

An audience was requested, and on July 3 I had the honor of presenting Admiral Barker, Captains Leutze, Mansfield, and Rodgers, and eight other officers to His Majesty the King. The King expressed his pleasure, as he did on several other occasions, at seeing the American officers in Greece, regretted that they had come at such a hot season and one so dull socially, and that their stay was to be so short, and received them generally with great cordiality.

On July 4 the ships were dressed with flags, a small Russian vessel

at anchor in the bay having done so as well, and in the evening the King, Prince Andrew, and Princess Alice of Greece, the only members of the royal family in the country at the time, visited the flagship and were the guests at dinner of Admiral Barker and his officers. The King was received with appropriate ceremony, the ships being illuminated after dark, salutes being fired, etc. He inspected the *Kearsarge* thoroughly and remained on board for about four hours. While at the table Admiral Barker toasted the King, who in turn drank the health of the President. Subsequently I toasted the absent Queen and the other members of the Greek royal family. No speeches were made.

Yesterday a breakfast was given at Tatoi, the King's country place, about two hours distant from Athens, at which the admiral, Captains Davis, Leutze, Mansfield, Rodgers, and W. S. Cowles, and 17 other officers, as well as Mrs. Jackson and myself, were present.

During their stay in the Bay of Phaleron liberty was given to most of the men, and probably about 2,500 of them came ashore. They had just received a month's pay, and altogether it is estimated the fleet brought about \$100,000 into the country. The men behaved themselves very well, and they have been very favorably criticised, as usual.

* * * * *

I have, etc.,

JOHN B. JACKSON.

Mr. Jackson to Mr. Hay.

No. 203.]

AMERICAN LEGATION,
Sinaiá, September 5, 1904.

SIR: I have the honor to inform you of the receipt of a letter from Rear-Admiral T. F. Jewell, U. S. Navy, commanding the United States European Squadron, in which the admiral refers to his recent visit to Corfu (July 26 to 31) as having been very pleasant. Admiral Jewell writes that the commander of the Greek coast-guard vessel *Syros* came on board the flagship and said that he had been especially charged, by telegraph from Athens, to present the King's compliments and His Majesty's hope that the stay in Greek waters would be agreeable. At Admiral Jewell's request I have written to the Greek minister of foreign affairs to express his appreciation of the courtesies extended, and I have requested the minister to cause a suitable expression of the admiral's appreciation of the complimentary message to be communicated to His Majesty the King, who is at present still absent from Greece.

I have, etc.,

JOHN B. JACKSON.

GUATEMALA AND HONDURAS.

PAYMENT OF GOLD OBLIGATIONS IN SILVER OR PAPER.

Mr. Combs to Mr. Hay.

No. 131.]

AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
January 11, 1904.

SIR: I have the honor to inclose herewith a copy with translation appended of the decree No. 639 issued by the President of Guatemala in regard to the relative values of the national currency.

It excited much discussion and uneasiness. A number of Americans called upon me requesting that I join the other diplomatic representatives here in a remonstrance to the Government.

Friday afternoon, on the 8th instant, Mr. Thornton, the British minister, called and asked me to join him in representations to this Government.

I stated to our citizens and to Mr. Thornton I thought present action premature; that this Government had the unquestionable right to regulate the relations its own circulating mediums should bear to each other; that there was nothing on the face of the decree to which we had a right to object, no difference what opinion might be of the wisdom of the proposed course.

Upon reflection, however, I called upon the minister for foreign affairs Saturday the 9th instant and told him of the existing uneasiness. I further stated the interpretation I had put upon the decree, but that I felt unwilling, in view of existing opinion, to sustain the responsibility of such interpretation unless it was corroborated by the Government. He promised to consult the author of the decree and sent for me this Monday morning to assure me the intention of the decree was exactly what I had thought and an elucidation would be given semiofficially through the press at once.

In order to definitely confirm these interviews with the minister for foreign affairs to place on official record the substance of same, I addressed to him a note, copy of which is herewith inclosed, summarizing my understanding of his expression on the part of his Government as to its intentions in reference to the decree referred to.

I have, etc.,

LESLIE COMBS.

[Inclosure—Translation.]

Decree published in the "Guatemalteco" (official organ) on Thursday, January 7, 1904.

DECREE No. 639.

Manuel Estrada Cabrera, constitutional President of the Republic of Guatemala.

Whereas in conformity with decree No. 595, of June 9, 1899, it was ordered, for the public good, that bank and "Comite Bancario" notes should be valued at par with the national silver coin;

That, notwithstanding the clearness of said decree, it has not been faithfully and correctly interpreted, there often occurring doubts and vacillations which it is necessary to do away with, especially in connection with settlements effected by the courts when suit is brought for the payment of any obligation in gold:

Therefore, by virtue of the power vested in me by the National Legislative Assembly, I decree:

ART. 1. When any sum in gold is demanded judicially the debtors can cancel their credits in silver or bank notes, or of the Comite Bancario, as provided for in the decree already cited, and at the exchange that gold has in relation to silver.

ART. 2. The exchange may be either that fixed upon by experts, or the current rate at the banks.

ART. 3. This decree becomes effective from the date of its publication.

Given in the executive palace, in Guatemala, the twenty-second of December, one thousand nine hundred and three.

MANUEL ESTRADA C.

The secretary of state, interior, and justice:

JUAN J. ARGUETA.

[Inclosure 2.]

Mr. Combs to Señor Barrios.

AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
January 11, 1904.

EXCELLENCY: Since I was not accompanied by an official interpreter, I have the honor to submit to your excellency, in way of confirmation, the substance of the two very satisfactory interviews which I had with your excellency on Saturday last and yesterday with reference to the decree No. 639.

On Saturday I stated to your excellency I had called to ask to be informed of the exact purpose of the decree. I added it had caused me no alarm, as it seemed to be a regulation of the legal tender value of the different Guatemalan mediums of exchange, a procedure entirely within governmental rights; but as some were disposed to put a dangerous interpretation upon its terms, I desired full information before transmission to my Government. Your excellency kindly promised to ascertain the exact meaning of the decree and on Monday informed me I had only done justice to the Government in my interpretation of its purpose; that it was simply intended to regulate the legal tender value of Guatemalan gold and that it in no way affected the settlement of contracts or obligations where the medium of liquidation was stated in explicit terms as American gold, whether such settlement was voluntary or by judicial decree; that the latter contracts and obligations, as formerly, must be paid in the medium declared on their face.

With renewed, etc.,

LESLIE COMBS.

Mr. Hay to Mr. Combs.

No. 104.]

DEPARTMENT OF STATE,
Washington, March 21, 1904.

SIR: Referring to your dispatch No. 131, of January 11 last, expressing your views regarding the effect of the decree issued on

December 22 last by the President of Guatemala legalizing the payment in silver or bank notes, etc., of gold debts demanded judicially, I inclose herewith a copy of a letter from the Secretary of the Treasury, expressing his views of the decree.

I also inclose a copy of a letter from Messrs. G. Amsinck & Co., calling the Department's attention to the decree.

The Department would be pleased to know whether there is anything in the correspondence inclosed herewith that tends to modify your views as expressed in your No. 131.

I am, etc.,

JOHN HAY.

[Inclosure 1.]

Mr. Shaw to Mr. Hay.

TREASURY DEPARTMENT,
Washington, March 12, 1904.

My DEAR MR. SECRETARY: Replying to your letter of March 9, inclosing a copy of a dispatch from the United States minister at Guatemala, and a copy of a decree issued by the President of Guatemala, in regard to the relative value of the currency of that country, and asking an expression of my views on the decree, I have the honor to report: The decree is in the following language:

"ARTICLE 1. When any sum in gold is demanded judicially, the debtors can cancel their credits in silver or bank notes, or of the Comite Bancario, as provided for in the decree already cited, and at the exchange that gold has in relation to silver.

"ART. 2. The exchange may be either that fixed upon by experts, or the current rate at the banks."

If I interpret the decree correctly, it simply provides that decrees of courts, payable in gold by the terms of the decree, can nevertheless be paid in silver at the market value of silver as fixed by experts or by the banks. If this interpretation be correct, this Government is certainly in no position to protest.

* * * * *

Very truly, yours,

L. M. SHAW.

[Inclosure 2.]

Messrs. Amsinck & Co. to Mr. Hay.

NEW YORK, *March 16, 1904.*

SIR: We herewith take the liberty of inclosing a copy of the decree (639)^a as it was published on January 7 last in the "Guatemalteco," the official organ of the Government of Guatemala.

When in 1899 the Government of Guatemala issued the decree No. 595, it established that all debts contracted in silver could be paid in paper money. Now it argues that whereas the paper money has taken the place of silver, all debts contracted in gold, if settled through intervention of the courts shall be paid at the same exchange existing between silver and gold—about 2½ pesos silver to \$1 American gold—whilst at the present rate of exchange it would cost about 15 pesos to buy \$1 American gold. Consequently the Guatemala law gives a debtor the right to settle obligations contracted in American gold at the rate of about 2½ to 1 instead of at about 15 to 1.

Shortly after this law was passed it was intimated that in some way it would be modified. However, so far no changes have been made. We understand that in consequence the German Government has already vigorously protested, whereas the others have so far remained silent.

As our firm has large commercial interests in Guatemala we hereby beg to ask you, if in the event of a dispute the United States Government would

uphold American firms residing in the United States in their claims, or whether it would admit them to be compelled to accept, at the same ratio of silver to gold, the inferior paper money in settlement of obligations contracted bona fide in gold?

Thanking you beforehand for any information which you may give us on this subject, we are,

G. AMSINCK & Co.

Mr. Hay to Mr. Combs.

No. 105.]

DEPARTMENT OF STATE,
Washington, March 24, 1904.

SIR: Referring to instruction No. 104, of the 21st instant, inclosing copies of letters from the Secretary of the Treasury and Messrs. G. Amsinck & Co. respecting the recent decree of the President of Guatemala legalizing the payment in silver or bank notes, etc., of gold debts demanded judicially, I inclose herewith for your information a copy of a letter from the Secretary of the Treasury expressing his views of the decree in the light of the statements made in the letter of Messrs. Amsinck & Co.

The letter of the Secretary of the Treasury is in reply to the Department's letter to him inclosing a copy of Messrs. Amsinck & Co.'s letter and asking whether the statements of that firm tended to modify the views expressed in his letter of the 12th instant.

If the facts are as stated in Messrs. Amsinck & Co.'s letter, you will make earnest remonstrance against the application of said decree to debts due American citizens.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Shaw to Mr. Hay.

TREASURY DEPARTMENT,
Washington, March 22, 1904.

MY DEAR MR. SECRETARY: Referring to your letter of March 21, inclosing copy of letter from Messrs. G. Amsinck & Co. relative to the decree of the President of Guatemala legalizing the payment of gold obligations in silver or bank notes, I beg to say: This letter presents an entirely different question than I had supposed was involved. It was perhaps my own fault that I assumed that the current paper money was at par with silver. The decree authorizes the payment in bank notes "at the exchange that gold has in relation to silver." It follows that if bank notes were at par with silver there could be no serious objection, but if, as appears from the letter of Amsinck & Co., the ratio between gold and silver is about $2\frac{1}{2}$ to 1 and between gold and paper 15 to 1 the decree virtually makes paper money legal tender at par with silver, while its market value is much below. I think this Government should most earnestly protest against such manifest injustice to American merchants.

Yours, very truly,

L. M. SHAW.

Mr. Combs to Mr. Hay.

No. 160.]

AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, April 5, 1904.

SIR: I have the honor to state, in reply to your No. 104 and in connection with my No. 131, that danger of an interpretation inimical to

American interests of decree No. 639 seems to have been removed by the prompt action taken by this legation at the time it was issued.

The honorable Secretary of the Treasury, not being familiar with previous decrees, did not understand the full scope of the decree submitted to his consideration. Decree No. 595, issued June 9, 1899, had made the paper currency legal tender for silver, so the effect of decree No. 639, in public opinion, was to make gold obligations, where collected by judicial decree, payable in currency at the exchange between gold and silver.

While giving me satisfactory oral assurances and assenting by silence to my written summary of these assurances, the Government here has escaped making similar announcements to other diplomatic representatives.

* * * * *

It is gratifying to the legation that its course in this matter has received the commendation of the Secretary of the Treasury.

I have, etc.,

LESLIE COMBS.

Mr. Combs to Mr. Hay.

No. 204.]

AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, September 20, 1904.

SIR: I have the honor to inclose a copy of decree No. 647, withdrawing decree No. 639, called the gold decree, of December 22 last, which excited so much alarm in business circles.

I felt sure, after the vigorous representations made by this legation immediately upon the issuance of the decree to the Guatemalan Government and its response thereto, reported to you in dispatch No. 131 of January 11, 1904, decree No. 639 would never be enforced in the terms feared.

Its formal recall, however, is most satisfactory.

I have, etc.,

LESLIE COMBS.

[Inclosure.—Translation.]

DECREE No. 647.

Manuel Estrada Cabrera, constitutional President of the Republic of Guatemala,

Considering: That decree No. 639, emitted December 22, 1903, had for its object the filling of some wants and the clearing up of certain doubts proceeding from decree No. 595 of June 9, 1899.

That notwithstanding the good intentions the government had in view in emitting the first-mentioned decree, it has given rise to interpretations prejudicial to the development of the economic interests of the country.

Considering: That the crooked or malicious interpretations referred to have gone to the extreme of pretending to trample underfoot the principle that the will of the contracting parties is the supreme law for contracts, thus producing alarm and want of confidence in the economic system.

For the above reasons, making use of the faculties with which I am invested, I decree,

ONLY ARTICLE. Decree No. 639 of December 22, 1903, is annulled.

Account will be given to the National Assembly at its next session of the present decree.

Given in the palace of the executive power, Guatemala, fourteenth day of September, 1904.

MANUEL ESTRADA C.

Secretary of state in the department of government and justice,

JUAN J. ARGUETA.

**TREATY OF NONINTERVENTION AND ARBITRATION BETWEEN
GUATEMALA, NICARAGUA, HONDURAS, AND SALVADOR.**

Mr. Brown to Mr. Hay.

No. 173.]

AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, May 18, 1904.

SIR:

* * * * *

Concerning the relations of Guatemala to the other republics to the south, I inclose herewith a copy and translation of the treaty of peace recently ratified by the National Assembly of Guatemala, wherein the principles of noninterference in the domestic affairs of each other and compulsory arbitration of disputes between the signatory governments are recognized.

* * * * *

I have, etc.,

PHILIP BROWN.

[Inclosure—Translation.]

CENTRAL AMERICAN TREATY OF PEACE.

The Governments of the Republics of Guatemala, Honduras, and Nicaragua, invited by His Excellency the President of El Salvador to hold an international conference with the object of assuring peace and harmony between the Central American republics, have commenced their deliberations through their representatives, and have agreed to the following stipulations:

First. The Governments of Guatemala, Honduras, Nicaragua, and El Salvador take upon themselves the obligation to maintain peace between the Republics here represented. Consequently, as an inviolable principle of conduct, they establish the nonintervention of any one of them in the domestic affairs of the other sister Republics.

Second. The cultivation of good relations being one of the most efficacious means of maintaining peace, the four Governments compromise themselves to reciprocally accredit consuls-general with the character of chargé d'affaires, with their residence in the capitals of each of the Republics.

Third. To adjust the disputes that may arise between the nations signing, the principle of obligatory arbitration, already recognized, is hereby confirmed.

Fourth. The questions that arise between any of the Republics signing, that are not bound between themselves by former conventions of arbitration, shall be dissolved in accordance with the principles and regulations set forth in the Pan-American treaty entered into at Mexico on January 29, 1902.

Fifth. In case of a serious difficulty between two or more of the Republics signing that makes armed strife probable the parties interested oblige themselves to ask for and the neutrals to interpose their friendly mediation for the peaceful adjustment of the pending difficulties.

Sixth. This treaty being of general interest to Central America, and the sister Republic of Costa Rica not being represented in this conference, it is de-

cided to invite Costa Rica, in order that, if she deems it convenient, she may accept and sign the stipulations set forth herein.

Seventh. Once the present convention shall have been approved by the President of each Republic, it will at once go into effect, without the necessity of previous exchange, it being sufficient for its effect the reciprocal notification of the high contracting parties to the convention that it has been approved in the prescribed form.

In witness whereof we sign in quadruplicate, in the city of San Salvador, this second day of November, one thousand nine hundred and three.

MANUEL MARIA GIRON.
F. DAVILA.
ADOLFO ALTAMARINO.
MANUEL I. MORALES.

EXECUTIVE PALACE,
Gautemala, November 9, 1903.

The constitutional President of the Republic decides:

To approve the Central American peace convention signed by the delegates of the Republics of Gautemala, Honduras, Nicaragua, and El Salvador the 2d day of the present month in the capital of the latter Republic.

Let this be communicated.

ESTRADA C.

Secretary of state in the office of foreign relations.

JUAN BARRIOS M.

DECREE No. 592.

The National Legislative Assembly of the Republic of Guatemala decrees:

ONLY ARTICLE. The peace convention of Central America, that was entered into between the plenipotentiaries of Guatemala, Honduras, Nicaragua, and El Salvador on the 2d day of November, 1903, in the capital of the last-named nation, is approved in all its parts.

Let this be passed to the executive for its publication.

Given in the legislative palace, Guatemala, April 26, 1904.

ARTURO UBICO, *President.*
JOSE A. BETETA, *Secretary.*
FRANCISCO C. CASTANEDA, *Secretary.*

EXECUTIVE PALACE, *Guatemala, May 2, 1904.*

Let the above be complied with.

MANUEL ESTRADA C.

The secretary of state in the office of foreign relations.

JUAN BARRIOS M.

**SETTLEMENT OF THE CLAIMS OF MRS. CHARLES W. RENTON, OF
ELLA MILLER RENTON, AND OF THE ESTATE OF JACOB BAIZ.**

Mr. Hay to Mr. Combs.

No. 97.]

DEPARTMENT OF STATE,
Washington, February 25, 1904.

SIR: Referring to the correspondence in relation to the killing of the American citizen, Charles W. Renton, which passed between the Government of the United States and that of Honduras in 1894-1897, during the incumbency of your predecessors, Ministers Young and Coxe, I have now to inform you and instruct you as follows:

The brief facts in this case, shown for the most part by the testi-

mony taken by the naval board of inquiry and in the judicial proceedings in Honduras, are as follows:

Charles W. Renton, an American citizen, in 1887 took up, under a license from the Government of Honduras, a large tract of land on the southern shore of Brewers Lagoon, Honduras, and erected thereon buildings, planted cocoanut, orange, lemon, and lime trees, stocked the place, and engaged in farming and stock raising. He also opened a store at his house and traded with the natives, from whom he bought rubber, hides, sarsaparilla, etc. His wife, Mrs. E. C. M. Renton, and a young niece, Ella Miller Renton, lived with him. Renton was industrious, of good habits, and well liked by the natives.

Bad feeling existed between Renton and certain members and employees of the Brewers Lagoon Wood and Produce Company, which also had a store at Brewers Lagoon Village. The managers of the company were James G. Dawe, an Englishman, and Edgar and Fernando Eude, Frenchmen. These men and Arthur Sandham, an Englishman; Jesse Kittle, an American, and a negro named Johnson, employees of the company, and Arthur Isert, an American, at the time subcommandante for the district, who consorted with them, had the reputation of being a lawless lot. They had terrorized the coast and had harassed and persecuted Renton some time previous to his murder, among other things trespassing on his land and pulling up his cocoanut trees. Mrs. Renton asserts that they also repeatedly killed and appropriated the Rentons' cattle, broke down their fences, and set fire to the grass.

They finally determined to do away with Renton and obtain possession of his property. On March 15, 1894, Dawe sent the negro, Johnson, to Renton's with orders to raise a disturbance and induce Renton to come out of his house. This the negro did, and when Renton came from his house with Charles Johnson, an American, who was stopping with him temporarily, Dawe, Kittle, and Fernando Eude, who were lying in wait, fired at Renton and Johnson, one shot wounding the latter in the leg. Renton also fired, but without effect. Renton then dragged Johnson into the house, and remained there at the earnest solicitation of Mrs. Renton. Dawe subsequently sent a message to Sandham, Isert, and Edgar Eude for reinforcements. Stevens, a native of Jamaica, who carried the message, says that it was an order to come and kill Renton.

Samuel Davis, who was employed by the Brewers Lagoon Wood and Produce Company, testifies of Sandham, Isert, and Edgar Eude starting in the night of March 15 for Renton's, armed with Winchester rifles and Colt revolvers, and of their plan to kill Renton. It was their first intention to blow up Renton's home with a keg of powder, but this was abandoned. Early the next morning the party, composed of Isert, Fernando and Edgar Eude, Dawe, Kittle, Sandham, and the negro Johnson, gathered about Renton's house and awaited his appearance. When Renton came out to milk his cow they fired at him, one shot striking him in the side below the heart, the ball passing entirely through his body, and another in the right side below the ribs. Mrs. Renton was wounded in the right wrist by a buckshot, the latter evidently fired by Isert. The Rentons surrendered, and the party then took Renton, his wife, and niece to a

neighboring Indian hut, where they were kept under guard until evening. Renton's house was robbed of everything of value, with the exception of a few articles of wearing apparel, etc., which they allowed Mrs. Renton to have. The house was then set on fire and with its contents burned to the ground. That evening Kittle, the two Eudes, Isert, and Sandham forced Mrs. Renton and her niece to get into a canoe, of which Edgar Eude took charge, and several natives were compelled to go along as sailors. They were taken across the lagoon, where they landed, and after walking all night, arrived at Patook, where Mrs. Renton was detained a prisoner for several days and then ordered to proceed alone into Nicaragua. She states that they treated her harshly and threatened her life several times during the trip. She made her way to Bluefields and told the American consul, whence she came to the United States.

On the same night that Mrs. Renton was forced to start across the lagoon, Isert, Fernando Eude, Kittle, and Sandham dragged Renton from the hut to which they had taken him and finally disposed of him. Renton was at that time unable to move without assistance on account of his wounds. It does not definitely appear in what manner his life was taken, but these men were seen to take him from the hut and to return the next morning without him. Mrs. Renton states that she learned from the conversation of the men who took her away in the canoe that her husband was to be killed, and that when they were in the middle of the lagoon she heard two shots, and one of the men remarked that that was the last of Renton. Charles Stevens, the Jamaica negro who carried the message from Dawe to Brewers Lagoon village for reinforcements, testifies that the negro Johnson, who acted with the gang in the attack at Renton's house, told him that the party, after hauling Renton out of the hut, killed him and chopped up his body, put it in a dory, and dropped the pieces in the lagoon. Stevens testified of his own knowledge of the return of the party at about 4 o'clock in the morning, and stated that Jesse Kittle's waika girl refused to wash out the bloody shirt which he brought back to the house. Dawe asserted that Renton ran away in the bush, but this was clearly an invention, as Isert, in his testimony before the naval board, said that Renton's wound (received in the attack at Renton's house) must of necessity have been fatal; "that he could not have lived, much less run away." He added that Renton got no more than he deserved. Sam Davis also testified that Dawe told him he shot Renton and that Renton would die before sundown. Davis, on account of his knowledge of the Renton affair, was repeatedly threatened by the members of the Brewers Lagoon Company party, was offered money to leave the country, and finally appealed to the commander of the U. S. S. *Montgomery* for protection, by whom he was brought back to the United States.

Mrs. Renton laid her complaint before the Department, and in June, 1894, our minister asked the Government of Honduras to investigate the affair and bring the guilty parties to trial. In the fall of 1894 a one-sided investigation was made by the Honduran authorities. See report of Commander Davis, of the U. S. S. *Montgomery* (Foreign Relations, 1895, Part II, p. 890), who states that the governor at Truxillo admitted voluntarily "that the previous investigation or investigations of the affair had been one-sided and partial, and that no witnesses had been examined except those who

would testify in favor of the Brewers Lagoon Wood and Produce Company either through interest or intimidation." (See also record of first investigation by Honduran judicial authorities, Foreign Relations, 1895, Part II, p. 883.)

In March, 1895, the Navy Department, at the request of this Department, sent the U. S. S. *Montgomery*, Capt. C. H. Davis, commander, to Honduras to investigate the case. (See reports of Captain Davis and the naval board convened to make the investigation; Foreign Relations, 1895, Part II, p. 890 et seq.)

Upon being informed of the result of this investigation, Acting Secretary Uhl, on March 19, 1895, cabled Minister Young as follows: "Naval investigation establishes Renton's murder. Urge Honduras Government to take prompt action lest delay enable guilty parties to escape punishment."

Mr. Young replied March 23 that the Government promised to act promptly.

On March 26 Minister Young wrote: "Have again impressed on Honduras necessity of vigorous action and speedy report upon the Renton case. Have received assurance from that Government that they are prosecuting investigation with interest, diligence, and vigor, and hope soon to report satisfactory results."

On May 25, however, he wrote that the Government of Honduras had given him no satisfaction for some weeks concerning the matter; that he had again urged the importance of speedy and vigorous action "in the atrocious murder case," and he trusted that some result might soon be reached.

On the same day the Department cabled the minister as follows: "President disappointed at not being advised that Honduras' promise to act promptly in the Renton case has been fulfilled. Atrocity of murder and violation of property call for instant efficient justice. Urge action. Report promptly."

Minister Young was informed on June 12 that three of the assassins had been arrested. Two others were subsequently placed under arrest. None of the suspected parties were under arrest during the first investigation. On June 17, 1895, the diplomatic representative of the Government of Honduras at Washington wrote to the Department the following note:

No. 59.]

LEGATION OF HONDURAS AT WASHINGTON,
NARRAGANSETT PIER, R. I.,
June 17, 1895.—(Received June 20.)

MR. SECRETARY: The minister of foreign relations writes me, under date of May 25, that he received a telegram on that day from the United States minister accredited to the Government of Honduras, whereby the said minister informs him that his Government is not satisfied with the result of the investigations relative to the murder of Mr. C. W. Renton, and the aforesaid minister of foreign relations consequently instructs me to furnish the following explanations to your excellency:

Mr. C. W. Renton is said to have been murdered on the 16th day of March, 1894, in his own dwelling house in the uninhabited portion of the Mosquito Territory; it is suspected that his murderers were persons of foreign nationality, several of them being Americans, while no natives or citizens of Honduras appear to be charged with complicity in this criminal act.

The region in which it is stated that the deed was committed is the most lonely part of Honduras. In it there are no towns even of minor importance, and as a consequence the action of the authorities can not be as easy or as efficient as it could in a district that was inhabited, or at least near to cities or towns enjoying the advantages of civilized life.

For this reason, and also perhaps because some of the few persons of foreign nationality who live in that section may have been interested in preventing this matter from coming to light, some time elapsed before Renton's death came to the knowledge of the authorities; the latter, as soon as the case was brought to their notice, held a suitable investigation and made every effort to detect the guilty parties; their efforts, however, have thus far been unsuccessful, either owing to the difficulties peculiar to the wild region, or mainly because some of the persons who could have assisted the authorities with their testimony, thus clearing up the mystery which surrounds this crime, have left Honduras, their whereabouts being unknown, and the others, who are of foreign nationality have refused to testify; and, as there are not sufficient data to warrant coercion, it has been impossible to compel them to testify concerning the occurrence without giving cause for the presentation by their governments of complaints or claims against the Government of Honduras on the ground that their citizens or subjects have been wrongfully coerced.

My Government, Mr. Secretary, which is most deeply interested in having all crimes and offenses committed within the Republic brought to light and punished according to law, has endeavored with all possible diligence to cause the authorities to investigate, as they have done and are still doing, in order to find out who was guilty of the murder of Mr. C. W. Renton and who were guilty of complicity in that crime, to the end that they may be brought to justice. In taking this course my Government has endeavored to fulfill its constitutional duty of seeing that the laws are enforced and that justice is promptly and faithfully administered by the authorities, and at the same time, by the diligent investigations which have been made (as is shown by the reports of proceedings, a copy of which has already been sent to the American minister residing at Guatemala, and by those which, as I am authorized to give your excellency the most positive assurance, will be made hereafter), my Government, I repeat, seeks to give that of your excellency the most conclusive evidence of its desire that foreigners in general, and Americans in particular, shall enjoy in Honduras the same guaranties that are enjoyed among all other enlightened nations by the citizens and subjects of other countries.

The copy to which I refer, and which I presume has already been sent to the Department of State by the United States minister, confirms my assertions; and the proceedings which are now being held, and which will be continued until all means of investigation have been exhausted, and a copy of which I will send your excellency in due time, will not leave the slightest doubt, I trust, at the Department under your worthy charge that Honduras has done everything that can in justice be required of a government that is constantly giving evidence of its desire and its firm purpose to fulfill its international obligations.

Be pleased to accept, etc.,

ANT. LAZO ARRIAGA.

July 2, 1895, Acting Secretary Uhl wrote to Minister Young, then in this country on leave, sending him a copy of the report of the commander of the *Montgomery* and instructing him, upon the expiration of his leave, to proceed to Tegucigalpa, learn the present status of the case, and personally impress upon the authorities "the confident hope of the President that the persons implicated in the murder of Mr. Renton may be speedily brought to trial, and upon conviction made to suffer the extreme penalty of the law. The President has reason to feel a deep concern at the apparently unnecessary delay which has been permitted in this case. His just expectation now is that the Government of Honduras will act promptly and energetically in bringing to justice all persons guilty of the atrocious murder."

In pursuance of this instruction Minister Young on December 23, 1895, wrote to the minister of foreign relations of Honduras, calling his attention to the case, which he termed "one of the most atrocious murders that can be found in the annals of criminal history." He referred to the interest that the President of the United States had taken in the case and his great surprise and annoyance

that no settlement had been reached. He asked for a statement of the present condition of the case.

December 27 following the Honduran minister of foreign relations replied, referring to the difficulties which he stated had arisen in the prosecution of the preliminary steps of the criminal case against the assassins of Mr. Renton, owing to the absence from the country of some of the witnesses at the first investigation who were able to testify and the silence of others from fear of those implicated. He stated, however, that the Government had taken a lively interest in the matter, and that, as the result of proceedings which had been instituted, Dawe, Isert, Sandham, Kittle, Johnson, and Edgar Eude^a had been arrested; that the legal proceedings against them had continued without delays other than those occasioned by the appeal of the criminals from the judgment of the judge of letters on a point of jurisdiction, but that had been determined and the case was again proceeding in due course. He referred to the fact that the British chargé in Central America had asked that Dawe and Sandham, who were British subjects, be set at liberty. The minister suggested that the matter be allowed to follow its legal course.

December 27, 1895, Minister Young cabled:

Made demand upon this Government Renton matter, and have had one conference with the President and satisfied that they are trying to gain time. They urge reasonable delay. Recent demand has been made by British chargé d'affaires that Dawe, one of the murderers shall be liberated, claiming preliminary examination was a trial; it was preliminary investigation only. I have another meeting Saturday.

January 6, 1896, Minister Young again wrote to the Honduran minister of foreign relations, referred to the reasons given by the latter for the delay in the proceedings against the persons accused of the murder of Renton, and said:

All these reasons of Your Excellency may be good, but they do not answer the demand of the United States in behalf of Mrs. Renton for the devastation of her lands, the robbery of her herds, the destruction of her home, the assassination of her husband, and her forcible and violent expulsion from your territory under threats of death by an armed mob.

He characterized the first judicial investigation made by the Honduran authorities as "little more than a farce." He referred to the findings of the naval officers on board the U. S. S. *Montgomery*, and said:

If there is a crime recorded in modern history more atrocious, more infernal, more savage, than the murder of Renton, the pillaging and burning of his house, the robbery of his herds, the destruction of his trees and forests, the devastation of his fields, and the expulsion of his family from the country by force, I have never found it. * * * Your Excellency assures me that the murderers will be tried and punished. I earnestly believe and hope that they will. If not, civilization will rise aghast and demand of you, Where are your courts, and what are your laws? Mrs. Renton has asked to be reimbursed for her losses, placing her damages at \$37,420, and the naval board expresses the belief that her demands are just. By the direction of my Government I must insist upon a speedy settlement of this matter.

January 10, 1896, the Honduran minister of foreign relations replied to Mr. Young's note of the 6th, stating that the Government of Honduras had "done everything possible for the capture of the culprits and for the continuance of the legal course of the trial."

^a Fernando Eude fled from the country and was never arrested.

He referred to the steps that had been taken, and said :

By such proceedings the State saves its responsibility, since it has done everything proper, and it is not possible to demand more than the activity and zeal of the judicial authorities, if all the inconveniences that I have indicated to your excellency in former dispatches are taken into account.

* * * I do not believe that in any country the State is responsible for the damages that natives or foreigners may receive in consequence of the crimes that individuals commit. These matters are of a merely private character, and the individuals have their speedy action before the tribunals against the authors of the crimes. If the State should be responsible for those deeds it would be on every account impossible to satisfy the continual exactions of the claimants: In the case of Mr. Renton there is, besides, the circumstance that Honduraneans were not those responsible for the crime, nor did any employee of the nation intervene in it. Nor does the circumstance of the scandal and the immediate impunity of the authors of the crime, on account of the want of authorities who were able to give protection to the victim, have influence in favor of the payment of the indemnity. Mr. Renton, on establishing himself in an uninhabited place where the action of the authority is almost null, must have understood all the dangers he was going to encounter, and he subjected himself to them knowing that he could not be protected in case of attack by his personal enemies.

He mentioned the fact that his Government had received information that there were heirs direct, children of Mr. Renton's first marriage, who had preferred rights to those of the widow, and who had asked for the possession of the inheritance, so that in no case could Mrs. Renton claim damages to interests not hers. He concluded by stating that the Government of Honduras believed the claim presented by Mrs. Renton had no just foundation.

January 11 Minister Young cabled to the Department :

I have received at this moment the reply of minister for foreign affairs of Honduras to my last demand for the settlement of Renton claim. They do not recognize its justice. They will not settle. Correspondence has been sent by next mail. Send instructions.

On February 6, 1896, Secretary Olney, evidently in consequence of verbal representations made by Minister Arriaga, cabled Minister Young as follows :

Renton claim held in abeyance reasonable time to await result criminal prosecution.

February 12, 1896, Mr. Olney wrote Mr. Young, referring to the telegram of the 6th, and said :

It has been decided that the claim against Honduras growing out of the murder of Mr. Renton shall not be pressed for the present. The Government has assured this Department of its intention to push the prosecution of the persons charged with the murder of Renton promptly and vigorously to a conclusion. If the trial is conducted accordingly, the claim for damage and indemnity may remain in abeyance until the result of the trial is known. Then you will be fully instructed what to do. This suspension of the claim is without prejudice, and is not intended as an intimation that it will be abandoned or that the claims are in any respect weak or ill-founded. The desire of this Government is, first, that the authorities of Honduras may be left free to punish the murderers of Renton; after that, such action as the conditions call for will be taken respecting the claim.

On the same day Mr. Olney wrote Minister Arriaga, transmitting a copy of the report of the commanding officer of the U. S. S. *Montgomery*, and stated that it was hoped that the facts brought out in the naval investigation would be useful to the prosecuting officers in Honduras as a guide to their investigation of the crime and as a suggestion of the sources of evidence that might be used with effect in the prosecution.

Mr. Olney referred to his cablegram of February 6 to Minister Young, stating that the claim for indemnity might rest in abeyance for a reasonable time to await the result of the trial, and said:

I have no desire to complicate the existing conditions by pressing a claim for damages while the effort to punish the perpetrators of the crime is being made. The claim is, therefore, withheld for the time being without prejudice and without any intimation as to the action which may be finally taken respecting it. It is earnestly hoped that the charge against these parties, who, from the reports before this Department, are clearly guilty of murder, may be promptly and vigorously prosecuted in the criminal courts of Honduras and that upon conviction punishment may be administered to them without undue delay. After the conclusion of the final trial action will be taken respecting the pending claim, both upon the murder of Mr. Renton and the practical confiscation of his and his wife's property in Honduras.

The records of the Department show nothing further in the case until April 8, 1897, when Mr. Coxe, who had succeeded Mr. Young as our minister to Honduras, forwarded to the Department a copy of the opinion and judgment of the supreme court of justice of Honduras in the case of the persons charged with the murder of Renton, etc., rendered February 8, 1897, which had been transmitted to our minister by the Government of Honduras (Foreign Relations, 1897, p. 347). In his dispatch forwarding the copy of the opinion Mr. Coxe reported the receipt of a telegram from our consul at Tegucigalpa announcing the escape of Isert and Sandham, and stating that only Dawe remained imprisoned.

From the decision of the supreme court it appears that as the result of the investigation before the justice of the peace at Yronia, on June 22, 1895, Isert, Dawe, Sandham, Kittle, Johnson, and Fernando and Edgar Eude were formally committed for the crime of assassination committed on the person of Charles W. Renton, for setting fire to his house, for wounding Johnson, and (with the exception of Dawe) for illegal and forcible removal of Mrs. Renton from the territory of Honduras to that of Nicaragua; that the case was carried to the court of the district of Trujillo, where it was tried before a jury which found proved the following facts:

1. That on the 15th of March, 1894, with their firearms, Grosvenor Dawe and Fernando Eude exchanged shots with Renton.
2. That on the 16th of the same month Charles W. Renton, his wife, and servant Johnson were wounded by projectiles from firearms in Brus Laguna.
3. That on the same date the house which belonged to Renton in Brus Laguna was set on fire.
4. That on the same 16th of March, with their firearms, Grosvenor Dawe, Fernando and Edgar Eude, Arthur Ysert, Arthur Sandham, J. Kittle, and Phillips Johnson shot at Mr. Renton.
5. That at Brus Laguna, on the date mentioned, Renton was detained and guarded in the house of Ysis Cruz.
6. That Grosvenor Dawe, Fernando and Edgar Eude, Arthur Sandham, Arthur Ysert, J. Kittle, and Phillips Johnson detained and guarded Renton in the house of Ysis Cruz.
7. That Grosvenor Dawe, Fernando and Edgar Eude, Arthur Sandham, Arthur Ysert, J. Kittle, and Phillips Johnson burned the house of Renton.
8. That Edgar Eude forcibly led Mrs. Renton up along the coast in the direction of Cape Gracias.
9. That Fernando Eude removed from the house of Renton several articles belonging to the latter.
10. That some of these articles were conveyed to Brenes (Brewers) Lagoon Wood Produce Company.
11. That J. Kittle, Fernando Eude, and Arthur Ysert used the mules of Renton.

12. That Edgar Eude, Grosvenor Dawe, and Arthur Ysert (used Mr. Renton's mules) have enjoyed an irreproachable reputation.

13. That Edgar Eude and Arthur Sandham remained in Canon Island the 15th of March, 1894.

Result. That the previous verdict was returned to the jury in order that it might amplify same, on account of having omitted to propose some questions, and said tribunal answered :

1. That it is proved that from the shots fired by Fernando and Edgar Eude, Arthur Sandham, Jesse Kittle, and Arthur Ysert at Charles W. Renton there resulted wounded the latter, his wife, and the servant Johnson.

2. That it has not been proved who among the aggressors is the author of the wounds of Charles W. Renton, his wife, and servant Johnson.

3. That it has not been proved that Charles W. Renton died from the result of the wound that he received on the 16th of March, 1894, at Brus Laguna.

Result. That on March 16, 1896, the judge of the district of Trujillo pronounced the decision which he considered in conformity with the merits of the findings, and there was lodged an appeal on behalf of the accused Dawe, Ysert, Edgar Eude, Jesse Kittle, and Arthur Sandham.

The appeal being heard, the court of Comayagua on August 31, 1896, rendered its judgment, condemning the parties as shown below :

	For illegal detention of person of Mr. Renton.	Attempted homicide of Mr. Renton.	Burning house.	Total.
	<i>Yr. mo.</i>	<i>Yr. mo.</i>	<i>Yr. mo.</i>	<i>Yr. mo.</i>
Arthur Isert	0 6	2 6	3 8	6 8
Grosvenor Dawe	0 6	2 6	3 8	6 8
Edgar Eude	0 6	2 6	3 8	6 8
Jesse Kittle	1 6	3 0	5 0	9 6
Arthur Sandham	1 6	3 0	5 0	9 6

"and to pay for the curing of Mr. Charles W. Renton and to supply food to himself and his family during the time he may be incapacitated for work; to pay the costs and all losses and damages; to lose the arms with which they committed the crime, and all other accessories."

Kittle and Isert were absolved from the crime of robbery.

In the same sentence the judge of Trujillo is commanded to proceed according to law on account of the crimes of wounding less gravely John Johnson and the forcible removal of Mrs. Renton to Cape Gracias á Dios.

The defendants appealed from the judgment of the court of appeals of Comayagua to the supreme court of justice, but the latter court declared the appeal inadmissible. The opinion of the supreme court is dated February 8, 1897.

A perusal of the foregoing statement shows that the hope expressed by the President of the United States in July, 1895, that the persons implicated in the murder of Mr. Renton would be speedily brought to trial, and, upon conviction, made to suffer the extreme penalty of the law, was not realized.

While Sam Davis, on March 23, informed the authorities at Port Burchard of the killing of Renton and the abduction of Mrs. Renton and her niece, no judicial investigation of the matter was begun until September 13 following. Davis, who is characterized by the commander of the *Montgomery* as "an intelligent American negro, whose evidence was straightforward and unaffected, and convincing by its simplicity," deposes that when he notified the military com-

mandant at Port Burchard the latter stated that he could not act without the authority of his superior officer (captain) at Irióna; that the latter, when the matter was brought to his notice, went with 20 soldiers to Brewers Lagoon where the captain had an interview with Dawe; that Dawe induced the captain to go to his house with him, where they remained for two hours, after which they went to the company's store, where Dawe, in Davis's presence, took from the safe \$150 and paid the same to the captain; that the latter paid some of the money to the soldiers, and that after some time spent in drinking, the captain and soldiers left without taking any action against the guilty parties, and returned to Irióna.

Subsequently, in September following, by direction of the judge of the peace and superintendent of the Territory of Mosquitia, Refsman, a one-sided and partial investigation was had. According to Davis's statement, the evidence given by him at this time was submitted by the authorities to Dawe, and apparently changed to suit the latter. The accused were not placed under arrest during this investigation, and Davis states that the magistrate, Judge Refsman, and Pinadi, who acted as his secretary, accepted the hospitality of Dawe and Eude, and that the latter bribed the judge to refrain from doing his duty in the matter.

It seems safe to assume that but for the visit of the U. S. S. *Montgomery* to Honduras in March, 1895, and the action of this Government in directing our minister to urge prompt action by the Honduran authorities, there would have been no further proceedings against the parties.

The second judicial investigation began in June, 1895. As the result of these proceedings five of the assassins were arrested, and on June 22 they were formally committed for the murder of Renton, for arson, for wounding Johnson, and all except Dawe, for the abduction of Mrs. Renton. (See Foreign Relations, 1895, Pt. II, p. 921.) They were subsequently tried at Trujillo before a jury, whose findings are indicated on page 359 (supra). It will be observed that the jury found that it had not been proved that Renton was dead. Another of the findings of the jury was that "Edgar Eude, Grosvenor Dawe, and Arthur Isert have enjoyed an irreproachable reputation." Contrast this finding in this respect with that of the United States naval board of the *Montgomery*.

Fernando Eude appears to be a desperado of the worst type. He has terrorized the natives and Indians of the whole lagoon, and especially is this the case since the Renton murder, as, upon interrogating people of the neighborhood, fear of him was repeatedly expressed. His latest crime is the murder in cold blood, in the latter part of February, 1895, of the captain of an English schooner on board his own vessel, and for which he is now in Nicaragua a fugitive from justice.

Edgar Eude appears to be a man of the same general character as his brother, and is especially notorious for having made threats against the Rentons before the final accomplishment of their desires, the murder of Renton and the seizing of his property; and since the murder he has been particularly active in attempts to silence all persons who might give unfavorable testimony. He has always openly expressed his satisfaction at the finishing of Renton and his regret that Mrs. Renton and her child were not also done away with.

* * * * *

Each of the above-named men kept one or more native mistresses.

Arthur Isert is an American from Pittsburg, Pa., about 40 years of age, and

evidently of good education. He claims to have been educated in Germany as a mining engineer and to have come to Honduras from California in 1889, being for a time engaged at his profession in the mines of that country, and finally drifted to the Gulf coast, where he has since been engaged in various callings. He now lives on a small plantation near Tocomache, and at the time of the Renton murder was subcomandante of that district and was then and had been for the previous three months, with his wife, on Cannon Island as a sort of charity guest of the company. He is a desperado of the most dangerous type, clever and unscrupulous, and by his superior education has become a leader among the less educated and ignorant persons with whom he associates, and is generally feared by both natives and foreigners living along the coast.

The case went to the superior court at Comayagua on appeal by the defendants. While the evidence clearly shows that they were guilty of murder, Isert, Dawe, Eude, Kittle, and Sandham were merely condemned for "attempted homicide on the person of Mr. Renton" to terms of two and a half or three years' imprisonment; for burning his house, to terms of three years eight months or five years; for "illegal detention of the person of Mrs. Renton," to terms of six months or one year and six months. They were also sentenced "to pay for the curing of Renton and to supply food to himself and his family during the time he may be incapacitated for work," etc. In the same sentence the court at Trujillo was directed to proceed according to law on account of the wounding of John Johnson and the forcible removal of Mrs. Renton.

A further appeal was taken by the prisoners to the supreme court of justice, but the latter court declared the appeal inadmissible. The decision of the supreme court is dated February 8, 1897. As indicated above, the Department has been informed that Eude and Kittle escaped very soon after this date, and Isert and Sandham escaped on March 18 following. The United States minister, with his dispatch of April 8, 1897, transmitting a copy of the decision of the supreme court, inclosed a copy of a communication from our consular agent at Trujillo, in which it was stated that Isert and Sandham had escaped on March 18 and that only Dawe remained imprisoned. It does not appear that any of them were ever recaptured, and the Department has no information whether or not Dawe served out the remainder of the sentence which had been imposed on him. It does not appear that any action was taken against the parties charged with the removal, etc., of Mrs. Renton, although, as indicated above, the sentence of the court at Comayagua commanded the court at Trujillo "to proceed according to law on account of * * * the forcible removal of Mrs. Renton," etc.

After careful consideration of the case, the conclusion has been reached by the Department that the facts afford ample ground for the presentation to the Government of Honduras of a pecuniary claim for damages in behalf of the injured parties.

It appears from the evidence that the Brewers Lagoon party, in their systematic and lawless persecution of Renton previous to his death, were aided by Arthur Isert, the subcomandante of the coast, and that he was the leader in the attack on the Rentons on March 16. He was also one of the men who afterwards dragged the wounded man from the hut to which he had been taken after he had been shot, and finally disposed of him. It is also apparent that other local Honduran officials whose duty it was to investigate the crime and vigor-

ously prosecute the offenders at first failed to act, and when they were finally compelled to act conducted the investigation in a manner calculated to screen the guilty parties rather than bring them to justice.

The liability of the Government of Honduras is believed to be fully established, however, on grounds apart from the fact that a minor official of that Government was directly concerned in the crime. While a State is not ordinarily responsible for injuries done by private individuals to other private individuals in its territory, it is the duty of the State to diligently prosecute and properly punish such offenders, and for its refusal to do so it may be held answerable in pecuniary damages. There was an inexcusable delay in initiating a judicial investigation. The first proceedings were partial and one-sided. The subsequent judicial proceedings, which were the direct result of the naval investigation by the U. S. S. *Montgomery*, terminated in condemning for minor offenses persons who, the evidence before the Department shows, were guilty of a deliberate and brutal murder. And finally, soon after the decision of the supreme court all of the murderers, with the single exception of Dawe, were permitted to escape.

The case is very similar to that of Frank G. Lenz, who was murdered by Turkish subjects while passing through a remote part of the Ottoman Empire, in the course of a bicycle tour around the world, in 1894. It was only after persistent efforts by the friends of the murdered man and by this Government that the Turkish authorities began an investigation of the crime. The guilty parties were finally identified and arrested, and, although the evidence showed a premeditated murder, judgment was rendered for murder without premeditation, and they were permitted to escape in a body in a manner which showed gross negligence, if not complicity, on the part of the officials charged with their custody. Under the circumstances this Government demanded and collected of the Turkish Government an indemnity in behalf of the mother of the murdered man. In instructing our minister in regard to the case Secretary Hay said: "If his (Lenz's) murderers had been duly punished, this Government would not have felt disposed to demand the payment of an indemnity. The evidence showed a deliberate and premeditated murder, yet the judgment was rendered against the murderers as for 'murder without premeditation,' and even this penalty was not actually inflicted, for the guilty parties escaped." (Secretary Hay to Minister Straus, March 25, 1899.)

In the memorial filed by Mrs. Renton in behalf of the estate of her husband, Charles W. Renton, and those interested therein, viz: Herself, Charlotte Donnelly, daughter, and Daniel H. Renton, son, of said Charles W. Renton, she makes a claim on account of the murder of Renton, the failure to promptly apprehend and adequately punish the perpetrators of the crime, etc., of \$100,000. For this item of the claim the Department considers the sum of \$15,000 a suitable amount at which to fix the indemnity to be demanded, and you are instructed to make such demand.

Claim is also made for loss of property of said Charles W. Renton in the sum of \$32,104.20. A schedule sworn to by Mrs. Renton is

submitted, specifying the different items of the claim and indicating the valuation thereof. It is made up as follows:

6,000 cocoanut trees, standing on March 10, 1894, average value of \$4 each.....	\$24, 000. 00
About 1,250 additional young cocoanut trees, destroyed by Brewers Lagoon Wood and Produce Company, average value \$2 each.....	2, 500. 00
About 100 orange trees, standing March 16, 1894.....	2, 000. 00
Fences, barbed wire, staples, etc.....	500. 00
Posts and labor for fences erected and standing at the time.....	2, 050. 00
Labor and material for corral.....	25. 00
Labor in making wells and ditches, pump and pipe.....	185. 00
Trees around house exclusive of above.....	108. 00
Tools.....	269. 45
Firearms, etc.....	187. 00
Wearing apparel.....	244. 75
American flag.....	35. 00
Total.....	32, 104. 20

Evidence as to the value of the property was adduced before the naval board which convened on the U. S. S. *Montgomery*, and the finding of the board in relation to this branch of the claim is as follows:

After a careful survey of the Renton property as it now stands, and from all evidence collected, the board is of the opinion that Mrs. Renton's claim for \$37,420^a damages incurred is a just one. All the porable property on the place at the time of the murder has since been either destroyed or appropriated by the Brewers Lagoon Wood and Produce Company, and the Honduras authorities have taken no steps whatever to prevent such destruction or appropriation.

Commander Davis, in transmitting the report of the naval board, says:

With regard to the money indemnity claimed by Mrs. Renton, it is impossible to obtain a just estimate of the valuation of the property destroyed or stolen. Those who agreed in palliating the crime also agreed in undervaluing the property. I myself saw the evidence of thrift and industry at Renton's place. I saw many young cocoanut trees, and lemon, lime, and orange trees in various stages of growth. I saw the wire fencing, and the ruins of the house, and the foundation of the new house which Renton was building. My movements were watched from the cay, and when my boats were seen to leave the ship, Kittle was dispatched at once to precede me, and the two mules were loosed from the company's ranch and were grazing at their old home on my arrival. I learned from the Indians that they had been owned and used by the company and had appeared on Renton's place that morning just before my arrival. I saw the neglected flower garden and the overgrown walk and the gate hanging from its rusty hinges. I saw the cocoa patch and the cow corral and the chocked-up well. I saw the cooking stove and fragments of china and cooking utensils in the ruins of the house. I learned that the lumber destined for the new house and the shingles seized by Dawe and used by him to build a house on the cay for his Waika mistress had been hewn out by Renton from the timber felled in the ridge by the labor of his own hands, and that only the sills and flooring were of lumber imported from the United States. I could not put a money value on these things. I know that Renton's whole fortune was in this place, and that he was robbed and murdered, his property destroyed, and his wife driven forth from a country in which protection is guaranteed by a treaty to American citizens. Mrs. Renton's statement of the crime is literally true and not exaggerated. I should incline to accept her estimate of the damages as true also.

You will present a claim under this head for the amount at which the damage is fixed in the memorial, viz, \$32,104.20.

A further claim is made for the cession or final grant of the lands held by Renton at Brewers Lagoon under a license from the Govern-

^a The original claim filed by Mrs. Renton in 1894 was for this amount.

ment of Honduras of August 26, 1887, which it is claimed was matured into an absolute title under the laws of Honduras, by cultivation and occupation for a period of five years. In the event that the Government of Honduras refuses to grant said lands to the heirs and legal representatives of said Renton, claim is made for the actual value of the said lands, which is alleged to be \$100,000.

The claimant is not able to furnish a copy of the license or any documentary evidence of title, as it is alleged that the papers which the Rentons had in their possession were destroyed when the house was burned, and that the officials at Truxillo, where they should be recorded, refused to furnish certified copies, and deny the existence of any record of title to the lands claimed.

It appears, however, from letters, affidavits, etc., submitted by the claimant, that Louis Bogran, President of Honduras in 1897, offered inducements to Mr. Renton to take up lands in that country, informing him that he could make his own all the lands he might cultivate; that the President gave Renton "a letter or license to take up under the existing agricultural laws whatever government lands he could cultivate;" that the President subsequently gave Renton a letter to the governor of the Department of Colon, at Truxillo, instructing the latter to give Renton a license to enter upon Government lands selected by Renton at Brewers Lagoon;^a that the governor directed the "alcalde auxiliar" at Brewers Lagoon to survey and deliver certain lands to Renton; that the lands were surveyed in the presence of several witnesses, and that Renton placed barbed-wire fences where the alcalde marked out; that the land measures, north to south, 15,000 barras (yards), east and west, 4,000 barras; is bounded on the north by the lagoon, south by wild lands, east by the Negro Watler Lagoon, canos, and lakes, and west by the Secre River; that Renton also cultivated and planted with cocoanuts a tongue of land commencing at the entrance to Brewers Lagoon on the west and bounded on the north by the Bay of Honduras, or Caribbean Sea, and on the south by Brewers Lagoon.

It is alleged that the Cannon Islands, in Brewers Lagoon, were also included in the survey, and that Renton planted cocoanut trees there to evidence his claim of property and possession; also that the governor of Colon, in August, 1887, gave to him absolutely 25 caballerias of land fronting on the north side of Brewers Lagoon and the west side of Secre River; that Renton properly occupied and cultivated these lands for a period of more than five years, as required by the law of 1866; that in 1892 Renton took the necessary steps to secure from the Government at Truxillo the evidence of his title, but without success, the officials denying the existence of any record of title. It is understood that the officials claimed that while the law of 1886 permitted the acquisition of national lands by settlement, the land law of May 15, 1888, repealed the law of 1866, and provided that thereafter national land could only be acquired by purchase, at prices ranging from \$1 to \$2 per manzana; and that a final grant could not be made to Renton until the land had been resurveyed.

^aThe governor gave Renton a document authorizing the holder to acquire the rights granted to immigrants under the law of February 26, 1866, by which a foreigner may, by taking up and cultivating national lands for a term of five years, make the same his own property, and may also take other national lands contiguous thereto.

Commander Davis of the *Montgomery*, in his report on the Renton case, said that Renton held his land under a concession of the Government; that his title was what is known as an agricultural title.

The claimant suggests in the event that the record of the title is destroyed or can not be procured at the office of the governor of Truxillo, that the same can be ascertained from the description given in the memorial and the documents attached, and also from the fences standing upon the property and natural water boundaries described.

While the ordinary evidence of title is lacking, there is evidence before the Department sufficient to show that Renton took up a large tract of land at Brewers Lagoon under the agricultural laws of Honduras, and that he occupied and cultivated such lands, and that there was on his part a full compliance with the law entitling him to a final grant, and you are directed to ask that such final grant be issued, or in default thereof adequate compensation therefor.

It appears that the Brewers Lagoon Wood and Produce Company about 1891 obtained from the Government of Honduras a concession to cut mahogany in the neighborhood of Renton's plantation, and that the systematic persecution of Renton by the members of the company, which finally culminated in his murder, had its beginning in encroachments upon and appropriation of his land; and that in this course the members of the company were encouraged by the subserviency and supineness of the local Honduran officials.

Mrs. Renton also files a separate memorial preferring claims as follows:

1. For indemnity for personal injuries, for failure to afford proper or timely protection to her person or property, by reason of which her health has been impaired, for denial of justice, etc., \$100,000.

The evidence shows that in the attack on Renton's place, March 16, 1894, Mrs. Renton was wounded in the wrist by a shot fired by Isert, and that she was subsequently forcibly taken away from her husband by Kittle, the Eudes, Isert, and Sandham and conveyed in a canoe, under the direction of Edgar Eude, across the lagoon, there detained a prisoner for several days, and then ordered to proceed alone to Nicaragua. She alleges that during the trip she was harshly treated and her life several times threatened. It does not appear that any action was ever taken against these parties by the Honduran authorities, notwithstanding the sentence of the court at Comayagua commanded the court at Truxillo "to proceed according to law on account of the forcible removal of Mrs. Renton," etc.

That the terrible experience through which Mrs. Renton passed seriously affected her health and shattered her nervous system is amply shown by the certificates of two physicians who attended her and the statements of others. She is clearly entitled to substantial damages from the Government of Honduras, and the sum of \$10,000 is fixed by the Department as an appropriate amount to demand for this item of the indemnity to be asked.

2. For damages for loss of individual property, consisting of house, trading station, cattle-raising business, and personal property at Brewers Lagoon, \$13,768 and interest. In her memorial Mrs. Renton states that the house, the stock of the trading station and the proceeds thereof, and the cattle were her separate property at the time of the killing of Mr. Renton. And it will be observed that the claim made by her in behalf of the estate is limited to the lands and

improvements, no item being included for the house, trading station, stock, and cattle. In support of her claim Mrs. Renton files an itemized statement, specifying the property lost and the approximate value thereof. This is made up of the following general items:

House	\$1, 000. 00
Materials for house.....	658. 00
Household goods.....	741. 50
Stock in trading store.....	714. 50
Cattle	9, 596. 00
Mules	225. 00
Wearing apparel.....	153. 00
Cash in house.....	500. 00
Sundries	180. 00

a 13, 768. 00

In the judicial proceedings in Honduras some testimony as to the amount of property possessed by the Rentons was taken.

Gregorio Torres, a resident of Brewers Lagoon, testified that he had personally brought to Renton 131 head of cattle and 2 mules; that Renton subsequently sold 60 cattle; that at one time he saw the mules in the possession of the Brewers Lagoon Wood and Produce Company.

Stephen Zacharias testified that he witnessed Dawe, Sandham, Kittle, Isert, and the Eudes before setting fire to Renton's house take all the furniture, boards, shingles, cattle, and deer hides, grindstone, tools, and everything they could use to the cay; that he had seen the two mules in the possession of Eude and Kittle. Somewhat similar testimony was given by the witnesses Maria, Louis, Roberto, Valeroso, Mayren, and Cuca, some of whom testified that they had seen some of the property in possession of Dawe and Kittle, and that they had slaughtered the cattle left at Renton's after the fire.

Appraisers appointed by the Honduran court at Irias, in June, 1895, appraised the value of the burned house at \$1,700; cocoanut trees (1,820), at \$1,300; 2 mules, \$200; furniture, etc., \$271.

A claim is also preferred by Joseph O. Clement, general guardian of Ella Miller Renton, niece of Mr. and Mrs. Charles W. Renton, who was living in Honduras with them at the time of the murder of Mr. Renton, for an indemnity in her behalf of \$15,000 for personal injuries and impairment of health resulting from the shock and hardships inflicted upon her during her expulsion from Honduras and incident to the murder of Charles W. Renton and the shooting of her aunt, and also for failure to promptly apprehend and punish the guilty parties.

The facts upon which the claim is based sufficiently appear in the papers relating to the foregoing claims. The young woman is entitled to a substantial indemnity on account of the treatment to which she was subjected, and the Department fixes the amount to be claimed at \$5,000.

You will bring these several claims to the attention of the Government of Honduras, ask for prompt payment thereof, and the issuance of the land titles or compensation therefor.

a In the claim presented by Mrs. Renton in 1894 the value of the cattle was fixed by her at \$6,420, instead of \$9,596, a difference of \$3,176. Several of the other items are also somewhat increased in her last claim. In view of this the amount to be claimed under this head is fixed by the Department at \$10,000.

Copies of the memorials submitted by the claimants (with the exception of that filed in behalf of Ella Miller Renton ^a) are not forwarded, as they are very voluminous, covering in the neighborhood of 300 typewritten pages.

I am, etc.,

JOHN HAY.

Mr. Brown to Mr. Hay.

No. 175.]

AMERICAN LEGATION,
GUATEMALA AND HONDURAS,
Guatemala, May 23, 1904.

SIR: Referring to instruction No. 97 of February 25 last, concerning the Renton claim against Honduras, I have the honor to transmit herewith a copy with translation of the reply received to the legation's representations, stating that the Honduran Government desires a just solution of the matter and expressing the hope that it will be possible for Minister Combs to confer personally with the Honduran Government at Tegucigalpa respecting this case.

I have, etc.,

PHILIP BROWN.

[Inclosure.—Translation.]

Mr. Vasquez to Mr. Brown.

REPUBLIC OF HONDURAS,
MINISTRY OF FOREIGN AFFAIRS,
Tegucigalpa, May 4, 1904.

MR. MINISTER: I have had the honor to receive the memorial and the documents related thereto of the claim of Mrs. Emma G. Renton and Ella Miller Renton, presented to the Department at Washington, and which originated in a crime which foreigners committed against Charles W. Renton in Honduran territory.

The claimants took steps in this direction in 1894, as you know, the year in which the crime occurred.

My Government is not only interested in arriving at a solution of this affair in accordance with justice and right, but also in preserving the cordial relations of friendship that bind it to the Government of the United States, and has given me instructions to make known to your excellency that in due time there will be forwarded the reply that the study of the documents and antecedents of the case may bring forth.

I cherish the hope that upon the return from the United States of His Excellency Mr. Leslie Combs, he will come by way of this capital, when we can personally take up this affair.

With assurances, etc.,

MARIANO VASQUES.

(NOTE.—The above-mentioned claims, and the claim of the estate of Jacob Baiz, were settled on November 25, 1904, by the subjoined agreement.)

AGREEMENT.

[TRANSLATION.]

The undersigned, Leslie Combs, envoy extraordinary and minister plenipotentiary of the United States of America to the Government

^a Inclosures not printed.

of Honduras, and Alberto Membreno, secretary of state in the department of industrial development and public works, especially authorized; after the various conferences which have taken place between Mr. Combs and the Government of Honduras for the adjustment of claims brought by the family of the American citizen, Charles W. Renton, and the estate of Mr. Jacob Baiz, also American; have agreed to terminate said claims by means of the following agreement:

I.

The Government of Honduras will pay to the representative of the American Government, as a sum total, final adjustment, and in complete satisfaction of the pending claims to which reference has been made, the sum of *one hundred and twenty thousand* pesos, silver, of legal circulation in Honduras, in monthly installments of *three thousand* pesos each.

(NOTE.—Of this sum 78,607.82 pesos are to be applied to the Renton claims, and 41,392.18 pesos to the Baiz claim.)

II.

These monthly installments shall be paid by the custom-house of Puerto Cortes to the American consul of that place the last day of each month; payments to commence December 31st next.

III.

None of the quantities mentioned in the present agreement shall bear interest.

IV.

The United States minister declares definitely closed the Renton and Baiz claims, to which reference is made in his notes of March 25, September 28, and November 24, 1904; claimants being unable, at any future time, to allege pretensions or rights that have any relation with either of these questions.

In witness whereof they have signed the present agreement, in duplicate of the same tenor, at Tegucigalpa, the 25th day of November, 1904.

LESLIE COMBS. [SEAL.]
ALBERTO MEMBRENO. [SEAL.]

HAITI.

DENUNCIATION OF THE TREATY OF AMITY, COMMERCE, AND NAVIGATION OF 1864.

Mr. Léger to Mr. Hay.

[Translation.]

LEGATION OF HAITI,
Washington, May 7, 1904.

MR. SECRETARY OF STATE: In the course of the interview you did me the honor to grant me on the 5th instant, I took the liberty of drawing your attention to the controversies arising from the treaty concluded in 1864 between Haiti and the United States, as well as to the insufficiency of that diplomatic instrument respecting the extradition of fugitive criminals and the status of our respective consuls. I availed myself of the opportunity to inform you that my Government, desirous, above all, of making the excellent relations now existing between our two countries even closer, would be glad to substitute for the treaty of 1864 conventions that would make further misunderstandings impossible.

In reply to this communication you graciously authorized me to submit to you drafts that could serve as a basis for negotiations. You will therefore find herewith a draft of a treaty of amity, commerce, and navigation, and a draft of a convention for the extradition of fugitive criminals.^a The treaty of 1864 will thus cease to be binding at the expiration of one year, or sooner if the negotiations should, as I hope they will, be brought to a conclusion before then.

With my anticipated thanks for the benevolent cooperation you may be so good as to extend to me in the matter, I beg you to accept, etc.,

J. N. LÉGER.

Mr. Hay to Mr. Léger.

No. 76.]

DEPARTMENT OF STATE,
Washington, May 25, 1904.

SIR: I have the honor to acknowledge the receipt of your note of the 7th instant, in which you inclose drafts of a treaty of extradition between the United States and Haiti and of a treaty of amity between the same parties.

* * * * *

The Department will, at an early date, again communicate with you on the subject of the treaty of amity.

Accept, etc.,

JOHN HAY.

^a Not printed.

**ANNEXATION OF, OR PROTECTORATE OVER, THE DOMINICAN
REPUBLIC BY THE UNITED STATES.**

Mr. Léger to Mr. Hay.

[Translation.]

LEGATION OF HAITI,
Washington, March 5, 1904.

MR. SECRETARY OF STATE: In the course of the interview you did me the honor to grant me on the 3d instant you were so good as to tell me that the United States had no intention to take advantage of the events now taking place in the Dominican Republic either to annex that Republic or to force a protectorate upon it, or to acquire any part of its territory, Samana in particular.

Thanking you once more for this frank statement, which can assuredly not fail to enhance the confidence that my country and my Government already had in the uprightness of the United States, I will beg leave to lay before you the following articles of the treaty, signed in 1874, by Haiti and the Dominican Republic, and to which I had ventured to draw your kind attention during our interview.

ART. 3. The two contracting parties engage to maintain with all their strength, with all their power, the integrity of their respective territories; not to cede, compromise, or alienate in favor of any foreign power neither the whole nor any part of their territories nor any of the adjacent islands forming part thereof.

They also engage not to solicit or accept any foreign annexation or control.

ART. 39. The stipulations of the present treaty relative to commerce, navigation, and extradition will remain in full force and effect for a period of twenty-five years from the date of the day of the exchange of ratifications, but the stipulations relative to the other points therein included shall be obligatory forever.

I embrace, etc.,

J. N. LÉGER.

**LICENSE TAX ON AMERICAN CITIZENS DOING BUSINESS IN
HAITI.**

Mr. Battiste to Mr. Hay.

No. 1330.]

AMERICAN LEGATION,
Port au Prince, September 12, 1903.

SIR: I have the honor to transmit herewith copy of a letter received from the firm of C. Lyon Hall & Co., doing business in this city, relative to the law recently promulgated here imposing a license tax on all foreigners doing business in the country, amounting to 50 per cent of that paid for their "patents."

I inclose a translation of the portion of the law especially bearing on the question.

A law always existed here which required that all foreigners before opening a place of business must apply to the President of Haiti for a license, which application had to be renewed yearly, but for which no charge was made excepting 15 cents for the stamp paper on which it was granted. On obtaining this license the party addressed himself to the communal council, which issued to him a patent, for which he paid according to the tariff of the patent law.

Under the new law, it is to the secretary of state of finance that the request for a license must be made, accompanied by a receipt of the National Bank of Haiti attesting to the payment of the license tax, under penalty of a refusal of the license.

As Haitians are not obliged to apply for this license to do business, they are not subject to this tax, while all of our citizens doing business in the country will be obliged to pay, which is in violation of the clause of Article V of the treaty with Haiti that specifies that our citizens "shall not be compelled to pay any contributions whatever higher or other than those that are or may be paid by native citizens."

In the same translation will be found the provisions of the same law, imposing a tax of \$5 on voyagers crossing the ocean and \$2 on those voyaging in the Antilles, traveling first class. This tax, although called a passport tax, is collected on every first-class passage ticket sold, against which there is considerable complaint on the part of voyagers.

Respectfully submitting the above to the attention of the Department, I would be pleased to have its opinions and instructions on the subject for my guidance.

I am, etc.,

ALEXANDER BATTISTE.

[Inclosure 1.]

Messrs. C. Lyon Hall & Co. to Mr. Battiste.

PORT AU PRINCE, *September 10, 1903.*

SIR: We beg to call your attention to the law published in the *Moniteur* of 22 August, 1903, putting an extra tax on foreigners doing business in Haiti, in *articles Nos. 55 to 71 and especially in article 63*, which fixes the amount at half the tax already paid for our "patents."

This tax is not imposed on Haitians, only on foreigners, and we consider it in violation of the treaty in force between the United States and Haiti and ought not to be imposed on American firms.

Hoping that this matter may be satisfactorily arranged, we have, etc.,

C. LYON HALL & Co.

[Subinclosure.]

TITLE V.—*License tax.*

ART. 55. There is established by the present law a license tax to which are subject all foreigners carrying on in the Republic a commerce, industry, or any kind of a profession subject to a patent.

ART. 56. This license tax is created for the benefit of the State, and shall be collected by the National Bank of Haiti as all the other receipts of the State.

ART. 57. Each year, from the 1st of July to the 1st of September, there shall be drawn up a list of all the foreign contributors subject to a license tax.

ART. 58. This list, indicating by columns the names and first names of each merchant, industrial or professional, his nationality, his residence, the kind of commerce, industry, or profession that he carries on, the amount of the patent he pays or should pay, the amount of the license tax applicable to him, shall be drawn up at the diligence of the secretary of state of finance in all the financial arrondissements, under the care of the administrators of finances of the Republic. For this purpose the secretary of state of finance shall forward to them printed forms of the list from the 1st to the 15th of June of each year, which shall be filled out and returned to his department by the 15th of September at the latest.

ART. 59. In the principal places of the financial arrondissements the list shall

be drawn up by the administrator, and in the other communes by the collector of finances. These printed lists shall be sent to the latter by the administrators from the 1st to the 10th of July, and they shall be bound to return the list filled out by the 15th of August at the latest.

ART. 60. The list of license mentioned in the two preceding articles shall be drawn up in triplicate. The administrator of finances shall certify to the correctness and submit it to the secretary of state of finances, who shall vest it with the executory formula and decree. The minister shall send back two of the three originals to the administrator of finances to be kept in his archives to serve, first, for the issuance of the order for collection prescribed by article 67 of the regulations of the treasury service, and afterwards for the preparation of the list the following year, and annex the other as a justificative document to the ordinance of the receipts that he will draw up in conformity to article 66 of the same regulations.

The third original of the list remains with the minister of finances to facilitate the collection of the tax.

ART. 61. The periods fixed in 57, 58, and 59 are imperative and should be strictly observed under penalty, in case of violation and of delays, by a detention of one-thirtieth of the salary of the functionary for each day's delay, the suspension with forfeiture of the whole salary, if the delay is more than ten days, and the revocation in case of a repetition, all without prejudice to the penalties inflicted by article 150 of the penal code.

ART. 62. The communal magistrates are bound, under penalty of dismissal, to communicate to the administrators or the collectors of finances, at every requisition, the list of patents for the current year, and to furnish them all the information needed to facilitate the preparation of the lists, and to assure the collection of the license tax.

ART. 63. The license tax shall be the one-half of the amount of the patent of each foreign contributor.

The collection shall be regulated according to the number of establishments, and not according to that of the persons employed therein, so that the contributor who has several separate retail shops, or who carries on several industries or professions, shall be bound to obtain a special license for each one of his establishments.

ART. 64. The request for a license shall henceforth be addressed to the secretary of state of finances. It shall indicate the name and Christian name of the contributor, his nationality, his residence, the kind of commerce, industry, or profession that he carries on, the number and situation of his establishments. There shall be joined thereto the receipt of the National Bank of Haiti, attesting the payment of the license tax under penalty of a refusal of the license.

The request for a license shall be made from the first to the twentieth of October of each year, under penalty by the contributor of incurring a fine equivalent to five times the amount of the license tax to which he is liable. In case of a repetition the fine shall be doubled, without prejudice to the penalties mentioned in article 27 of the law on the regulation of the direct taxes against the contributor who shall carry on a commerce, industry, or profession that is forbidden.

ART. 65. It is forbidden to carry on one or more industries or professions subject to different patents. All violations of the present provisions shall be punished by the penalties inflicted by article 65.

ART. 67. The communal magistrates, or their substitutes, are bound to inform without delay the secretary of state of finance of the foreigners in their districts who violate the provisions of the three preceding articles, under penalty of being liable to the fine and other penalties fixed by article 65.

They shall be punished with a fine three times that of the foreign contributor violating, and, besides, with an imprisonment of from one to three years, with interdiction to exercise any public function during the period, in a case where they shall be convicted of having delivered or of having allowed to be delivered patents to foreigners who shall not have obtained the license indispensable for the carrying on of their commerce, industry, or profession.

ART. 68. The license tax is due not only by each foreigner carrying on a commerce, industry, or a profession subject to a patent, but also by each commercial or industrial society under whatever name it may be established in which a foreigner may be a member, under any title whatsoever of partnership.

In the latter case the foreign partner alone shall be subject to the license tax,

which the society to which he belongs shall be bound to pay, reserving the right to appeal.

ART. 69. When a foreigner subject to a license tax is employed under any title whatever in the service of a foreign or Haitien merchant, industrial or professional, the latter is responsible to the State for the amount of the tax, and is then, in case of a violation, liable for the penalties mentioned in article 65.

ART. 70. The tax shall be inscribed on the budget of ways and means under the "Rubric of license tax" and shall form one of the sections of the "Chapter of miscellaneous receipts" of that budget.

Each year with the budget of receipts there shall be remitted to the legislature a certified copy of the lists that may have served for the estimation of this tax.

ART. 71. There shall be kept at the national bank and in the public administrations a special account of the license tax.

* * * * *

Mr. Battiste to Mr. Hay.

No. 1338.]

AMERICAN LEGATION,
Port au Prince, October 21, 1903.

SIR: I have the honor to transmit herewith copy, with translation, of correspondence that has passed between this legation and the Haitian Government on the subject of the license tax law recently promulgated.

In his reply to my protest (see inclosure No. 1) against the refusal to grant to two of our citizens the necessary license for the transaction of their business the Haitian secretary of state takes the ground that Article V is only a continuation of Articles III and IV of the treaty making certain provisions for the safeguard of the interests of the citizens of the contracting parties in case there should be war between the two countries, and that it is Article II that would possibly apply to the case of our citizens, the favored-nation clause being therein indicated, had not the treaty with the Republic of Santo Domingo, which placed the Dominicans on the same footing with the Haitians, come to an end on the 20th of January, 1901; therefore all foreigners in Haiti are on the same footing and subject to the law of August 11, 1903.

I am, etc.,

ALEXANDER BATTISTE.

[Inclosure.]

Mr. Battiste to Mr. Fèrere.

AMERICAN LEGATION,
Port au Prince, October 13, 1903.

SIR: I have the honor to hand you herewith copy of two letters received from two of our citizens doing business in this city, by which they bring to my notice a refusal on the part of your honorable colleague of the department of finance and of commerce to issue to them the license necessary for them to carry on their commerce unless they comply with the articles 63 and 64 of the revenue law of August 1, 1903.

As the aforesaid articles apply only to foreigners doing business in the country, and Haitians are exempted from this tax, I feel called upon to protest against this discriminatory tax thus imposed upon our citizens as being in contra-vention with Article V of the treaty of September 3, 1864, which stipulates that our citizens "shall not be compelled to pay any contributions whatever higher or

other than those that are or may be paid by native citizens," and the principle of which has moreover been admitted by your Government and indorsed by one of your predecessors in a dispatch dated May 3, 1898.

* * * * *

Therefore, in virtue of our treaty and the subsequent indorsement thereof by your Government, I most respectfully request that you obtain for these two American citizens and all others who may hereafter apply for same the necessary license exempt from this discriminatory tax.

Please accept, etc.,

ALEXANDER BATTISTE.

[Subinclosure 1.—Translation.]

Messrs. Kouri & Co. to Mr. Battiste.

PORT AU PRINCE, *October 12, 1903.*

MR. MINISTER: We have the honor to inform you that the minister of finances refuses to grant us the license for the period 1903-4, if we do not conform to articles 63 and 64 of the law of August 11, 1903.

In consequence, we have the honor to beg you to kindly transmit our complaint to the minister of foreign relations to the end that right be given to our just request in virtue of the clauses of the treaty of 1864 between the United States and Haiti.

Please accept, etc.,

N. NADER.

(For M. J. Kouri & Co.)

[Subinclosure 2.—Translation.]

Mr. Ajamie to Mr. Battiste.

PORT AU PRINCE, *October 12, 1903.*

MR. MINISTER: I have the honor to inform you that by his dispatches Nos. 1781 and 1794 of date of the 3d and 6th instant the minister of finances has refused to me the license for the period 1903-4, notifying me that it was necessary for me to conform to the law of August 11, 1903.

In consequence I have the honor to beg you to kindly transmit my complaint to the minister of foreign relations that right may be given to my just request, in virtue of the clauses of the treaty of 1864 between the United States and Haiti.

Please accept, etc.,

M. N. AJAMIE.

[Inclosure 2.—Translation.]

Mr. Fère à Mr. Battiste.

REPUBLIC OF HAITI,

Port au Prince, October 20, 1903.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 13th instant, under cover of which you have transmitted to me two letters of two American citizens, merchants established in this place. I have seen that your citizens have brought to your knowledge that my colleague of finances and of commerce refuses to grant them the license necessary for the carrying on of their commerce, unless they conform themselves to articles 63 and 64 of the law of August 11, 1903.

In transmitting to me these letters you have kindly said to me, in support of the complaint of your citizens: "As the aforesaid articles apply only to foreigners doing business in the country, and that Haitians are exempted therefrom, I feel myself called upon to protest against the application of this tax to American citizens, because it is in contravention with Article V of the treaty of September 3, 1864, which stipulates that American citizens shall not be called on to pay any contribution higher or other than those that are or may be paid by native citizens," and continuing you add: "The principle of this article has been moreover admitted by your government and indorsed by one of your predecessors in a dispatch" of which you cite the paragraph

relative thereto. Then you conclude: "In virtue of our treaty and of the adhesion given by your government to the interpretation of this article, I request most respectfully that you obtain for these two American citizens, and for all others who may in the future find themselves in the same case, the necessary license, exempt from this tax."

I am truly pleased, sir, to have to-day the opportunity to confer with you on a question of which the solution tends as much to the reciprocal interests of both nations as to the conservation of the good renown of loyalty and equity that always accompany yours in its relations with others, and for that I would ask of you the permission to make a little analysis of the treaty of 1864, in the part which treats of that which forms the object of your dispatch.

The 3d of November, 1864, the two Republics, Haiti and the United States of America, signed an agreement, the rubric of which bears: "Treaty of friendship, commerce, and navigation, and for the extradition of fugitive criminals between the United States of America and the Republic of Haiti." If we carefully review the clauses contained in that important diplomatic instrument, we will find after Article I—which proclaims that there shall be perfect, firm, and inviolable peace and sincere friendship between the two countries—we find Article II, of which I transcribe the tenor:

"**ART. II.** The Republic of Haiti and the United States of America, desiring to live in peace and harmony with all the other nations of the earth, by means of a policy frank and equally friendly with all, agree that any favor, exemption, privilege, or immunity whatever in matters of commerce or navigation which either of them has granted, or may hereafter grant, to the citizens or subjects of any government, nation, or state, shall extend in identity of cases and circumstances to the citizens of the other contracting party, gratuitously, if the concession in favor of that other government, nation, or state shall have been gratuitous; or in return for an equivalent compensation, if the concession shall have been conditional."

As we see, there is not any part of this article mention of the most-favored-nation clause, and yet it can not better indicate the thing without naming it. This clause, in fact, is visibly to be deduced from the terms of the article, and it is evident that in basing on it a claim to favorable treatment one or the other of the two parties find themselves limited to the strict and rigorous interpretation of the treaty.

Pursuing further our examination, we reach Article III, which, foreseeing the case of war between the two nations, fixes the conditions under which war should be declared, the delay granted to merchants and other citizens and inhabitants, respectively, on each side, to withdraw with their goods and movables, etc., the whole conformable to the principles known in the matter.

Article IV, which is a continuation of the preceding, specifies that "neither money, debts, shares in the public funds or in banks, or any property of either party shall ever in the event of war or national differences be sequestered or confiscated." But is that all that there is to be foreseen in case of a national difference, or if through some fatality (which God forbid!) the two nations come to be at war? During the time the reign of force shall last will there not be committed abuses, violations? The foreigners, particularly the citizens of the enemy state, will they not be forced sometimes into military service? Will they not be often forced to subscribe to loans and subjected to contributions other than those existing in time of peace? Such are the questions to be foreseen in a treaty, and Articles III and IV are devoted to the purpose of regulating the different conditions raised by a state of war, as well as Article V, which only comes in to complete, so to say, the nomenclature of the things in regard to which the citizens of the two states should be equally treated on one side and the other.

Therefore, sir, you see that Articles III, IV, and V of the treaty of 1864 only aim at the one and the same thing, the regulation of a state of war, if that state should ever exist between our two countries. It is true that national differences mean civil war, but the conclusion is still the same—namely, that in one case as well as in the other, the citizens of each of the high contracting parties are not to be treated more favorably than those of the other. The true, exact sense of the treaty being thus established, it only remains for me to call your attention, sir, to the fact that you have erroneously based the request which you address to me in favor of your citizens on Article V. But as the case of these gentlemen, merchants established in Port au Prince, bears rather on that which is foreseen in Article II, I beg you to kindly permit me to present to you another consideration.

Doubtless for some time this difference in the interpretation of the treaty of 1864 did not come to any very striking result, because the Dominicano-Haitian treaty still existed, and those who had, by virtue of the treaty, obtained at the time the favorable treatment lived on the same footing as the Haitians; so that everybody without excepting those who have no treaty with us received the same treatment, no one perceiving that such a state of affairs was rather to be attributed to the law of 1900 on direct taxes which had just assimilated foreigners to Haitians.

But since that treaty with our neighbors has come to an end on January 20, 1901, and particularly since the law of 1900 has been repealed and replaced by that of 1876, affairs have of course resumed their old condition—that is to say, that the favorable treatment exists for no one in Haiti, and that in general all foreigners whatsoever are to-day on the same footing, equally subjected to the law of August 11, 1903.

If, as you have done me the honor to affirm, the principle of Article V has been admitted by the Haitian Government and indorsed by one of my predecessors, it is a fact absolutely regrettable, due to weakness or inadvertence, which can not be a law in spite of a written text approved and sanctioned by two sovereign nations, and a simple dispatch of a minister can not have the force to modify so thoroughly.

I trust that these few explanations will suffice to throw light on the erroneous interpretation which had been given without consideration of the formal text of our treaty, and in the hope of receiving your entire approbation, I beg you to accept, etc.,

M. FÉRÈRE.

Mr. Adee to Mr. Powell.

No. 579.]

DEPARTMENT OF STATE,
Washington, October 5, 1903.

SIR: I have to acknowledge the receipt of Mr. Battiste's No. 1330, dated September 12, 1903, inclosing copy of a letter from Messrs. C. Lyon Hall & Co., relative to the law of August 13, 1903, passed by the Haitian legislature, imposing a license tax on all foreigners doing business in Haiti, which native citizens are not required to pay. Mr. Battiste correctly states that it is in violation of Article V of the treaty of November 3, 1864, between the United States and Haiti, which provides that our citizens shall not "be compelled to pay any contributions whatever higher or other than those that are or may be paid by native citizens." He asks for instructions for the legation's guidance.

Discriminations by the Haitian Government of this character against foreigners in plain violation of their treaty rights, have repeatedly been brought to the notice of this Department, which has uniformly insisted upon the observance of the treaty stipulations so far as they affect our citizens. In 1876, when the Haitian Executive had promulgated a decree subjecting foreign merchants, etc., to the payment of a license not required of Haitians, Secretary Fish said (instruction No. 261, March 13, 1876):

The Department is clearly of opinion that the fifth article of the treaty between the United States and Haiti of the 3d of November, 1864, was intended to protect and should protect our citizens from any discriminations in matters of trade to the advantage of Haitian citizens. Consequently, we can not acquiesce in the license law or decree to which your dispatch refers. If, therefore, there should be any attempt to apply such a law to citizens of the United States, you will protest against it, and will, in the name of your Government, claim from that of Haiti the damages which may be sustained in consequence of the contribution which the license would require.

In 1893, when our minister reported that a bill was pending before the Haitian legislature subjecting aliens to a personal tax not shared

by native Haitians, Secretary Gresham said (instruction No. 7, November 27, 1893) :

From every point of view, so far as citizens of the United States established in business in Haiti are concerned, the proposed act appears to violate the reciprocal equality of treatment stipulated by international treaty, and should be so dealt with by you in the event it becomes law and an attempt is made to apply it to citizens of the United States.

And in 1897, when you reported that a new law had been enacted by the Haitian Chamber of Deputies authorizing the levying of discriminatory taxes upon foreign merchants, etc., in Haiti, Secretary Sherman, after reciting the provisions of Article V of the treaty of 1864, expressed the opinion that the law was in direct contravention of the treaty and instructed you to acquaint the Haitian Government with this Government's views.

The Department now reaffirms these views, and insists, as it has done in the past, upon the observance by Haiti of the provisions of the treaty in question and of the rights of American citizens which are guaranteed thereby, and if they have been compelled to pay the discriminatory tax provided by article 55 of this law you are authorized to protest to the minister of foreign affairs against such action and to ask that the amount or amounts so paid be refunded to them.

It is also stated that in the same law there is a provision for levying a "passport tax" of \$5 on voyagers crossing the Atlantic Ocean and \$2 on those voyaging in the Antilles, traveling first class. This tax appears to be a purely municipal one, and if imposed indiscriminately there would seem to be no ground for contesting it.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Hay to Mr. Powell.

No. 582.]

DEPARTMENT OF STATE,
Washington, November 6, 1903.

SIR: I have to acknowledge the receipt of your legation's No. 1338, of the 21st ultimo, transmitting copies of correspondence with the department of foreign relations in relation to the license-tax law recently promulgated by the Haitian Government.

With reference to Mr. Férère's contention that Article V of the treaty of September 3, 1864, between the United States and Haiti only relates to war contributions, I have to say that, as the provision of the treaty which is relied upon to prevent discrimination against citizens of the United States in favor of Haitians forms a part of an article of the treaty which relates to military duty and exactions, there is at first sight a plausible ground for the contention of the Haitian Government, but this is negatived by the ensuing stipulation, viz, "Nor shall they be compelled to pay any contributions whatever higher or other than those that are or may be paid by native citizens," which stands complete and unqualified by itself and which in terms covers any tax; and in view of the construction uniformly given this language by this Government (see rulings by Secretaries

Fish, Evarts, Gresham, Sherman, Day, and myself, and Acting Secretaries Adee and Hill), during a period of nearly thirty years—a construction which has heretofore been acquiesced in by the Haitian Government—the view now advanced by the Haitian secretary of state for foreign relations can not be accepted.

It would be irrational, not to say absurd, to hold that a discrimination which is forbidden in time of war, when irregular expedients for raising revenue are too often attempted under the stress of necessity, should be of legitimate and normal application in time of peace. The phrase “any contributions whatever” must be given its full unqualified weight, now as in the past. Precedents have settled the question beyond dispute and settled it in accordance with reason, logic, and justice.

I am, etc.,

JOHN HAY.

Mr. Terres to Mr. Hay.

No. 1366.]

AMERICAN LEGATION,
Port au Prince, January 2, 1904.

SIR: I have the honor to report that protests have been sent to this legation by Messrs. Kouri, C. Lyon Hall & Co., H. Pohlmann, and H. Stark, American merchants here, relative to the license-tax law.

The authorities refuse to issue the necessary papers whereby these gentlemen would be enabled to pay the customs dues on goods consigned to them and take them from the custom-house unless they comply with the license-tax law of August 10 last. The delay in the settlement of this question is inclined to do considerable harm to our citizens doing business in this country. Some of them have had merchandise lying in the custom-house for the past two months and are greatly in need of them, especially during the present holiday season, when sales are good and the detention causes great embarrassment to them and possible pecuniary loss.

The only communication with Mr. Powell is on the 10th of each month, and when he has any communication to make to this Government it takes nearly three months before he can receive an answer. This is the present case. His dispatch from Santo Domingo to this Government relative to the license-tax question, delivered on the 10th of December last, conveying the views of the Department on the subject, has remained without reply, evidently waiting for the date of the next mail for Santo Domingo.

In view of this difficulty, I would most respectfully request that if Mr. Powell is still to remain in Santo Domingo for any length of time that whatever instructions the Department may see fit to give on the question be sent direct to this legation, that it may be able to act thereon, to the end of arriving at a more speedy solution of the matter, for as it now stands I am unable to make any move or suggest anything to our citizens to relieve them from their embarrassment.

I am, etc.,

JOHN B. TERRES.

Mr. Loomis to Mr. Powell.

No. 588.]

DEPARTMENT OF STATE,
Washington, January 8, 1904.

SIR: * * * With reference to the question of patents or license taxes and the taxation of bonds, I have to say that the question of license taxes or tax contributions of whatever nature in violation of article 5 of the treaty between the United States and Haiti must be considered as settled. The attitude of this Government has been too clearly and too long defined to admit of further discussion on that subject. It was carefully considered and decided by the Hon. William R. Day, now a justice of the United States Supreme Court, in the arbitration over the Metzger case. In the course of the correspondence in that case the attitude of the Department with respect to the provisions of the treaty was admitted by the Haitian Government to be correct. It has again been reaffirmed in the Department's instruction No. 582, of November 6 last. You will advise the Haitian Government that the Government of the United States expects that the provisions of that treaty will be faithfully observed toward its citizens and that the Department can no longer engage in the discussion of the question, which has been so well and finally settled.

I am, etc.,

F. B. LOOMIS,
Acting Secretary.

Mr. Loomis to Mr. Terres.

No. 589.]

DEPARTMENT OF STATE,
Washington, January 14, 1904.

SIR: Referring to your No. 1366, of the 2d instant, I inclose for your information copy of the Department's No. 588, Haitian series, of the 8th instant, on the subject of the license taxes, which was sent to Mr. Powell at Santo Domingo City.^a

You will lend your energetic support to the claim of American citizens against discrimination in favor of native Haitians to the prejudice of the United States citizens within the meaning of article 5 of the treaty between the United States and Haiti. Repeatedly has the Government of Haiti resorted to measures in contravention and evasion of the treaty in respect to license taxes. You will familiarize yourself with the attitude of the Department by the references given in the said instruction. You will advise the Haitian Government that the Government of the United States is unable to acquiesce in any attempt to violate the provisions of the treaty and, if necessary, you will demand the issuance of the necessary papers to American merchants, enabling them to pay the customs dues on the goods consigned to them and to take them from the custom-house in the ordinary course of law. Any discrimination against them in the matter of the issuance of such papers by reason of the failure of the American merchants to comply with the provisions of the Haitian law in contra-

^a Printed, ante.

vention of the treaty, may afford a basis for claims for indemnity for injuries caused by such discrimination, and the Government of the United States will insist upon the prompt payment of full and reasonable compensation for any injuries thereby inflicted upon American interests. You will courteously, firmly, and insistently request of the Haitian Government the observance of the letter and spirit of the treaty between the two countries. You will say that notwithstanding the sincere friendship entertained by the United States for Haiti and the earnest desire to continue these friendly relations, so much to the interest of the Haitian Government, the former Government is resolved to terminate finally the discussion with reference to the observance of the treaty engagements, and that the question having been settled in the arbitration of the Metzger case and the correctness of the attitude of the United States having been expressly conceded by the Government of Haiti, the Government of the former is warranted in the expectation that this question will be the subject of no further controversy.

I am, etc.,

FRANCIS B. LOOMIS,
Acting Secretary.

Mr. Powell to Mr. Hay.

No. "N."]

AMERICAN LEGATION,
Santo Domingo City, January 16, 1904.

SIR: I have the honor to state to the Department that Mr. Fèrère, the minister of foreign relations, has not yet replied to our note that Department instructed me to send, in regard to the license tax.

Our merchants are being pressed to pay this unjust tax, and when they refuse the Government refuses to permit them to take their merchandise from the custom-house.

* * * * *

I am, etc.,

W. F. POWELL.

Mr. Terres to Mr. Hay.

No. 1376.]

AMERICAN LEGATION,
Port au Prince, February 8, 1904.

SIR: I have the honor to transmit herewith copy with translation of the reply of the Haitian Government to the dispatch of Mr. Powell relative to the interpretation of Article V of the treaty of 1864.

In his reply the Haitian secretary of state, after setting forth his views of the question in a lengthy argument, concludes by saying that American citizens shall continue, as since 1898, to be assimilated to Haitian citizens and that, conformable to the reserve indicated in the correspondence exchanged between this legation and his department at the time, the Haitian Government will soon present to our Government a proposal to modify the treaty of 1864.

I am, etc.,

JOHN B. TERRES.

[Inclosure.—Translation.]

Mr. Fèrere to Mr. Powell.

DEPARTMENT OF STATE FOR FOREIGN RELATIONS,
 REPUBLIC OF HAITI,
Port au Prince, February 3, 1904.

MR. MINISTER: I have the honor to acknowledge the receipt of the dispatch that you addressed to me on the 20th of November last to draw my attention to the interpretation given by the Haitian Government to the new license law and to observe at the same time that it is in conflict with the terms of the treaty that exists between the two Governments.

I must first beg you, Mr. Minister, to have the high courtesy to excuse my delay in replying to you. On account of the importance of the communication that is the object of your dispatch, you will admit that some time was necessary for me to acquaint myself with what had been done and to search the archives of the department, the elements with which to enlighten my judgment. To-day, that I am enabled to make known to you the opinion of my Government on the subject in question, I beg you to kindly lend me all your attention.

It appears from my investigations that the Government of Haiti, through one of my predecessors, Mr. Brutus St. Victor, was brought in 1898, and after a rather long discussion, to admit the interpretation given by the Government of the United States to Article V of the treaty of 1864, but my intimate conviction, shared by the whole Government, remains just as it is stated in my dispatch of October 20 last, written to Mr. Alexander Battiste, in charge of the American legation at Port au Prince; that is to say, that it is a judicial error to base on Article V, instead of Article II, the reciprocal condition of American citizens in Haiti and of Haitian citizens in the United States, since the most-favored-nation clause that establishes that condition, and, furthermore, only specially applies to the commercial system, is only to be found in Article II. When I thus express myself, Mr. Minister, I base myself not only on the literal sense of the words and on the principle of public law that governs the matter, but also on the written text of the treaty of 1864 as it is to be found in the compilation of treaties and conventions concluded between the United States of America and other powers, published under the eye and seal of the Department of State itself. In fact, in that compilation, which I have at this moment in hand, I see alongside of each article a rubric indicating the subject dealt with in the article. Thus Article I, to begin with, bears the rubric *peace and friendship*; Article II, *most-favored-nation privilege*; Article III, *case of war*; Article IV, *property not to be confiscated* (in case of war, of course, as confiscation can only take place in that case); Article V, *exemption from military service*. For more precision, I transcribe textually Article V:

ARTICLE V. *The citizens of the high contracting parties residing or established in the territory of the other shall be exempt from all compulsory military duty by sea or by land, and from all forced loans or military exactions or requisitions; nor shall they be compelled to pay any contributions whatever higher or other than those that are or may be paid by native citizens.*

Who does not see that the contents of this Article V, the same as the two preceding, provides for a state of war, and not commercial conditions already provided for in Article II? Can it be reasonably supposed that two nations, friendly and living in peace, would exact military service of each other's citizens; and how can it be alleged that the special clause of a diplomatic act, which exempts these citizens from all compulsory military duty, contemplates a commercial system and not the particular condition resulting from a state of war? No; it is only in case of war that such exactions could be justified, and it is certainly in order to guard against this possible exigency that the two States signatory to the act of 1864 have specified therein, beside the exemption from military service, other guarantees, such as the prohibition of subjecting their respective citizens to forced loans and exactions, and of compelling them to furnish higher or other contributions than the natives. This last word, *contribution*, is doubtless capable of different meanings, and has afforded grounds for the interpretation contrary to ours; but, coming in an article and, moreover, in a sentence which only deals with acts of war, the only meaning it can bear in this particular case is this: "That which is given to the enemy for protection against military executions." (Littré.) Therefore, reason, logic, good sense, and equity all unite here in support of the interpretation that I

maintain, without taking into account that in no convention of this character the favorable treatment can be given and acquired only for a fixed time; while the assimilation of the respective citizens of our two States, as established by Article V, although applicable only to the case of war (which God forbid), appears, according to your interpretation, to be made perpetual, like the friendship and the peace of which it is only the corollary. The difference between the condition which is created by Article II and that which springs from Article V, one is special, and relates to the commercial and industrial treatments; the other applies to all the citizens without distinction in case of war between the two countries.

Although I am not confident, Mr. Minister, of my ability to cause the Federal Government to alter a decision—bad, it is true—already reached and accepted by the two parties, I nevertheless cherish the hope of convincing you personally of the justice of the cause I am defending. I further venture to hope that acting under the high sense of justice and equity of which you have so often given proof, you will take a favorable view of the position of the small Haitian nation—friend and admirer of the great American nation—which, on account of its having at one time yielded to the impulse of a too justly inspired confidence, is now threatened with a loss of the privileges that all States ordinarily reserve for their citizens only, and induce your Government to concur in the said views. For it is certain that if the Americans are assimilated to the Haitians, the French who have a treaty with us, signed in 1838, which contains the most-favored-nation clause (which, however, is not to be confused with assimilation) will not fail to claim the same treatment, and God only knows what attacks from other parts will be directed against us.

If, therefore, the Federal Government, notwithstanding our just and legitimate observations, adheres to the interpretation of article 5 of the treaty of 1864, as it has done in the past, it becomes my duty, Mr. Minister, to inform you that American citizens shall continue, as they have since 1898, to be assimilated to the Haitian citizens, and that conformably to the reservation indicated in the correspondence exchanged at the time between your legation and my department, the Government of the Republic of Haiti will soon take occasion to present to yours a proposal to modify the important diplomatic instrument that binds our two countries.

Please accept, etc.,

M. FÈRÈRE.

Mr. Powell to Mr. Hay.

No. "Q."]

AMERICAN LEGATION,
Santo Domingo City, February 8, 1904.

SIR: I have the honor to submit to the Department a copy of a dispatch forwarded to the minister of foreign relations, Hon. M. Fèrère, in regard to the subject of license taxes, in accordance with instructions from the Department.

I have, etc.,

W. F. POWELL.

[Inclosure.]

Mr. Powell to Mr. Fèrère.

LEGATION OF THE UNITED STATES,
Santo Domingo City, February 2, 1904.

SIR: I had the honor to address your excellency by instructions from my Government, in regard to the question of patents or license tax. I have expected to have received a reply to my note, but up to the present moment I have received none.

I have now to inform your excellency that the question of license taxes or tax contributions, of whatever nature, in violation of article 5 of the treaty between the United States and Haiti, must be considered as settled. My Government will not admit any further discussion on this subject. It denies to your excellency's Government the right to levy such tax.

I call your excellency's attention to the carefully rendered decision of the Hon. W. R. Day, in the Metzger case. It was therein admitted by the Haitian Government the provisions of that treaty to be correct.

My Government expects the provisions of that treaty to be faithfully observed toward its citizens.

I am also instructed to inform your excellency that my Government can no longer engage in the discussion of this question which has been so well and finally settled.

Accept, etc.,

W. F. POWELL.

Mr. Hay to Mr. Powell.

No. 594.]

DEPARTMENT OF STATE,
Washington, February 27, 1904.

SIR: I have to acknowledge the receipt of your legation's No. 1376, of the 8th instant, inclosing copy of the Haitian Government's reply concerning the bearing of the treaty between the United States and Haiti upon the Haitian license law of 1903.

The Department regards this reply as a substantial acceptance of the interpretation which has been universally placed upon the treaty provision by this Government and which has heretofore been acquiesced in by the Haitian, namely, the equality of treatment of United States and Haitian citizens.

I am, etc.,

JOHN HAY.

Mr. Powell to Mr. Hay.

No. "c."]

LEGATION OF THE UNITED STATES,
Santo Domingo City, March 16, 1904.

SIR: I have the honor to state that the Haitian minister of foreign relations has informed the communal or city authorities that a higher license can not be demanded of Americans in business, but the manner of procuring the license or patent, or rather the restrictions connected with obtaining the same, has not been removed.

All foreigners desiring patents must petition the Government, or rather the President, on stamped paper. Haitians are not required to conform to this part of the law.

I have, etc.,

W. F. POWELL.

LICENSE TO DO BUSINESS ARBITRARILY DENIED TO AMERICAN CITIZENS.

Mr. Terres to Mr. Hay.

No. 1382.]

LEGATION OF THE UNITED STATES,
Port au Prince, March 7, 1904.

SIR: I have the honor to inclose herewith a protest handed in to this legation by Mr. George Schwedersky, an American citizen largely interested in business in Haiti, with the request that same be forwarded to the Department of State at Washington.

I called on the minister for foreign affairs with Mr. A. Battiste for the purpose of finding out the reason why the patent was refused.

He seemed not to know the cause for the refusal but promised to furnish me with the information, which has not been done up to this date. This shows a very alarming situation for Americans doing business in Haiti, and unless some means are taken to stop same will result in their utter ruin.

I am, etc.,

JOHN B. TERRES.

[Inclosure 1.]

Mr. Schwedersky to Mr. Powell.

PORT AU PRINCE, *March 2, 1904.*

SIR: I wish to bring to your notice the inclosed letter received this day from the Haitian minister of finances, and desire that you forward the same to the Department of State at Washington for their serious and immediate consideration.

I am one of the principal partners of the old and honorable standing firm J. Dejardin Th. Luders & Co., of this city. The firm of Dejardin has been existing here since the year 1830. I have been connected with the firm as partner since the past eleven years.

Yearly the foreign houses doing business in Haiti apply for a patent to conduct their business, which patent is granted by the President of the Republic. As customary, when called upon by the mayor of the city last October, we paid over to him the amount of taxes for the patent for the ensuing year, as well as in November to the Government the amount of the new license tax, established by the law of 13th August, 1903, and made the customary demand by letter for the patent. Not receiving it during the month of January, I wrote again requesting that the patent be granted. As none of the foreign houses had received theirs I concluded, as others, that it was mere neglect on their part, as has been often the case in former years. To my great astonishment I received the letter mentioned.

The firm has large investments in Haiti, we do a large banking business, are also heavily interested in a city tramway and a railroad extended to the plains, which has only recently been completed. We are also heavy investors in a tobacco plantation and a cigar manufactory, besides being large owners of Haitian securities, upon which they have lately placed a repudiating tax, which is entirely contrary to their binding contract to pay in full for same.

This letter, as you will see, states that a reasonable delay will be given to liquidate our business. There is no possible plausible reason to be given for the highhanded, arbitrary demand on our firm, and it would be utterly impossible to comply with this unwarrantable demand without being very heavy losers in all the enterprises in which we are engaged, and besides we would surely lose our entire outstanding debts, which are very heavy, if we are forcibly thrown into liquidation by this highhanded proceeding of the Haitian Government, especially as a firm which is not in possession of its patent can not carry on any lawsuit.

As an American citizen I most earnestly protest against the arbitrary right of the Haitian Government to impose any such ruinous demands upon the firm in which I am engaged, and I most earnestly request of the United States Government to take such action in the premises that will secure to me my rights and to avoid my being a heavy loser if this decree is allowed to be put in force.

Yours, respectfully,

G. SCHWEDERSKY.

[Subinclosure.]

Mr. Biyou to Messrs. J. Dejardin Th. Luders & Co.

PORT AU PRINCE, *February 29, 1904.*

GENTLEMEN: I acknowledge receipt of your two letters of 26th November, 1903, and 3d of this month, the latter confirming the former, by which you

request me to obtain from His Excellency the President of the Republic a license for you as consignee merchants. Your demand was accompanied by the voucher of the bank, establishing the payment of the license tax, amounting to the sum of \$150.

I hasten to announce to you that His Excellency the President of the Republic by his dispatch of the 27th of this month, has informed me that he has decided not to grant your demand of license, has left to me the care, in notifying you of this decision, to reimburse the tax paid to the treasury, and to accord you a convenient delay to liquidate your commercial affairs.

In consequence I hold at your disposal the 150 gourdes, which will be paid over to you by the paymaster of the department against receipt in duplicate.

As for the delay which is granted to you, my colleague of the department of the interior will notify you of same, this question being for his determination.

Receive, etc.,

CAJUSTE BIYOU.

[Inclosure 2.]

Mr. Schwedersky to Mr. Powell.

PORT AU PRINCE, *March 3, 1904.*

SIR: Referring to my letter of protest of the 2d instant, I beg to add to same that I have omitted to state that, besides the interests mentioned and owned by my firm, I am personally largely interested in important mining concessions obtained from the Haitian Government, for the exploration of the mining concessions considerable money has been expended.

Yours, respectfully,

G. SCHWEDERSKY.

Mr. Terres to Mr. Hay.

No. 1383.]

AMERICAN LEGATION,

Port au Prince, March 7, 1904.

SIR: I have the honor to transmit herewith inclosed a letter received at this legation with the request that the same be forwarded to the Department of State. As will be seen thereby, the house of G. Keitel & Co. has been informed that a patent to continue their business will not be granted to them, thus forcing the firm into liquidation. Mr. Anton Jaegerhuber, an American citizen, is largely interested in the firm. He is now in Europe, and I presume will present his case to the Department for consideration.

I am, etc.,

JOHN B. TERRES.

[Inclosure.]

Messrs. Keitel & Co. to Mr. Powell.

PORT AU PRINCE, *March 2, 1904.*

SIR: We wish to bring to your notice that the Haitian Government has refused by letter to grant to the house of G. Keitel & Co. a patent for the purpose of continuing to conduct their business in this city of Port au Prince, and by the same letter requesting the firm to enter into liquidation of their affairs and that a reasonable delay will be given to liquidate.

Mr. Anton Jaegerhuber, now absent in Europe, is the principal partner in our firm, he being an American citizen, and would be a very heavy loser if this arbitrary demand of the Haitian Government is upheld. We will bring the case before Mr. Jaegerhuber by letter and request him to take such necessary steps to enter a protest to the American Government at Washington for the protection of his rights.

In the meantime we would be pleased if you will have forwarded to the State Department this complaint that they may take such steps as they deem necessary for his protection.

We are, etc.,

G. KEITEL & COMPANY.

Mr. Terres to Mr. Hay.

No. 1387.]

AMERICAN LEGATION,
Port au Prince, April 19, 1904.

SIR: I have to acknowledge the receipt of dispatch No. 598 of March 29 last,^a in which the Department awaits further information from the legation on the subject of patents being refused to the house of Dejardin Luders & Co., in which firm Mr. G. Schwedersky, an American citizen, is one of the principal partners. The protest forwarded to the Department through this office explains fully the position in which the house stands. They have received no other communication since the receipt of the letter from the Haitian Government to Mr. Schwedersky notifying him that a patent had been refused the firm and that notice would be given him of the length of time that would be allowed to liquidate the business of the firm. Nor has the house had any correspondence with the government on any business matters. Without a patent they have no right to import, export, or enter suits in court—in fact all manner of business would be impossible for them. Such is the position in which the house finds itself at this moment and which renders it helpless to transact any business until this question of patents is settled.

The house of G. Keitel & Co., in which Mr. Anton Jaegerhuber, an American citizen, is largely interested, was also refused a patent (a letter of protest was forwarded at the same time as that of Mr. Schwedersky's to the Department). This firm applied to the customs authorities for permission to make a shipment of coffee. The reply was that the President had refused to grant to the house a patent to do business and in consequence they could not grant permission to the house to make the shipment. The same reply would be received if the house of Dejardin Luders & Co. should make a similar request. These two firms represent a very large commercial interest in this country and have a large outstanding debt, of which, without a patent, not 1 cent on the dollar could be collected, as having no patent it bars them from entering suits in court. There are several other American houses that have not received their patents. They have repeatedly written to the government, and when any reply was received it merely stated that the President had not yet notified them that a patent would be granted.

This state of affairs places all American interests in a very uncertain and difficult position, and merchants not having their patents in hand hesitate to enter in any business transactions, and it is not only very detrimental to their financial interest, but it is ruin to American commerce in general.

I have hesitated to enter into any correspondence with the government on this important question for the reason that I have been expecting the return of Mr. Powell and that he no doubt would know better the attitude of the Department on this important matter

^a Not printed.

than I do. I have communicated with him fully on the question of patents and on that of the repudiating tax law—two very important questions for Americans who have large amounts invested in this country.

My communications and the protest from American citizens concerning the tax law to the Department explain partially the great injustice to Americans investing in Haitian securities.

* * * * *

I have, etc.,

JOHN B. TERRES.

Mr. Hay to Mr. Powell.

No. 603.]

•DEPARTMENT OF STATE,
Washington, May 9, 1904.

SIR: I have to acknowledge the receipt of Mr. Terres's No. 1387, of the 19th ultimo, and to say in reply that neither this dispatch nor those of March 7 last advised the Department of the grounds of the refusal by the Haitian Government to grant patents or licenses to engage in business to the American citizens mentioned therein.

The Department infers that the ground of this refusal by the Haitian Government is the attitude of the Government of the United States asserting the invalidity of certain license taxes illegally imposed by the Haitian Government in violation of the treaty between the United States and Haiti. The correctness of the attitude of the Government of the United States in this matter has been repeatedly admitted by the Haitian Government; and if you find that the refusal to grant the patents mentioned is really based upon the grounds above indicated, you will advise the Haitian Government that the United States is unable to acquiesce in such refusal as being an act unfriendly to this Government because of the open disregard of solemn treaty engagements.

The Government of the United States would regret to be compelled to ask the Haitian Government for the immediate payment of full indemnity for any damages caused by its action to citizens of the United States, and in order to avert such a regrettable necessity you will request the Haitian Government to grant, without further delay, the patents requested by American citizens doing business in Haiti on terms consistent with the local laws and treaty obligations, the latter being paramount, if there should appear to be any conflict between the provisions of the treaty and those of the local laws.

I am, etc.,

JOHN HAY.

Mr. Powell to Mr. Hay.

No. 1409.]

AMERICAN LEGATION,
Port au Prince, May 24, 1904.

SIR: I have the honor to acknowledge the receipt of Department's No. 603, of May 9, concerning the subject of patents or licenses.

I have the honor to state in reply that I think this matter is definitely settled, at least for this year, and possibly for all time. Since

my return the government has granted patents to all our citizens with two exceptions. These would also be granted, but the firms to which I refer, while the senior member of each is an American citizen, have themselves always been registered as German, and are so regarded, the other members being of that nationality. For this reason I have not made any request to this government in regard to them, there being a German chargé here to protect their interests.

* * * * *

I have, etc.,

W. F. POWELL.

**NATURALIZATION TREATY BETWEEN THE UNITED STATES AND
THE REPUBLIC OF HAITI.**

Signed at Washington, March 22, 1902.

Ratification advised by the Senate, February 1, 1904.

Ratified by the President, March 17, 1904.

Ratified by Haiti, April 24, 1903.

Ratifications exchanged at Washington, March 19, 1904.

Proclaimed, March 24, 1904.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a treaty of Naturalization between the United States of America and the Republic of Haiti was concluded and signed by their respective Plenipotentiaries at Washington, on the twenty-second day of March, one thousand nine hundred and two, the original of which treaty, being in the English and French languages, is word for word as follows:

The United States of America and the Republic of Haiti desiring to regulate the citizenship of those persons who may emigrate from the United States to Haiti, or from Haiti to the United States, have resolved to conclude a treaty on this subject.

For that purpose they have appointed their Plenipotentiaries, to-wit:

The President of the United States: John Hay, Secretary of State of the United States;

The President of Haiti: Mr. J. N. Léger, Envoy Extraordinary and Minister Plenipotentiary of Haiti at Washington;

Who, after the mutual communication of their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I.

Citizens of the United States of America who shall have been duly naturalized as citizens of Haiti, and who shall have resided uninterruptedly in Haiti during a period of five years, shall be recognized by the United States as citizens of Haiti.

Reciprocally, citizens of Haiti who shall have been duly naturalized as citizens of the United States of America, and who shall have resided uninterruptedly in the United States during a period of five years, shall be recognized by Haiti as citizens of the United States.

This article shall apply as well to those already naturalized in either country as those hereafter naturalized.

ARTICLE II.

The person who, after having become a naturalized citizen of one of the contracting States, shall return to live in the country of his origin, without intention to return to the country where he has been naturalized, shall be considered as having renounced the nationality obtained through naturalization.

ARTICLE III.

The intent not to return may be held to exist when the person naturalized in the one country resides more than two years in the other country.

ARTICLE IV.

The naturalized citizens of either State who return to their country of origin, will be there liable to prosecution and punishment in conformity to the laws for the crimes or misdemeanors committed before their emigration and that are not covered by the statute of limitations.

ARTICLE V.

The declaration of intention to become a citizen of the one or the other country has not for either party the effect of naturalization.

ARTICLE VI.

The present treaty shall remain in force for ten years from the date of the exchange of ratifications; and unless one of the contracting parties shall notify the other of its intention to terminate it one year before the expiration of that period, the said treaty shall continue in force from year to year until the expiration of one year after official notice shall have been given by either of the contracting governments of a purpose to terminate it.

ARTICLE VII.

The present treaty shall be submitted to the approval and ratification of the respective appropriate authorities of each of the contracting parties, and the ratifications shall be exchanged at Washington as soon as possible within twelve months from the date hereof.

In witness whereof, the respective Plenipotentiaries have signed the foregoing articles, and have affixed their seals.

Done in duplicate at the City of Washington, in the English and French languages this twenty-second day of March, 1902.

JOHN HAY [SEAL]
J. N. LÉGER [SEAL]

And whereas the said treaty has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the nineteenth day of March, one thousand nine hundred and four;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said treaty to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington, this twenty-fourth day of March, in the year of our Lord one thousand nine hundred and
[SEAL] four, and of the Independence of the United States of America the one hundred and twenty-eighth.

THEODORE ROOSEVELT

By the President:

JOHN HAY

Secretary of State.

TREATY BETWEEN THE UNITED STATES AND HAITI EXTENDING THE TIME WITHIN WHICH MAY BE EFFECTED THE EXCHANGE OF RATIFICATIONS OF THE TREATY OF NATURALIZATION BETWEEN THE TWO COUNTRIES, SIGNED MARCH 22, 1902.

Signed at Washington, February 28, 1903.

Ratification advised by the Senate, February 1, 1904.

Ratified by the President, March 17, 1904.

Ratified by Haiti, April 24, 1903.

Ratifications exchanged at Washington, March 19, 1904.

Proclaimed, March 24, 1904.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Supplementary Treaty between the United States of America and the Republic of Haiti to prolong the period within which may be exchanged the ratifications of the treaty of naturalization signed March 22, 1902, was concluded and signed by their respective Plenipotentiaries at Washington, on the twenty-eighth day of February, one thousand nine hundred and three, the original of which Supplementary Treaty, being in the English and French languages, is word for word as follows:

The United States of America and the Republic of Haiti, considering it expedient to prolong the period within which, by Article VII of the treaty of naturalization, signed by their respective plenipotentiaries at Washington on March 22, 1902, the exchange of ratifications of the said treaty shall take place, have for that purpose appointed their respective Plenipotentiaries, namely:

The President of the United States of America, John Hay, Secretary of State of the United States of America; and

The President of Haiti, Mr. J. N. Léger, Envoy Extraordinary and Minister Plenipotentiary of Haiti at Washington;

Who, after having communicated each to the other, their respective full powers, found in good and due form, have agreed upon the following additional article to be taken as part of said treaty.

SOLE ARTICLE.

The respective ratifications of the said treaty shall be exchanged as soon as possible, and within twelve months from March 22, 1903.

Done in duplicate at Washington, in the English and French languages, this 28th day of February, A. D. 1903.

JOHN HAY [SEAL.]
J. N. LÉGER [SEAL.]

And whereas the said Supplementary Treaty has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the nineteenth day of March, one thousand nine hundred and four;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Supplementary Treaty to be made public, to the end that the same and every clause thereof made be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington, this twenty-fourth day of March, in the year of our Lord one thousand nine hundred and
[SEAL.] four, and of the Independence of the United States of America the one hundred and twenty-eighth.

THEODORE ROOSEVELT

By the President:

JOHN HAY,
Secretary of State.

SETTLEMENT OF THE CLAIM OF HALL, OR WEYMAN.

Mr. Powell to Mr. Hay.

No. 1410.]

AMERICAN LEGATION,
Port au Prince, May 25, 1904.

SIR: I have the honor to inform the Department that the Hall or Weyman claim has been settled by the government paying to Mr. Hall the sum of \$18,000. This claim has been pending for a period of seven years, and was for coal furnished by this firm to the Haitian Government, in payment for which the firm received a certain number of bonds payable in six, twelve, eighteen, and twenty-four months;

but when these bonds were presented for payment the government declined to pay them. Happily this claim is settled and makes one less for this legation to contend with.

I have, etc.,

W. F. POWELL.

EXCLUSION OF SYRIANS FROM HAITI.

Mr. Powell to Mr. Hay.

No. 1434.]

AMERICAN LEGATION,
Port au Prince, June 15, 1904.

SIR: I have the honor to inclose to the Department a copy of the law regarding Syrians, which took effect June 8, and which was passed at the last session of the legislature.

I call Department's attention to the following Articles: Articles 3, 4, and 5.

We have here in the several cities of the Republic about 200 who claim to be American citizens; there are about 20 who claim to be English citizens, and about 400 who are under the protection of the French Minister, but not French citizens.

There has been a demand on the part of the small Haitian merchants and those who peddle their goods into the interior of the country to the government, that these people should not be allowed to land and those that are here should be expelled; also that they should strictly conform to the laws of the country in regard to commercial matters; that is, they should not sell at retail nor be allowed to sell in the interior by means of peddlers.

The government endeavored for a long time to resist the demand, but finally acceded to the request of their citizens, hence the present law. It is claimed on the part of the Haitians that these people do not spend any money in the country; that as fast as made it was sent abroad, and that it was not the intention of the Haitian Government to give these people the same rights as held by their citizens.

In behalf of the Syrians, those that are naturalized as American citizens and those who are not, they are economical in their mode of living, their daily sustenance costing less than a Haitian's. They are close buyers and liberal in selling their goods; that is, they will sell to the country people goods on time, receiving from them a certain sum a week, and often before the bill for the goods is paid the article sold is worn out. This manner of selling subjects them to loss. They are also persevering, traversing the mountain districts and visiting every house in the district they happen to be in. This manner of selling has compelled a large number of the Haitian retail merchants to close their stores and retire from business. The same may be said of those who carry their goods on their heads in the country district; these also have been compelled to give up, as the Syrians could under-sell them.

It is for the causes named that the present law was enacted. The intention of the framers of the law was to compel these people to leave the country in order that the Haitian merchant and peddler can resume business.

I have, etc.,

W. F. POWELL.

[Inclosure.—Translation.]

The legislative corps, using the initiative that article 69 of the constitution gives to it,

Considering that the arrival in mass of individuals called Syrians, or thus named in the popular language, far from remaining a moderate immigration, takes the proportion of a veritable invasion.

That their very great number merits to call the attention of the public powers, and may become the source of grave dangers;

That conflicts have already risen between them and the natives, and others threaten to break out every day;

Considering that the Syrians in devoting themselves only to commercial operations render to the nation no service that merits the solicitude of the state; that the experience of nearly fifteen years has not shown any benefit that the Haitian nation detracts from their presence on our soil; that no fusion seems to be possible between their habits and ours, and that they form in our midst as it were a foreign state;

Considering that one of the principal duties of a government is to protect its citizens, and to facilitate to them the means of living and ameliorate their state of existence;

That all the laws on direct taxes from 1804 to 1900 guaranteed to the native commerce a treatment of favor, justified by the social state of inferiority that the want of capital placed the Haitian people at the time, and the sacred obligation to assure to it the benefits of the independence;

Considering articles 4 of the constitution and 14 of the civil code;

Considering the laws of October 27, 1876, and August 3, 1900, on direct taxes; Has voted the following law:

"ART. 1. From the promulgation of the present law no individual called Syrian, or thus named in the popular language, shall be admitted into the territory of the Republic, and ministers, chargé d'affaires, and consuls of Haiti in foreign countries are forbidden to deliver passports to any of them.

"All harbormasters who shall violate the provisions of the present article in permitting the debarkment of Syrians unprovided with a passport or even provided with an irregular passport shall be indicted before the correctional police and punished by dismissal and inflicted with a fine of 200 gourdes.

"ART. 2. Henceforth the President of the Republic shall not grant to a Syrian any license to open any other commercial establishment than that of consignee merchant.

"ART. 3rd. The licenses delivered up to this date to Syrians to do commerce in any other quality than that of consignee merchant shall not be renewed.

"A delay of six months from the expiration of the year is given them to liquidate and close their wholesale and retail places of business.

"ART. 4th. It is forbidden to any Syrian in possession of a license to have more than one commercial establishment.

"ART. 5th. All Syrians who carry on any commerce without being provided with a patent and the license, or who shall be caught exercising the profession of a peddler, colporteur, speculator in produce, shall be fined five hundred dollars and punished by an imprisonment of from three to six months. In case of a repetition he shall be expelled from the territory of the Republic.

"ART. 6th. Any communal magistrate who shall deliver to a Syrian a patent to which the latter has no right or without having required the production of his license.

"Any commandant of a commune who shall allow Syrians to establish themselves and circulate the circumscription of his commune to transact a commerce that is forbidden to them by the law, shall be liable to dismissal and the infliction of a fine of two hundred gourdes.

"The patent thus delivered shall be null by full rights.

"ART. 7th. Pending the promulgation of a law on naturalization, naturalization shall be granted to Syrians only after a sojourn of ten years in the territory of the Republic.

"ART. 8th. Any director of the custom-house who shall inspect merchandises for a Syrian without having assured himself that he is provided with the patent and the license required by law, shall be dismissed and inflicted with a fine of five hundred gourdes.

"ART. 9th. Immediately after the promulgation of the present law the secretary of state of the interior shall publish in the Official Moniteur:

"First. A list of the naturalized Syrians, the date of their naturalization, their place of residence.

"Second. A list of those who have requested and obtained a license of the President to carry on commerce in Haiti.

"ART. 10th. Any Syrian who shall try to violate the law in presenting to the Haitian authorities an act of naturalization, a patent or a license that may have been delivered to any other than himself, shall be inflicted with a fine of one thousand dollars and punished with an imprisonment of from six months to one year.

"In case of a repetition of the offense he shall be expelled from the territory of the Republic.

"ART. 11th. The present law abrogates all laws or provisions of laws that are contrary thereto. It shall be executed by the secretaries of state of the interior, of finances, and of commerce, of foreign relations, and of justice, each one in that which concerns him.

"Given at the national house, at Port au Prince, July 24th, 1903, year 100 of the independence.

"Given at the national palace at Port au Prince, August 13th, 1903, year 100 of the independence.

"By the President:

"NORD ALEXIS."

Mr. Powell to Mr. Hay.

No. 1488.]

AMERICAN LEGATION,
Port au Prince, August 8, 1904.

SIR: I have the honor to state to the Department that the bill in regard to the Syrians, passed by the legislative branch of the Government last year, has received the signature of the President on August 1, and is therefore a law, a copy of which was forwarded to the Department in dispatch No. 1434, of June 15.

The law forbids the emigration of Syrians to this Republic and refuses to allow them to become citizens, and those that are such takes this right from them after a certain date; also denies to them to do business on certain lines in the Republic; strictly forbids all traveling to sell goods in the interior and gives to them a certain length of time to dispose of their goods—that is, those in business—and leave the country.

As soon as it was known that the President had signed this bill making it a law, disturbances broke out in several sections of the Republic, whereby many of these people were injured, their stores in many instances being pillaged by the soldiers, and, in some cases, several were seriously injured by stones or beaten with sticks.

At a recent interview (August 4) with the President he informed me that he had signed the bill, as he had been informed that these people were the enemies of the present Government, were aiding his foes, and had secreted large quantities of the national metallic currency (silver) and were exporting it, so he thought it was best to sign this bill so as to be rid of them.

I informed him that I was very sorry to hear this as I thought he had been misinformed, and that this measure would lead to considerable difficulties with countries with whom they were now in friendly relations.

I have the honor to inclose copy of a letter which I have sent to the minister of foreign relations in regard to this class that are American citizens by naturalization.

I have, etc.,

W. F. POWELL.

[Inclosure.]

*Mr. Powell to Mr. Férère.*AMERICAN LEGATION,
Port au Prince, August 8, 1904.

SIR: I have been informed that the law passed by the legislative branch of your excellency's Government in regard to the Syrians, has received the signature of his excellency, General Nord.

I regret very much that such is the case, as I fear in the enforcement of this law your excellency's Government will experience considerable difficulty.

A large number of these people are American citizens through naturalization; all such persons are under our protection and must be considered as American citizens, and as such they are entitled to all the rights in business as Haitian citizens as long as the present treaty remains in force. I must therefore inform your excellency that my Government can not permit this class of its citizens to receive any different treatment than your excellency's Government accords to other American citizens.

I understand that your excellency's Government states that many of this class have been giving aid to the enemies of the Government and conspiring against it. I request that before your excellency takes forcible measures in regard to anyone who may be so informed against and who may be an American citizen, your excellency will furnish our legation with the facts, so that we may ascertain whether your excellency has been correctly informed or not. I think your excellency will find that serious trouble will be obviated.

My Government believes that among the vital duties of the State is to protect and defend itself against its enemies. In accordance with this knowledge this legation will at no time give its protection to one who conspires or gives aid or comfort to the enemies of the State.

I have written thus to your excellency that you may know the position my Government occupies in regard to the enforcement of the present law.

I have, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

No. 1510.]

AMERICAN LEGATION,
Port au Prince, August 25, 1904.

SIR: I have the honor to inclose to the Department the correspondence that has passed between this legation and the department of foreign relations regarding the law affecting the status of Syrians that have become American citizens through naturalization, and which law has recently been put in force.

I have, etc.,

W. F. POWELL.

[Inclosure.—Translation.]

*Mr. Férère to Mr. Powell.*DEPARTMENT OF STATE FOR FOREIGN RELATIONS,
Port au Prince, August 19, 1904.

MR. MINISTER: I have the honor to acknowledge the receipt of your dispatch of the 8th instant, to which I have given my most serious attention.

This department esteems—its opinion is certainly that of your legation—that the Syrians, naturalized Americans, should no longer be considered, from the point of view of their original nationality, and they escape thereby from the measures prescribed by the law of August 10, 1903. Besides, Mr. Minister, you have probably not failed to remark that the Government of the Republic extends its solicitude on all foreigners whatsoever may be their nationality, who reside on the Haitian territory, and that it applies itself especially to protect the citizens of the United States, on account of the close ties of friendship that unite so happily our two countries.

Please accept, etc.,

M. FÉRÈRE.

PROTECTION OF NATURALIZED AMERICAN CITIZENS OF SYRIAN ORIGIN.

Mr. Powell to Mr. Hay.

No. 1486.]

AMERICAN LEGATION,
Port au Prince, August 4, 1904.

SIR: I have the honor to inform the Department that this morning at an early hour an attempt was made to attack certain naturalized American citizens (Syrians) in business here.

The assault was made by throwing stones into their stores as soon as they were opened for business. Many fled with their wives to the legation for protection. I immediately sought an interview with Mr. Fèreère, the minister of foreign relations, and with him went to the President, General Nord.

I informed the President of the situation and stated that the government must immediately take steps to prevent this rioting and allow our citizens to conduct their businesses quietly, and take adequate measures to prevent pillage on the part of a class of Haitians who seemed to desire to get his Government into further trouble; that delay in the matter was dangerous. As soon as fire was placed in any of their stores pillage would at once take place, and not only property but many lives would be sacrificed.

During the excitement on Tuesday I had instructed this class of citizens to close their stores and to keep off the streets; I was not willing to do this longer; other stores were open and our citizens had the right to have theirs open, and the Government *must* protect them in this right.

* * * I informed the President that I * * * came to learn from the President himself whether his Government was taking the steps, as it should, to protect our citizens in their rights; this I demanded must be done and at once, as in a moment of time the situation would get beyond the control of the Government, and the lives and property of all foreigners would be at the mercy of a frenzied mob, and the three days of pillage of General Salomon must not be reenacted. * * *

The President replied that he would issue immediate orders to have the whole district carefully guarded; that our citizens and all other foreigners could open their stores and that he would protect them with all the force at the command of the Government. * * * He again assured me that full protection would be given, and that his Government would be equal to the emergency.

After leaving the palace I drove through this section of the city with the vice-consul, Mr. Battiste. On the way he met Gen. J. Carrié, the military governor of this district; we invited him to accompany us; we found troops had been posted at the most dangerous points and that the police of the section had been strongly reenforced. Those who had closed their stores were beginning to open them.

I returned and conducted the women and the men who had sought safety at our legation to their homes, and told them to resume business.

The excitement is somewhat intense and for a time affairs looked

very dangerous, but I think the worst is over. The feelings against all foreigners is not of the best on account of the high price of food, the cause of which is laid to this class.

I have, etc.,

W. F. POWELL.

FRAUDULENT NATURALIZATION OF SYRIANS.

Mr. Powell to Mr. Hay.

No. 1500.]

AMERICAN LEGATION,
Port au Prince, August 17, 1904.

SIR: I have the honor to state to the Department that since the Syrian trouble has occurred, I have found by accident that many of these people are in possession of false naturalization papers. These naturalization certificates, as I am informed, come from the United States circuit court of Connecticut.

A man by the name of Jacobs, a Syrian, living at Leogane, a place about 40 miles from this city, requested me to send some one for him so that he could come to our legation, stating that he was a naturalized American citizen and that he was threatened by the people, etc.

In examining into the matter I find that this man, while he possessed this certificate, had never been to the States, but had given for the certificate \$150. I further learned that there are many others of a like character issued here, but the price paid for them varies from \$10 to \$150 each.

I propose with the approval of the Department to arrest this paper as soon as it comes into my possession and to examine all the naturalization papers of these people in this Republic, and those that are fraudulent to retain and forward to the Department. But before doing so I would like to be informed by the Honorable Secretary if I am proceeding in the right way; also, if I find that there is some one here engaged in this business, shall I have him arrested? I will be glad to have the Department instruct me as to the course I shall pursue.

I have, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

No. 1520.]

AMERICAN LEGATION,
Port au Prince, August 31, 1904.

SIR: I have the honor to inclose to the Department one of the naturalization certificates that I referred to in my dispatch No. 1500 of August 17.

This certificate is made out to Antoine Kalil Hage, a Syrian, who, from the face of the certificate, appeared before the circuit court of the district of Connecticut, in the city of Hartford, on April 6, 1904, and recited the facts as stated on the face of this certificate. I have had this man come to the legation, and in examining him have elicited the following facts:

That he was born in Mount Lebanon, Syria; that he came to New York in 1898, remained there one year, then went to Porto Rico. From there he came here; returned to New York in January of the present year and secured his certificate and returned here in April; that he had never been to Hartford, in fact, knew nothing of the place, and did not know the man from whom he received this certificate, and that this certificate had been given to him in New York. He also did not remember what he had paid for it. This is one case.

There is another here whose certificate I hope to secure within a few days, but too late for this mail, in which the party has not even been to the States, having bought the certificate from some one here, name not given. I have requested this man to come to the legation, in order that I might examine him as to how he secured this paper and to find out who the parties are who are issuing these fraudulent papers.

I believe there are a large number of these papers here, how many I am not able to state. I am waiting to hear from the Department as to the right of calling all who claim to be naturalized Americans and examining the certificates they hold. There is, beyond a doubt, some one, either in New York or Connecticut, who is securing such papers in large numbers and selling them to these people, from whom they receive a considerable sum, so that it is quite lucrative.

There are two reasons why these people desire these naturalization papers: First, for the protection it gives them; second, in having them they are not required to pay a license tax, as they would have to do if they were not classed as American citizens. This is a great saving to them, while at the same time it affords them special immunities in their business and places them in the same class as Haitian merchants in like enterprises.

While I have not an accurate return of the number of these people who claim to be American citizens, I believe in the Republic there are about 400 who make this claim.

I have, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

No. 1525.]

AMERICAN LEGATION,

Port au Prince, September 5, 1904.

SIR: I have the honor to inclose to the Department the certificate of naturalization of Joseph Jacobs, a Syrian. This is the certificate I expected to have received before the last mail closed and to which I referred in my dispatches, No. 1500, August 17, and No. 1520, August 31.

If the honorable Secretary will examine these papers he will find them almost identical, the only difference being the name of the applicant and the date of issue.

* * * * *

I have, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

No. 1530.]

AMERICAN LEGATION,
Port au Prince, September 5, 1904.

SIR: I have the honor to communicate to the Department a dispatch received from the foreign office from the Hon. M. Férère, in regard to the fraudulent naturalization papers of Syrians. In this communication he refers to certain statements made to him by the Hon. J. N. Léger, the Haitian minister at Washington.

I also inclose copy of my reply.

I have, etc.,

W. F. POWELL.

[Inclosure 1.—Translation.]

Mr. Férère to Mr. Powell.

DEPARTMENT OF STATE FOR FOREIGN RELATIONS,
Port au Prince, August 31, 1904.

MR. MINISTER: I thought it my duty recently, on the occasion of a step undertaken by your legation in favor of a Syrian residing in Haiti, to place you on your guard against certain individuals who might attempt to deceive your good faith by pretending to have acquired through naturalization the right to have recourse to your intervention and of claiming your assistance.

I would take good care against insisting more than reasonably on such a question, the more so as I am firmly convinced that you have not failed to take the most minute precautions to avoid mistakes, if an unexpected incident, of which doubtlessly you are already informed, had not come, recalling that fact and thus showing that the amicable observations that I had previously submitted were not entirely inopportune and that they deserved your attention. It has in fact come to me from an authorized source that the Department of State at Washington has in the few days past seized the occasion to give to our country a new proof of its good will and a testimony of its sympathy, for which we are particularly grateful. This is the subject: A Syrian, Habib J. Aflak, styling himself a merchant established in Haiti, applied to the American authorities lately for a passport. Suspecting that the certificate of naturalization produced by Aflak in support of his request might have been illegally obtained, the Department of State refused the passport. An inquiry was quietly begun, from which resulted, on the 16th of the present month, the arrest of Aflak on board of the Dutch steamer *Prins Wilhelm II* at the very moment that he was leaving New York for Port au Prince. "This arrest," adds Mr. Léger, our informer, "led to the discovery of an organized band that for pay procured false certificates of naturalization for Syrians going to Haiti."

While this affair is being judged, it may appear to you perhaps, as to me, that the moment has come to examine the situation of those Levantines who, residing on our territory, pretend to be citizens of the United States. Also, being aware that, besides the other requisite conditions necessary, a residence of five years in the territory of the Union is needed to become a naturalized American, I am convinced that you will not hesitate, being inspired by your habitual courtesy and equity, so perfectly in harmony with the sympathetic disposition of the Department of State, to lend us your powerful support in order to foil certain guilty maneuvers and to elucidate a question that interests in so high a degree the excellent relations so happily established between that Department and your legation.

And, to that end, I would thank you for furnishing me with a list of the names of all the Syrians or other Levantines residing in Haiti, and who pretend to have acquired by naturalization the quality of citizens of the United States of America.

With my anticipated thanks I renew, etc.,

M. FÉRÈRE.

[Inclosure 2.]

*Mr. Powell to Mr. Férère.*AMERICAN LEGATION,
Port au Prince, September 2, 1904.

SIR: I have the honor to acknowledge the receipt of your excellency's favor, in which you call my attention to the naturalization of a certain class of persons who claim to be American citizens.

I have the honor to state to your excellency that this legation has been for some time engaged on this matter, and that it is awaiting further instructions from the honorable Secretary of State, Hon. John Hay, in regard to it.

Accept, etc.,

W. F. POWELL.

Mr. Adee to Mr. Powell.

No. 637.]

DEPARTMENT OF STATE,
Washington, September 13, 1904.

SIR: I have to acknowledge the receipt of your dispatch No. 1520, of the 31st ultimo, in continuation of the subject of your No. 1500, of August 17, 1904, in regard to the fraudulent United States naturalization certificates in the possession of Syrians residing in Haiti.

I am in receipt of a letter of the 8th instant from the Acting Attorney-General, to whose Department the matter was referred, in which he requests the Department to ascertain, if possible, whether these certificates are forged, or whether they have been secured in the United States courts through fraud and perjury, and also whether they are sold by a citizen of the United States or by a resident of Haiti.

You will endeavor to secure the desired information and report the results of your investigation to the Department.

I am, etc.,

ALVEY A. ADEF, *Acting Secretary.**Mr. Powell to Mr. Hay.*

No. 1537.]

LEGATION OF THE UNITED STATES,
Port au Prince, September 14, 1904.

SIR: I have the honor to inclose to the Department three naturalization certificates that I believe have been issued fraudulently; one was issued by the United States district court of Connecticut to Metry Khoury. In questioning this man I found he was born in Tripolis; spoke English fairly well; stated he was in business as merchant; had been to the United States, but did not know how long he stayed there; did not know the street he lived on; had never been to New Haven; did not know the name of H. Hoarse (name of witness in certificate); received this paper in New York; paid, he thinks, \$3 for it; did not know the one who gave it to him. This was the only paper he had ever had; was asked no questions by any person when certificate was given.

The second, Salim Kalil, has certificate issued by the circuit court

of St. Louis. On questioning him—he, by the way, spoke no English—he stated he was born in Tripolis, Syria; did not know how old he was when he came here; had lived a few months in New York, Pittsburg, Chicago, and St. Louis; never stayed at any place long; was a peddler; came from New York to Porto Rico, and from the latter place here; did not know the date or time he had lived in any of the places named; knew the witness whose name was signed to the paper. Asked where he had lived, he stated that he did not know; that he did not know what he ate the previous night; his memory was poor. Asked what he paid for this certificate, he did not know, “possibly a glass of grog, or \$1 or \$2, or any old thing.” Asked if he had received any other papers before this, replied he did not know; afterwards, he had received 1, 2, or 3 papers. Asked if any questions had been asked him at the time this paper was given, replied, the big man (judge) had asked him who was President. The same question was asked him here, and he replied, “a man by name Roosevelt.” Neither of these men are married. The last named is to be married within a few days.

The first certificate (Metry Khoury) I believe is fraudulent. Of the two men he seems to be the frankest. The other (Salim Kalil) I have some doubts. I believe he has told an untruth in regard to his possession of this certificate. Both men professed not to know anything of the person who gave such certificates, nor did they know of any Syrian that had been naturalized.

The third (Joseph A. Salloum), Syrian, born at Tripolis, Syria. On examining him he states that he has been off and on in the States about four years and six months; that he never lived in Hartford, though he went there with a man who procured him this paper; that he was in court when the paper was given him, January 15, 1904; that he did not know the man who went with him; that on the 27th of January (same year) came to this place and has since resided here; that he could not speak English; that he was 27 years old (paper states arrived at age January 22, 1901), and that he paid \$4.75 for it, and, finally, that he was unmarried.

I have informed them in arresting their certificates that they would be sent to the honorable Secretary of State for further investigation, and until I received an answer from the Department they would be under the protection of your legation.

The Haitian Government has also taken this matter up. It is at this time, the beginning of the fiscal year (October 1), that patents and licenses are issued. The minister of interior has notified the communal authorities in the Republic that all Syrians in business shall pay for their patents or licenses the same as other foreigners in like business, where they claim to be Americans. The matter of their citizenship will be referred to this legation.

I have, etc.,

W. F. POWELL.

Mr. Powell to Mr. Hay.

No. 1540.]

AMERICAN LEGATION,
Port au Prince, September 15, 1904.

SIR: I have the honor to inclose to the Department the naturalization certificate of Assad Kalil Abynemmer, born near Beirut, Syria.

On examining him he states that he lived in the United States about four years (certificate states eight years); that he is a merchant; that he has had no other paper; has made no declaration of becoming an American citizen; that he bought this paper from a man in New York (he did not know him) who stated that as he was going to Haiti he had better have such document as it would help him in business; that he did not know Mickel Isaac (the witness named in certificate) and that he paid for this paper \$50, receiving it as he was about to leave New York in January of the present year.

I have returned to him the same answer as I have to the others (see No. 1537, September 14, 1904).

I especially call the attention of the Department to a close examination of the seals that are attached to these documents.

I have, etc.,

W. F. POWELL.

Mr. Adee to Mr. Powell.

No. 640.]

DEPARTMENT OF STATE,
Washington, September 26, 1904.

SIR: Referring to your No. 1520, of August 31 last, I inclose for your information and guidance copy of a letter from the Acting Attorney-General reporting concerning the fraudulent naturalization of Antoine Kalil Hage.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure.]

Mr. Purdy to Mr. Hay.

DEPARTMENT OF JUSTICE,
Washington, September 22, 1904.

SIR: Replying further to your letter of the 13th instant, inclosing a copy of a dispatch from the legation at Port au Prince, Haiti, together with a fraudulent certificate of naturalization taken from one Antoine Kalil Hage, I have the honor to inclose herewith for your information a copy of a letter, under date of the 19th instant, from the United States attorney for the district of Connecticut, reporting the result of his investigation concerning the issuance of the certificate above referred to, purporting to have been issued by the United States circuit court for that district.

It appears that the certificate taken from Hage is a forged instrument, and that the seal on this certificate is not and never was the seal of the United States circuit court for the district of Connecticut. It is probable that the forged certificate was made in New York City, where the holder claimed it was purchased by him.

I suggest that the legation at Port au Prince be requested, when any of these certificates are presented, to ascertain the name and address of the person who sells these certificates in New York, in order that the proper steps may be taken with a view of prosecuting the persons guilty of violations of the naturalization laws.

The certificate transmitted with your letter is herewith returned.

Respectfully,

M. D. PURDY,
Acting Attorney-General.

[Subinclosure.]

*Mr. Parker to the Attorney-General.*HARTFORD, CONN., *September 19, 1904.*

SIR: Your letter of September 15, marked with the initials "M. D. P." and file No. 40605, inclosing copy of a dispatch to the Secretary of State from the legation at Port au Prince, Haiti, together with the fraudulent certificate of naturalization taken from one Antoine Kalil Hage, is at hand, and, pursuant to your instructions, I have made such investigation as seems necessary in this instance.

The certificate is a forged instrument, the signature purporting to be the signature of Mr. Marvin, clerk of the circuit court, is a forged one, and the seal is not and never was the seal of the circuit court of the United States for the district of Connecticut. The blank certificate is, in my judgment, filled out in one handwriting, and the same person who signed Mr. Marvin's name as clerk wrote the body of the instrument.

On the 6th day of April, 1904, the only business transacted in the circuit court of the United States for this district was the admission of an attorney to practice, and no person was naturalized on that day, nor has any person of the name of Antoine Kalil Hage ever been naturalized in that court. The man Abdul Hoss, who purports to have made the affidavit, is undoubtedly a myth, and no such person has ever lived in Hartford, so far as I can ascertain, and the name of no such person has ever appeared upon our city directory. The affidavit states that he resides at No. 243 Pearl street, Hartford. There is no building on Pearl street known as No. 243. The place where such a building would be, if any existed, is an alleyway between two buildings. The affidavit of the witness purports to show that the applicant resided at No. 28 Main street in Hartford. There is not now, and there never has been a building known as No. 28 Main street. The place where such a building would stand with that number is a part of a small public park, and has always been so.

I send you herewith a blank certificate of naturalization, obtained from Clerk Marvin, on which I have caused to be imprinted the seal of the circuit court. The blank on which this forged certificate was made out is one of the lot printed for Clerk Marvin by Clark & Smith, printers of this city. Mr. Clark, the senior partner, after a careful examination, says that it is undoubtedly one of the lot which he printed for Mr. Marvin. How such a blank came into the possession of the persons who forged this certificate can not be ascertained. Mr. Clark, the printer, states that he printed only one lot and that the entire lot was delivered to Mr. Marvin, the clerk, and that if any of the blanks were abstracted while in his possession he is absolutely unable to account for the loss, and to the best of his knowledge and belief he delivered every perfect copy to Mr. Marvin. Mr. Marvin keeps these blanks in a closed case in his office, and he informs me that the only way in which any person could obtain a copy would be by a casual carrying off from his desk or table when the blanks were taken out for use. The handwriting in the certificate is not that of any person ever employed in Mr. Marvin's office, and it would seem probable that the forged certificate was made in New York, where the man Hage purchased it.

I return herewith the forged certificate and will call Judge Platt's attention to the matter at the session of the district court to-morrow. It does not seem to me that anything can be done toward ascertaining the person who forged this certificate by further investigation here in Connecticut.

I respectfully report the result of my inquiries and await further instructions, if you deem it advisable to make any further investigations in this matter.

Very respectfully,

FRANCIS H. PARKER,
United States Attorney.

ITALY

ARBITRATION OF THE PREFERENTIAL TREATMENT OF CLAIMS AGAINST VENEZUELA.

(See under the Netherlands, p. —.)

NEUTRALITY OF CHINA IN THE WAR BETWEEN RUSSIA AND JAPAN.

Mr. Hay to Mr. Meyer.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 10, 1904.

(Mr. Hay instructs Mr. Meyer to consult with the Government of Italy in regard to the possibility and desirability of an arrangement between the neutral powers to use their good offices with Russia and Japan for the purpose of inducing them to respect China's neutrality and administrative entity as far as possible, limiting and localizing the area of hostile operations to minimize the disturbance and excitement of the Chinese people and the injury to commerce and to the peaceful intercourse of the world. If no opposition to this proposition is offered he is instructed to suggest that the representatives of Italy at St. Petersburg, Tokyo, and Peking be instructed in his sense.)

Mr. Iddings to Mr. Hay.

No. 332.]

AMERICAN EMBASSY,
Rome, February 12, 1904.

SIR: I have the honor to acknowledge the receipt on February 11 of your telegraphic instruction of February 10. The ambassador being absent, I immediately called upon the minister for foreign affairs, Signor Tittoni, and informed him of your suggestions. The minister said he approved heartily of all that the United States proposed—that the neutral powers should use their good offices to persuade Japan and Russia to respect the neutrality of China, and that it would be desirable to localize and limit the area of hostilities as far as possible, so as to avoid disturbance among the Chinese populations. As to sending instructions in this sense to Italian representatives in Petersburg, Tokyo, and Peking, he would give a definite reply as soon as he had heard the views of the cabinets in Berlin, London, and Paris.

* * * * *

I have, etc.,

LEWIS MORRIS IDDINGS.

Mr. Iddings to Mr. Hay.

No. 335.]

AMERICAN EMBASSY,
Rome, February 17, 1904.

SIR: Referring to my dispatch No. 332, of February 12, I beg leave now to inclose to you a copy, with translation, of a memorandum received from the foreign office yesterday, the 16th, but dated February 14. It is the Italian reply to the American propositions of February 10th. * * *

I have, etc.,

LEWIS MORRIS IDDINGS.

[Inclosure.—Translation.]

Memorandum from the foreign office to the American embassy at Rome, dated February 14, 1904.

The ambassador of the United States on February 11 communicated to the ministry for foreign affairs the substance of a telegram in which the Secretary of State desired to know the views of the Royal Government regarding the propriety of making opportune representations in St. Petersburg, Tokyo, and Peking for the limitation of hostilities by means of a declaration in behalf of the neutrality of China. The Royal Government is, for its part, disposed to act for this purpose with the other neutral powers, and believes that, in view of the special conditions which exist in Manchuria, the formula to be adopted for the above-mentioned objects should be such as to exclude not only the declaration of the application of neutrality to that province, but also should be such that from that omission no one could draw an argument for the weakening of the principle of sovereignty of China over that territory.

ROME, February 14, 1904.

Mr. Iddings to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Rome, February 17, 1904.

(Mr. Iddings reports that the instructions to the American representatives at St. Petersburg, Tokyo, and Peking, which were transmitted to him by the Department, have been given to the foreign office and that the Italian representatives at the above-named places have been instructed in the sense of the memorandum inclosed in his No. 335.)

FRAUDULENT NATURALIZATION OF GIUSEPPE DIVITO.

Mr. Meyer to Mr. Hay.

No. 339.]

AMERICAN EMBASSY,
Rome, March 4, 1904.

SIR: I have the honor to inclose herewith the fraudulent naturalization certificate of one Giuseppe Divito and a copy of his application for a passport. The American consul at Naples reports that he

exacted information from Divito to the effect that he had paid a man, whose name he does not remember, \$4 to secure the inclosed certificate. It would appear also from the application of Divito that the certificate had been procured by him after a residence of only two years in the United States.

I am, etc.,

G. V. L. MEYER.

Mr. Hay to Mr. Meyer.

No. 211.]

DEPARTMENT OF STATE,
Washington, April 18, 1904.

SIR: Referring to your No. 339, of the 4th ultimo, I have to say that the Acting Attorney-General of the United States states that he has forwarded to the United States attorney for the northern district of Ohio the papers relating to the apparently fraudulent naturalization of Giuseppe Divito, with instructions to investigate the case and, if the evidence is obtainable, to institute criminal proceedings against the persons involved.

I am, etc.,

JOHN HAY.

PROTECTION OF TRADE-MARKS IN MOROCCO.

Agreement effected by exchange of notes June 13, 1903-March 12, 1904.

M. Malmusi to Mr. Gummeré.

[Translation.]

TANGIER, *June 13, 1903.*

DEAR COLLEAGUE: I have the honor to inform you that the Government of my sovereign gives its adherence to the agreements concluded and resulting from the declarations exchanged in 1892, 1894, 1895, 1896, 1899, and 1900 between the consulate-general of the United States and the legations of France, Portugal, Belgium, Germany, Spain, Austria-Hungary, the consulate-general of Holland, and the legation of His Britannic Majesty, with regard to the mutual protection of property in trade-marks in Morocco.

I. By virtue of the civil and criminal jurisdiction which they have acquired and exercised in that country, the consuls and consular courts of His Majesty have jurisdiction over all claims regarding the infringement of trade-marks by Italian subjects.

II. Consequently, all complaints addressed to them by American manufacturers to obtain protection for trade-marks duly registered in the Kingdom against infringement by Italian subjects should in future be prosecuted, in the first place before the consular court and finally before the royal court of appeal in Genoa.

III. The right of proprietorship in trade-marks is regulated in Italy by the law of August 30, 1868.

I beg you, dear colleague, to take note of the present declaration and let me know whether Italian subjects will have the same legal protection before the consular authorities of the United States in all

that concerns the proprietorship of their trade-marks duly registered in the United States.

Accept, dear colleague, the assurances of my high consideration.

MALMUSI.

Mr. GUMMERÉ,

Consul-General of the United States of America.

Mr. Philip to M. Malmusi.

TANGIER, July 29, 1903.

YOUR EXCELLENCY:

In pursuance of your letter to the consul-general of June 13 last, I have the honor to inform you that I am in receipt of instructions from my Government authorizing me to enter into a reciprocal agreement with the Government of the Kingdom of Italy and the United States, the agreement to be for the mutual protection of trade-marks registered in Italy and the United States against infringement in Morocco by subjects of the respective nations, on the lines of that now existing between the United States and Great Britain.

Accept, Mr. Minister, the assurance of my high consideration.

HOFFMAN PHILIP,

Acting Consul-General.

Mr. MALMUSI,

Minister of Italy.

Mr. Gummeré to M. Gentile.

TANGIER, March 12, 1904.

SIR: Referring to the letter of the 13th of June, 1903, received from his excellency the Italian minister, and to our interview of the 10th instant, I beg to assure you that I am authorized by my Government to declare that the same protection will be accorded by the consular authorities of the United States in Morocco, to Italian trade-marks duly registered in the United States in conformity with the laws, as that accorded to American trade-marks under the same circumstances by Italian tribunals in Morocco.

Accept, sir, the assurance of my distinguished consideration.

S. R. GUMMERÉ.

Mr. GIANATELLI GENTILE,

Chargé d'Affaires of Italy.

M. di Cellere to Mr. Hay.

[Translation.]

ROYAL EMBASSY OF ITALY,
Washington, D. C., December 19, 1903.

MR. SECRETARY OF STATE:

As your excellency is aware, an agreement was reached by an exchange of notes dated August 13^a and 4 last between the minister

^a Evidently a clerical error. For dates of notes see *ante*. The note of July 29 is a duplicate of the note of August 4. There is no note of August 13 in the correspondence, but one of June 13, 1903.

of Italy at Tangier and the representative there of the United States of America, respectively, to defer to the Italian and American consular courts in Morocco disputes arising from the counterfeiting of trade-marks committed by the citizens of either country to the prejudice of those of the other.

The Government of the King has issued to the royal legation at Tangier appropriate instructions for the execution of this agreement in accordance with articles 65, 67, and 111 of the existing consular laws of Italy. I am directed by my Government and have, in consequence, the honor to transmit herewith to your excellency the text of those instructions, together with its two accompaniments, for the due information of the Government of the United States and in completion of the agreement made at Tangier by the representatives of the two States.

I embrace the opportunity, etc.,

V. MACCHI DI CELLERE.

JAPAN.

DIFFICULTY BETWEEN JAPAN AND RUSSIA.

NOTE.—Continuation of Foreign Relations, 1903.

Mr. Griscom to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Tokyo, January 8, 1904.

(Mr. Griscom transmits a statement from the minister for foreign affairs relating to the two points proposed by Russia, whose answer was received yesterday.

First. To maintain the stipulation relating to the establishment of the neutral zone as originally proposed by Russia; that is to say, neutralization of the Korean territory lying between Korea-Manchuria frontier and the thirty-ninth parallel north latitude.

Second. Regarding Manchuria the following stipulation is proposed by Russia: Japan to recognize that Manchuria is entirely outside her sphere of interest, and Russia not to impede in Manchuria the rights and privileges belonging to Japan and other powers under their existing treaties with China, exclusive of the establishment of foreign settlements.

Mr. Griscom reports that according to the minister's statement the Japanese Government has not yet determined what stand it will take and that the serious consideration of the matter will consume several days. The minister called special attention to the provision excluding foreign settlements, and advanced the opinion that the same practically nullifies the agreement offered by Russia not to obstruct the rights of foreign powers in Manchuria which have been established by treaties, as the absence of foreign settlements would make it impossible for any foreigner to trade or reside in Manchuria.

Mr. Griscom to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Tokyo, January 13, 1904.

(Mr. Griscom reports that in accordance with the decision of the council of the Empire, which met yesterday, the following modifications of the Russian proposals will be submitted to the Russian Government by the Japanese minister at St. Petersburg:

First. To insist upon suppressions of the article relating to the

establishment of a neutral zone in the Korean territory north of the thirty-ninth parallel.

Second. Russian proposal concerning Manchuria to be modified as follows:

(a) Recognition by Japan of Manchuria and its littoral as being outside her sphere of interest, and an engagement on the part of Russia to respect the territorial integrity of China in Manchuria.

(b) Russia, within the limits of Manchuria, will not impede Japan nor other powers in the enjoyment of rights and privileges acquired by them under existing treaties with China.

(c) Recognition by Russia of Korea and its littoral as being outside her sphere of interest.

APPENDED NOTE.—It should be remarked that suppression of the clause including the establishment of settlements in Manchuria is because of its conflict with the stipulations of the new commercial treaty between Japan and China. In this respect, however, Japan will be satisfied if she receive equal treatment with another power which has already acquired similar rights in regard to settlements in Manchuria.

The above appended note will be a part of the note verbale which will be presented to Russia, which will also state that “the modifications are presented in a spirit of perfect conciliation and in the hope that they will be received in the same spirit on the part of the Russian Government,” and which will close by expressing “the hope of an early reply.”

It is intended to make it clear that the note verbale is in no way considered an ultimatum, and the council decided that “in the event of no reply from Russia being forthcoming within a reasonable time, or of the receipt of an unfavorable reply, the Japanese Government will consider and decide what measures it may have to take to protect its rights and interests.” The note verbale will not specify any time limit in which a reply is expected. It will be telegraphed to St. Petersburg this evening.)

Mr. Griscom to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Tokyo, January 27, 1904.

(Mr. Griscom reports that the Japanese Government has intimated to the Russian minister that an answer is now about due to its note verbale of the 16th instant.)

Mr. Griscom to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Tokyo, February 5, 1904.

(Mr. Griscom reports that warlike preparations are being rushed, and that it seems that the Japanese Government has decided that it

has waited longer for an answer from the Russian Government than is reasonable.

Mr. Griscom to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Tokyo, February 6, 1904.

(Mr. Griscom reports that the minister for foreign affairs has informed him that the Japanese minister at St. Petersburg has been instructed to present a note to the Russian Government, the full text of which will be presented to the Department by the Japanese minister at Washington, terminating negotiations, and to break off diplomatic relations.)

Memorandum left with the Secretary of State.

JAPANESE LEGATION,
Washington, February 6, 1904.

Copy of a note addressed by the Japanese minister to Russia to the Russian minister for foreign affairs:

The undersigned, envoy extraordinary and minister plenipotentiary of His Majesty the Emperor of Japan, has the honor, in pursuance of instructions from his Government, to address to his excellency the minister for foreign affairs of His Majesty the Emperor of all the Russias the following communication:

The Government of His Majesty the Emperor of Japan regard the independence and territorial integrity of the Empire of Korea as essential to their own repose and safety, and they are consequently unable to view with indifference any action tending to render the position of Korea insecure. The successive rejections by the Imperial Russian Government, by means of inadmissible amendments, of Japan's proposals respecting Korea, the adoption of which the Imperial Government regarded as indispensable to assure the independence and territorial integrity of the Korean Empire and to safeguard Japan's preponderating interests in the peninsula, coupled with the successive refusals of the Imperial Russian Government to enter into engagements to respect China's territorial integrity in Manchuria, which is seriously menaced by their continued occupation of the province notwithstanding their treaty engagements with China and their repeated assurances to other powers possessing interests in those regions, have made it necessary for the Imperial Government seriously to consider what measures of self-defense they are called upon to take. In the presence of delays which remain largely unexplained and of naval and military activities which it is difficult to reconcile with entirely pacific aims, the Imperial Government have exercised in the pending negotiations a degree of forbearance which they believe is abundant proof of their loyal desire to remove from their relations with the Imperial Russian Government every cause for future misunderstanding, but finding in their efforts no prospect of securing from the Imperial Russian Government an adhesion either to Japan's moderate and unselfish proposals or to any other proposals likely to establish a firm and enduring peace in the extreme East, the Imperial Government have no other alternative than to terminate present futile negotiations. In adopting that course the Imperial Government reserve to themselves the right to take such independent action as they may deem best to consolidate and defend their menaced position as well as to protect their established rights and legitimate interests.

Mr. Griscom to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Tokyo, February 7, 1904.

(Mr. Griscom reports that the departure of the Russian minister will take place on the 12th instant.)

Mr. Griscom to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Tokyo, February 9, 1904.

(Mr. Griscom reports the beginning of hostilities. The minister for foreign affairs informed him of a naval engagement to-day near Chemulpo, in which the Russian gunboat *Koriets* was sunk and the cruiser *Variag* was captured. The telegram announcing the engagement alleges that the *Koriets* begun hostilities by opening fire on Japanese torpedo boats.)

Mr. Griscom to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Tokyo, February 11, 1904.

(Mr. Griscom reports that the declaration of war was issued on the 10th instant.)

Mr. Griscom to Mr. Hay.

No. 48.]

AMERICAN LEGATION,
Tokyo, February 18, 1904.

SIR: I have the honor to transmit herewith for the information of the Department translations of several important ordinances and regulations from the Official Gazette, relating to the state of war now existing in Japan. The translations include the following:

Declaration of war.

Exemption of Russian merchant ships from capture.

Rules governing contraband of war.

Regulations for press correspondents with army and navy.

Strategical sea areas—Tokyo Bay, Hakodate, Nagasaki, and Kobe.

I have, etc.,

LLOYD C. GRISCOM.

[Inclosure 1.]

(The Japan Times, Tokyo, Thursday, February 11, 1904.)

DECLARATION OF WAR.

[Official translation.]

The following is an official translation of an imperial proclamation issued last night:

We, by the grace of heaven, Emperor of Japan, seated on the throne occupied by the same dynasty from time immemorial, do hereby make proclamation to all our loyal and brave subjects as follows:

We hereby declare war against Russia, and we command our army and navy to carry on hostilities against that Empire with all their strength, and we also command all our competent authorities to make every effort, in pursuance of their duties and in accordance with their powers, to attain the national aim with all the means within the limits of the law of nations.

We have always deemed it essential to international relations and made it our constant aim to promote the pacific progress of our Empire in civilization, to strengthen our friendly ties with other states, and to establish a state of things which would maintain enduring peace in the extreme East and assure the future security of our dominion without injury to the rights and interests of other powers. Our competent authorities have also performed their duties in obedience to our will, so that our relations with the powers have been steadily growing in cordiality. It was thus entirely against our expectation that we have unhappily come to open hostilities against Russia.

The integrity of Korea is a matter of constant concern to this Empire, not only because of our traditional relations with that country, but because the separate existence of Korea is essential to the safety of our realm. Nevertheless Russia, in disregard of her solemn treaty pledges to China and her repeated assurances to other powers, is still in occupation of Manchuria and has consolidated and strengthened her hold upon those provinces and is bent upon their final annexation. And since the absorption of Manchuria by Russia would render it impossible to maintain the integrity of Korea and would, in addition, compel the abandonment of all hope for peace in the extreme East, we determined in those circumstances to settle the questions by negotiation and to secure thereby permanent peace. With that object in view, our competent authorities, by our order, made proposals to Russia, and frequent conferences were held during the course of six months. Russia, however, never met such proposals in a spirit of conciliation, but by her wanton delays put off the settlement of the question, and by ostensibly advocating peace on the one hand while she was on the other extending her naval and military preparations, sought to accomplish her own selfish designs.

We can not in the least admit that Russia had from the first any serious or genuine desire for peace. She has rejected the proposals of our Government; the safety of Korea is in danger; the vital interests of our Empire are menaced. The guarantees for the future which we have failed to secure by peaceful negotiations, we can now only seek by an appeal to arms.

It is our earnest wish that by the loyalty and valor of our faithful subjects peace may soon be permanently restored and the glory of our Empire preserved.

IMPERIAL ORDINANCE RELATING TO THE EXEMPTION OF RUSSIAN MERCHANT SHIPS FROM CAPTURE.

By Imperial ordinance No. 20, issued on the 9th instant, the rules relating to the exemption of Russian merchant ships from capture were enacted and put into force at once.

ARTICLE I. Russian merchant ships which happen to be moored in any Japanese port at the time of the issue of the present rules may discharge or load their cargo and leave the country not later than February 16.

ARTICLE II. Russian merchant ships which have left Japan in accordance with the foregoing article and which are provided with a special certificate from

the Japanese authorities shall not be captured if they can prove that they are steaming back direct to the nearest Russian port, or a leased port, or to their original destination; this measure shall, however, not apply in case such Russian merchant ships have once touched at a Russian port or a leased port.

ARTICLE III. Russian steamers which may have left for a Japanese port before February 16 may enter our ports, discharge their cargo at once, and leave the country. The Russian steamers coming under the above category shall be treated in accordance with Article II.

ARTICLE IV. Russian steamers carrying contraband of war of any kind whatever shall be excluded from the above rules.

REGULATIONS FOR WAR CORRESPONDENTS.

Notification No. 3 of the war department, issued on Wednesday, contains regulations for war correspondents. It runs as follows:

ARTICLE 1. Newspaper correspondents who wish to follow the army are required to make application to the department of war, together with a sketch of their antecedents and a document of personal guaranty signed by the proprietor of the newspaper to which they belong.

In case of foreign correspondents their application shall be sent through their respective ministers or consuls and the department of foreign affairs.

Foreign correspondents need only mention in their application the name of the newspaper to which they belong, and dispense altogether with the presentation of sketches of antecedents and papers of personal guaranty.

ARTICLE 2. The applicant must have been engaged in journalistic work for not less than a year as a member of a newspaper staff.

ARTICLE 3. Foreign correspondents who can not understand the Japanese language may take with them one interpreter each into the field.

Any correspondent requiring an interpreter may engage one himself and present an application on the interpreter's behalf, accompanied by a paper of personal guaranty for the same.

ARTICLE 4. A foreign correspondent, in addition to his interpreter, may engage one more servant when circumstances demand it, the procedure of engagement to be in accordance with the foregoing article.

ARTICLE 5. The authorities, when they consider it necessary, may cause the selection of one person to act as joint correspondent for several newspapers.

ARTICLE 6. In case any person is allowed to accompany the Japanese forces an official permit shall be given him.

ARTICLE 7. The applicants allowed as stated above shall be attached to a "Koto Shireibu" (higher commanding office).

ARTICLE 8. Correspondents shall always wear foreign clothes, and to their left arms shall be attached a white band measuring about 2 inches in width, on which the name of the newspaper offices which they represent shall be written in Japanese with red ink.

ARTICLE 9. Correspondents shall always carry with them the official permit, and shall, when asked, show it to officers and officials belonging to the Japanese forces.

ARTICLE 10. Correspondents shall always observe the rules and orders to be issued by the "Koto Shireibu" so long as they remain with the Japanese forces. In case they disregard the above rules and orders the authorities of the "Koto Shireibu" may refuse to allow them to accompany the Japanese forces.

ARTICLE 11. War correspondents will not be permitted to dispatch their communications (whether they be correspondence for publication or private letters or telegrams, etc.) until after their examination by the officer appointed for the purpose by the higher commanding office. No communication containing cypher or symbols will be permitted to be dispatched.

ARTICLE 12. The army and its officers will accord, as far as circumstances permit, to the war correspondent suitable treatment and facilities, and, when in the field and in case of necessity, give him food, etc., or at his request, give him transportation in vessels or vehicles.

ARTICLE 13. In case the war correspondent is guilty of a violation of the criminal law, military criminal law, law for the preservation of military secrets, etc., he may be adjudged and punished by the court-martial according to the military penal code.

ARTICLE 14. Articles 6-13 are applicable to interpreters and servants.

CONTRABAND OF WAR.

[Corrected translation.]

The translation of the regulations relating to contraband of war published in our issue of the 11th instant being incorrect in one or two instances, we print a corrected translation of the same, as follows:

Instruction No. 1 of the department of state for the navy.

It is hereby decided that the undermentioned goods shall be regarded as contraband during the present war between Japan and Russia:

1. The following goods shall be treated as contraband of war in case they are going to pass through the enemy's territory or in case they are destined for the enemy's territory or his army or navy:

Arms, amunition, explosives, and the raw materials thereof (including lead, saltpeter, sulphur, etc.) and apparatus for manufacturing them, cement, uniforms, and equipment of military and naval men, armor plates, materials for the construction and equipment of men-of-war and other ships, and all other goods to be used solely for purposes of war.

2. The following goods shall be treated as contraband of war in case they are destined for the enemy's army or navy, or in case, from the nature of the locality in the enemy's territory to which they are bound, they may be considered to be intended for the use of the enemy's army or navy:

Provisions, drinks, horses, harness, fodder, vehicles, coal, timber, money, gold and silver bullion, and materials for the construction of telegraphs, telephones, and railways.

3. Of the goods mentioned in the foregoing two clauses, those which on account of their quality or quantity may be judged to be evidently intended for the use of the ship that carries them shall not be treated as contraband.

BARON GOMBEI YAMAMOTO,

Minister of State for the Navy.

Dated the 10th day of the 2nd month of the 37th year of Meiji (1904).

[Inclosure 2.]

(Official Gazette, February 12.)

Regulations governing naval war correspondents.

ARTICLE 1. A newspaper war correspondent desirous to accompany the navy shall make application to the naval staff, Imperial headquarters, for permission.

ARTICLE 2. A newspaper war correspondent shall obey all orders of the commanding officer of the fleet which he accompanies.

ARTICLE 3. No communications concerning war shall be sent until after they have been examined by officers nominated for the purpose by the commanding officer of the fleet which he accompanies.

ARTICLE 4. The commanding officer of the fleet may cancel the permission granted to a newspaper war correspondent.

ARTICLE 5. Necessary regulations concerning the treatment of a newspaper war correspondent shall be fixed by the commanding officer of the fleet.

ARTICLE 6. A newspaper war correspondent shall wear European dress and put on a low, round-shaped cap with a vizor, and attach on his left arm a strip (1 sun wide) of white woolen cloth with the characters " * * * paper correspondent " on it.

ARTICLE 7. A newspaper correspondent shall always carry his permit mentioned in article 1 with him, and shall show it when asked by army or navy authorities.

[Inclosure 3.—Translation.]

Rules to be observed by vessels passing the Tokyo Bay, Hakodate, and Otaru strategical sea areas. (Issued by the commander in chief of the Yokosuka naval station.)

TOKYO BAY.

ARTICLE 1. Vessels passing in or out of Tokyo Bay shall stop their course before they arrive, the former at the line connecting Chiyo-ga-saki on the south side of Uraga Harbor and Kokubo-hana of Awa Province, and the latter at the line connecting Natsu-Shima and the sea fort No. 2, and shall signal their names, make the following signals, and wait the arrival of the guide boat:

1. Steamers shall hoist the signal "want pilot," and at the same time shall repeat whistles.

2. Sailing vessels shall hoist the signal "want pilot" and blow signal horn.

ARTICLE 2. In response to the above signals the guide boat shall hoist the "response" flag of the international signal code.

When any vessel is to be allowed freedom of movement the guide boat shall haul down the "response" flag.

ARTICLE 3. The guide boat shall carry at its masthead the pilot flag (white upper, red lower) of the special signals to be used for British vessels as mentioned in the international signal code.

ARTICLE 4. In passing through the area vessels shall not proceed at a speed of more than 5 knots.

ARTICLE 5. No vessels are allowed to cast anchor in any part of the area, except in Uraga Harbor.

ARTICLE 6. Fishing and the taking of sea weeds within the area are prohibited.

ARTICLE 7. When necessary passage of vessels may for a time be prohibited within the area.

ARTICLE 8. Vessels of less than 20 tons gross or of less than 200 "koku," or boats or other craft solely or mainly propelled by oars, may traverse the area without observing the provisions of article 1, subject to such restriction as may at any time be necessary.

ARTICLE 9. Vessels passing the area at night in violation of article 7 shall do so at the risk of being fired upon by torpedo boats or patrol boats.

N. B.—The regulations for the strategical sea areas of Hakodate and of Otaru are practically the same as the above.

[Inclosure 4.—Translation.]

Rules governing the strategical area at Nagasaki. (Issued by the commander in chief of Sasebo.)

ARTICLE 1. Vessels which pass in, out of, or anchor in the strategical sea area shall first stop at one of the two places mentioned below, and shall receive from the guard vessel stationed for the purpose directions concerning their movements, beacons, signals, etc.

This rule shall not apply to vessels belonging to persons living on the coast of the sea area.

ARTICLE 2. The places where vessels are required to stop are:

1. When entering the harbor, 1 mile north of Io-jima light-house.

2. When leaving the harbor, one-half mile east of Takahokojima.

ARTICLE 3. The guard vessel shall be stationed near the two above-mentioned places, and shall carry at its masthead the national flag by day and two white lights abreast at night.

ARTICLE 4. The guide boat which shall pilot vessels passing the area shall carry at its masthead the pilot flag (white upper, red lower) of special signals to be used for British vessels as given in the international signal code.

ARTICLE 5. Fishing and the taking of seaweeds within the area are forbidden, except with the permission of the commander in chief of the naval station.

ARTICLE 6. The sea area is under the charge of the commanding officer of the Nagasaki mining corps.

[Inclosure 5.—Translation.]

Rules governing the Ki-tan Strait sea area. (Kobe.)

ARTICLE 1. Vessels passing the Ki-Tan Strait strategical sea area shall hoist the national flag and signal their names given in the list of merchant marine, and at night shall carry lights, as required by the rules of the road.

ARTICLE 2. Vessels other than those belonging to the navy or army and those that have obtained permission in accordance with these regulations are prohibited from passing the area.

ARTICLE 3. Vessels passing the area shall stop at the examination station, and after examination and inspection by the guard vessel, shall proceed, hoisting the signal required.

ARTICLE 4. When it is deemed unnecessary to examine any vessel, and she is to be allowed freedom of movement, the guard vessel will signal the fact by hoisting the "answering" and "A" signal of the international code, and at night by showing one blue light.

ARTICLE 5. Sailing vessels of less than 20 tons, gross, or of less than 200 "koku," and other craft principally or solely propelled by oars need not stop at the examining station unless ordered to do so.

ARTICLE 6. Small vessels mentioned in the preceding article may fish within the area by day; but the guard vessel may prohibit them when necessary.

ARTICLE 7. Vessels passing the area shall stop during rain or mist, when the landmarks can not be seen, until the weather clears.

ARTICLE 8. Vessels permitted to pass Ki-Tan Straits between sunset and sunrise must take the channel between Awaji and Oki-no-Shima.

ARTICLE 9. Vessels which are compelled to pass the area at night shall apply to the commander in chief of the Kure naval station for a permit, stating the reason, certified by the local authorities.

ARTICLE 10. The examination station is about 5 miles south of the Oki-no-Shima light-house.

NEUTRALITY OF CHINA IN THE WAR BETWEEN RUSSIA AND JAPAN.*Mr. Hay to Mr. Griscom.*

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 10, 1904.

(Mr. Hay instructs Mr. Griscom to express to the minister for foreign affairs that it is the earnest desire of the Government of the United States that the neutrality of China and her administrative entity be respected by both parties in the course of the military operations which have begun between Russia and Japan, and that the area of hostilities be localized and limited, so that undue excitement and disturbance of the Chinese people may be prevented, and the least possible loss may be occasioned to the commerce and peaceful intercourse of the world.)

Mr. Takahira to Mr. Hay.

No. 7.]

LEGATION OF JAPAN,
Washington, February 11, 1904.

SIR: Now that war has been declared between Japan and Russia, I am instructed to inform you that the question of China's atti-

tude consequent upon that unfortunate event has been one which has engaged the serious attention of the Japanese Government. While the struggle must have an interest for China at least equal to that of Japan, and while the Imperial Government are fully alive to the advantages of having at their disposal the great resources of China in men and materials, yet they can not ignore the probable consequences if China were to assume the attitude of a belligerent, as in their opinion such an attitude would throw her finances into still greater disorder and make it difficult if not impossible for her to meet her obligations. Moreover, it would have a disastrous effect upon her foreign trade, and, above all, it would cause a recurrence of the antiforeign feeling among her people, and the world might be compelled to witness events similar to those of 1900. Under these circumstances the Japanese Government have advised the Chinese Government, in case of war between Japan and Russia, to observe neutrality and to take all possible measures for the preservation of internal order and tranquillity.

I am therefore instructed to assure you that should China assume an attitude of neutrality the Japanese Government will respect such neutrality if it is respected by Russia.

Accept, etc.,

K. TAKAHIRA.

Mr. Griscom to Mr. Hay.

No. 45.]

AMERICAN LEGATION,

Tokyo, February 15, 1904.

SIR: I have the honor to confirm, as per copies appended hereto on the overleaf, your telegram of the 10th instant, in relation to the desire of the United States Government that the neutrality of China and her administrative entity shall be respected by both Japan and Russia during the war which is now taking place.

In compliance with your instructions I sought an interview with the minister for foreign affairs on the 12th instant and handed him the note as per copy inclosed herewith, in which I embodied your telegraphic instructions. The minister assured me that his Government was heartily in sympathy with all the ideas expressed by you, and from the time when war became imminent he had advised the Government of China to maintain a strict neutrality, with a view of avoiding the very possible resultant evils which are so clearly pointed out by you. He informed me that Mr. Takahira had some two or three weeks ago been instructed to inform you of the views of the Japanese Government in this matter. I then asked him if he would kindly give me as soon as possible a written reply to the note which I addressed to him.

On the following day, the 13th instant, I received Baron Komura's reply, a copy of which I inclose herewith.

There can be no doubt but what the Japanese Government is in entire and sincere sympathy with the views of the Department in this matter.

I have, etc.,

LLOYD C. GRISCOM.

[Inclosure 1.]

*Mr. Griscom to Baron Komura.*AMERICAN LEGATION,
Tokyo, February 12, 1904.

MR. MINISTER: In compliance with telegraphic instructions from the Secretary of State I have the honor to express to your excellency the earnest desire of the Government of the United States that in the course of the military operations which have begun between Japan and Russia the neutrality of China and, in all practical ways, her administrative entity shall be respected by both parties and that the area of hostilities shall be localized and limited as much as possible, so that undue excitement and disturbance of the Chinese people may be prevented and the least possible loss to the commerce and peaceful intercourse of the world may be occasioned.

I avail, etc.,

LLOYD C. GRISCOM.

[Inclosure 2.—Translation.]

*Baron Komura to Mr. Griscom.*DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, February 13, 1904.

MR. MINISTER: In response to the note which your excellency did me the honor to address to me on the 12th instant on the subject of the neutrality of China during the existing war, I beg to say that the Imperial Government, sharing with the Government of the United States in the fullest measure the desire to avoid as far as possible any disturbance of the orderly and peaceful condition of affairs now prevailing in China, are prepared to engage to respect the neutrality and administrative entity of China outside the regions occupied by Russia so long as Russia, making a similar engagement, fulfills in good faith the terms and conditions of such engagement.

I avail, etc.,

BARON KOMURA JUTARO.

*Mr. Hay to Mr. Takahira.*DEPARTMENT OF STATE,
Washington, February 19, 1904.

DEAR MR. MINISTER: I have the pleasure to communicate to you the reply of the Imperial Russian Government to the proposal of the United States concerning the neutrality of China in the existing war, which I received this morning from the United States ambassador at St. Petersburg. It reads as follows:

The Imperial Government shares completely the desire to insure tranquillity in China; is ready to adhere to an understanding with other powers for the purpose of safeguarding the neutrality of that empire on the following conditions:

Firstly, China must herself strictly observe all the clauses of neutrality.

Secondly, the Japanese Government must loyally observe the engagements entered into with the powers, as well as the principles generally recognized by the law of nations.

Thirdly, that it is well understood that neutralization in no case can be extended to Manchuria, the territory of which, by the force of events, will serve as the field of military operations.

I have instructed Ambassador McCormick to make the following response to the above communication:

The answer of the Russian Government is viewed as responsive to the proposal made by the United States as well as by other powers, and this Govern-

ment will have pleasure in communicating it forthwith to the Governments of China and Japan, each of which has already informed us of its adherence to the principles set forth in our circular proposal.

I have transmitted this correspondence by telegraph to the United States minister at Tokyo for communication to the Japanese Government.

I am, etc.,

JOHN HAY.

Mr. Takahira to Mr. Hay.

LEGATION OF JAPAN,
Washington, February 20, 1904.

MY DEAR MR. SECRETARY: I beg to acknowledge the receipt of your letter of yesterday's date conveying the gratifying intelligence that the Government of Russia had responded favorably to the proposal to limit the zone of military activities in the war between Japan and Russia so far as Chinese territories are concerned. Please accept my cordial thanks for your kindness in informing me of this gratifying result of the wise and benevolent policy of your Government.

Believe, etc.,

K. TAKAHIRA.

Mr. Griscom to Mr. Hay.

No. 49.]

AMERICAN LEGATION,
Tokyo, February 20, 1904.

SIR: I have the honor to send you herewith a copy given me by the minister for foreign affairs of an exchange of notes between the Chinese legation and the foreign office here relative to the neutrality of China in the present war.

In the Chinese note the resolve to maintain neutrality is dwelt upon, but the impossibility of its enforcement in places still occupied by foreign troops is pointed out, and China's sovereignty over the three eastern provinces is affirmed.

As will be seen, the Japanese reply states this Government's position toward China's neutrality, assures the Chinese Government that property, Imperial tombs, etc., will be respected by the Japanese forces, and disclaims the intention to acquire territory at the expense of China or to impair her sovereignty.

I am, etc.,

LLOYD C. GRISCOM.

[Inclosure 1.]

Note from the Chinese minister to Japan addressed to Baron Komura, minister for foreign affairs, dated February 13, 1904.

Japan and Russia have broken off their peaceful relations; but China being on friendly terms with the two countries, her Government attaching great importance to the relations of good neighborhood and in obedience to the Imperial command, have taken steps for the observance of the rules of neutrality and ordered the authorities of each and all provinces to strictly observe them. The local authorities have also been instructed to keep tranquillity in their respective

districts and to extend protection to the commercial and Christian population, Moukden and Hsing-king being the sites of the Imperial mausoleums and palaces, the governor-general concerned has been given strict instructions to guard them with the greatest vigilance. The towns, villages, and official buildings in the three eastern provinces, as well as the persons and properties of their inhabitants, shall not be damaged or injured by the two belligerents. The Chinese troops stationed in those provinces shall not attack the troops of the belligerent countries, nor shall the latter be allowed to attack the former. A garrison has been dispatched by the Peiyang commissioner to such districts lying west of the Liao as were already evacuated by Russia. In the various provinces, as well as in Outer and Inner Mongolia, the rules of neutrality are to be carried out, so that troops of the two belligerents may not intrude thereupon, and in case they have crossed the boundary line China will take the measures for repelling them. Such steps on the part of China shall, however, not be taken as making a rupture in the friendly relations.

In Manchuria, however, there are localities still in occupation by foreign troops and beyond the reach of the power of China, where the enforcement of the rules of neutrality will, it is feared, be impossible. The three eastern provinces, as well as the rights pertaining thereto, shall remain under China's sovereignty whichever side may gain victory, and shall not be occupied by either of the powers now in war.

The above is being communicated to the representatives of foreign powers in Peking. At the same time you are instructed to make the same declaration to the minister for foreign affairs of the Government to which you are accredited.

[Inclosure 2.]

Reply, dated February 17, 1904, of the Japanese Government to the Chinese note.

The Imperial Government, desiring to avoid as far as possible a disturbance of the peaceful condition of affairs which now prevails in China, will, in all parts of the Chinese territory excepting the regions occupied by Russia, respect the neutrality of China so long as Russia does the same.

The rules of war which govern the Imperial forces of Japan in the field do not permit the wanton destruction of property. Accordingly, the Imperial Chinese Government may rest assured that the mausoleums and palaces at Moukden and Hsing-king and the public buildings of China everywhere will be secure from any injury not attributable to the action of Russia.

Furthermore, the rights of the Chinese officials and inhabitants within the zone of military operation will, in their persons and property, be fully respected and protected by the Imperial forces so far as military necessity permits. In the event, however, they should extend aid and comfort to the enemy of Japan the Imperial Government reserve to themselves the right to take such action as the circumstances require.

It only remains to say, in conclusion, that the present war is not being waged by Japan for the purpose of conquest, but solely in defense of her legitimate rights and interests, and consequently that the Imperial Government have no intention to acquire territory as a result of the conflict at the expense of China.

The Imperial Government also wish the Imperial Chinese Government to clearly understand that whatever action may be taken by them on Chinese territory which is made the theater of war will be the result of military necessity and not in impairment of Chinese sovereignty.

Mr. Hay to Mr. Griscom.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 15, 1904.

(Mr. Hay informs Mr. Griscom that, according to a telegram from the American minister to China, the Chinese Government, grateful

for the friendly interest shown by the United States, is resolved to maintain an attitude of strict neutrality, and that provocation will not be afforded either belligerent.)

Mr. Griscom to Mr. Hay.

No. 61.]

AMERICAN LEGATION,
Tokyo, Japan, March 17, 1904.

SIR: I have the honor to confirm your telegram received on the 16th instant in relation to the neutrality of China.

Immediately upon receipt of your telegram I embodied the information it contained in a note to the minister for foreign affairs and presented it to him in person. He expressed to me his high appreciation of the efforts of the Government of the United States in this matter and his gratification at the successful outcome, so important in the interest of peace and order in China.

The note of the Imperial Government in reply to that of this legation has now been received, and copies of both are transmitted herewith.

I have, etc.,

LLOYD GRISCOM.

[Inclosure 1.]

Mr. Griscom to Baron Komura.

AMERICAN LEGATION,
Tokyo, March 16, 1904.

MR. MINISTER: I have the honor to inform your excellency that Mr. Conger, minister of the United States at Peking, has informed the Department of State at Washington that the Chinese Government, grateful for the friendly interest shown by the United States, is resolved to maintain an attitude of strict neutrality, and that provocation will not be offered either belligerent.

I avail, etc.,

LLOYD GRISCOM.

[Inclosure 2.]

Baron Komura to Mr. Griscom.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, March 17, 1904.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's note of the 16th instant respecting the neutrality of China.

In reply I hasten to assure your excellency that the Imperial Government, desiring that the present war may be confined to the original belligerents, and being, moreover, extremely solicitous regarding the effect of the conflict upon the Chinese Government and people, were highly gratified to learn of the successful issue of the efforts of the United States in the interest of peace and order in China.

I avail, etc.,

BARON KOMURA JUTARO.

Mr. Takahira to Mr. Hay.

LEGATION OF JAPAN,
Washington, May 12, 1904.

MY DEAR MR. SECRETARY: Referring to our conversation this morning, in which I informed you that I had received instructions

from my Government relative to the question of China's neutrality, I beg to transmit herewith the context of the instructions, as follows:

You are hereby instructed to inform the Government to which you are accredited that the attitude of the Chinese Government in regard to the war between Japan and Russia has been the subject of constant observation on the part of the Imperial Government since the commencement of hostilities, and that, although they have no reason to entertain any apprehension as to China's departing from her neutral attitude, nevertheless, in the presence of persistent rumors giving color to such apprehension, they have thought fit to instruct His Imperial Majesty's minister at Peking to advise China to continue to observe an attitude of strict neutrality, and to use every endeavor to maintain internal good order and tranquillity.

I remain, etc.,

K. TAKAHIRA.

Mr. Griscom to Mr. Hay.

AMERICAN LEGATION,
Tokyo, Japan, August 15, 1904.

SIR: I have the honor to transmit herewith a copy of a résumé of official reports received by the Japanese Government regarding the capture of the Russian destroyer *Ryeshitelni* at Chefoo, informally communicated to me to-day by Baron Komura.

I have, etc.,

LLOYD C. GRISCOM.

[Inclosure.]

Résumé of several reports so far received concerning capture of Russian destroyer at Chefoo. On the night of August 10, while cruising in search of dispersed Russian squadron, our destroyers *Asahiwo* and *Kasumi* sighted one apparently Russian destroyer steaming in full speed westward and immediately pursued her, but the latter disappeared in darkness. Continuing search till next morning, they found that the enemy's destroyer had fled to Chefoo. They remained outside territorial water till night, vainly expecting her coming out. Then they entered Chefoo and found that the enemy's destroyer was *Ryeshitelni*, and that there was no sign of her being dismantled. Accordingly Lieutenant Terashima was sent on board *Ryeshitelni* and offered the Russian commander alternative either to leave port before dawn or to surrender. The latter accepted neither, and while discussing proceeding he ordered his men to destroy machineries and to fire. Then suddenly taking Terashima in arms he jumped overboard. Another Russian also jumped into the sea with a Japanese interpreter. Then other Russians commenced hostilities. Meanwhile magazine of *Ryeshitelni* exploded, causing casualties among our men. Thereupon *Ryeshitelni* was captured and towed out. Our casualties were 1 killed, 14 wounded.

Mr. Griscom to Mr. Hay.

AMERICAN LEGATION,
Tokyo, Japan, August 20, 1904.

SIR: Referring to my dispatch of the 15th instant, transmitting a paper received from the foreign office in regard to the capture of the Russian destroyer *Ryeshitelni* at Chefoo, I have now the honor to inclose a copy of a letter received from Baron Komura on the 18th instant, together with a statement of the position taken by his Government in that case.

I have, etc.,

LLOYD C. GRISCOM.

[Inclosure.]

Baron Komura to Mr. Griscom.

AUGUST 18, 1904.

DEAR MR. GRISCOM: The statement which I inclose for your information has been telegraphed to Mr. Takahira for communication to the United States Government. It explains the position taken by the Japanese Government regarding the Chefoo incident.

Yours, very sincerely,

JUTARO KOMURA.

[Subinclosure.]

Statement of Japan's position regarding the capture of the "Ryeshitelni" at Chefoo.

The Imperial Government sustain the action of the Japanese destroyers *Asashivo* and *Kasumi* in capturing the Russian destroyer *Ryeshitelni* in the harbor of Chefoo on the morning of the 12th August, upon the following grounds:

(1) That the neutrality of China, territorially speaking, is incomplete and extends only to those places which are not for the time being occupied by the armed forces of either belligerent.

(2) That, independently of the question of the effect of the presence of the *Ryeshitelni* in the harbor upon the neutrality of China, Russia had, prior to the capture, violated the neutrality of Chefoo.

(3) That the *Ryeshitelni* first began the struggle which resulted in her capture.

As to the first ground:

The Imperial Government at the beginning of the war declared that they would respect the neutrality of China outside the regions occupied by Russia so long as Russia did the same. All military operations are now being carried on within the territorial limits of China. So long as the armed forces of the belligerents remain within the limits of Manchuria, so long will that region continue to be the only portion of the Chinese Empire outside the neutrality of China. But, in the opinion of the Imperial Government, a Russian vessel of war escaping from Port Arthur and seeking in the harbor of Chefoo an asylum which her home port no longer affords her, is guilty of a violation of the neutrality of China which, so far as that incident is concerned, fully justifies the Japanese Government in taking such measures of self-protection as they may consider necessary.

As to the second ground:

It is the contention of the Imperial Government that the *Ryeshitelni*, by taking refuge in Chefoo under the circumstances, violated the neutrality of that port. It is not only in this case that Russia has openly disregarded the neutrality of Chefoo. Shortly after the investment and isolation of Port Arthur a system of wireless telegraphy was installed between the beleaguered fortress and the Russian consulate at Chefoo. That system has been maintained ever since, notwithstanding the repeated protests of the Imperial Government. In these circumstances neither Russia, which had already disregarded China's neutrality, nor China, which had utterly failed to enforce her neutrality, is in position to complain of the action of Japan.

As to the third ground:

The *Ryeshitelni*, by being the aggressor in the struggle which resulted in the capture, instead of relying for protection upon the authorities of the port, has deprived Russia of the right of complaint which she might have possessed if the lawfulness of the capture were otherwise in doubt.

The Imperial Government are still fully resolved to respect the neutrality of China so long as Russia does the same, but they can not consent that their enemy's ships of war, in defiance of China's neutrality laws, shall be permitted to find in the harbors of China an asylum which, by reason of the military operations of Japan, is no longer offered them by their own ports.

The case under consideration is in itself of trifling moment, but the principle involved is of the highest importance; for if the harbor of Chefoo could under circumstances be said to afford an asylum for the *Ryeshitelni*, it would equally give to the big ships of the Russian navy a safe refuge against attack, to the constant menace of Japan. It can not be expected that the Imperial Government would give their consent to such a condition of things.

Mr. Griscom to Mr. Hay.

AMERICAN LEGATION,
Tokyo, Japan, August 26, 1904.

SIR: I have the honor to inclose herewith copy of a letter from the minister for foreign affairs dated yesterday, with which he sent me a statement of the position of the Japanese Government and of their negotiations with China regarding the Russian warships *Askold* and *Grosovoi* remaining at Shanghai.

I have, etc.,

LLOYD C. GRISCOM.

[Inclosure 1.]

Baron Komura to Mr. Griscom.

AUGUST 25.

DEAR MR. GRISCOM: The inclosed statement has been telegraphed to-day to Mr. Takahira for communication to your Government. There is, however, a prospect of an amicable settlement of the question, as it appears from the latest telegram from Shanghai that the Russian authorities at the port have been instructed to proceed at once to disarm the two war ships in question.

Yours, very sincerely,

JUTARO KOMURA.

[Subinclosure.]

The Russian cruiser *Askold* and destroyer *Grosovoi*, escaping from Port Arthur, entered Shanghai on the 13th instant, having arrived at Woosung on the previous day. Twenty-four hours, prescribed by China's neutrality regulations, passed, but the Russian ships showed no sign of taking departure. Consequently the Japanese consul-general at Shanghai, acting under instructions of the Imperial Government, addressed a communication to the Taotai of Shanghai, pointing out that as the two vessels had already remained in Shanghai for more than twenty-four hours they should be called upon to take their departure at once, and, in case of refusal, they should be disarmed and detained at Shanghai until the end of the war without being permitted to repair. The consul-general added that the Imperial Government reserved to themselves the right, in case neither of the above alternatives was enforced, to take such action as they might deem proper, and that the responsibility for the consequences would rest with China. The Taotai acceded to the demand, but he proved quite powerless before the Russian consul, who, notwithstanding the former's repeated pressure, categorically refused to effect either of the two alternatives and persistently adhered to his equivocal declaration that the vessels would be prepared to leave the port only upon completion of the repairs which were under contemplation. It then transpired that those repairs were of a very extensive nature, almost tantamount to the restoration of fighting power of the vessels, requiring, in case of *Askold*, four weeks for their completion. To permit such repairs would be evidently incompatible with the neutral obligation of China. Accordingly the Japanese consul-general at Shanghai was again instructed to call the most serious attention of the Taotai to the matter and to demand that the repairs to be permitted to the Russian war ships should be of such nature as were required to make them seaworthy, and that the period therefor should be limited to two days. He had further to warn the Chinese authorities that in case China's acquiescence in the restoration of the fighting power of the Russian ships by allowing the repairs as planned by them Japan would be compelled to take such measures as might seem proper to them. It was after a great deal of hesitation and repeated pressure of our consul-general that the Taotai at last notified the Russian consul, on the 9th instant, in the sense desired by us. But this again met peremptory refusal on the part of the latter, who in reply declined on behalf of the two vessels to submit to any limitations or conditions. In the meantime the Imperial Government instructed on the 19th instant their minister at Peking to formally notify the Chinese Government to the following effect:

"That the Russian war ships should be called upon to take immediate departure from Shanghai. If they are really unable to so leave on account of their damages, two days' repairs should be permitted to them just to make them seaworthy. In case, however, they are unwilling from the beginning to leave Shanghai, they should be disarmed without making any repairs and detained in the port until the conclusion of the present war.

"In the event of China's failure to enforce either of the three alternatives above set forth the Japanese Government would take such measures of self-protection as they may deem necessary, and responsibility for the consequences will rest solely with China."

In view, however, of the difficult position under which the Chinese Government were laboring, the Japanese Government consented to fix the 21st of August, noon, as the time upon which two days' period above alluded to to commence, and the Chinese Government assured the Japanese minister to at once take the necessary steps vis-a-vis the Russian minister in China and the Taotai of Shanghai in the sense desired by Japan. It was with great surprise that the Japanese Government learned, through their minister in Peking, that, notwithstanding the assurances given, as above stated, the Chinese Government granted on the 23d instant further extension of time for the completion of repairs and departure of the ship until noon of the 28th instant. Against such extension the Japanese Government have protested and declared that they would be compelled to have recourse to such action as they consider proper and that the responsibility for the consequences would rest entirely with China.

The foregoing are the most important facts of the case. Beyond question they constitute a grave infraction of the neutrality of China to the serious prejudice of the belligerent rights of Japan. Having in view, however, the special interests of the powers in the port of Shanghai, the Imperial Government have exercised in the present instance, as they did in the case of the *Mandjur*, a degree of forbearance and restraint under great provocation, which is, they believe, sufficient proof of their earnest desire not to disturb the orderly state of affairs at that place. But it is not to be expected that the Imperial Government will consent to an indefinite continuation of a condition of things which constitutes a grave menace to their warlike operations as well as to their commerce. But having regard to interests of the powers involved in the maintenance of the orderly state of things in the port of Shanghai, the Imperial Government think it right to bring the actual state of things to their attention before the exigencies of the situation will compel them to take final action.

(NOTE.—For further correspondence relating to the Chefoo and Shanghai incidents, see under China, page 136.)

NEUTRALITY OF THE UNITED STATES IN THE WAR BETWEEN RUSSIA AND JAPAN.

Mr. Hay to Mr. Takahira.

DEPARTMENT OF STATE,
Washington, May 5, 1904.

MY DEAR MR. MINISTER: In a communication dated the 14th ultimo the Secretary of the Navy inclosed a letter from the commandant of the Mare Island Navy-Yard, transmitting copies of circulars received in an envelope from the consulate-general of Japan at New York City, addressed "To the Japanese serving in the United States Navy," soliciting subscriptions to Japanese bonds, contributions to the relief fund for Japanese soldiers and sailors, and in aid of the Red Cross Society of Japan. In view of the President's proclamation of neutrality, the Secretary of the Navy asked whether the circulars should be forwarded.

While Japanese in the United States doubtless have a right to subscribe to Japanese bonds or to contribute to relief and Red Cross

Society funds of Japan, yet it is undesirable that such contributions should be sought through the naval official channels of this Government.

Pursuant to these views, the commandant of the Mare Island Navy-Yard has been instructed not to forward to the Japanese serving in the United States any circulars of the character above described.

I now bring the matter to your attention with the request that you will inform the consular officers of Japan in the United States of the attitude of this Government in the matter.

I am, etc.,

JOHN HAY.

Mr. Takahira to Mr. Hay.

LEGATION OF JAPAN,
Washington, May 6, 1904.

MY DEAR MR. SECRETARY: I beg to acknowledge the receipt of your note of the 5th instant with reference to the circulars sent from the consulate-general of Japan at New York to the commandant of the Mare Island Navy-Yard and transmitting copies of circulars addressed "To the Japanese serving in the United States Navy," in which subscriptions to Japanese bonds, and contributions to relief funds for Japanese soldiers and sailors, and in aid of the Red Cross Society of Japan are solicited.

Noting what you say concerning the undesirability of forwarding such communications through naval official channels, I shall communicate with the consul-general of Japan at New York upon the subject and give him the necessary instructions in the premises.

I am, etc.,

K. TAKAHIRA.

[*Translation of the telegram received by the Japanese minister from Baron Komura. Handed to Mr. Adee by Mr. Takahira September 13, 1904.*]

Mr. K. Uyeno, Japanese consul at San Francisco, telegraphs that the Russian auxiliary cruiser *Lena*, with the crew of 500 men and armament of 27 quick-firing guns, has entered the harbor of San Francisco, the object of which is said to be for repairs of her boilers and engines.

You are hereby instructed to call the attention of the United States Government to the above fact as reported, and to say to the Secretary of State that the Imperial Government expect that appropriate measures regarding the matter will be taken by the United States Government without delay.

Mr. Adee to Mr. Takahira.

No. 169.]

DEPARTMENT OF STATE,
Washington, September 15, 1904.

SIR: I have the honor to advise you that the President has to-day, through this Department and the Department of the Navy, issued an order directing that the Russian armed transport *Lena*, which arrived

in the harbor of San Francisco on the 11th instant, be taken in custody by the naval authorities of the United States and disarmed. The conditions prescribed by the President for disarmament are that the Russian vessel be taken to the Mare Island Navy-Yard and there disarmed by the removal of small guns, breechblocks of large guns, small arms, ammunition and ordnance stores, and such other dismantlement as may be prescribed by the commandant of the navy-yard; that the captain give a written guaranty that the *Lena* shall not leave San Francisco until peace shall have been concluded; that the officers and crew shall be paroled not to leave San Francisco until some other understanding as to their disposal may be reached between the Government of the United States and both the belligerents; that after disarmament the vessel may be removed to a private dock for such reasonable repairs as will make her seaworthy and preserve her in good condition during her detention, or may be so repaired at the navy-yard if the Russian commander should so elect; that while at a private dock the commandant of the navy-yard at Mare Island shall have custody of the ship, and the repairs shall be overseen by an engineer officer to be detailed by the commandant of the navy-yard; and that, when so repaired, if peace shall not then have been concluded, the vessel shall be taken back to the Mare Island Navy-Yard and be there held in custody until the end of the war. It is further to be understood that the cost of repairs, of private docking, and of the maintenance of the ship and her officers and crew while in custody is to be borne by the Russian Government, but the berthing at Mare Island and the custody and surveillance of the vessel is to be borne by the United States.

The President has taken this action upon the written request of the commander of the *Lena*, addressed to Rear-Admiral Goodrich, setting forth that, as the vessel is incapable of putting to sea without needful repairs, she must disarm, and asking that needful repairs be permitted after disarmament.

Be pleased to accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Takahira to Mr. Adee.

No. 74.]

LEGATION OF JAPAN,
Washington, September 16, 1904.

SIR: In regard to the disposal of the officers and crew of the Russian armed transport *Lena* after her disarmament, as referred to in your note of the 15th instant, I have the honor to inform you that I have received to-day from His Imperial Majesty's minister for foreign affairs telegraphic instructions to the effect that I should inform the Government of the United States the desire of the Imperial Government to have the said officers and crew detained in the territory of the United States until the end of the hostilities.

In making the above communication to you I beg leave to express my earnest hope that the Government of the United States will find it agreeable to take into their favorable consideration the desire of my Government as above mentioned.

Accept, etc.,

K. TAKAHIRA.

Mr. Adee to Mr. Takahira.

No. 170.]

DEPARTMENT OF STATE,
Washington, September 17, 1904.

SIR: I have the honor to acknowledge receipt of your note of yesterday's date, in which, with regard to the disposal of the officers and crew of the Russian armed transport *Lena* after disarmament, as referred to in my note of the 15th instant, you advise me that you received yesterday instructions to inform the Government of the United States of the desire of the Imperial Government to have the said officers and crew detained in the territory of the United States until the end of the hostilities. In making the above communication to me you express the earnest hope that the Government of the United States will find it agreeable to take into favorable consideration the desire of your Government as above mentioned.

In reply I have the honor to state that the President, exercising his prerogative in carrying out the neutrality proclaimed by him, had already, before the receipt of your communication, taken the appropriate steps to detain the officers and crew of the *Lena* in this country until peace shall have been concluded, unless in the meantime the belligerents shall have concurred in proposing to him other arrangements in this regard.

Be pleased, etc.,

ALVEY A. ADEE,
Acting Secretary.

(NOTE.—For further correspondence on this subject see under Russia, p. 780.)

PROTECTION OF JAPANESE INTERESTS IN RUSSIA.

[*Telegram received by the Japanese minister from his Government on February 7, 1904. Handed to the Secretary of State.*]

See the Secretary of State as soon as possible and ask him whether the United States Government, if Russia consents, will permit its embassy in St. Petersburg and its consulates in various places in Russia to assume charge and protection of the Japanese subjects and interest in Russia.

You will add that the Imperial Government retain lively appreciation of friendly offices extended to them by the United States during the China-Japanese war, and they venture to hope that nothing will prevent the United States from acting for them in a similar capacity in the present instance.

KOMURA.

Mr. Hay to Mr. Takahira.

DEPARTMENT OF STATE,
Washington, February 9, 1904.

DEAR MR. MINISTER: I learn from our ambassador at St. Petersburg that the minister of foreign affairs has informed him that the Emperor of Russia sees no objection in the way of our representa-

tives looking after Japanese interests upon the withdrawal from Russia of all diplomatic and consular representatives of Japan. The necessary instructions will be issued at once.

Very sincerely, yours,

JOHN HAY.

Baron Komura to Mr. Takahira.

(Memorandum of telegram left at the Department February 16, 1904.)

You are hereby instructed to express to the Secretary of State cordial appreciation of the Japanese Government for the friendly action of the United States Government in permitting its diplomatic, consular, and commercial representatives to take charge of Japanese interests in Russia, etc.

KOMURA.

Mr. Takahira to Mr. Hay.

No. 12.]

LEGATION OF JAPAN,
Washington, March 5, 1904.

SIR:

* * * * *

I have the honor to state that the Japanese subjects who have returned to Japan through the efforts of the United States consul at Niuchwang and the United States commercial agent at Vladivostock are deeply grateful for the kindness shown and the assistance rendered by those officials, and I am instructed to extend to the United States Government in the name of the Imperial Government most cordial thanks for the good offices thus rendered.

Accept, etc.,

K. TAKAHIRA.

Mr. Takahira to Mr. Hay.

No. 14.]

LEGATION OF JAPAN,
Washington, March 19, 1904.

SIR: With reference to my conversation with you on Thursday last, the 17th instant, I beg herewith to hand to you a copy of telegram which was received by Baron Komura, His Imperial Japanese Majesty's minister for foreign affairs, from Mr. Inouye, the Japanese minister at Berlin, in regard to a number of Japanese residents in Siberia now suffering from untoward treatment of the Russian police authorities, and consequently requesting protection and assistance to enable them to return to Japan.

I am now instructed to request that the United States Government will have the goodness to instruct His Excellency Ambassador McCormick to take necessary steps to the end that those Japanese subjects now in Russia who are destitute and desire to return to Japan may be sent to Berlin, as the Japanese legation in that city will be prepared to take charge of them. As to the amount of the expenses required for the journey of those Japanese subjects from Tsita to

Berlin I am in the hope that the United States ambassador at St. Petersburg may find means to obtain the necessary information, as I shall be ready to furnish it upon the receipt of such information.

Accept, etc.,

K. TAKAHIRA.

[Inclosure.—Telegram.]

The Japanese minister at Berlin to Baron Komura.

Two Japanese, Ikeda and Tachikawa, have just arrived at Berlin from Siberia as delegates of 48 other Japanese now living in Tsita (Chita?) and have applied to me for assistance.

From their statement it appears that 19 Japanese residing in Irkutsk were suddenly ordered by the police authorities to leave the city at a moment's notice, without giving them time to take any of their effects, and were thus forced to retreat to Tsita, where at present 29 other Japanese are also living, but owing to the lives of all Japanese being in constant danger there and being boycotted they are unable to earn any living, thus becoming penniless and suffer great privations. The two Japanese also state that a great number of Japanese have been hanged at Harbin on a charge of their having destroyed railways. Under these circumstances, and as there may be still a great number of other Japanese living elsewhere in Siberia who might also be in want of succor, I hope you will see your way to have assistance and protection accorded to them by proper means, so that they may be able to return home safely.

INOUE.

Mr. Loomis to Mr. Takahira.

No. 122.]

DEPARTMENT OF STATE,
Washington, March 19, 1904.

SIR: I have the honor to acknowledge the receipt of your note No. 14 of the 19th instant, requesting that the United States ambassador to Russia be instructed to take the necessary steps to the end that certain Japanese subjects now in Russia, who are destitute and desire to return to Japan, may be sent to Berlin to be cared for by the Japanese legation in that city.

In reply, I have the honor to inform you that the Department has just received a telegram from Ambassador McCormick, saying that 12 Japanese—6 men and 6 women—in a destitute condition arrived in St. Petersburg to-day from Irkutsk, not being allowed to proceed east, and who wish to proceed to Germany.

Mr. McCormick adds that he is arranging to send them to Berlin, where they are to find employment through the Japanese legation or be sent home.

The Department has approved Mr. McCormick's action.

Accept, etc.,

FRANCIS B. LOOMIS,
Acting Secretary.

Mr. Takahira to Mr. Hay.

No. 15.]

LEGATION OF JAPAN,
Washington, March 24, 1904.

SIR: Under instructions from Baron Komura, His Imperial Majesty's minister for foreign affairs, I have the honor to request

that, in order to enable the Japanese Government to bring back two members of the consular staff and about 600 Japanese subjects who are still being detained by ice at Korsakov, Saghalien Island, and who are believed to be suffering from scarcity of food, the United States Government will have the goodness to instruct His Excellency Ambassador McCormick to take the following steps:

1. To obtain the consent of the Russian Government to the dispatch by the Japanese Government of a neutral ship to Korsakov, in order to bring back the Japanese subjects and officials above referred to.

2. Upon the consent being obtained from the Russian Government, to take proper steps to communicate the fact to the Japanese consulate at Korsakov, so that they may make necessary arrangements for the embarkation of the refugees, as well as for their own withdrawal.

3. To arrange with the Japanese consulate at Korsakov for apprising the Japanese Government, through the United States commercial agency at Vladivostok, as to the proper time for the dispatch of the relief steamer.

In making the above request I beg to assure you that with such request complied with the Imperial Government will have largely to add to their sense of gratitude they feel toward the United States Government for many acts of friendship done since the unfortunate occurrence of the present situation in the Far East.

Accept, etc.,

K. TAKAHIRA.

Mr. Takahira to Mr. Hay.

No. 21.]

LEGATION OF JAPAN,
Washington, April 9, 1904.

SIR: I have the honor to inform you that I am in receipt of a telegram from His Imperial Majesty's minister for foreign affairs instructing me to bring to your notice the following facts and to request the exercise of the good offices of the Government of the United States with reference thereto.

It appears that a Japanese steamer, the *Hanyei Maru*, of 64 tons displacement, which was chartered by a correspondent of the *Asahi Shinbun*, a newspaper published at Osaka, on the 26th ultimo, while within a distance of less than 1 marine league from Dai-ki-ga, one of the Miao Tao Islands, a group belonging to China, was fired upon and sunk by Russian men-of-war. There were 10 Japanese on board the steamer—the correspondent of the *Asahi*, 4 members of the crew, and 5 passengers—besides 7 Chinese. All of these persons were taken to Port Arthur, but subsequently the Chinese were released, while the Japanese, it is reported, are confined on board the Russian men-of-war *Novik* and *Yermak*. It is reported further that a fish-head torpedo was found on the *Hanyei Maru*, a circumstance which might be construed disadvantageously to the persons on board the steamer. The fact is, however, that the torpedo was purchased by one of the passengers from a Chinese fisherman on the islands, who had picked it up from the sea after the naval engagement at Pigeon Bay.

From the information in their possession the Imperial Government

are convinced that the correspondent of the Asahi was acting solely in the performance of his professional duties, having been induced to charter the *Hanyei Maru* and to go to the locality where he was captured by the extraordinary success of the correspondents of several foreign newspapers who had employed small steamers for the purpose of observing the naval engagements in the vicinity of Port Arthur. He believed, moreover, that he was perfectly safe at the time, as he was within the territorial waters of China.

The Imperial Government having released all of the passengers on board of the Russian merchant vessels captured by them, and even the officers and members of the crew, excepting those whose presence was deemed necessary in the trial before the admiralty court, feel that they are justified in entertaining the hope that the Russian Government will adopt similar measures with reference to Japanese non-combatants in their custody.

While reserving their views as to the lawfulness of the action of the Russian vessels in sinking a Japanese vessel in neutral waters and making prisoners of those on board, the Imperial Government instruct me to express the hope that you will find it possible to exercise your good offices for the purpose of obtaining from the Russian Government the release of these Japanese prisoners, all of whom are non-combatants and none of whom were engaged in the commission of any act hostile to Russia.

Accept, etc.

K. TAKAHIRA.

Mr. Hay to Mr. Takahira.

No. 130.]

DEPARTMENT OF STATE,
Washington, April 12, 1904.

SIR: Upon the receipt of your note of the 9th instant the Department at once instructed Mr. McCormick, at St. Petersburg, to use his good offices in behalf of the members of the crew and the five passengers of the press boat *Hanyei Maru*.

I am to-day in receipt of a telegram from Mr. McCormick, stating that the Russian minister for foreign affairs has submitted this case to Admiral Alexieff by wire, from whom he has also again asked for a reply to the request for permission for a neutral ship to visit Khorsakov to take off the Japanese consular staff and subjects.

Mr. McCormick adds that he is using great efforts on behalf of the Japanese subjects at Chita and hopes to make a favorable report with regard to them within a few days.

Accept, etc.,

JOHN HAY

Mr. Loomis to Mr. Takahira.

DEPARTMENT OF STATE,
Washington, April 15, 1904.

MY DEAR MR. MINISTER: The Department is just in receipt of the following telegram of to-day's date from Mr. McCormick, at St. Petersburg, stating that he has been informed by the minister for foreign affairs that under the rules of war of February 14 last the

departure of the Japanese from Korsakov will be permitted; that arrangements may be made for a neutral vessel to proceed there when navigation opens, which will take place about May 1; and that facilities have been promised for direct communication with all Japanese subjects in Siberia as soon as information concerning their whereabouts can be obtained. It is stated that some of them desire to remain there.

I am, etc.,

FRANCIS B. LOOMIS.

Mr. Hay to Mr. Takahira.

DEPARTMENT OF STATE,
Washington, May 7, 1904.

DEAR MR. MINISTER: Mr. McCormick, our ambassador at St. Petersburg, informs me that he has heard from Mr. Greener, our commercial agent at Vladivostok, that on request and in order to better protect the Japanese consular buildings he has given charge of them to the port admiral, the president of the local Red Cross association, that after removal and storage of the furniture, the association has improved the grounds and has renovated the houses for the use of patients and Red Cross nurses.

Mr. McCormick at once answered the commercial agent that his duty was to have notified the ambassador of this step in advance, in order that he might have communicated with the Japanese Government and obtained its approval of this use of the property for the purposes named.

I write to express my regret that such action was taken without having previously consulted your Government, and beg you now to let me know whether it meets with their approval.

Yours, very sincerely,

JOHN HAY.

Mr. Takahira to Mr. Hay.

LEGATION OF JAPAN,
Washington, May 9, 1904.

MY DEAR MR. SECRETARY: Upon the receipt of your note of the 7th instant, having regard to the use of the Japanese consular premises at Vladivostok for Red Cross purposes by the Russian authorities, I communicated with the Imperial Government upon the subjects, and am now in receipt of a telegram informing me that the Imperial Government have no objection to the premises being used for the purpose indicated.

I am, etc.,

K. TAKAHIRA.

Mr. Takahira to Mr. Hay.

No. 37.]

LEGATION OF JAPAN,
Washington, May 23, 1904.

SIR: A Japanese merchant steamer, the *Hagino-ura Maru*, which left Sun-jin for Fusan on the 25th of April last, was sunk by the

Russian fleet on the coast of Hang-Kiang-do, Korea, about the time that the *Kinshu Maru* was sunk, and the crew was captured. I have the honor to inform you that I am now in receipt of a telegram from the Imperial Government stating that the *Hagino-ura Maru* was engaged in the coasting trade of Korea for commercial purposes solely, and, unlike the *Kinshu Maru*, had no connection whatever with the Japanese Government.

I am, therefore, instructed to request you to kindly direct the United States ambassador at St. Petersburg to communicate with the Russian Government upon the subject, so that the crew of the *Hagino-ura Maru* may be sent back to Japan by some suitable means, as was done in the case of the crew of the *Nakano-ura Maru*.

Accept, etc.,

K. TAKAHIRA.

Mr. Hay to Mr. Takahira.

No. 152.]

DEPARTMENT OF STATE,

Washington, June 23, 1904.

SIR: Referring to your note, No. 37, of the 23d ultimo, I have the honor to inform you that the Department is in receipt of a telegram, dated the 22d instant, from the United States ambassador at St. Petersburg, reporting that the viceroy declines, for considerations pertaining to the state of war, to grant the request of your Government that the crew of the *Hagino-ura Maru* be returned to Japan.

Accept, etc.,

JOHN HAY.

Mr. Takahira to Mr. Hay.

No. 75.]

LEGATION OF JAPAN,

Washington, October 11, 1904.

SIR: His Imperial Majesty's minister for foreign affairs informs me that in reporting to the Imperial Government of the safe arrival in Germany, en route to Japan, of about 800 of their subjects who had been till lately remaining in Russia, and who will now be sent home by a steamer leaving Bremen on or about the 20th instant, Mr. Inouye, our minister in Berlin, states that this satisfactory result has been brought about entirely through the friendly effort of the United States ambassador to Russia. Baron Komura consequently instructs me that I should convey to the Government of the United States the expression of the profound gratitude which the Imperial Government owe to Mr. McCormick for his good offices in the matter.

In acting upon the above instruction, I beg to request that you will have the goodness to inform his excellency of the purport of my present communication.

Accept, etc.,

K. TAKAHIRA.

PROTECTORATE OF JAPAN OVER KOREA.

LEGATION OF JAPAN,
Washington, February 26, 1904.

[Telegram received by the Japanese minister from his Government on the 25th of February and left with the Secretary of State.]

You are hereby instructed to communicate to the Government to which you are accredited that in the prosecution of the present war the use of some of the ports and some portions of the territory of Korea is found inevitable, and therefore, with a view to facilitate military operations and to show that such use of ports and territory is made with the full knowledge and consent of Korea, and not in disregard or violation of her independence or territorial integrity, and also in order to prevent future complications, the Japanese Government concluded with the Korean Government on the 23d instant the following protocol:

Mr. Hayashi, envoy extraordinary and minister plenipotentiary of His Majesty the Emperor of Japan, and Major-General Ye TChi-Yong, minister of state for foreign affairs ad interim of His Majesty the Emperor of Korea, being respectively duly empowered for the purpose, have agreed upon the following articles:

ARTICLE I.

For the purpose of maintaining permanent and solid friendship between Japan and Korea and firmly establishing peace in the Far East, the Imperial Government of Korea shall place full confidence in the Imperial Government of Japan and adopt the advice of the latter with regard to improvements in administration.

ARTICLE II.

The Imperial Government of Japan shall, in a spirit of firm friendship, insure the safety and repose of the Imperial House of Korea.

ARTICLE III.

The Imperial Government of Japan definitively guarantee the independence and territorial integrity of the Korean Empire.

ARTICLE IV.

In case the welfare of the Imperial House of Korea or the territorial integrity of Korea is endangered by the aggression of a third power or internal disturbances, the Imperial Government of Japan shall immediately take such necessary measures as circumstances require, and in such case the Imperial Government of Korea shall give full facilities to promote the action of the Imperial Japanese Government.

The imperial Government of Japan may, for the attainment of the above-mentioned object, occupy, when circumstances require it, such places as may be necessary from strategic points of view.

ARTICLE V.

The Government of the two countries shall not in future, without mutual consent, conclude with a third power such an arrangement as may be contrary to the principles of the present protocol.

ARTICLE VI.

Details in connection with the present protocol shall be arranged as the circumstances may require between the representative of Japan and the minister of state for foreign affairs of Korea.

Mr. Griscom to Mr. Hay.

No. 60.]

AMERICAN LEGATION,
Tokyo, Japan, March 17, 1904.

SIR: Since my last dispatch in relation to the general political situation, the principal event of importance has been the signature, on the 23d ultimo, of a protocol between Japan and Korea. * * *

A copy of the protocol was handed to me by the minister for foreign affairs on the 25th ultimo, but as he informed me that it had been telegraphed in full to the Japanese minister in Washington I refrain from telegraphing it to you.

The intentions of the Japanese Government with regard to Korea seem to be clearly expressed in this protocol, and all my information leads me to believe that it has every intention of respecting the integrity of the Korean Empire. As the question is so largely dependent on the outcome of the war, any speculation as to the future course of Japan would seem to have but little value. However, I think it may be said that if the matter is ultimately left to the decision of the Japanese Government the Empire of Korea will remain intact, although its administration would continue to be under the close Japanese supervision which has already begun.

Marquis Ito has been sent to Seoul as a special ambassador from the Court of Japan to the Korean Emperor and left here on the 13th instant. In order to ascertain the exact nature of his mission I made inquiry of Baron Komura and was informed that it had no political character whatever. Marquis Ito represents the Japanese Court, not the government, and he is not in possession of full powers. He is the bearer of a friendly message from one Emperor to the other and will remain in Seoul but a week.

* * * * *

I have, etc.,

LLOYD C. GRISCOM.

Mr. Takahira to Mr. Adee.

No. 72.]

LEGATION OF JAPAN,
Washington, August 30, 1904.

SIR: Under instructions from His Imperial Majesty's minister for foreign affairs, I have the honor to transmit herewith an agreement concluded at Seoul between the minister of Japan, representing the Imperial Government, and their excellencies, the minister for foreign affairs and the minister of finance of Korea, representing the Government of Korea. The first two articles of the agreement were concluded and signed on the 19th instant and the third article on the 22d instant.

In communicating this agreement to the Government of the United States I am instructed to say that it is nothing more than the natural consequence or development of the protocol concluded between the Japanese and Korean Governments on the 23d of last February, which I had the honor to communicate at that time for the information of the Government of the United States. I am further directed to say that the agreement does not in anywise interfere with the full opera-

tion or validity of Korea's existing treaties; and that Article III thereof is not intended to place any impediment in the way of legitimate enterprise in Korea, but merely to check, as far as possible, the future conclusion of unwise and improvident engagements, which in the past have been fruitful sources of trouble and complication.
Accept, etc.,

K. TAKAHIRA.

[Inclosure.]

Agreement between Japan and Korea, concluded at Seoul on the 19th of August, 1904 (articles 1 and 2), and the 22d of August, 1904 (article 3).

ARTICLE I.

The Korean Government shall engage a Japanese subject recommended by the Japanese Government as financial adviser to the Korean Government, and all matters concerning finance shall be dealt with after his counsel shall have been taken.

ARTICLE II.

The Korean Government shall engage a foreigner recommended by the Japanese Government as diplomatic adviser to the foreign office, and all important matters concerning foreign relations shall be dealt with after his counsel shall have been taken.

ARTICLE III.

The Korean Government shall consult the Japanese Government before concluding treaties and conventions with foreign powers, and also in dealing with other important diplomatic affairs, such as grants of concessions to or contracts with foreigners.

Mr. Griscom to Mr. Hay.

No. 115.]

AMERICAN LEGATION,
Tokyo, Japan, September 1, 1904.

SIR: I have the honor to transmit, inclosed herewith, a copy of an agreement between Japan and Korea which has been handed me this day by Baron Komura, the minister for foreign affairs.^a

Baron Komura informed me verbally that this agreement had already been telegraphed to the Japanese minister at Washington, to be presented to you. He also explained to me that Article III of the agreement was not intended to affect existing Korean treaties with foreign powers or concessions to foreigners, nor would it interfere in the future with legitimate enterprises to be embarked upon by foreigners in Korea.

It is interesting to note that Mr. Megata, selected to be financial adviser to the Korean Government, was educated in America and is a graduate of Harvard University, and Mr. Stevens, who has been chosen as adviser to the foreign office, is an American gentleman about whom it would be superfluous to inform you.

I have, etc.,

LLOYD GRISCOM.

Mr. Adee to Mr. Takahira.

No. 166.]

DEPARTMENT OF STATE,
Washington, September 2, 1904.

SIR: I have the honor to acknowledge the receipt of your note No. 72, of the 30th ultimo, transmitting a copy of an agreement, containing three articles, concluded at Seoul between the minister of Japan on the one side and the Korean minister for foreign affairs and the minister of finance on the other, the first two articles of the agreement having been concluded and signed on the 19th ultimo, and the third article on the 22d ultimo.

In reply I have the honor to say that the Department has taken note of your statement of your Government's purpose in negotiating the agreement and of its views regarding the effect of the agreement.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

**MURDER OF SHIPWRECKED SEAMEN OF THE AMERICAN SHIP
BENJAMIN SEWALL IN FORMOSA.**

Mr. Loomis to Mr. Griscom.

No. 30.]

DEPARTMENT OF STATE,
Washington, December 31, 1903.

SIR: I inclose herewith a copy of a dispatch and of its inclosures from the American vice-consul at Tamsui on the subject of the wreck of the American ship *Benjamin Sewall* and the killing of several members of her crew by the savages of Botel Tobago.

In the letter dated November 17 last from the chief of civil administration, Formosan government, to the vice-consul at Tamsui, it is stated that the government has "efficiently and strictly censured the savages and will warn them not to repeat such misconduct again in future."

You will bring the matter to the attention of the Japanese Government and suggest to it that something more impressive than censure may suggest itself to the mind of that Government, which, it is not doubted, is earnestly desirous to fulfill all its international duties in regard to the protection of mariners shipwrecked on its coasts.

I am, etc.,

FRANCIS B. LOOMIS,
Acting Secretary.

[Inclosure.]

Mr. Lambert to Mr. Loomis.

AMERICAN CONSULATE,
Daitotei (Tamsui), Formosa, November 23, 1903.

SIR: In reference to the wreck of the ship *Benjamin Sewall*, I have the honor to inclose for your information copies of the correspondence between this consulate and the Formosan government on the subject of the wreck and the killing of several members of the crew by the savages of Botel Tobago.

* * * * *

I have the honor to call your attention to the fact that the Formosan government have "severely and efficiently censured the natives" for their "ill treatment of the crew of the ship's boat."

With all due respect to the Formosan government, I do not consider that severe and efficient "censure" will be a sufficient deterrent to the said natives from repeating the offense should occasion arise. These people have caused a great deal of trouble and, what is more important, sorrow by their heartless behavior.

Eight lives have been lost through their acts of barbarism, and two men are even now seriously ill through the hardships they have been forced to undergo on account of their ill treatment at the hands of the islanders.

To what extent the "censure" has been carried I have not inquired, as I considered it an improper course to take without further instructions. I have, however, sent copies of the inclosed correspondence to the American minister at Tokyo, with a copy of this dispatch.

So far as kindness and attention to the survivors have gone, the Formosan government could not have exceeded their endeavors on the unfortunates' behalf. Doctor Goto, chief of the civil administration, has done everything possible to protect and succor them, and the island has been searched as thoroughly as possible for the missing.

But little is known of the natives of Botel Tobago, and the best authority is my colleague, Mr. James W. Davidson, at present in the United States on leave. Might I respectfully suggest that should the Department require information on the habits, etc., of the islanders Mr. Davidson be communicated with? He spent some time on the island and studied the natives thoroughly.

I have, etc.,

A. C. LAMBERT.

[Subinclosure 1.]

Mr. Lambert to Doctor Goto.

AMERICAN CONSULATE,
Daitotei (Tamsui), Formosa, November 7, 1903.

SIR: Referring to the wreck of the American ship *Benjamin Sewall* off the coast of Formosa on October 5 last, I have the honor to inclose herewith for your perusal and information a copy in English of a statement made and signed before me, at the Taihoku civil hospital, by Shikatare Iwate, Japanese, an able seaman on board the above-mentioned vessel.^a

Iwate was one of the crew of the ill-fated ship's boat which was lost in the neighborhood of Botel Tobago.

From Iwate's statements there seems to be little doubt that the boat's crew were very badly received by the Botel Tobago islanders. In fact, the islanders were responsible for the death by drowning of at least six members of the crew, three of whom are American citizens, i. e., Joseph Morris, first mate; Thomas Pickle, third mate, and Henry Adams, able-bodied seaman. Peter Johnson, able-bodied seaman, came from one of the South American republics—Chile, I believe.

Had the natives not attacked the boat and overturned it, there is no doubt but that all the crew might have been saved, as the boat had already once made the shore, but had been pushed off again in order to escape from the natives who appeared in numbers and of threatening aspect. I gather from the statement of Iwate, and also from that of the Russian Reinwald, that the natives did not at any time do bodily harm to the occupants of the boat, but none the less they made no effort to assist them in any way, but deliberately compassed their death by breaking up the boat and overturning them into the water. No effort appears to have been made by the natives to save any of the persons in the boat after it was capsized, with the exception of the Japanese woman, whom it appears they took away with them.

The names of the persons originally in the boat are as follows: Joseph Morris, first mate; Thomas Pickle, third mate; Henry Adams, A. B.; Peter Johnson, A. B., missing and reported drowned. Ah Hing, cook; Wo Bing, carpenter;

^a Not printed.

Japanese woman, wife of third mate; Shikatare Iwate, A. B.; Yoshize Aoki, A. B.; Juzo Hayashi, A. B., saved.

I should be extremely obliged if you could give me any further information on the above subject, particularly as to the fate of the Japanese woman, if anything is known of it.

The original statement of Iwate, taken down in Japanese, is on file in this consulate, and should you desire a copy of the same I shall have pleasure in supplying you with one.

This question of the attitude of the Botel Tobago islanders toward shipwrecked persons seems to me to be of a serious nature, and I have no doubt, sir, that that is your own opinion. In view of the fact that this is the second American sailing vessel wrecked off the coast of Formosa during the past year (the *Otelia Pedersen* was wrecked on October 6, 1902), and the possibility of other wrecks occurring in the future in much the same place, it is to be hoped that in the event of any other unfortunates being cast up on Botel Tobago the natives will treat them with more hospitality than they have hitherto shown.

I may state that Iwate and Hayashi are at present in the civil hospital, Taihoku, suffering from fever.

I have, etc.,

A. C. LAMBERT.

[Subinclosure 2.—Translation.]

Doctor Goto to Mr. Lambert.

FORMOSAN GOVERNMENT,
Taihoku, Formosa, November 17, 1903.

SIR: I have the honor to acknowledge the receipt of your dispatch of the 7th instant, inclosing a copy of the statement of Shikatare Iwate, A. B., concerning the wreck of the *Benjamin Sewall*, and informing me of the misconduct of the Botel Tobago islanders toward the shipwrecked persons, and wishing that such ill treatment should not be repeated in future in the event of any other unfortunates being cast away on the island. In reply, I have the honor to state that with regard to the ill treatment shown by the Botel Tobago islanders toward the unfortunates of your nationality, this Government have efficiently and strictly censured them, and will warn them not to repeat such misconduct again in future.

S. Goto,
Chief of Civil Administration.

Mr. Griscom to Mr. Hay.

No. 33.]

AMERICAN LEGATION,
Tokyo, December 31, 1903.

SIR: I have the honor to refer to the report of the American vice-consul at Daitotei to the Department of the 23d November, in relation to the wreck of the American ship *Benjamin Sewall* off the Formosan coast and to the cruelty of the natives to members of the crew who reached Botel Tobago Island.

In view of the statement of our consul that he deemed the "censure" of the Formosan government to be inadequate to prevent future outrages of a similar nature, I addressed to the minister for foreign affairs a note, a copy of which is inclosed herewith, with a view to bringing about a thorough investigation of the incident by the Japanese Government and the punishment of the offenders.

A copy of the minister's reply, informing me that an investigation will be made, is also inclosed herewith.

I have, etc.,

LLOYD C. GRISCOM.

[Inclosure 1.]

*Mr. Griscom to Baron Komura.*AMERICAN LEGATION,
Tokyo, December 17, 1903.

MR. MINISTER: I have the honor to call the attention of your excellency to certain events which recently occurred on Botel Tobago Island, near the coast of Formosa.

The *Benjamin Sewall*, an American wooden ship of some 1,300 tons burden, was wrecked in a typhoon on October 4 last and was abandoned on October 5, the crew leaving her in boats. One of the boats reached the island of Formosa in safety with all its occupants alive and well; the other unfortunately reached Botel Tobago Island, and while the crew were seeking a convenient place to land natives came out from the shore in numbers, and after robbing the boat and its occupants deliberately hacked holes in it with their knives, pulled out the bottom plug, and when the boat was half full of water upset its crew into the sea, with the result that seven persons were drowned. Three American citizens and a Japanese woman, the wife of the third mate, an American, were among the drowned. Thanks to the efforts of the government of Formosa, the survivors reached the island of Formosa in safety. To Doctor Goto and the civil administration of Formosa the gratitude of the survivors and of my Government is due for their prompt efforts to discover and rescue the shipwrecked sailors and the subsequent assistance so kindly rendered them. The United States consul at Tamsui expressed his appreciation in a letter addressed directly to Doctor Goto.

Another aspect of the unfortunate incident was brought to the attention of Doctor Goto by the American consul in a letter of the 7th ultimo, wherein the hope was expressed that in the event of any other unfortunates being cast up on Botel Tobago the natives would treat them with more hospitality than they have hitherto shown. In Doctor Goto's reply to the above letter he states that "this government have efficiently and strictly censured them (the Botel Tobago islanders), and will warn them not to repeat such misconduct again in future." The consul now reports to me that "with all due respect to the Formosan government, I do not consider that severe and sufficient 'censure' will be a sufficient deterrent to the said natives from repeating the offense should occasion arise."

I have the honor to bring the matter to the knowledge of your excellency with a view to submitting to the high sense of justice of the Imperial Government the question as to whether a censure, however efficient and strict, is an adequate punishment for the murder of seven shipwrecked sailors. This is the second American vessel which has been wrecked on Botel Tobago Island within a year, and the matter is therefore one of considerable interest to American mariners. It is hoped that upon investigation it will be found necessary and advisable to administer to these islanders some punishment suited to their wild and savage condition.

I take advantage of this opportunity to renew, etc.,

LLOYD C. GRISCOM.

[Inclosure 2.—Translation.]

Baron Komura to Mr. Griscom.

Tokyo, December 29, 1903.

MR. MINISTER: I have the honor to acknowledge the receipt of your dispatch dated the 17th instant, calling the attention of the Imperial Government to the alleged outrages perpetrated by the natives of Botel Tobago Island, near Formosa, against the refugees of the American wrecked ship *Benjamin Sewall*.

I beg to say in reply, that I have lost no time in referring the matter to the Formosan government, and I shall not fail to communicate again with your excellency so soon as I shall be in receipt of the answer from the said government.

I avail, etc.,

BARON KOMURA JUTARO.

Mr. Loomis to Mr. Griscom.

No. 37.]

DEPARTMENT OF STATE,
Washington, February 4, 1904.

SIR: I have to acknowledge the receipt of your No. 33 of December 31 last, on the subject of the wreck of the American ship *Benjamin Sewall* and the killing of several members of her crew by the savages of Botel Tobago.

The note which you addressed to the foreign office on December 17, 1903, carries out in anticipation the instructions of the Department's No. 30, addressed to you on the same day your dispatch was written, and is approved.

The Department desires this matter to be kept in mind to the end that some measure may suggest itself to the Japanese Government that will act as a future deterrent to these savage islanders, and will afford protection to shipwrecked mariners in that locality.

I am, etc.,

F. B. LOOMIS,
Acting Secretary.

Mr. Griscom to Mr. Hay.

AMERICAN LEGATION,
Tokyo, March 14, 1904.

SIR: I have the honor to acknowledge the receipt of the Department's instructions, No. 37, of February 4, approving my note to the Japanese foreign office, dated December 17, 1903, on the subject of the wreck of the American ship *Benjamin Sewall* and the killing of several members of her crew by the savages of Botel Tobago.

In the same connection I beg to inclose herewith copy of a note from the minister of foreign affairs of date March 2, informing me in detail of the drastic measures taken to punish the offenders, as a result of his correspondence on the subject with the Formosan government. The minister expresses his extreme regret that the native tribes in question should have behaved so revoltingly and cruelly toward the shipwrecked Americans, and the hope that my Government will be satisfied with what the Japanese authorities have done in the matter.

I have, etc.,

LLOYD C. GRISCOM.

[Inclosure.]

Baron Komura to Mr. Griscom.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, March 2, 1904.

MR. MINISTER: In reference to your excellency's note, dated 17th December last, in which you called the attention of the Imperial Government to the wild actions of the natives of Botel Tobago Island, near Taiwan, toward the shipwrecked persons of the *Benjamin Sewall*, an American vessel, on October 5 last, when they were cast up on that island, and referring also to my note, under date of December 29, in which I informed you in reply that I have at once referred the matter to the Taiwan government, requesting them to make a full investi-

gation on the subject, while assuring to inform you again immediately on receipt of definite information from the Taiwan government, I have now the honor to inform you of the result, after much correspondence with the said government.

The Taiwan government at length decided to dispatch a large force of police and attack the native islanders. The police started on January 27, at night, under high wind and heavy seas, and on arriving at Botel Tabago Island they divided into three parties for the purpose of assaulting the native tribes called "Iwakinu," "Iwanumiruku," and "Iratat." Early next morning, before dawn, they besieged each tribe and searched for over eight hours and endeavored to find out actual perpetrators, with the result that 10 of the would-be guilty ones, including the chiefs and important members of the tribes were captured and 13 houses burned down, swords, spears, and other dangerous weapons being seized.

Most of the islanders, however, on discovering the landing of the police had run away into the neighboring mountains with fright. The police pursued them and tried to capture them, but the efforts were in vain. Subsequently they have stationed eight policemen there for the time being, to keep further vigilance and to subdue other tribes, giving necessary instructions as to what they should do for the purpose. The 10 captives were transported to the Taito government and are kept there in custody.

It is my extreme regret that the native tribes in question should have behaved so revoltingly and so cruelly toward the shipwrecked persons of your country, and I can assure you that the Imperial Government have tried every means in their power to find out the actual perpetrators of such actions. But the islanders, being so obstinate and secretive would never disclose the secret of each other, and all efforts on the part of the authorities to cause them to confess who are actually guilty of such conduct proved fruitless. Under the circumstances the authorities could not do otherwise than to resort to such steps as were just mentioned in way of general punishment, and I believe the islanders will not dare to repeat such barbarity in future. So I sincerely hope that your excellency will be satisfied with what the Imperial Government have done in the matter, though I need hardly say that should the actual malefactors be caught at any future time they will be subjected to proper punishment under provisions of law.

I avail, etc.,

BARON KOMURA JUTARO.

Mr. Hay to Mr. Griscom.

No 51.]

DEPARTMENT OF STATE,
Washington, April 9, 1904.

SIR: I have to acknowledge the receipt of your unnumbered dispatch of the 14th ultimo, advising me of the measures taken by the Japanese Government to punish certain Formosan tribes whose members attacked and murdered several shipwrecked American seamen of the *Benjamin Sewall*.

The Department appreciates the efforts made by the Japanese Government to apprehend and punish the perpetrators of the outrages referred to, and trusts that the punishment visited on the offenders will be of such a nature as to deter the natives from any further crimes of this sort.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Griscom.

No. 53.]

DEPARTMENT OF STATE,
Washington, April 14, 1904.

SIR: I inclose herewith for your information a copy of a dispatch from Mr. Lambert, vice-consul, in charge of the American consulate

at Tamsui, reporting the punitive measures taken against the Botel Tobago natives for their ill treatment of the crew of the American ship *Benjamin Sewall*.

You will call the attention of the Japanese Government to the three suggestions which Mr. Lambert makes.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Lambert to Mr. Loomis.

No. 101.]

AMERICAN CONSULATE,
Daitotei (Tamsui), Formosa, February 19, 1904.

SIR: In reference to the wreck of the ship *Benjamin Sewall*, I have the honor to herewith inclose a detailed account of the attack by the Formosan authorities upon the natives of the Botel Tobago Island.^a I have sent similar documents to the American minister at Tokyo.

In connection with the above matter, I have the honor to inform you that on receipt of his communication I at once called upon Doctor Goto, chief of the civil administration, Formosan government, to thank him for undertaking these punitive measures. He assured me that it is the Formosan government's earnest desire that the actual participators in the murders should be brought to justice, and that it is the intention of the government to hang the ringleaders should they be discovered. For the government to put hands upon the right parties is, however, a task of great difficulty, as no person has as yet been found who can speak the dialect of the Botel Tobagoans.

I understand that natives from the neighboring coast of Formosa were taken to the island in the hope that they might perform the duty of interpreters to the attacking force. These hopes were not realized, as the Formosan natives could not understand the islander's dialect.

In the absence of distinct proof, the Formosan government is loath to execute the death penalty on any of the natives at present incarcerated in Taito-cho prison. Doctor Goto informs me that such a course would only lead to further retaliations in the future, should innocent natives suffer the extreme penalty of the law. From what I know of the Formosan aborigine, as seen in the person of the head hunter, I feel certain that the fears of the chief civil administrator would be justified did he pursue a course of retaliation on general principles.

In the meantime I have his assurance that the captured natives will be kept in prison pending the result of further measures on the part of the government to discover the right culprits.

I fancy that the government is rather at a loss itself as how to deal most satisfactorily with the case. I have therefore written to the American minister at Tokyo the following suggestions, which, if he considers suitable, might be suggested to the Japanese Government as a means of preventing such lamentable occurrences in the future.

First. That three or four of the principal chiefs of the villages known to have been implicated in the outrage shall be detained as hostages for the good behavior of their tribesmen for a period of not less than three years, and that the place of their detention be the jail at Taihoku, where an opportunity would present itself for a mastering of their dialect by some responsible officials.

Secondly. That the police force on the island of Botel Tobago be increased in numbers, particularly during the typhoon season when wrecks are most likely to occur.

Thirdly. That in the event of any further outrages occurring the hostages be promptly made to pay the penalty.

These measures would have the additional advantage of bringing natives and officials in closer touch to the furthering of law and order.

I have, etc.,

A. C. LAMBERT.

^a Not printed.

Mr. Griscom to Mr. Hay.

No. 87.]

AMERICAN LEGATION,
Tokyo, Japan, June 14, 1904.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 53 of April 14, 1904, inclosing for my information and for the attention of the Japanese Government a copy of a dispatch from Mr. Lambert, vice-consul, in charge of the American consulate at Tamsui, offering several suggestions to further restrain the inhabitants of the island of Botel Tobago who were implicated in the ill treatment of the survivors of the shipwrecked American vessel the *Benjamin Sewall*.

I immediately called the attention of the Japanese Government to Mr. Lambert's three suggestions in a note to the minister for foreign affairs (a copy of which is herewith inclosed) and am now in receipt of his reply (a copy transmitted herewith), in which he says that the purport of my note had at once been communicated to the proper authorities.

I have, etc.,

LLOYD C. GRISCOM.

[Inclosure 1.]

Mr. Griscom to Baron Komura.

AMERICAN LEGATION,
Tokyo, May 25, 1904.

MR. MINISTER: With reference to my note which I had the honor to address to your excellency regarding the appreciation felt by my Government for the punitive measures visited by the Imperial Japanese Government upon the inhabitants of Botel Tobago Island for their inhuman behavior toward the survivors of the shipwrecked American vessel *Benjamin Sewall*, I have the honor to state that I am directed by my Government to convey to you some suggestions, which Mr. Lambert, vice-consul, in charge of the American consulate at Tamsui, has ventured to offer with a view to assisting the Imperial Japanese Government in further restraining the natives from the commission of like crimes.

It appears from information given Mr. Lambert by Doctor Goto, chief of the civil administration bureau, Formosan government, that a difficulty encountered by the Imperial Japanese Government in their earnest endeavors to fix the responsibility for the outrage was that no one, apparently, was able to speak the dialect of the Botel Tobagoans. Therefore the suggestion is made that three or four of the principal chiefs of the villages known to have been implicated in the outrage be held as hostages for the good behavior of their tribesmen for a period of not less than three years, and that the place of their detention be the jail at Taihoku, where an opportunity would present itself for some responsible official to acquaint himself with their dialect. It is also suggested that it might be well to increase the police force on the island of Botel Tobago, especially during the typhoon season when wrecks are more likely to occur, and, furthermore, in the event of the recurrence of such outrages the hostages be promptly made to pay the penalty.

I take, etc.,

LLOYD C. GRISCOM.

[Inclosure 2.]

Baron Komura to Mr. Griscom.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, June 8, 1904.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's note of the 25th ultimo regarding the inhuman behavior of the inhabit-

ants of Botel Tobago Island toward the survivors of the shipwrecked American vessel the *Benjamin Sewall*, and I beg to inform you in reply that the purport of the same has at once been communicated to the proper authorities.

I avail, etc.,

BARON KOMURA JUTARO.

VISIT OF PRINCE SADANARU FUSHIMI TO THE UNITED STATES.

Mr. Takahira to Mr. Hay.

No. 78.]

LEGATION OF JAPAN,
Washington, October 12, 1904.

SIR: Referring to my previous conversations with you, I now have the honor to inform you that the Emperor, my august sovereign, desiring to strengthen by every means possible the relations of amity and good correspondence that bind together the United States and Japan has been pleased to order His Imperial Highness Prince Sadanaru, of the House of Fushimi, to proceed to the United States for the double purpose of conveying to the President His Imperial Majesty's message of the cordial good will and friendship, and of visiting the Louisiana Purchase Exposition now being held at St. Louis.

His Imperial Highness will leave Yokohama for San Francisco on the 22d instant in the steamship *Manchuria*, accompanied by Mr. Sato, minister resident and acting grandmaster of the Fushimi-no-Miya, Count S. Terashima, Maj. S. Mihara of the imperial infantry, Mr. N. Watanabe, master of ceremonies of the imperial household, and others. As to other particulars concerning the intended visit of the Prince, I will bring them to your notice as I shall be definitely informed thereof.

Be pleased, etc.,

K. TAKAHIRA.

Mr. Hay to Mr. Takahira.

No. 172.]

DEPARTMENT OF STATE,
Washington, October 15, 1904.

SIR: I have the honor to acknowledge the receipt of your note, No. 78, of the 12th instant, informing the Department that His Imperial Highness, Prince Sadanaru, of the house of Fushimi, is coming to the United States for the purpose of conveying to the President His Imperial Majesty's message of cordial good will and friendship and of visiting the Louisiana Purchase Exposition, and that later on you will inform the Department as to other particulars of the Prince's visit.

In reply, I have the honor to say that a copy of your note has been sent to the president of the exposition for his information.

Accept, etc.,

JOHN HAY.

Mr. Griscom to Mr. Hay.

No. 124.]

AMERICAN LEGATION,
Tokyo, Japan, October 19, 1904.

SIR: Referring to legation unnumbered dispatch of September 19, in relation to the visit of His Imperial Highness, Prince Fushimi,

to America, I have the honor to report that on the 10th instant His Highness entertained me and the staff of this legation at dinner at his palace, and that on the 14th I gave a farewell dinner in honor of the Prince, at which were present, in addition to His Highness, Marquis Ito; Field Marshal Marquis Yamagata, chief of staff of the army; Major-General Murata, assistant chief of staff; Lieutenant-General Terauchi, minister for war; Baron Komura, minister for foreign affairs; six gentlemen of the staff of Prince Fushimi; also the members of this legation. During the course of the dinner I proposed the health of His Majesty, the Emperor of Japan, and Prince Fushimi, in reply, courteously proposed the health of the President of the United States. A toast to the health of Prince Fushimi, wishing him an agreeable voyage to America, was then proposed.

I am informed that the Prince will proceed at once to Washington, and should arrive there about the same time as this dispatch. * * * He is the senior prince in the Empire and comes next to the Emperor in the Imperial councils, according to the Japanese family system. Prince Fushimi is, therefore, of a rank and importance that is deserving of every consideration. He is a soldier, and commanded a division at the battle of Nanshan and during the earlier operations against Port Arthur. He is the highest prince that could have been selected to go to America, in view of the fact that Prince Arisugawa's health would not permit him to make such a journey. Prince Arisugawa is a closer blood connection of the Emperor and comes next to the Crown Prince in the order of succession, but, as stated before, he is junior to Prince Fushimi in the Imperial councils.

* * * * *

I have, etc.,

LLOYD GRISCOM.

Mr. Hioki to Mr. Hay.

No. 87.]

LEGATION OF JAPAN,
Washington, November 10, 1904.

SIR: I have the honor to inform you that his Imperial Highness Prince Sadanaru Fushimi and suite have left San Francisco at 10 o'clock this morning and are due at Washington the 14th instant. I beg to add hereto the following revised list of the members of the suite of his Imperial Highness:

Mr. A. Sato, grand master to the household of his Imperial Highness Prince Sadanaru Fushimi; Count S. Terashima; Maj. S. Mihara, aid de camp to his Imperial Highness Prince Sadanaru Fushimi; Mr. N. Watanbe, master of ceremonies to his Imperial Majesty the Emperor of Japan; Dr. K. Rokaku, physician to his Imperial Highness Prince Sadanaru Fushimi.

Accept, etc.,

EKI HIOKI.

Mr. Takahira to Mr. Hay.

[Telegram.]

NEW YORK, *November 19, 1904.*

I am informed that Prince Fushimi left Washington yesterday deeply impressed with the manner in which he was welcomed and received by the President and the officials of the United States Government. In expressing my sincere gratitude for the hospitality and courtesy extended to the Prince I beg to assure you, Mr. Secretary, that such a warm reception as was given to our imperial visitor will be always remembered by the whole Japanese nation.

K. TAKAHIRA.

KOREA.

ATTACK ON AMERICAN PROPERTY BY KOREAN SOLDIERS.

Mr. Allen to Mr. Hay.

No. 671.]

AMERICAN LEGATION,
Seoul, Korea, February 18, 1904.

SIR: I have the honor to hand you confirmation of my telegram of to-day regarding the attack of last evening upon an electric car belonging to the (American) Seoul Electric Company.

The attack was made by soldiers without any real provocation. Some allowance must be made, however, for the condition of affairs in this city. * * * The damage, moreover, was slight in this case as compared with previous ones. It would have been serious, however, had it not been for the presence of the American guard.

I send you inclosed the report made to me by Messrs. Collbran and Bostwick on the subject and a copy of my letter to the acting minister for foreign affairs.

I have, etc.,

HORACE N. ALLEN.

[Inclosure 1.]

Telegram of February 18, 1904.

Last night a company of Korean soldiers attacked electric carriage, property of American citizens, damaging it and injuring operator. American seamen quieted the disturbances.

[Inclosure 2.]

Messrs. Collbran and Bostwick to Mr. Allen.

SEOUL, KOREA, *February 18, 1904.*

DEAR SIR: Herewith we beg to hand you a copy of our assistant manager's report giving particulars of the incident that occurred last night, and which but for the presence of the American guard in Seoul might have had serious results, as the Pyeng Yang soldiers, to say the least, are not well controlled by their officers.

No provocation was given by the crew of the car and not the slightest justification existed for the brutal assault made upon them.

The injured conductor is now in the American hospital, where his wounds have been dressed; but we are in hopes he can resume duty in a few days.

When the alarm reached the main building by means of one of our Korean employees, who could not quite make himself understood, the officer in charge turned out with a squad of men and hurried to the scene of the trouble; but fortunately the trouble was all over and their services were not needed.

Mr. Morris reports that the conductor was cut with an unattached bayonet.

The damages to the car can be repaired for \$25 or \$30, and is too trifling a sum to file a claim for. We beg, however, to call your attention to the conduct of the Korean soldiers.

Yours, respectfully,

COLLBRAN AND BOSTWICK.

[Subinclosure.]

Mr. Morris to Mr. Bostwick.

SEOUL, February 18, 1904.

DEAR SIR: The following is a report of the trouble last night. Run No. 21, car No. 18, conductor Kim Yung Soon, motorman Chun Chang Un, turning in from South Gate at 8 p. m., arriving at Chong Mu switch at 8.16 p. m., found a cart in charge of soldiers loaded with bedding, guns, etc., stuck in the spring switch. The motorman asked them to hurry and get it out. In their hurry they broke the axle, which made them angry, and they took their revenge by catching the conductor and motorman and beating them. The motorman got away, but the conductor was cut badly in two places on the head. I took him to Doctor Ernsburger at East Gate. In one of the cuts the doctor put two stitches.

The car had three windows broken and the iron rod for hanging the headlight on, also the beading around the bottom of the windows was all torn off. The car would have been damaged much more if Hong Tuk Sung, office boy, and ticket agent Kim In Sung hadn't run it back to Chong No when the soldiers ran after the motorman. After beating the conductor they took him to their quarters at Pai O Gai, and the officer in charge let him go, telling him he was not to blame in any way. The weapon used in beating the conductor was a bayonet detached from a gun.

Yours, very truly,

J. H. MORRIS,
Assistant Manager.

[Inclosure 3.]

Mr. Allen to Mr. Ye Cho Yong.

AMERICAN LEGATION,
Seoul, Korea, February 18, 1904.

YOUR EXCELLENCY: I regret to have to inform your excellency that at about 8.30 p. m. yesterday a car of the Seoul Electric Company was attacked by Korean soldiers just west of the electric office building, the cause being that the soldiers seemed to be enraged because the motorman rang his bell for them to remove a cart from the track. The conductor of the car was injured by the soldiers and the car was damaged. Further injury was prevented by the approach of American marines from the Electric Company's office building.

As it will be easy to ascertain the facts in this case, I trust to be soon informed regarding the steps your excellency's Government proposes to take to punish these soldiers and prevent a recurrence of these disagreeable incidents.

I take this, etc.,

HORACE N. ALLEN.

Mr. Hay to Mr. Allen.

DEPARTMENT OF STATE,
Washington, April 6, 1904.

SIR: I have to acknowledge the receipt of your No. 671 of February 18 last, reporting the damage done to a car belonging to the Seoul Electric Company by a body of Korean soldiers.

The Department approves your note to the Korean minister for foreign affairs asking that the guilty parties be punished.

I am, etc.,

JOHN HAY.

Mr. Allen to Mr. Hay.

No. 738.]

AMERICAN LEGATION,
Seoul, Korea, May 10, 1904.

SIR: In my No. 671, of February 18 last, I informed you of an attack by soldiers upon one of the cars of the electric company. I have your reply to this letter dated April 6, in which you express the Department's approval of my note to the Korean minister for foreign affairs asking that the guilty parties be punished.

I therefore now have the honor to hand you the final note on the subject from the Korean foreign office dated April 23, handing me the results of the investigation held by the military court. Each party seems to have been found guilty and each to have received sufficient punishment, so that the case might be considered settled by being balanced. The incident is valuable in showing that some recognition was taken of the action of the soldiers.

I have, etc.,

HORACE N. ALLEN.

[Inclosure.]

Mr. Ye Ha Yong to Mr. Allen.

APRIL 23, 1904.

YOUR EXCELLENCY: I have the honor to inform you that I have received a dispatch from the military court in regard to the quarreling between a motorman and a soldier, stating that when the court was trying them the soldier said it was night when he drove a wagon with rifles loaded on it, there was much snow heaped on the road at the front of Chong Myo (the Imperial Ancestors Temple), where he could not walk freely, so he stood in the middle of the railroad because there was no snow. Soon after that he saw an electric car running down, so he called for it to stop, but the motorman ran the car as if he did not hear, and struck the wagon and injured the soldier and damaged his wagon and part of the rifles. At the time there were a number of soldiers passing by, and they actually beat the motorman.

The motorman, Kim Chang Un, said at the time the distance was not exceeding half a kan (4 feet), so he could not stop, even though he heard the soldier calling to stop, but when he stopped the car he found the soldier injured and things damaged. And another motorman, Kim Yong Sun, said at the time the barracks were being removed, so there were many soldiers scattered over the road, that some of them kicked the motorman with their feet and some slapped him with their hands, in the dark night, therefore he could not know who actually beat him. So he might have been beaten by other passing soldiers. In addition to that he said: "It is my fault that I could not stop when I heard the calling to stop."

On investigation, the soldier who stood in the center of the railroad violated the rule of the company. He has been properly punished for it; and the motorman who could not stop the car when he heard the calling to stop, and caused the man and things to be injured, must also be in fault for carelessness.

I wish your excellency will consider the case and send word to the electric company to tell the motorman to be more careful hereafter.

YE HA YONG,
Minister for Foreign Affairs.

PROTECTORATE OVER KOREA BY JAPAN.

Mr. Allen to Mr. Hay.

No. 681.]

AMERICAN LEGATION,
Seoul, Korea, February 27, 1904.

SIR:

* * * * *

Mr. Hayashi, the Japanese minister, during his call on yesterday afternoon handed me a translation of the new agreement with Korea, a copy of which I inclose.^a

* * * * *

I have, etc.,

HORACE N. ALLEN.

^a Agreement printed under Japan, page 437.

LIBERIA.

IMMIGRATION OF AMERICAN NEGROES TO LIBERIA.

Mr. Lyon to Mr. Hay.

No. 11. Diplomatic series.]

AMERICAN LEGATION,
Monrovia, September 23, 1903.

SIR: I have the honor to inform you that, in the month of February of the present year, a party of fifty-six colored persons, consisting of males, females, and children, left Erwin County, Ga., as emigrants for Monrovia, Liberia, under the leadership of one B. J. Scott.

Upon their arrival the Liberian Government did its best to assist them in overcoming the rigor of the climate and in supplying them with some food until the land which had been given them could produce something for their sustenance.

Since then, however, twenty of the number have died at Cheesemanburg, the place assigned them by the Government. For the lack of homes they were all put in a house of two rooms, where they died one after another, with the fever, from want of food and medicine.

Thirty-six of this number still remain in a sickly and destitute condition. Sixteen are still at Cheesemanburg. Twenty-two have returned to Monrovia. These are ragged, starving, and homeless. Five of these will return to the States by the first English steamer to Liverpool, on or about the 1st of October, 1903. Their transportation having been arranged for by friends in the United States.

There being no provision for relief in cases of this kind, we had to help them from our private purse. We soon, however, discovered that we could not give much charity to twenty-two persons for any length of time, for food is scarce and the prices are enormous.

* * * * *

I shall, in a separate dispatch, transmit some emigration documents and the result of an interview with His Excellency, the President, and with members of the cabinet.

I have, etc.,

ERNEST LYON.

Mr. Lyon to Mr. Loomis.

AMERICAN LEGATION,
Monrovia, February 15, 1904.

SIR: In accordance with my dispatch No. 11, dated September 23, 1903, and addressed to the Hon. John Hay, I have the honor to report to you the result of an inquiry into the nature of the opinions held on the subject of immigration, by the most prominent citizens and the highest government officials of this Republic.

Dr. W. C. Greene, the most prominent physician in the active practice of the Republic, speaking on this subject, said: "As to the poor, ignorant classes that would and do come to look for riches, as they are told, the last is a living experience for me. These should be protected by us and warned against ever coming here. There is nothing generally but death for these, for they are so poor they have no money to get back to the place where they were doing well, and no money to buy the necessary amount of food they could get here, so that most of them will surely die of disease and hunger."

The Rev. L. C. Curtis, superintendent and acting bishop of the A. M. E. Church work in Liberia and the coast, among other things, writes: "Liberia needs immigration, but a select number of immigrants. Men with brains and money. Men who can make business and give jobs; not men who come to look for jobs. I do trust you will do all in your power to prevent any more poor immigrants from coming to Liberia until Liberia is in a position to take care of them."

The Rev. C. A. Lincoln, pastor of the leading Methodist Episcopal Church in the Republic, expresses his view in these words: "An absolute discriminate immigration is needed and, therefore, preferred in Liberia. Such as a class possessing the characteristics capable of enabling the possessors to contribute largely their quota toward the advancement, development, and betterment of the Republic along the lines of Christian religion, various industries, statecraft, education, finance, etc. A class of decent, respectable, self-relying, energetic, progressive, loyal, and patriotic men and women. I do not favor a wholesale conglomeration of heterogeneous immigration to Liberia to-day."

Col. Anthony Williams, ex-secretary of war and navy, after describing the class of men wanted in Liberia, says if they are not that class: "It would be far better for our Afro-American friends, no matter who they may be, to remain in the United States and work their destiny there, where they are better understood and more appreciated; where their opportunities for development will be far greater than could be expected in a new country."

The Right Rev. Bishop Samuel D. Ferguson, of the Protestant Episcopal Church, and residing in Liberia, states the facts in this able manner: "Notwithstanding the sad experience of recent years, those who have the management seem not to be sufficiently mindful of the necessity of providing for the comfort of the newcomers to this country. At the very best, some degree of suffering is always to be expected owing to the change of climate and the hardships incident to settlement in a new country. How much more when little or nothing is done to afford relief. In former years, when the American Colonization Society had the management of these matters, the necessary preparation was always made for each expedition beforehand. Receptacles were built, physicians and nurses employed, food, medicines, and other essentials provided, and everything done to promote the health and well-being of the people whom they sent out. The circumstances under which immigrants come to the country now have changed; but the necessity for similar provision for their maintenance and care will always exist. Indeed, for their good as well as for the good of this Republic, they should not be allowed to come unless some such arrangements are previously made. Even under

the management of the said society, there were sometimes dissatisfied persons, who were anxious to return to the land whence they had come. But the percentage of such was never as great as at present, though it is owing, perhaps, to the financial condition of the immigrants, those who were not able to pay their way back having had to content themselves and remain. But aside from this consideration, it is a known fact that there has been much suffering among the people of recent expeditions, caused by a lack of previous arrangements for their well-being, and those of them who have returned to America must have carried a very unfavorable report of the country. It is a mistake; there is nothing the matter with the country. Why should it be blamed because people will not exercise a little judgment? Let them go to any other country in the same silly manner and they will find suffering awaiting them likewise. In cases where individuals or families come to Liberia on their own responsibility—i. e., unconnected with any regularly organized company, it seems to me there should be an immigration bureau under Government appointment, with whom all such persons should correspond before coming in order that information might be had and the necessary arrangements made for them.

Dr. A. P. Camphor, president of the College of West Africa, published in the college paper a set of resolutions adopted by the Methodist Episcopal Conference at one of its recent sessions, and containing the following paragraphs:

Resolved, That we do encourage the immigration of such persons as have means enough to establish themselves comfortably and enough to support themselves for at least six months in this country; also that we do encourage men and women who have trades and professions in preference to those who have not, and those who have at least a common school education.

Resolved, That we invite our brethern to come over in small parties; but we discourage wholesale immigration, as we feel that it works injury to the country and to the few who might make a success.

Doctor Camphor, commenting on the resolutions aforesaid, at the time of publication, said: "A great many people abroad are of the opinion that wholesale and indiscriminate immigration is desirable in Liberia. But they do not express the views of the people here, as far as we have been able to observe. The sentiments expressed in the foregoing come from one of the oldest and most representative Christian bodies in the country. What it says is worthy of respect and consideration by those who are interested to know the thought of the people in Liberia on this question."

The Hon. T. W. Haynes, retiring attorney-general of Liberia, after stating his position and supporting it with the clearest reasoning and abundance of facts, uses the following language: "Long before this time I have come to the conclusion, from observation of the class of people coming to this country from America, especially within the last four or five years, and the results which have followed, that in spite of what the most learned advocates of a wholesale immigration to Liberia of an indiscriminate class of negroes have said and may still say, I maintain that it is not just the best thing for Liberia at present."

The Hon. Robert Sherman, secretary of war and navy, and regarded as one of the best informed men in Liberia, thus describes the class of negroes wanted in Liberia: "It is the spirit of every

intelligent Liberian to encourage immigration, especially that class of negroes that would be a blessing to the country and race. In my opinion Liberia stands much in need of that kind that will forget that they were Americans and consider themselves Liberians in spirit and in truth. A class that will come here with push, energy, and a self-sacrificing and an industrious spirit in them, that class that will laugh at impossibilities, hardships, privation, and the African fever; then all things would become possible unto them, and in a few years by patiently toiling they would not regret their coming here, for they would become wealthy and independent citizens on their own soil."

The Hon. Daniel E. Howard, secretary of the treasury, expressed himself in these fitting words: "The people of Liberia are ready and willing to welcome all worthy and thrifty negroes who have a right idea of manhood and freedom, and who are willing to endure hardships and are really persuaded in their own minds that they can live in Liberia. If those who desire to emigrate have really gotten enough of all they can get out of America, the good and the bad, then, and not till then, let them come. They must be willing to leave the fleshpots as well as the lynching. Of course, every sane person will agree that an indiscriminate, heterogeneous, wholesale influx of negroes or anybody else would be undesirable here or anywhere else."

The Hon. S. T. Prout, postmaster-general of the Republic, couched his views in this appropriate paragraph: "Too many should not come at one time. They should be able to support themselves for at least six months, and prepared to build their houses, and open farms, etc. The kind of immigration wanted: First. Men and women who are not ignorant, worn-out, or needy. They will only be a burden to our Government. They should, therefore, be skilled laborers, and possess a certain amount of capital to give them a start. Second. They should bring their books, if professional men; or their tools and implements, if mechanics or farmers. Doctors should come supplied and prepared for work. Third. Men and women are wanted who are patriotic lovers of freedom; self-reliant men, men of push, men who can originate ideas and execute them, responsible men, men who come determined to stand by the Republic of Liberia and succeed as she succeeds, or fail as the Republic fails. Moral, industrious, Christian men. These are the men and women wanted to emigrate from America to Liberia. Anything short of this had better remain where they are."

The Hon. Thomas W. Howard, postmaster of Monrovia, in delivering the oration on the fifty-sixth anniversary of the Republic, and after depicting the horrors which have attended the coming of immigrants in recent years, continues: "Some of them sicken and die, while the greater portion of the rest long to return to the fleshpots of Egypt. Will you then say, my fellow-citizens, that more of this kind are needed to assist in the development of Liberia? I say, no! We want men of honor, men of tact and talent, men of skill, ability, and purpose, free from any other motives saving to assist in the upbuilding of this our negro nationality."

His Excellency the Hon. Arthur Barclay, President of Liberia, speaking in his inaugural address on the subject of immigration, employed these words: "This question profoundly interests us.

Placed in the middle of a large semicivilized population there is great desire that we have more centers of civilization. The Liberian has been wont to regard the country as held in trust for his relatives in the United States. The colored American, or, rather, the class that would be a valuable acquisition to the country—the men of some culture, the small capitalist, and the man of initiative and push, are not inclined at present to come to Liberia. The leaders of the colored people are opposed to emigration to Liberia. They are in the fight for social and political equality with the white American. The success of the struggle is for them very doubtful, if not entirely hopeless. The negro masses are being lifted gradually and slowly, learning self-reliance, thrift, and initiative. It is important that the intending immigrant possess these qualities, and it can not be denied that the country is not prepared for the movement. While preparing a home the immigrant must have facilities for procuring work. At present these do not exist. There is a class of men slowly coming into the country who will likely prove a most useful acquisition. They are rather above the average. As the country develops and opportunities offer they will encourage their friends to come over. This class should zealously be encouraged. About the masses our policy should be ‘Hasten slowly.’ * * * I regret the glowing account so often published with respect to Liberia. It attracts an undesirable class of persons who are as useless here as in America.”

The foregoing contains every expression of opinion possible to be obtained from the communications sent out on the subject of immigration. They are submitted without comment. In submitting them, however, it is hoped that the position of the legation of impartially giving the facts will not be misunderstood by the American public, to whom some previous dispatches have been given. This information is for the class of negroes who are not prepared to come to Liberia, and whose coming in the future as in the past will be attended with suffering and death and a few possible returns to the United States. The legation does not oppose the right kind of immigration. The effort is to prevent the coming of that class which is a tax upon the legation and the limited resources of the community.

I have, etc.,

ERNEST LYON.

Mr. Lyon to Mr. Hay.

No. 53.]

AMERICAN LEGATION,
Monrovia, June 14, 1904.

SIR: I have the honor to inclose an editorial which appeared in one of the newspapers published in Monrovia, Liberia. This is one of many editorial expressions in approval of the position we have taken upon the subject of emigration.

* * * * *

I have, etc.,

ERNEST LYON.

[Inclosure.]

LIBERIA AND WEST AFRICA.

The attention of the people has been naturally drawn to Liberia, since this country was founded by American philanthropy as an asylum for the oppressed of the negro race.

* * * * *

We seriously question some methods employed by radical American negroes to obtain recruits for Liberia. They will not benefit Liberia if they do not prove disastrous to the immigrants themselves. We are not opposed to immigration if the right sort can be had. For one or two families to come at a time with sufficient means to be independent until a foothold can be secured, is the course we would advise. There are avenues open here where, with a little money and common sense, one can make an independent living. Prospective immigrants need not be led astray by being told what the old settlers have done with almost nothing. The conditions have changed. The old settlers who accumulated small fortunes did so in trading and at a time when conscience was not considered in trading with natives. Those were times when traders were few, and returns on investments were expressed in three figures and sometimes four. Fortunes must be made in other ways now.

We think President Barclay understands what he is talking about, and the sentiments expressed in his inaugural address are well worth considering. Referring to the question of immigration on a large scale, he said: "It can not be denied that the country is not prepared for the movement. While preparing a home the immigrant must have facilities for procuring work. At present these do not exist."

MEXICO.

IMPRISONMENT OF H. C. HARDING AND H. E. DUGAT IN MEXICO.

Mr. Hay to Mr. Clayton.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 28, 1904.

(Mr. Hay instructs Mr. Clayton to inquire into the circumstances connected with the imprisonment of Harding and Dugat, which took place at Matamoros, for a technical but insignificant infraction of local laws, and if the facts in the case seem to warrant it to use his good offices to effect their release.)

Mr. Clayton to Mr. Hay.

No. 2128.]

AMERICAN EMBASSY,
Mexico, January 29, 1904.

SIR: I have the honor to acknowledge the receipt of your telegram of yesterday.

* * * * *

This matter had already received attention at my hands, having been brought to my knowledge by the consul at Matamoros, by telegram, copy herewith.

On the 14th instant I addressed a note to the foreign office, copy inclosed, requesting that such prompt action be taken by telegraph as would lead to a proper disposition of the case. I inclose copy and translation of Mr. Mariscal's reply stating that the matter was referred to the treasury department for as early a report as possible.

* * * * *

On the 21st instant I telegraphed the consul, asking the status of the case and to keep me advised. To which he replied, by telegraph, on the 25th instant, stating that the men had not then been released. Thereupon, on the 26th instant, I, by note, brought the matter to Mr. Mariscal's attention, copy inclosed, reiterating my request for prompt action.

If the matter proves to be, as reported in the consul's first-mentioned telegram, I hope soon to be able to report the release of the accused.

I have, etc.,

POWELL CLAYTON.

[Inclosure 1.—Telegram.]

*Mr. Griffith to Mr. Clayton.*AMERICAN CONSULATE,
Matamoros, January 13, 1904.

H. C. Harding and H. E. Dugat, both born and now American citizens and strangers of only about two weeks' time in the Republic of Mexico, have for the last ten days been held under arrest in this city of Matamoros for failure to comply with article 690, section 3, of the law *internacion de mercancias procedentes de la zona libre*, which law requires a permit costing but 25 cents, Mexican money, to take goods beyond the city limits of said city of Matamoros. They had purchased from a Mexican store in Matamoros groceries for their own personal consumption amounting to \$11.37, Mexican money, and were openly returning to their camp, near Matamoros, where they were working upon a rice farm, when they were arrested just outside the city limits by a Mexican customs guard in the garita named Manuel Arguelles, whom they had just openly passed in their two-horse wagon, in which said groceries were being carried, said guard not having stopped or notified them as they passed. Upon a very careful and full investigation I am satisfied that the offense of these men, if any, was purely technical, insignificant in itself, and one in entire ignorance of the law, and even if knowingly guilty of such a trifling offense their arrest and confinement for the past ten days is in itself a very severe and ample punishment. The sympathy of the most prominent and reliable persons in this city regardless of nationality is strongly in favor of these men. In view of the foregoing, and the absolute truth and justice of the matter, I most earnestly appeal to you, in the proper protection of our American citizens, to use your immediate and most earnest efforts in the proper quarters to have the case against these men at once dismissed, and that they be at once liberated and all of their property immediately restored to them.

P. MERRILL GRIFFITH.

[Inclosure 2.]

*Mr. Clayton to Mr. Mariscal.*AMERICAN EMBASSY,
Mexico, January 14, 1904.

MR. MINISTER: I have the honor to transmit, herewith, a copy of a telegram of yesterday from the American consul at Matamoros concerning the arrest of the American citizens H. C. Harding and H. E. Dugat at that place.

According to the consul's statement, which I have every reason to believe to be correct, the offense would seem to be of a trival character, not meriting such harsh treatment.

I beg that your excellency will take such prompt action, by telegraph, as will lead to a proper disposition of this case.

I have, etc.,

POWELL CLAYTON.

[Inclosure 3.—Translation.]

*Mr. Mariscal to Mr. Clayton.*DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, January 14, 1904.

MR. AMBASSADOR: I have had the honor to receive the note of this date with which your excellency was pleased to transmit a copy of a telegram from the American consul at Matamoros relating to the arrest of Messrs. H. C. Harding and H. E. Dugat for infraction of the fiscal laws.

In reply I have the pleasure to say to your excellency that I have referred the said note to the department of the treasury, with the request that it will ask for a report upon this matter as soon as possible and that it will transmit the same to this department, of which I will take care to inform your excellency.

I renew, etc.,

IGNO. MARISCAL.

[Inclosure 4.]

*Mr. Clayton to Mr. Mariscal.*AMERICAN EMBASSY,
Mexico, January 26, 1904.

MR. MINISTER: Referring to my note of the 14th instant, regarding the imprisonment at Matamoros of Messrs. H. C. Harding and H. E. Dugat for infraction of the fiscal laws, I have the honor to inform your excellency that a telegram from the consul at that place informs me that this case is still unsettled and the accused persons still in prison.

I trust that this matter may receive such prompt action as the case may justify.

I beg, etc.,

POWELL CLAYTON.

Mr. Clayton to Mr. Hay.

No. 2142.]

AMERICAN EMBASSY,
Mexico, February 5, 1904.

SIR: I have the honor to inclose copy and translation of a note from Mr. Mariscal stating that my note, reiterating my request for prompt action in the case of H. C. Harding and H. E. Dugat, imprisoned at Matamoros, was referred to the treasury department with the renewed request that prompt investigation be made.

* * * * *
I have etc.,* * * * *
POWELL CLAYTON.

[Inclosure.—Translation.]

*Mr. Mariscal to Mr. Clayton.*DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, January 27, 1904.

MR. AMBASSADOR: I have received the note, dated yesterday, in which your excellency was pleased to inform me that, according to a telegram from the consul of the United States at Matamoros, Messrs. H. C. Harding and H. E. Dugat, accused in the said city of infraction of the fiscal laws, are still in prison.

In reply, I have the honor to say to your excellency that I have sent a copy of the said note to the department of the treasury repeating the request which I had made before and of which I informed the embassy in my note of the 14th instant.

I renew, etc.,

IGNO MARISCAL.

Mr. Clayton to Mr. Hay.

No. 2378.]

AMERICAN EMBASSY,
Mexico, August 4, 1904.

SIR: Referring to previous correspondence relating to the arrest and imprisonment at Matamoros of Messrs. H. C. Harding and H. E. Dugat, I have the honor to transmit a copy of correspondence between the American consul at Matamoros and this embassy relating to the case.

For the reasons stated in the consul's letter, I have, in my note to-day (copy inclosed) again brought the matter to the attention of

the Mexican foreign office, invoking the minister's good offices for the expedition of the judicial proceedings in these cases.

I have, etc.,

POWELL CLAYTON.

[Inclosure 1.—Translation.]

Mr. Griffith to Mr. Clayton.

AMERICAN CONSULATE,
Matamoros, July 29, 1904.

SIR: I have the honor to advise you that the case of Harding and Dugat, concerning which I telegraphed you last January, has never been settled. My intercession in their behalf had the effect of a reduction of their bond from \$2,000 gold to \$300 Mexican and their release, but the case has never been settled. This \$300 bond still hangs over them. One of the men is a rice planter near Matamoros, on the Mexican side, and is desirous of visiting his children, near Houston, but can not leave on account of this bond. I take the liberty of suggesting that you write to Lic. José H. Serret, judge of the second district, in Nuevo Laredo, to whose court the case has been transferred, and see if you can obtain any information as to when this case will be settled, or do whatever else you deem proper.

I am, etc.,

P. MERRILL GRIFFITH.

[Inclosure 2.]

Mr. Clayton to Mr. Mariscal.

AMERICAN EMBASSY,
Mexico, August 4, 1904.

MR. MINISTER: Referring your excellency to my notes of January 14, 18, and 26 and February 16, 1904, relative to the arrest at Matamoros of Messrs. H. C. Harding and H. E. Dugat, charged with an infraction of the fiscal laws, and to your excellency's notes of the 14th of January and 10th of February last on the subject, I now have the honor to transmit herewith a copy of a communication from the American consul at Matamoros, from which it appears that these cases are still pending.

For the reasons stated therein I invoke the good offices of your excellency for the expedition of the judicial proceedings in these cases.

I renew, etc.,

POWELL CLAYTON.

Mr. Clayton to Mr. Hay.

No. 2389.]

AMERICAN EMBASSY,
Mexico, August 13, 1904.

SIR: Referring to my dispatch No. 2378, of the 4th instant, and previous correspondence, relative to the case of Messrs. H. C. Harding and H. E. Dugat, accused of an infraction of the fiscal laws of Mexico, I have the honor to transmit herewith a copy of additional correspondence relating thereto, and a translation of so much as is in Spanish.

I have, etc.,

POWELL CLAYTON.

[Inclosure.—Translation.]

*Mr. Mariscal to Mr. Clayton.*DEPARTMENT FOR FOREIGN AFFAIRS,
Mexico, August 6, 1904.

MR. AMBASSADOR: I have received your excellency's note, dated the 4th instant, with which your excellency was pleased to transmit a copy of a communication from the consul of the United States at Matamoros, relating to the case of Messrs. H. C. Harding and H. E. Dugat, charged with an infraction of the fiscal laws, which case is still pending, according to the statement of the aforesaid consul.

In reply I have the honor to say to your excellency that I have already transmitted said documents to the department of the treasury for proper action.

I renew, etc.,

IGNO MARISCAL.

Mr. Loomis to Mr. Clayton.

No. 1153.]

DEPARTMENT OF STATE,
Washington, September 19, 1904.

SIR: Referring to your previous correspondence reporting the release of Messrs. Harding and Dugat from prison in Mexico on bond, I inclose herewith a copy of a dispatch from the American consul at Matamoros, reporting that the bond for \$300 given by those gentlemen is still in force, and that the case has never been settled. He furthermore says that Mr. Harding is very anxious to visit his family, in Houston, Tex., one member of which is sick, but is prevented from doing so by the conditions of the bond.

You will take such action for the relief of Mr. Harding as you may deem appropriate.

I am, etc.,

FRANCIS B. LOOMIS,
Acting Secretary.

[Inclosure.]

*Mr. Griffith to Mr. Loomis.*AMERICAN CONSULATE,
Matamoros, September 1, 1904.

SIR: I have the honor to address the Department of State relative to the case of Harding and Dugat. This is probably the most important case which has required the intervention of this office during the present year.

The result of my appeal to the Department of State was a lowering of the bond from \$2,000 gold to \$300 Mexican, and the defendants allowed to go beyond the city limits to their-rice farm, which is situated about 3 miles from the city. This last bond of \$300 still remains in force, and the case has never been settled. The defendant, Mr. Harding, is very anxious to visit his family, in Houston, Tex., one member of which is sick.

I have written to Lic. José H. Serret, district judge at Nuevo Laredo, to whose court the case has long since been transferred, asking him to be kind enough to inform me when the case would be determined, but have received no reply. I wrote also to Ambassador Clayton, urging him to have the matter attended to, and further advising him that if the courts here did not see fit to settle the case soon I would be compelled to lay the whole matter before the Department of State for such action as it deemed proper.

* * * * *
I am, etc.,

* * * * *
P. MERRILL GRIFFITH,

Mr. Clayton to Mr. Hay.

No. 2443.]

AMERICAN EMBASSY,
Mexico, September 20, 1904.

SIR: Referring to my dispatch No. 2389, of August 18 last, relative to the case of Messrs. H. C. Harding and H. E. Dugat, accused of an infraction of the fiscal laws of Mexico, I now have the honor to transmit herewith a copy of additional correspondence relating to the case.

I especially invite the attention of the Department to Mr. Mariscal's note, of the 12th instant, and its inclosure, from which it will be seen that in lieu of assessing the penalty of forfeiture of the goods and the vehicle on which they were carried, and the mules and harness, the penalty fixed requires the payment of triple duties, besides the proper single tax upon the six packages of merchandise in question, upon the payment of which the bond given will be canceled.

Doubtless this action of the treasury department will soon bring to an end the judicial proceedings in the case. However, I have deemed it advisable to-day to address a note to Mr. Mariscal, calling his attention to the fact that the purpose of my note of the 4th of August last was for the expedition of the judicial proceedings in the case.

I have, etc.,

POWELL CLAYTON.

[Inclosure 1.]

Mr. Clayton to Mr. Mariscal.

AMERICAN EMBASSY,
Mexico, August 24, 1904.

MR. MINISTER: Referring to my note of the 13th instant relative to the case of H. C. Harding and H. E. Dugat, I have the honor to transmit herewith, for the information of your excellency, an extract from a letter, under date of the 19th instant, which I have just received from the American consul at Matamoros. The consul's allusion to the fact that the guard, Arguelles, is a nephew of the governor has no weight in the matter, according to my opinion, as I do not believe that the governor would be influenced by that fact in the performance of any of his official duties.

I hope that your excellency may soon be able to inform me that the case against these American citizens has been judicially determined, or dismissed.

I have, etc.,

POWELL CLAYTON.

[Subinclosure.]

Mr. Griffith to Mr. Clayton.

[Extracts.]

AMERICAN CONSULATE,
Matamoros, August 19, 1904.

I have evidence in other cases where parties proceeding beyond the city limits had forgotten to procure a permit were not apprehended, but were told to return and secure one, for which, according to the Mexican law, they were charged double price, or 50 cents Mexican money. Mr. Harding was not so informed by the guard on duty on that day, whose name is Arguelles, and who is a nephew of the governor, but was immediately taken back to the custom-house, his provisions, wagon, and mules seized and himself and companion detained in this city for several weeks, on account of which he was enabled to plant only about one-half the acreage of rice which he had originally intended. One of his

mules, which was held here during this time, died. He has lost his credit at the banks, and told me the other day he did not know how or where he could borrow enough money to finish harvesting his crop. He is still under a \$300 bond, and until his bondsmen are released he can not visit his children, who live near Houston, one of whom is sick.

* * * * *
I am, etc.,

* * * * *
P. MERRILL GRIFFITH.

[Inclosure 2.—Translation.]

Mr. Mariscal to Mr. Clayton.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, September 12, 1904.

MR. AMBASSADOR: Referring to your excellency's note, dated August 4 last, relative to the case of Messrs. H. C. Harding and H. E. Dugat, charged with infraction of the general customs regulations, I have the honor to inclose herewith a copy of a communication addressed to me by the secretary of the treasury, informing me that the matter has been closed with respect to the administrative authority, and that so far as it concerns the judicial power, the district court which took cognizance of the matter should pronounce the proper decision.

I renew, etc.,

IGNO. MARISCAL.

[Subinclosure.—Translation.]

Secretary of the Treasury to the Secretary of Foreign Affairs.

DEPARTMENT OF THE TREASURY AND PUBLIC CREDIT, FIRST SECTION,
Mexico, September 8, 1904.

Referring to your courteous note, No. 165, of August 6, last, I have the honor to say to you: That in view of the record made by the custom-house at Matamoros in the case against Messrs. H. C. Harding and H. E. Dugat, on account of their having infringed the general customs regulations, the President of the Republic was pleased to approve in every respect the proceedings of the aforesaid custom-house, owing to the fact that the same were in accordance with the above-mentioned regulations, with the only exception that in lieu of assessing the penalty of forfeiture of the goods and the vehicle on which they were carried, and of the mules and harness, the penalty should be that of triple duties, besides the proper single taxes, upon the six packages of said merchandise carried by the aforesaid gentlemen without the documents required by law; with the understanding that the bond given by the same shall be canceled so soon as they pay the duties in question; the above proceedings bringing the matter to an end, with respect to the administrative authority, but so far as it concerns the judicial power this department can not take any action, as the proper decision depends from the district court which took cognizance of the case.

I renew, etc.,

By order of the secretary:

R. NUÑEZ, *Subsecretary.*

[Inclosure 3.]

Mr. Clayton to Mr. Mariscal.

AMERICAN EMBASSY,
Mexico, September 20, 1904.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's note of the 12th instant, in which your excellency refers to my note of August 4, last, relative to the case of H. C. Harding and H. E. Dugat, charged with an infraction of the general customs regulations of Mexico, and with which is transmitted to me a copy of a communication addressed to your excellency by

the secretary of the treasury, conveying the information that the matter has been closed with respect to the administrative authority.

While I am very glad to be informed of the action of the treasury department, as requested in my note of August 13 last, if your excellency will kindly refer to my note of the 4th of the same month, you will observe that it was for the expedition of the judicial proceedings in these cases that I invoked the good offices of your excellency, which in view of the long pendency of said proceedings, if not already exercised by your excellency, I again respectfully invoke.

I have, etc.,

POWELL CLAYTON.

Mr. Clayton to Mr. Hay.

No. 2453.]

AMERICAN EMBASSY,
Mexico, September 27, 1904.

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 1153, of the 19th instant, inclosing a copy of a communication from the consul at Matamoros, relative to the case of Messrs. Harding and Dugat, and instructing me to take such action for their relief as may be deemed appropriate.

By reference to my No. 2443, of the 20th instant, which crossed the Department's aforesaid instruction in the mails, it will be seen that I again invoked the good offices of the Mexican Government for the expedition of the judicial proceedings in these cases.

I now have the honor to inclose a copy and translation of Mr. Mariscal's reply, dated the 23d instant, stating that he had addressed the district judge who has charge of the cases asking him for a report thereon.

I have, etc.,

POWELL CLAYTON.

[Inclosure.—Translation.]

Mr. Mariscal to Mr. Clayton.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, September 23, 1904.

MR. AMBASSADOR: I have received your excellency's note, dated the 20th instant, in which further request is made for the good offices of this department to expedite the judicial proceedings in the case of H. C. Harding and H. E. Dugat, charged with infraction of the general customs regulations.

In reply I have the honor to say to your excellency that I have already addressed the district judge who has charge of the matter asking him for a report upon the case.

I renew, etc.,

IGNO. MARISCAL.

Mr. Clayton to Mr. Hay.

No. 2477.]

AMERICAN LEGATION,
Mexico, October 11, 1904.

SIR: Referring to my dispatch, No. 2453, of the 27th ultimo, and previous correspondence, relating to the case of Messrs. H. C. Harding and H. E. Dugat, against whom action was brought before the second district judge of the State of Tamaulipas upon the charge of

an infraction of the general customs regulations, I now have the honor to transmit herewith a copy of a note from Mr. Mariscal, under date of the 30th ultimo, together with a report from the said district judge of Tamaulipas, made to the secretary for foreign affairs, under date of the 26th of the same month, relating to the disposition of the case by that judge, and translations of both documents.

By reference to inclosure 1 with my dispatch No. 2128 of January 29 last, and inclosures with dispatch No. 2443 of September 20 last, it would appear that, if the views of the consul therein expressed are correct, the punishment inflicted upon Messrs. Harding and Dugat is altogether too severe.

I have written to Consul Griffith to-day, informing him of my last information from the foreign office, and asking whether an appeal has been taken by the accused from the judicial decision referred to, and if he considers the judgment excessive to please submit any facts that he may be possessed of in support of his views.

Upon receipt of the information requested of the consul, and its transmission to the Department, it will doubtless be able to judge whether a copy of the judicial record in the case should be asked of the Mexican Government.

I have, etc.,

POWELL CLAYTON.

[Inclosure.—Translation.]

Mr. Mariscal to Mr. Clayton.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, September 30, 1904.

MR. AMBASSADOR: Referring to your excellency's note, dated the 20th instant, relative to action brought against H. C. Harding and H. E. Dugat, on account of infraction of the general customs regulations, I have the honor to transmit herewith a copy of a communication addressed to me by the second district judge of the State of Tamaulipas, informing me that the aforesaid case was closed by a sentence pronounced on August 25 last, the decisory part of which appears in the aforesaid communication.

I renew, etc.,

IGNO. MARISCAL.

[Subinclosure.]

Second district judge of Tamaulipas to the Secretary for Foreign Affairs.

SECOND DISTRICT COURT OF TAMAULIPAS, CITY OF LAREDO,
City of Laredo, September 26, 1904.

Referring to the communication from that superior department, No. 336, dated the 23d instant, issued out of the section on America, Asia, and Oceania, in which communication you have transmitted to me a note from the ambassador of the United States, relating to the case brought against the foreigners H. C. Harding and P. E. Dugat on a charge of smuggling, I have the honor to inform you that the aforesaid case was brought to an end through a sentence pronounced on August 25 last, the decisory part of which reads as follows:

“CITY OF LAREDO, *Tamaulipas, August 25, 1904.*

“Having revised case No. 399, the preliminary proceedings of which were instituted before the court of first instance of Matamoros on account of a charge of smuggling made against H. C. Harding and P. E. Dugat; by virtue of the arguments and legal bases set forth in article 218 of the penal code of the federal district, and in accordance with the petition of the prosecuting attorney, it is resolved:

“First. That Messrs. H. C. Harding and P. E. Dugat are guilty of the commis-

sion of the crime of smuggling, and that they should be released from further punishment on account of the imprisonment they have suffered.

"Second. That the goods, wagon, horses, and harness seized from the prisoners shall be forfeited on behalf of the Government.

"Third. That the prisoners shall be debarred during the term of one year from receiving any kind of official honors, or from holding any Government office, charge, or commission.

"Fourth. That the prisoners should be admonished against falling back to crime.

"Fifth. That in compliance of this sentence the prisoners shall be released, and that the bond executed by them shall be canceled.

"Sixth. That proper orders should be served, and that the record of this investigation be transmitted to the second circuit court for proper action.

"Thus it was decided and signed before me, the undersigned clerk, by Licentiate José H. Serret, second district judge of the State.

"Attest: José H. Serret.

"LICENTIATE DIONISIO A. SALAZAR, *Clerk.*"

An order was issued to have the aforesaid sentence transmitted to the prisoners through the judge of first instance of Matamoros, according to a dispatch dated August 26, and on account of said dispatch not having been returned, said judge was instructed, by telegram of the 22d instant, to make the proper return, the latter answering, also by telegraph, that he would comply with the court's instruction by first mail, but said dispatch has not been received yet on account of the delay of the mail due to the bad condition of the wagon road caused by the action of rainfall.

I renew, etc.,

JOSÉ H. SERRET.

Mr. Clayton to Mr. Hay.

No. 2569.]

AMERICAN EMBASSY,
Mexico, December 12, 1904.

SIR: Referring to my No. 2477 of October 11 last, inclosing a copy, our translation of a report from the district court of Tamaulipas, showing its decision in the case against Messrs. H. C. Harding and P. E. Dugat for an infraction of the general customs regulations, I have the honor to inclose a copy of a communication from the vice-consul at Matamoros suggesting, as the penalty appears severe, that every effort be made to obtain their pardon from the Mexican authorities.

I respectfully ask to be informed whether any further action is required of me in the premises.

I have, etc.,

POWELL CLAYTON.

[Inclosure.]

Mr. Sielenberg to Mr. Clayton.

AMERICAN CONSULATE,
Matamoros, October 29, 1904.

SIR: I have the honor to acknowledge receipt of your communication of the 11th instant, in relation to the case of Messrs. Harding and Dugat.

Consul Griffith being absent, I have made an investigation of the facts in connection with the said case, and in my opinion they, Harding and Dugat, have been severely punished already for any technical offense they may have committed against the customs regulations.

Their offense consisted in taking about \$10 Mexican worth of provisions for their personal use out of the city of Matamoros, without having first obtained

the permit required by the customs regulations, which permit they could have obtained at a nominal expense.

No facts have developed in this case to cause any change of the original report made to you by Consul Griffith in his communications of August 19 and September 30, 1904.

It is very evident that neither Harding nor Dugat had any intention of violating the law or of defrauding the revenues of this Republic, and I believe their case to be a meritorious one, requiring your good offices and I most earnestly recommend that every effort be made to obtain their pardon from the Mexican authorities.

I have, etc.,

J. SIELENBERG.

Mr. Clayton to Mr. Hay.

No. 2601.]

AMERICAN EMBASSY,
Mexico, January 4, 1905.

SIR: Referring to my dispatches (Nos. 2477 and 2569) of October 11 and December 12 last, relative to the case of Messrs. H. C. Harding and P. E. Dugat, convicted of the crime of smuggling by the court of first instance of Matamoros, and affirmed by the second district court of Tamaulipas, I now transmit a copy of a communication from the American consul at Matamoros, under date of the 12th ultimo, together with a copy and translation of its inclosures, from which it will be seen that the secretary of hacienda, by the authority of the President of the Republic, has remitted the sentence to three times the duties in addition to the simple duties upon the six packages, returning the wagon, mules, etc., and canceling the bond.

Under these circumstances, unless the Department instruct otherwise, I shall consider that no further action is required at my hands in the premises.

I have, etc.,

POWELL CLAYTON.

[Inclosure 1.]

Mr. Griffith to Mr. Clayton.

AMERICAN CONSULATE,
Matamoros, Mexico, December 12, 1904.

SIR: I have the honor to advise you that shortly after I had received your communication relative to the case of Harding and Dugat I was handed a copy of the decree of the federal court at Nuevo Laredo. A few days ago I received a copy of an executive order which instructs the collector of customs, through the secretary of hacienda, to deliver up to the defendants, Harding and Dugat, their mules and wagon and to give permission to export them to the United States, and to have their bond canceled, at the same time requiring that the defendants pay three times the duties besides the simple duties, which amounted to \$22.80 Mexican money. Copies of these two orders, together with translations which I have made, I send as inclosures herewith. The defendants are satisfied with this decision, have paid the duties, and have returned their wagon and mules to the United States, but are dissatisfied that they were not formally acquitted of the charge of smuggling.

The facts remain the same as were stated to you in my first telegram. While the defendants may be considered technically guilty, there was no intentional violation of the law. They have repeatedly insisted that the source of prosecution in this case arises from the malice of the guard who arrested them, but this would be difficult to prove. They were, however, openly carrying said goods, which were seized in daylight; and, as is well understood, in order to sustain a charge of smuggling in the United States one must be able to prove that the goods were being carried clandestinely and with the intent to violate the law. The defendants have employed an American attorney in Brownsville to assist them, but I am inclined to believe since the receipt of this last executive order they will drop the matter.

While the Mexican Government seems desirous, for obvious reasons, of sus-

taining the actions of her officers and the decisions of her lower courts in this case, it is evident that she does not seriously consider the charge of smuggling against these defendants, as this inclosed executive order may be regarded as a practical pardon, and it remains to be seen if the case will ever be reopened on appeal, as the decision of the court at Nuevo Laredo was rendered on the facts as related in the evidence and admitted by the defendants, and not on a question of law.

These are the facts and this is the status of the case up to the present time, and I herewith report it for your own knowledge and consideration.

I am, etc.,

P. MERRILL GRIFFITH,
American Consul.

[Subinclosure 1.—Translation.]

Decision of the second district court of Tamaulipas.

In cause No. 399, instituted against H. C. Harding and P. E. Dugat for the offense of smuggling, a sentence has been rendered, which substantially is as follows:

CITY OF LAREDO, TAMAULIPAS, *August 25, 1904.*

This cause, No. 399, coming on to be heard, instituted by the judge of the first instance of Matamoros, for the offense of smuggling, against H. C. Harding and P. E. Dugat:

First. Considering that the offense of smuggling charged to the accused, H. C. Harding and P. E. Dugat, is entirely proved, not only by real seizure of the goods and articles which they conducted, but as well by the confession of the aforesaid accused, a cause wholly prescribed in article 510 of the general customs laws, without violence having been used in its perpetration.

Second. That, in accordance with fraccion 2, article 535, of the aforesaid customs laws, the offense of smuggling without resistance will be punished (which will be in relation to the sum or value of the seizure, and then, in case not exceeding \$100, the revenue fees) by imprisonment not exceeding two years, debarring them from holding Government employment or other honorable position for a reasonable period; and all the circumstances which have occurred heretofore shall be given as satisfied, owing to twenty-three days which they suffered in prison. And in virtue of having obtained their liberty, which they now enjoy under bond since the 29th of January last, it is now advised that they be reinstated in deed of the confiscated goods in accordance with article 539 of the aforesaid ordinances. And for the consideration and legal rules prescribed in article 218 of the penal code of the federal district, and in accordance with what has been petitioned by the agent of public justice, be it adjudged:

First. That Messrs. H. C. Harding and P. E. Dugat are guilty of the offense of smuggling, giving them as having purged their responsibility for the imprisonment which they have suffered.

Second. It is hereby declared as condemned in favor of the revenue laws the goods (as well as those movable) seized.

Third. They will be debarred for a year from all class of public office, charges, or commissions from the Government.

Fourth. That they be reprimanded.

Fifth. The sentence being carried out, let the accused be put in absolute liberty and the bond which they have executed canceled.

Sixth. Be it notified, and, as prescribed, remit the cause to the superior tribunal of the second circuit for the legal ends thereof.

So it was definitely tried, considered, and signed by the attorney, José H. Serret, second judge of district in the State, before me, the secretary.

I certify:

(Signed)
(Signed)

JOSÉ H. SERRET.
Attorney DIONICIO A. SALAZAR,
Secretary.

I have the honor to submit to you that you may carry out the corresponding notification.

City of Laredo, Tamaulipas, August 26, 1904.
(Scroll)

JOSÉ H. SERRET,
Judge, Second District.

To the CITIZEN JUDGE OF THE FIRST INSTANCE OF H. MATAMOROS.

[Subinclosure 2.—Translation.]

Decision of the department of the treasury in the case of H. C. Harding and P. E. Dugat.

GENERAL OFFICE OF THE CUSTOM-HOUSE,
Mexico City.

Section 1, No. 7519.—The secretary of hacienda, by the authority of the President of the Republic, has seen fit to decide that he approves of the proceedings of that custom-house (Matamoros) with reference to the case No. 9, instituted against H. C. Harding and P. E. Dugat, charged with smuggling 6 small packages of foreign merchandise, 1 wagon, and 2 mules; but that they order, in place of the sentence, three times the duties, besides the simple duties, upon the 6 packages, returning the wagon, mules, etc., and canceling the bond. I tell you this for your own knowledge and in reply to your No. 400, of the 20th of last August.

Mexico, October 5, 1904.

T. ARRANGOIZ, *The Director.*

To the COLLECTOR OF CUSTOMS OF MATAMOROS.

Mr. Hay to Mr. Clayton.

No. 1209.]

DEPARTMENT OF STATE,
Washington, January 11, 1905.

SIR: I have to acknowledge the receipt of your No. 2601, of the 4th instant, inclosing copies of additional correspondence relative to the case of Messrs. H. C. Harding and P. E. Dugat, convicted of smuggling in Mexico, from which correspondence it appears that, by authority of the President, the sentence has been remitted to three times the duties, in addition to the simple duties in the case.

You need take no further action in the matter.

I am, etc.,

JOHN HAY.

WOUNDING AND IMPRISONMENT OF EULOGIO ZAMBRANO, A MEXICAN CITIZEN, IN TEXAS.

Señor de Azpíroz to Mr. Hay.

[Translation.]

No. 506.]

EMBASSY OF MEXICO,
Washington, D. C., February 11, 1904.

MOST EXCELLENT SIR: By special direction of my Government, I have the honor to address you with a request that instructions be issued by the proper authorities to cause an investigation of the matter reported to Mexico by the consul of the Republic at Brownsville, Tex., and which will be made known to you by the copy I append to this note; and if it should be proved thereby that the Ranger McKenzie, who wounded the Mexican, Eulogio Zambrano, did exceed his powers, that the penalty provided by the law of the United States for such offenses be applied to him.

Accept, etc.,

M. DE AZPÍROZ.

[Inclosure.—Translation.]

The consul of Mexico at Brownsville, Tex., reports as follows in a note dated the 27th of January last:

"I regret to bring to your knowledge an outrage suffered by the Mexican citizen, Eulogio Zambrano, who was attacked from behind while absolutely defenseless by the ranger, Sam McKenzie, who fired three shots at him—two of which inflicted wounds, one through the neck and another through the shoulder, Zambrano now being in serious danger of death.

"The facts are as follows:

"Eulogio Zambrano, a domestic servant of Mr. Santiago A. Browne, pawned in Mr. Lastra's shop a rifle belonging to Browne, and the Ranger McKenzie brought Zambrano before the owner of the pledge (it was then 3 o'clock in the afternoon and the pawn shop stands on one of the most central streets of Brownsville). Zambrano there confessed to having pawned the rifle and, as he says, tried to run away when McKenzie fired his pistol at close range; he could, in the opinion of all the eyewitnesses, very well have seized him with his hand, for, as above stated, Zambrano carried no arm, or have fired for the purpose of frightening him, or lastly refrained from a show of temper and passion on the person of a wounded and defenseless man, all the more as this is expressly forbidden by the criminal code of the State—Willson's, pages 91 and 92, which read word for word as follows:

"Art. 276 (255) What force may be used:

"In making an arrest all reasonable means are permitted to be used to effect it. No greater force however shall be resorted to than is necessary to secure the arrest and detention of the accused. O. C. 229.

"Note 1. Decisions under preceding article.

"In attempting to make an arrest for a petty offense, the officer is not authorized to shoot at the party fleeing from such arrest. Tinner V. S., Tex., 128.

"Nor to kill a prisoner who is not attacking or resisting him, but merely running away from him. Caldwell V. S., 41 Tex., 86. Nor to strike a prisoner except in necessary self-defense. Skidmore V. S., 43 Tex., 93. See other decisions upon the subject collated in P. C., Art. 670, note one, ante."

But unfortunately, Mr. Secretary, this is not observed in dealing with Mexican people, and incidents similar to this one occur almost daily in Texas, as in the case of the shocking murder of the Cerda brothers, also committed by rangers, and duly reported by me to your office; it is true that in many cases intervention is precluded by doubts concerning the rights belonging to them or Mexicans; such was the case of the Cerda brothers who, under article 1, Chapter I, Section III of the law of alienage and naturalization, had lost their rights, inasmuch as the parents, sons of Mexicans, had lost their nationality, and of the two murdered sons one was over 21 years of age and had not been registered, and the other, less than 21 years old, had, one month before being killed by Ranger Baker, evidenced his intention and desire to be registered as a Mexican citizen; but it is not so in the present case, for it was barely four months since Zambrano had come from Mexico and was in the service of Mr. Browne.

Ranger McKenzie, the principal of this deed, like those who caused the treacherous death of the Cerda brothers, was freely walking the streets of the city, on bail, one or a half hour after the crime.

Mr. Hay to Señor de Azpíroz.

No. 443.]

DEPARTMENT OF STATE,
Washington, February 16, 1904.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 506, of the 11th instant, calling attention to the wounding of Eulogio Zambrano, a Mexican citizen, by the Texan ranger, Sam McKenzie, and requesting that McKenzie be duly punished, if it be found that he exceeded his authority.

In reply I have the honor to inform you that copies of your note

and of its inclosure have been sent to the governor of Texas, with the request that he cause an investigation of the matter to be made, and that he take such action as the facts warrant and inform the Department of the result.

Accept, etc.,

JOHN HAY.

Señor de Azpíroz to Mr. Hay.

[Translation.]

No. 28.]

EMBASSY OF MEXICO,
Washington, September 19, 1904.

EXCELLENCY: For the purposes which are expressed in the inclosures which I have the honor to transmit with this note, I call your attention to the complaint which the Mexican, Eulogio Zambrano, has presented to my Government, who was sentenced by the court of the county of Cameron, Brownsville, Tex., in the month of March of the present year, to five days' imprisonment for theft, without the court which judged him taking into consideration the wounds which the "ranger," McKenzie inflicted on Zambrano, in effecting his arrest.

Be pleased, etc.,

M. DE AZPÍROZ.

[Inclosure.—Translation]

Señor Mariscal to Señor de Azpíroz.

OFFICE OF SECRETARY OF STATE AND FOREIGN RELATIONS,
Mexico, September 8, 1904.

The consul of Mexico in Brownsville, Tex., informs me in a note dated August 30 last, as follows:

"Obeying your orders and instructions, in your note No. 5, of date 15th of the current month, I have the honor to forward a legalized copy with its respective translation of the record of proceedings^a held by the court of the county with regard to the theft imputed to Eulogio Zambrano, who was sentenced to suffer five day's arrest, the court omitting to consider the wounds which were inflicted by McKenzie, which were about two months in healing, disappearing March 31.

"I likewise transmit to your office copies, with their translations, of the record by Mr. Gavito, judge of peace of the same county. From all these documents you will deign to see the irregularity of the proceedings employed here in certain cases like this.

"As I had the honor to communicate to you on January 27 of the current year, the incidents took place as follows:

"Zambrano, being a servant of Santiago A. Browne, took possession of a fowling piece and pawned it. Being taken to the pawn shop of Messrs. Lastra by the same Mr. Browne, and on the way, already near the shop of the Lastras, they met the ranger, McKenzie. There Browne tells him that he may arrest Zambrano and take him to prison. The latter confesses that the fowling piece was pawned by him, and asks to speak with Browne, McKenzie standing at a very short distance from the two. At this moment Zambrano takes to flight, and at once the ranger shoots, at 6 or 8 paces distant, three shots, of which two were well aimed, since one pierced the shoulder and went out by the breast, and the second pierced the neck.

"Zambrano stopped, and was conducted on foot to prison. There he was cared for by the physician of the city.

"The offense committed by Zambrano was not one of those which excuse proceedings so brutal for the purpose of securing the guilty party. The

^a Not printed.

delinquent was entirely unarmed. He would have been very easily overtaken and arrested at a short distance, since the act took place in the center of the city and at 3 o'clock in the afternoon.

"Two hours afterwards the ranger, McKenzie, was talking with his companions in a saloon, having been set at liberty with bail of \$50. Three days afterwards he was called to Austin. He remained there two or three months, and at the present time is at his post here in this city.

"The court, as you will deign to see by the records that I have the honor to inclose, at the petition of the assailant did not review the suit, or if it did, it was in secret session, and at that time declared it did not deserve to continue, since McKenzie never was taken nor suspended from his office."

"I do not transmit any data regarding the very grave wounds of Zambrano, nor their classification, since, according to what the judge informs me, this is done only in case of death."

I transfer this to you with reference to my note, No. 369, of February 3 last, transmitting the inclosures that are mentioned, in order that you may present to the State Department of that country the petitions which correspond in the form most expedient in your judgment; having to call the attention of the same Department upon those points that the investigation of the punishable act of the ranger, McKenzie, makes necessary, the punishment of the guilty, and the indemnification of Zambrano, if it shall result, as is to be presumed granted that there was committed against his person an offense of which an agent of authority may be responsible.

I renew, etc.,

MARISCAL.

Mr. Loomis to Señor de Azpíroz.

No. 515.]

DEPARTMENT OF STATE,
Washington, September 24, 1904.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 28, of the 19th ultimo, calling attention to the complaint of the Mexican, Eulogio Zambrano, that the court of Cameron County, Tex., did not take into consideration the wounds inflicted on him by the ranger, McKenzie, in sentencing him (Zambrano) to five days' imprisonment for theft.

In reply I have the honor to inform you that copies of your note and of its inclosures have been sent to the governor of Texas for his information, and for such investigation and report of the matter as he may be pleased to communicate to the Department.

Accept, etc.,

FRANCIS B. LOOMIS,
Acting Secretary.

Mr. Hay to Señor Gamboa.

No. 521.]

DEPARTMENT OF STATE,
Washington, October 13, 1904.

SIR: Referring to Mr. Azpíroz's note No. 28, of the 19th ultimo, calling attention to the complaint of the Mexican, Eulogio Zambrano, that the court of Cameron County, Tex., did not take into consideration the wounds inflicted on him by Private Sam McKenzie, of the Texas ranger force, in sentencing the said Zambrano to five days' imprisonment for theft, I have the honor to inclose herewith, for your information, a copy of a letter from the governor of Texas inclosing copies of reports made by the adjutant-general of the State and by other State officers in the matter.

Accept, etc.,

JOHN HAY.

[Inclosure.]

*Mr. Cravens to Mr. Hay.*EXECUTIVE OFFICE, STATE OF TEXAS,
Austin, October 3, 1904.

SIR: I have the honor to inclose you herewith the following papers in connection with the matter of the shooting of Eulogio Zambrano, a Mexican citizen, by Private Sam McKenzie, of the Texas ranger force, in compliance with your request of February 16, 1904, and your subsequent communication regarding the same matter, to wit: (1) Letter of transmissal from John A. Hulén, adjutant-general, under date October 1, 1904, and (2) copies of the following documents mentioned in his said letter, which accompany the same:

* * * * *

Owing to the extreme difficulty of securing prompt response to letters written concerning this matter, there has been an unusual delay in transmitting the report which is inclosed.

Trusting that everything will prove satisfactory, I have the honor to be, sir, etc.,

N. A. CRAVENS, *Private Secretary.*

[Subinclosure 1.]

*Mr. Hulén to Mr. Lanham.*ADJUTANT-GENERAL'S OFFICE, STATE OF TEXAS,
Austin, October 1, 1904.

SIR: In compliance with instructions from you last February, I have the honor to herewith inclose original documents in the matter of the shooting of Eulogio Zambrano, a Mexican citizen, by Private Sam McKenzie of the ranger force, regarding which the honorable the Secretary of State addressed you February 16, 1904.

* * * * *

The inclosed documents clearly show that Ranger McKenzie was justifiable in the shooting of the Mexican, Eulogio Zambrano; the character of this man, and that he was a deserter from the Mexican army.

In submitting this report I can not refrain from stating that such characters as Zambrano are almost entirely the cause of this State retaining at a great expense three-fourths of the ranger force on the Mexican frontier.

I have been unable to comply with your instructions relative to this matter at an earlier date, owing to my inability to secure the necessary data.

Very respectfully,

JOHN HULÉN, *Adjutant-General.*

[Subinclosure 2.]

*Mr. Hughes to Mr. Hulén.*ALICE, TEX., *February 26, 1904.*

SIR: In obedience with your request to report to you the wounding of Eulogio Zambrano by Private Sam McKenzie of my company of the ranger force, I beg leave to submit the following report:

On January 23, 1904, Mr. James A. Browne, a resident of Brownsville, reported to Ranger McKenzie that a gun had been stolen from him. McKenzie found the gun in a pawn shop, and learned that it had been pawned by Eulogio Zambrano. A warrant was procured and Zambrano arrested. When McKenzie started to jail with Zambrano, the prisoner attempted to escape by running. McKenzie commanded him to halt, but the man continued to run. McKenzie being crippled in one leg, knew that he would be unable to overtake him, drew

his pistol, and fired over the head of the fleeing man. This failing to stop the man, he then fired two more shots which hit the man. As soon as the man was so disabled that McKenzie was able to catch him, he ceased to fire and took the prisoner to jail. McKenzie surrendered himself and was placed under bond to await the action of the grand jury, which convened on Monday, February 1, and adjourned February 10. During this session of the grand jury this case was investigated, but no indictment found against McKenzie.

Sam McKenzie was placed with the Brownsville detachment of the ranger company on account of his being able to speak the Mexican language, his friendship toward the Mexican people, and his popularity with them. He bears no animosity against the Mexican people whatever. He is their friend and they are his friends. The reason that more Mexicans than Americans have been wounded and killed by the rangers in the vicinity of Brownsville is that the number of Mexicans is so much greater than that of Americans.

Very respectfully,

JOHN R. HUGHES,
Captain Company D, Ranger Force.

[Subinclosure 3.]

Mr. Turk to Mr. Hulén.

BROWNSVILLE, TEX., *September 22, 1904.*

DEAR SIR: I have just learned that there has been considerable agitation relative to the shooting of Eulogio Zambrano by Mr. Sam McKenzie, a State ranger, in this city, about January, 1904.

In this connection, please allow me to state that I was foreman of the grand jury of Cameron County, during the February term of the district court, that being very soon after the shooting occurred.

I take pleasure in saying that the matter was taken up by the grand jury, and the circumstances of the shooting were thoroughly investigated, and it was the unanimous opinion of the grand jury that Mr. McKenzie was fully justified in his action, wherefore the grand jury refused to return a bill against him.

I witnessed the shooting, and am thoroughly familiar with all the facts surrounding it.

While we feel that the shooting was entirely justifiable, yet we are all glad to know that Eulogio Zambrano has at this time completely recovered, and is now going about the streets apparently a well man.

Hoping that this will be of some assistance to you in the premises, and assuring you that if I can be of any further service to you in the premises, I will take pleasure in so doing,

I remain, etc.,

AARON TURK,
Foreman Grand Jury, February Term.

Mr. Hay to Señor Gamboa.

No. 522.]

DEPARTMENT OF STATE,
Washington, October 19, 1904.

SIR: Referring to the Department's note No. 521, of the 13th instant, I have the honor to inclose herewith for your information copies of a letter and of its inclosures from the governor of Texas containing further information regarding the sentence imposed upon

Mr. Eulogio Zambrano by the court of Cameron County, Tex.

Accept, etc.,

JOHN HAY,

[Inclosure.]

*Mr. Cravens to Mr. Hay.*EXECUTIVE OFFICE, STATE OF TEXAS,
Austin, October 12, 1904.

SIR: Referring to your communication of the 24th ultimo, with reference to the complaint of Eulogio Zambrano, a Mexican subject, with reference to his treatment by the officers of Cameron County, I have the honor to inclose you herewith copies of documents relating thereto. * * *

I have, etc.,

N. A. CRAVENS,
Private Secretary.

[Subinclosure.]

*Mr. Goodrich to Mr. Lanham.*BROWNSVILLE, TEX., *October 8, 1904.*

SIR: I have the honor to acknowledge receipt of your communication of the 28th ultimo, containing inclosures relative to the complaint of Eulogio Zambrano, a Mexican, of this county.

As you will note by the certified copies of the proceedings had before V. Gaviro, justice of the peace, and also before the honorable county court of this county, the proceedings were regular.

The ranger, McKenzie, was arrested, brought before the examining magistrate on a complaint against him of assault with intent to commit murder, and, after hearing the complaint read in open court, waived examination, and was placed under a \$500 bond to appear before the honorable district court of Cameron County, Tex., at its next regular session, being the first Monday of February, A. D. 1904, at which term the grand jury failed to indict him for said offense. The Mexican, Zambrano, was arrested on a charge of theft of property under the value of \$50, brought before the examining magistrate, and pleaded guilty to the charge, and was bound over to the county court under a \$50 bond, in default of which he was committed to the jail of Cameron County, this being the only manner in which said magistrate could dispose of said case. As he has no jurisdiction in cases where the punishment of any misdemeanor is by fine and imprisonment, or where the fine exceeds \$200, he could do nothing but examine into said case. In default of furnishing a good and sufficient bond, Zambrano was committed to jail to await trial in the county court at its next (March) term.

On the 21st day of March, in the honorable county court, the defendant was brought into open court, and, after hearing complaint read to him, pleaded guilty. James A. Browne (Santiago Browne) was called, and testified in substance as follows: That upon being informed by one of his workmen that the defendant had taken a gun from his said workman, he (Browne) made a complaint before V. Gaviro, justice of the peace, against said defendant, and the warrant was placed in the hands of Ranger McKenzie, who arrested the defendant, and Mr. Browne, the ranger, and defendant repaired to the pawn shop of one Lastra, where the defendant had pawned said gun (fowling piece), he having told Browne that he had pawned it at Lastra's pawn shop. Upon arriving at the pawn shop defendant denied he had taken same, but called Mr. Browne to one side and stated that he had taken the gun and pawned it, and at the same time began running down the street, and the ranger, McKenzie, shot at him, the defendant. This is, in substance, the evidence of Mr. Browne. As we had no stenographer to take down the evidence, I can not give the very language of Mr. Browne verbatim, but it was in substance as above given. Mr. Browne was present when the court imposed the punishment on said defendant, and remarked to me that "the punishment was indeed a light one."

While the judgment of the court does not contain the fact that the court took into consideration the fact that the defendant had been shot while fleeing from the officer making the arrest, the court clearly and distinctly told the defendant, through the interpreter, Mr. Celedonio Garza, that, by reason of his being in jail for two months and having been wounded by the officer making his arrest, together with his plea of guilty, he would impose a very light punishment upon him, and gave said defendant five days in jail. * * *

The punishment prescribed for theft of property under the value of \$50, article 870, Penal Code, Revised Statutes, is as follows: "Confinement in the county jail not exceeding two years, and by fine not exceeding \$500, or by such imprisonment without fine." The defendant, Zambrano, was suffering from the effects of the gunshot wounds for two weeks, during which time he had the care and attention of the county and city physician, Dr. L. F. Layton. He was not suffering from the effects of the wounds for two months, as contended in his complaint.

* * *

I herewith return all papers forwarded me, as requested.

I am, etc.,

E. K. GOODRICH,

County Attorney in and for Cameron County, Tex.

Señor de Azpiroz to Mr. Hay.

[Translation.]

No. 76.]

EMBASSY OF MEXICO,
Washington, November 28, 1904.

MOST EXCELLENT SIR: With reference to previous correspondence relative to the case of Eulogio Zambrano, I have the honor, by special direction of my Government, again to apply to you and to say that after careful examination of the evidence in the case produced by the authorities of the State of Texas, this embassy finds that there exists a patent conflict between the circumstances reported by the consul of Mexico at Brownsville and the conclusions and judicial proceedings of the governor of Texas.

The consul says that when Zambrano was proved guilty of the offense of theft in the pawn shop the police officer could have arrested him without any need of firing at him; and the wounds of Zambrano showed that the shots were fired at close range. The ex parte testimony of the police officer (charged with assaulting Zambrano) and the statement of the district attorney, on the other hand, tend to prove that Zambrano attempted an escape; that in order to bring him to a halt a shot was fired over his head, but this failing to stop him, he was fired at again and sustained wounds, but that no further violence was needed to prevent the offender from escaping. It is proper to ask in this connection what further violence was called for in the opinion of the person who made this statement, worse than hitting with a bullet a fleeing man, granting that Zambrano had attempted to escape.

The consul reports that Zambrano was tried and sentenced without any account being taken by the court of the wounds inflicted by McKenzie. But the district attorney and the interpreter of the court state that the judge, in passing sentence upon the prisoner, told him that he inflicted a light punishment because he had been wounded, which affords grounds to insist that the wounding was unwarranted.

Inasmuch, as under the custom of the State of Texas in criminal trials, it seems that the State ranger, McKenzie, can not be tried anew or punished, and as, on the other hand, the quotations from the law of Texas, made by the consul in this regard and transcribed in my note to you of September 19, 1904, No. 28, prove that McKenzie was not justified in wounding Zambrano, but should rather be punished for it, my Government is constrained to ask an indemnity for one of its citizens on what bears the features of a denial of justice, and therefore instructs me to enter in its name, which I have the honor to do

by means of this note, a formal complaint against the authorities of Texas on account of the slight respect they usually evince for the lives and interests of Mexicans residing on this side of the border, and an indemnity claim in behalf of Eulogio Zambrano, victim on this occasion of such deplorable carelessness.

Accept, etc.,

M. DE AZPÍROZ.

Mr. Hay to Señor de Aspíroz.

No. 543.]

DEPARTMENT OF STATE,
Washington, December 9, 1904.

EXCELLENCY: I have the honor to acknowledge the receipt of your note No. 76, of the 28th ultimo, in which you say that after careful examination of the evidence in the matter of the wounding of the Mexican citizen, Eulogio Zambrano, by the Texas ranger, McKenzie, submitted by the authorities of Texas, you find that "there exists a patent conflict between the circumstances reported by the consul of Mexico at Brownsville and the conclusions and judicial proceedings of the governor of Texas."

You state that your Government is constrained to ask an indemnity for one of its citizens on what bears the features of a denial of justice; and, accordingly, you enter a formal complaint against the authorities of Texas on account of their treatment of Mexican citizens, and present a claim for indemnity in behalf of Zambrano.

In reply, I have the honor to say that the Department, after careful consideration of all the circumstances, has reached the conclusion that some compensation should be made to Zambrano because of the failure of the authorities of Cameron County, Tex., to try and punish Ranger McKenzie for unlawfully shooting him; and it is willing to make payment to you, in behalf of Zambrano, of the sum of \$500 in full settlement of the matter.

It appears that necessary care and attention were given Zambrano by the city and county physician at Brownsville. That functionary declares in his affidavit that he treated Zambrano about two weeks, which was as long as medical attention was necessary. As Zambrano was incapacitated for a comparatively short period, it is believed that the amount mentioned is sufficient.

Accept, etc.,

JOHN HAY.

Señor de Aspíroz to Mr. Hay.

No. 82.]

EMBASSY OF MEXICO,
Washington, December 13, 1904.

MOST EXCELLENT SIR: In answer to the note of your Department, No. 543, of the 9th instant, I have the honor to say to you that I have received instructions from my Government to accept the sum of \$500 in final settlement and full payment of the claim of the Mexican, Eulogio Zambrano, for damages and denial of justice.

I communicate this for your information and beg you to accept, etc.,

M. DE AZPÍROZ.

Mr. Hay to Señor de Aspíroz.

No. 548.]

DEPARTMENT OF STATE,
Washington, December 29, 1904.

EXCELLENCY: I have the honor to refer to my note to you of the 9th instant in relation to the claim of the Mexican citizen, Eulogio Zambrano, for the sum of \$500 for injuries sustained from a gunshot wound inflicted by the Texas ranger, McKenzie, and to inclose herewith a check of the disbursing clerk of this Département in the above-mentioned sum, being in full settlement of said claim.

I have also to inclose receipts, in duplicate, covering the payment, which I have to request that you will please sign and return at your convenience.

I have, etc.,

JOHN HAY.

**IMPRISONMENT OF AMERICAN CITIZENS, RAILWAY EMPLOYEES,
IN MEXICO.**

(NOTE.—Continuation of correspondence in Foreign Relations, 1903.)

Mr. Clayton to Mr. Hay.

No. 2173.]

AMERICAN EMBASSY,
Mexico, March 1, 1904.

SIR: Referring to former correspondence relating to the case of Conductor L. C. Crutcher,^a I now have the honor to transmit a copy of correspondence between the embassy and José Lopez Moctezuma, local attorney of the Mexican Central Railway Company, from which it will be seen that the superior tribunal of the State of San Luis Potosi has confirmed the decision of the court of first instance, by which Mr. Crutcher is relieved of all responsibility.

As at present advised, I conclude that no further action in this case is required by the embassy.

I have, etc.,

POWELL CLAYTON.

[Inclosure.—Translation.]

Licentiate Moctezuma to Mr. Clayton.

MEXICAN CENTRAL RAILWAY COMPANY (LIMITED),
LEGAL DEPARTMENT,
Mexico, D. F., February 10, 1904.

DISTINGUISHED SIR: The company's attorney at San Luis Potosi informs me that the decision pronounced in the case of Conductor Crutcher has been confirmed by the superior tribunal of the State of San Luis Potosi. Mr. Crutcher has, therefore, been released, free from all responsibility.

I remain, etc.,

JOSÉ LOPEZ MOCTEZUMA, *Attorney.*

^a See Foreign Relations, 1903, p. 645 et seq.

Clayton to Mr. Hay.

No. 2181.]

AMERICAN EMBASSY,
Mexico, March 7, 1904.

SIR: Referring to the case of Engineer F. Gordon, of the Sonora Railway, reported in my No. 2061, of December 4 last,^a as being one of the pending cases of American railway men arrested and imprisoned in Mexico, I have the honor to transmit herewith copies of further correspondence relating thereto between this embassy and the foreign office.

From the report of Judge Canale, of the district court of Sonora, made to the secretary for foreign affairs, it will be seen that the case of Gordon was dismissed by an order of December 19, 1901, which order was confirmed by the decision of the third circuit court on the 29th of January of the following year.

I have, etc.,

POWELL CLAYTON.

[Inclosure 1.]

Mr. Clayton to Mr. Mariscal.

AMERICAN EMBASSY,
Mexico, January 27, 1904.

MR. MINISTER: I have the honor to invite your excellency's attention to the cases of two American citizens in the employ of the Sonora Railway Company, which cases, I am informed, are still pending in the courts—that of Engineer F. Gordon, arrested at Hermosillo on November 3, 1900, charged with running over Jesús Rodríguez, a deaf man, cutting off his feet, and that of Engineer C. O. Bean, arrested at Guaymas on August 3, 1902, charged with causing the train under his charge to run over and crush the right leg of a laborer working under a car at the time. Gordon, after twelve days' imprisonment, was released on \$1,000 bond, and Bean, after six days' imprisonment, was released on a bond for a similar amount, which, in both cases, was given by the Sonora Railway Company.

In view of the length of time that has elapsed since the arrest of these men, I respectfully request the interposition of your excellency's good offices to procure an early termination of these cases.

I renew, etc.,

POWELL CLAYTON.

[Inclosure 2.—Translation.]

Mr. Mariscal to Mr. Clayton.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, February 12, 1904.

MR. AMBASSADOR: Referring to your excellency's note of January 27 last, relating, among other matters, to the case of the engineer, F. Gordon, arrested in Hermosillo on November 3, 1900, for having injured Jesús Rodríguez with the train under his charge, I have the honor to transmit to your excellency herewith a copy of a report on this case made by the district judge of Nogales, by which it appears that it was dismissed.

I renew, etc.,

IGNO. MARISCAL.

[Subinclosure.]

*Report of district judge of Nogales in case of Frank A. Gordon, engineer.*MEXICAN REPUBLIC, DISTRICT COURT, NOGALES, SONORA,
Nogales, December 21, 1903.*To the Citizen Secretary of State and of the Office of Foreign Affairs, Mexico:*

The Gordon case:

In this case, after a careful search in the Government book of this court for the last three years, the criminal proceeding, No. 49, had in 1901 in the matter of a derailment of freight train No. 3, which occurred on September 17 between kilometers 384 and 385 of the Sonora Railway, in which the engineer, Frank A. Gordon, and one of the firemen of the train were injured, was all that could be found. By order of December 19 of the said year the said case was dismissed, the same being confirmed by decision of the third circuit court on January 29 of the year following. I can assure the department that during the period to which this report refers no employee of the said railway company of the name of Gordon has been deprived of his liberty by order of this court.

I renew, etc.,

A. D. CANALE.

Mr. Clayton to Mr. Hay.

No. 2187.]

AMERICAN EMBASSY,
Mexico, March 8, 1904.

SIR: I have the honor to transmit herewith a copy and translation of a note addressed to me by Mr. Mariscal, under date of the 12th ultimo, relative to the cases of Engineers F. Gordon and C. O. Bean, of the Sonora Railway, for a speedy termination of which I requested Mr. Mariscal's good offices in my note of January 27 last, a copy of which I transmitted to the Department with my No. 2181 of the 7th instant in reporting upon the case of Gordon.

I also inclose a copy and translation of a report made by the district judge of Nogales, dated December 21, 1903, inclosed in the before-mentioned note of Mr. Mariscal, from which it will be seen that the case of Bean was dismissed, that he was definitely released, and that the case was forwarded on March 31, 1903, to the third circuit court for review.

I have, etc.,

POWELL CLAYTON.

[Inclosure.—Translation.]

*Mr. Mariscal to Mr. Clayton.*DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, February 12, 1904.

MR. AMBASSADOR: I had the honor to receive the note of January 27 last in which your excellency was pleased to ask the intervention of this department to procure the prompt termination of the suits brought against the engineers of the Sonora Railway Company, F. Gordon and C. O. Bean, for damages caused by trains under their charge, respectively.

With regard to the case of Bean I have the honor to transmit to your excellency herewith a copy of a report upon the same made by the district judge of Nogales on December 21 last, by which it appears that the said authority dismissed the said case, the decision in the same having been referred to the third circuit court for review. I have requested the prompt dispatch of this matter by the proper authority.

* * * * *

I beg, etc.,

IGNO, MARISCAL.

[Subinclosure.—Translation.]

*District judge of Nogales to Secretary for Foreign Affairs.*MEXICAN REPUBLIC, DISTRICT COURT, NOGALES, SONORA,
*Nogales, December 21, 1903.**To the Secretary of State and of the Office of Foreign Affairs, Mexico.*

The Bean case:

Engineer Bean was tried for the crime of negligence because of injuries received at "Punta de Arena" by a laborer on March 1, 1902. The case was dismissed, and the prisoner was therefore definitively released. The said case was forwarded on March 31 of the present year to the third circuit court for review.

I renew, etc.,

A. D. CANALE.

Mr. Clayton to Mr. Hay.

No. 2193.]

AMERICAN EMBASSY,
Mexico, March 11, 1904.

SIR: Referring to my No. 2187 of the 8th instant, I have the honor to inclose copy and translation of note from Mr. Mariscal, stating that he has been informed by the third circuit court that the district court of Sonora dismissed the case against Engineer C. O. Bean, and ordered the return to the Sonora Railway of the cash bail of \$300, Bean having been unconditionally released.

I have, etc.,

POWELL CLAYTON.

[Inclosure.]

*Mr. Mariscal to Mr. Clayton.*DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, March 4, 1904.

MR. AMBASSADOR: Referring to my note of February 12 last, relating to the case of C. O. Bean, I have the honor to say to your excellency that the third circuit court informs me, in note dated February 25 last, that the district court of Sonora dismissed the said case and ordered that the deposit of \$300, the amount of Bean's bail, be returned to the manager of the Sonora Railway, Bean having been unconditionally released.

I renew, etc.,

IGNO. MARISCAL.

**EXTRACTS FROM MESSAGES OF THE PRESIDENT OF MEXICO
TO CONGRESS.***Mr. Clayton to Mr. Hay.*

No. 2235.]

AMERICAN EMBASSY,
Mexico, April 11, 1904.

SIR: I have the honor to inclose copy and translation of the message of the President, delivered at the opening of the Mexican Congress, on the 1st instant.

I have, etc.,

POWELL CLAYTON.

[Inclosure.—Translation.]

From Mexican Herald, April 2, 1904.

[Extracts.]

Last night, with the customary formalities, President Diaz opened the fourth period of sessions of the Twenty-first Congress, and on that occasion delivered himself of the following message :

Messrs. Deputies, Messrs. Senators:

The recurrence of my appearance before you twice annually in nowise diminishes the pleasure which this honor affords me, nor the gratification which I feel in performing a duty imposed upon me by our fundamental law, viz, the duty of informing you as to the national business and interests intrusted to the executive power.

* * * * *

FOREIGN RELATIONS.

In the first place, I take pleasure in informing you that our foreign relations continue unalterably friendly, and in certain cases positively cordial; they are also being daily extended until they now embrace certain nations which had never before cultivated the friendship of Mexico.

MEXICO AND VENEZUELA.

In my last message I had the honor of informing you that the mixed commission, established by Mexico and Venezuela, had assembled at Caracas and had entered upon its duties. Although the convention laid down that only Mexican claims were to be passed upon by the commission, the Government of Mexico, when consulted as to whether claims of the opposite side could be taken into consideration, believed that it was proper and equitable to assent to the proposal, and an answer to that effect was returned to the commission and to the Venezuelan chancellerie. It is gratifying to me now to inform you that, as was to be expected, the commission discharged conscientiously its delicate trust and that the referee gave a decision in favor of the Mexican claimants, who, as assignees of their Government, had justice on their side, considering the origin of the long-standing debt in question, a debt which the great Bolivar regarded as sacred.

THE REPUBLIC OF PANAMA.

Recent events on the Isthmus of Panama are sufficiently familiar, as are also the circumstances under which that ancient portion of Colombia proclaimed its independence. The Mexican Government, which observes the greatest circumspection in its international relations, waited to see the results of the important move in question before recognizing the new order of things. A great number of European nations, and some nations on this continent, had from the start extended recognition to the new Republic. At length popular suffrage in those regions gave to the new government a status of regularity, and on the other hand there is no danger of its being soon or easily overthrown. In view of these facts the Mexican Government has recognized it, wishing at the same time to the new American State the utmost prosperity and an era of uninterrupted peace.

COMPULSORY ARBITRATION.

The Government of Peru has communicated to our department of foreign relations its approval of the treaty of compulsory arbitration, which was signed in this capital on January 29, 1902, by the delegates of various nations represented at the Pan-American Conference.

RUSSO-JAPANESE WAR.

The Mexican Government having been notified by the diplomatic representatives of Japan and Russia of the existence of a state of war between those two

nations, I hastened (though, in view of Mexico's remoteness from the scene of hostilities, there seemed to be no urgent call for action) to proclaim the measures of neutrality demanded by the fact that our country is friendly to both belligerents.

RELATIONS WITH PERSIA.

In order to reciprocate the special mission which His Majesty the Shah of Persia was pleased to send to Mexico the Mexican minister at Paris, invested with the character of ambassador extraordinary and plenipotentiary, was sent on a similar special mission to the capital of the Persian Empire. Both there and during the whole of his passage through Persian territory our envoy received signal marks of courtesy and attention. His visit cemented the excellent relations created by the Persian mission to our country.

A MINISTER FROM CHINA.

The Imperial Government of China has appointed its representative at Washington to come to Mexico in a similar capacity. This will be the first opportunity afforded to us to receive a diplomat from that interesting nation, with which Mexico for some years past has had a treaty of friendship and commerce.

NEW ZEALAND POSTAGE RATES.

The Government of Great Britain having manifested a desire to reduce the postage rates on letters addressed from New Zealand to Mexico, a convention covering the point was recently signed, and to-day it is sent to the Senate in compliance with the requirements of the constitution.

RELATIONS WITH AUSTRIA.

There will also be sent to that high chamber a convention, signed on December 31 last, the object of which is to regulate the friendly relations existing between Mexico and Austria-Hungary on the same lines as laid down in the treaty of September 17, 1901, with the single difference that for its validity the period of one year from the date of the exchange of ratifications has been fixed.

* * * * *

Mr. Clayton to Mr. Hay.

No. 2481.]

AMERICAN EMBASSY,

Mexico, October 12, 1904.

SIR: I have the honor to transmit herewith a clipping from the *Diario Oficial* containing the message of President Diaz delivered at the opening of Twenty-second Mexican Congress, on the 16th ultimo, together with a clipping from the *Mexican Herald* containing a translation of the same.

I have, etc.,

POWELL CLAYTON.

[Inclosure.]

Extracts from Mexican Herald, September 17, 1904.

PRESIDENT'S MESSAGE TO CONGRESS.

Last night, with the customary ceremony, President Diaz opened the first period of sessions of the Twenty-second Congress, and on that occasion read a message reviewing the condition of public affairs.

The following is a translation of the message in question :

Messrs. Deputies, Messrs. Senators:

The fact that the Twenty-second Congress of the union is on this day inaugurated, coupled with the memories which this anniversary arouses in the heart of every Mexican, lends added interest to this solemn ceremony in which I am called on to perform the duty imposed on me by article 63 of our fundamental law.

FOREIGN RELATIONS.

In the first place, I take pleasure in informing you that our foreign relations have preserved their friendly character, for, though during the time that has elapsed since my last report an incident occurred which might have had painful results, a friendly disposition on both sides brought it to a satisfactory termination.

INCIDENT WITH GUATEMALA.

The documents published last month in the *Diario Oficial* will have apprised you that as several soldiers were passing in front of the Mexican legation in Guatemala city in charge of a prisoner the latter escaped and penetrated into the zaguan of the edifice, whither, without asking permission, his custodians followed him and whence they forcibly dragged him out. The minister of Mexico, as soon as informed of the occurrence, lodged a protest, as was his duty, demanding satisfaction for the outrage and the chastisement of the guilty parties. The Government of Guatemala ordered an investigation and, without doubt misinformed as to what had transpired, declined at first to accede to these demands, though expressing regret at the incident. Mindful of the sentiments of fraternity which have always animated us in our relations with Guatemala, the Government was loath to go to extremes in the manifestations of its displeasure and merely took care to instruct its diplomatic representative to press his demands; seeing that the testimony of various persons who had been eyewitnesses of the occurrence left no doubt that an outrage had been committed. It is gratifying to me to inform you that this conduct, marked by both firmness and prudence, produced the desired result, seeing that the Government of Guatemala gave satisfaction to the Government of Mexico by yielding to its demands, which involved an expression of regret at what had occurred and the punishment of the person who proved to have been directly guilty.

RELATIONS WITH PARAGUAY.

For the first time a Mexican minister has visited the capital of Paraguay in acknowledgment of the courtesy of that country in sending a plenipotentiary to this Republic three years ago. Through reports received by the department of foreign relations and through newspapers published in those parts, it has been learned that both the Government and people of Paraguay extended a most cordial welcome to our representative, thus improving the already pleasant relations which have always existed between the two sister nations.

MINISTER FROM CHINA.

For the first time also our Republic has been visited by a representative of the remote Chinese Empire, who was received both by the governor and the society of the capital with the consideration due to his personal accomplishments and his high mission. On our side a person has been designated to represent the nation at the court of Peking, and any day now he may be expected to present his credentials. Thus diplomatic relations, which will be of mutual advantage, have been established between the two countries.

POSTAL CONVENTIONS.

There has been promulgated in this country a convention entered into between Mexico and Great Britain for the interchange of postal money orders, enabling the Mexican public to avail itself of this mode of remittance with any other country in the world through the instrumentality of the British post-office.

Two conventions with the Republic of Cuba, one for the interchange of correspondence and the other for the interchange of postal packages, have also been promulgated.

It is undoubted that these three international agreements will be of mutual advantage to the nations concerned.

* * * * *

Messrs. Deputies; Messrs. Senators:

If the facts which I have just communicated to you offer no special novelty, they at least portray faithfully the country's situation as far as the interests, the administration of which has been confided to the Executive, are concerned and corroborate the conviction which now prevails generally throughout the world that the Republic has entered resolutely upon the ways of unquestioned progress. Peace, order, and legality, aided by the sound sense which now characterizes the people of Mexico, are well known to be the causes of this favorable situation in the history of the country. The permanence of those blessings and their increasing development will depend in future on the same causes, seeing that the obstacles which formerly trammelled public prosperity have been removed, and in order to preserve and expand it indefinitely nothing will be needed but the endeavors and industry of every good citizen and the timely and patriotic labors of the people's representatives in the exercise of the powers with which the constitution has clothed them.

MURDER OF J. B. MAXWELL, J. C. MAXWELL, AND ENOCH WOODWORTH.

Mr. Loomis to Mr. Clayton.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 8, 1904.

(Mr. Loomis states that it is reported that three Americans, J. B. Maxwell, J. C. Maxwell, and Enoch Woodworth, were cruelly murdered on the Yaqui River, and instructs Mr. Clayton to invoke the good offices of the Mexican Government for the apprehension and punishment of the murderers.)

Mr. Clayton to Mr. Hay.

No. 2347.]

AMERICAN EMBASSY,
Mexico, July 9, 1904.

SIR: I have the honor to acknowledge the receipt of Mr. Loomis's telegram of yesterday regarding the reported murder, on the Yaqui River, of three Americans, J. B. Maxwell, J. C. Maxwell, and Enoch Woodworth, and instructing me to invoke the good offices of the Mexican Government for the apprehension and punishment of the guilty parties.

I inclose herewith a copy of my note to the foreign office on the subject.

I have, etc.,

POWELL CLAYTON.

[Inclosure.]

Mr. Clayton to Mr. Mariscal.

AMERICAN EMBASSY,
Mexico, July 9, 1904.

MR. MINISTER: I have the honor to inclose a copy of a telegram, which I have just received from the Department of State, relating to the reported mur-

der, on the Yaqui River, of three Americans, J. B. Maxwell, J. C. Maxwell, and Enoch Woodworth.

If the facts are as represented I respectfully invoke the good offices of your excellency for the apprehension and punishment of the guilty parties.

I renew, etc.,

POWELL CLAYTON.

Mr. Clayton to Mr. Hay.

No. 2435.]

AMERICAN EMBASSY,
Mexico, September 10, 1904.

SIR: Referring to previous correspondence relative to the murder of the American citizens J. B. Maxwell, J. C. Maxwell, and Enoch Woodworth, I now have the honor to inclose copy of correspondence between this embassy and the American consulate at Guaymas, Mexico, upon the subject. The especial attention of the Department is invited to the letter of Governor Rafael Izabal to George H. Lesser, consular agent at Guaymas, referring to the finding of the dead bodies of the murdered citizens and the measures which have been taken to discover the authors of the crime, four individuals having been arrested as apparently guilty of the same and placed under the control of the proper judicial authorities, who, with all possible diligence, are conducting the investigation, etc.

I have, etc.,

POWELL CLAYTON.

[Inclosure.]

Mr. Crocker to Mr. Clayton.

AMERICAN CONSULAR SERVICE,
Guaymas, Sonora, August 30, 1904.

SIR: Your letter of the 13th instant was received during my absence. Mr. Lesser, who acted for me during my absence, took the matter up with Governor Izabal, and his letter concerning the case is inclosed for your information.

The crime referred to occurred in the northern part of the State, and I have no knowledge of same further than that gleaned from the newspapers. I have taken the liberty of forwarding your letter to Mr. Morawetz, at Nogales, requesting him to furnish you such information as he may have covering the case.

Respectfully,

FRANK M. CROCKER.

[Subinclosure.—Translation.]

Governor of Sonora to the American consular agent at Guaymas, Sonora.

HERMOSILLO, August 22, 1904.

DEAR SIR: I beg to answer your favor of the 19th instant, and to state that, in fact, on July 17 last, and at a place named "El Arco," district of Moctezuma, the dead bodies of the Americans J. A. Maxwell, Maxwell, and Enoch Woodward, were found, who appeared to have been murdered.

Energetic measures were at once dictated to discover the authors of the crime, and two days later four individuals were arrested as apparently guilty of the same.

Said men having been placed under the control of the proper judicial authorities, the latter, acting with all possible diligence, are conducting the investigations necessary to disclose the facts, to the end of applying the proper penalty upon those who may be declared guilty.

I am, etc.,

RAFAEL IZABAL.

**AMENDMENTS TO THE CONSTITUTION OF MEXICO RELATING
TO THE ELECTION OF PRESIDENT AND VICE-PRESIDENT.**

Mr. McCreery to Mr. Hay.

No. 2326.]

AMERICAN EMBASSY,
Mexico, June 20, 1904.

SIR: I have the honor to inclose copy and translation of amendments to the constitution of Mexico, passed by the Congress, ratified by the legislatures of the several States, and promulgated by the President on the 6th ultimo.

Heretofore, in the event of the death or permanent disability of the President, the minister for foreign affairs would act as President until a President was chosen at a new election, which should be at once called.

Under these amendments a Vice-President will this year be elected with the President. The Vice-President will be president of the Senate and may hold another office to which he may be appointed by the President, as a post in the cabinet. In case of the death or permanent disability of the President, the powers and duties of the office of President shall devolve upon the Vice-President for the remainder of the term for which he was elected. In case of the temporary disability of the President, or when he has been granted a leave of absence by the Congress, the executory powers shall devolve upon the Vice-President.

By these amendments the term of office of the President is increased from four to six years.

President and Vice-President will be inaugurated on December 1, proximo, under these amendments.

The election will be held next month. The only candidates announced are Porfirio Diaz, actual President, for reelection; and Ramón Corral, minister of government, for Vice-President.

I have, etc.,

FENTON R. MCCREERY.

[Inclosure.—Translation.]

Amendments to the constitution of Mexico, relating to the election of President and Vice-President of the Republic.

DEPARTMENT OF GOVERNMENT—MEXICO—FIRST SECTION.

The President of the Republic has been pleased to transmit to me the following law:

Porfirio Diaz, constitutional President of the United Mexican States, to the people thereof, greeting:

That the National Congress has seen fit to issue the following decree:

The Congress of the United Mexican States, availing itself of the powers conferred upon it by article 127 of the federal constitution, and by virtue of the unanimous approval of the legislatures of the States, it hereby declares that articles 72, 74, 78, 79 to 84, inclusive, and first section of article 103 of said constitution, shall be amended according to the following terms:

SINGLE ARTICLE. Sections XXXI and XXXII of article 72 are hereby repealed, and paragraph A of article 72, articles 74, 78, 79 to 84, inclusive, and the first section of article 103, are amended according to the following terms:

ARTICLE 72. A. The exclusive powers of the House of Deputies are:

I. To constitute itself an electoral college in order to exercise the powers which the law may assign to it in respect to the election of President and Vice-

President of the Republic, magistrates of the supreme court of justice, and senators for the federal district.

II. To judge and decide upon the resignations and leaves of absence of the President and Vice-President of the Republic, and upon the resignations of the magistrates of the supreme court of justice.

ARTICLE 74. The attributes of the permanent deputation, without prejudice against others which the constitution may confer upon it, are: * * *

ARTICLE 78. The President and Vice-President of the Republic shall enter upon the performance of their duties on the 1st of December, and shall continue in office six years.

ARTICLE 79. The electors who may designate the President of the Republic, shall also elect, on the same day and in the same manner, to fill the office of Vice-President, a citizen having the qualifications required to be President by article 77.

The Vice-President of the Republic shall be ex-officio the president of the senate, but shall have no vote, unless they be equally divided. The Vice-President may, however, enter upon the performance of another charge to which he may be appointed by the Executive, and in the latter case, as well as when he may be absent for other reasons, he shall be substituted as president of the senate according to the manner provided by the proper law.

ARTICLE 80. In case the President of the Republic fails to appear on the day provided by law to enter upon the discharge of his duties, when the office has already been declared vacant, or when he has been granted a leave of absence, the executive power shall devolve on the Vice-President, by virtue of the law itself, the formality of taking a new oath being unnecessary.

If the President's default be permanent, the Vice-president shall act as his substitute until the end of the term for which he was elected, or until such time as the President resumes the exercise of his duties.

ARTICLE 81. If, at the beginning of a constitutional term, both the President and Vice-President elect fail to appear, or when the election may not have taken place and been declared on the 1st of December, the President whose term may have expired shall, however, cease to act as such and the executive power shall at once devolve on the secretary of state, who shall act as President ad interim, and in case of default or inability of the latter, on one of the other members of the cabinet according to the order in which they are ranked by law.

The same course shall be observed when during the permanent or temporary default or disability of the President, the Vice-President should fail to appear, on account of the latter having been granted a leave of absence, while discharging his duties, and when during the course of a term the offices of both functionaries might become vacant.

In case of vacancy of the offices of President and Vice-President, the National Congress, or during its period of recess, the permanent commission, shall issue the summons to proceed to extraordinary elections.

When the vacancy of both offices occurs during the last year of the constitutional term, the above-mentioned summons shall not be issued, but the member of the cabinet who may have charge of the executive power shall continue in office until the next President, or the person who is to act in his stead, according to the preceding provisions, takes the oath of office.

The citizens who may be elected through the extraordinary elections shall enter upon the performance of their duties so soon as the proper declaration is made, and shall continue in office during the time preceding the expiration of the constitutional term.

When the executive power devolves on any of the members of the cabinet, the latter shall perform the duties of his office without any oath until he takes the same.

ARTICLE 82. The offices of President and Vice-President may not be resigned, except for grave cause, approved by the Chamber of Deputies, to which the resignation shall be presented.

ARTICLE 83. The President, on taking possession of his office, shall take an oath before Congress, and in its recess before the permanent commission, according to the following formula:

"I swear without any reserve to obey and cause others to obey the constitution of the United Mexican States, with its additions and amendments, the laws of reform, and all others emanating from the same, and to perform loyally and patriotically the duties of the office of President of the Republic conferred upon me by its people, and to seek in everything for the welfare and prosperity of the Union."

The Vice-President of the Republic shall take his oath on the same session, swearing in similar terms to perform the duties of Vice-President and in its turn those of President of the Republic; but in case he may not be able to take his oath on the same session, he may do so on another.

ARTICLE 84. The President and Vice-President of the Republic may not remove from the national territory without permission from the Chamber of Deputies.

ARTICLE 103. The Senators and Deputies of the National Congress, the magistrates of the supreme court of justice, and the secretaries of the cabinet are responsible for the common crimes which they may commit during their terms of office, and for the crimes, misdemeanors, or negligence into which they may fall in the performance of the duties of said office. The governors of the States are likewise responsible for the infraction of the constitution and federal laws. The President and Vice-President of the Republic during the term of their office may be accused only for the crimes of treason against the country, express violation of the constitution, attack on the freedom of election, and for high crimes of a common order.

* * * * *

Mr. Clayton to Mr. Hay.

No. 2561.]

AMERICAN EMBASSY,
Mexico, December 8, 1904.

SIR: I have the honor to inclose a clipping from the Mexican Herald, containing an account of the inauguration of President Diaz and Vice-President Corral on the 1st instant. Said clipping also contains the congratulatory address delivered by me at the national palace on behalf of the diplomatic corps, and the President's reply.

I have, etc.,

POWELL CLAYTON.

[Inclosure.]

From the Mexican Herald, December 2, 1904.

SEVENTH TERM OF PRESIDENT DIAZ BEGAN YESTERDAY—PRESIDENT AND VICE-PRESIDENT RECEIVED CONGRATULATIONS.

Amid a general atmosphere of cheerfulness the inauguration of a new presidential term was celebrated yesterday.

* * * * *

THE OFFICIAL CEREMONY.

The ceremony of taking the oath of office was very brief and simple.

When the President and Vice-President-elect entered the House, all the members and the occupants of all the boxes rose, and cheers and clapping of hands came from all parts of the hall.

Alfredo Chavero, the Speaker of the House, occupied a scarlet and gold chair on the raised dais in the rear of the chamber.

While all the members of both Chambers present stood up, Mr. Chavero, as representative of Congress, remained seated.

First General Diaz mounted the dais and advanced to another gold and scarlet chair placed beside that of the Speaker. That other chair, however, the President did not occupy, but standing in front of Mr. Chavero, and after shaking hands with him, he repeated the customary formula, promising to discharge well and faithfully the duties of the office of President, to which he had been elected, to consider always the welfare of the nation, and to observe and to cause to be observed the constitution and laws of reform.

Mr. Chavero then said:

"If so you do, may the nation reward you; and if so you shall not do, may she call you to account."

The President's declaration was received with a renewed outburst of applause. Then Mr. Corral made an analogous declaration, suited to the office of Vice-President, and the formula repeated by Mr. Chavero was the same. Mr. Corral's declaration was also greeted with applause.

This brought the ceremony to a close, and the President and Vice-President retired from the hall amidst loud acclamations.

General Diaz repaired to the reception room of the Chamber, where he spent some moments in pleasant conversation with Benito Juarez, son of the illustrious reforming President; Gabriel Mancera, Manuel Cervantes, and Enrique Landa.

AT THE NATIONAL PALACE.

Then the President and Vice-President, with Messrs. Gabriel Mancera and Serapion Fernandez, drove back to the palace, amidst the cheers of the multitude.

The diplomatic corps, cabinet ministers, state governors, and delegations of Congress also drove to the palace.

Hardly had the party arrived when General Diaz, surrounded by the brilliantly attired diplomats, his cabinet ministers, the governors and Senators and Deputies, appeared on the southern balcony, overlooking the court of honor, and listened to a musical selection rendered by the newly organized band of the gendarmes, which was stationed in the courtyard. The band was led by Velino M. Preza, whose reputation as a band conductor is already well established.

The President and party applauded the selection, which was voted to be very creditable.

Some moments were then spent in animated conversation in the red room, until the President momentarily withdrew to an inner reception room.

The persons remaining in the red room continued in conversation. The group included the two delegations of the Chamber appointed to escort the President and Vice-President during the ceremony. That for the President was composed as follows: Gabriel Mancera, Benito Juarez, Leandro M. Alcolea, Manuel Cervantes, Enrique Landa, and Antonio de la Peña y Reyes. That for the Vice-President was composed of the following: Serapion Fernandez, Guillermo Obregon, Jesus Monjarás, Gregorio Mendizabal, Ignacio de la Barra, and Rafael Pardo.

There were also present Senator Camacho, Senator Carlos Rivas, Senator Eduardo Rincon Gallardo, Senator Roman S. de Lascurain, Senator Ramon Alcazar, Senator Gumersindo Enriquez, Luis G. Lavie, Guillermo de Landa y Escandon, governor of the federal district, besides all the visiting governors, Col. Felix Diaz, chief of police; Jose F. Godoy, minister of Mexico in Central America; Gen. Rosalino Martinez, subsecretary of war and marine; Gen. Eugenio Rascon, military commandant; Joaquin Larralde, intendent of the presidential residences.

THE DIPLOMATS RECEIVED.

After a brief interval it was announced that the President would receive the diplomatic corps in the green room. The diplomats accordingly filed in and ranged themselves in semicircle around the room in the following order: Gen. Powell Clayton, American ambassador, with Messrs. McCreery and Hoefele, secretaries of the embassy; Camille Blondel, minister of France, with the secretary of the French legation, le Vicomte de la Tour, the Marquis de Prat de Nantouillet, minister of H. C. M.; Viscount Beughem, minister of Belgium; Col. Francisco Orla, minister of Guatemala; Gen. Carlos Garcia Velez, minister of Cuba; K. Soughimoura, minister of Japan; Baron Hans von Wangenheim, minister of Germany; Cav. Aldo Nobili, minister of Italy; Gregoire de Wollant, chargé d'affaires of Russia; Liang Hsun, chargé d'affaires of China, with Fong Ying Kai, attaché of the Chinese legation, and Clarence Key, foreign secretary; Señor Vega, chargé d'affaires of Chile; Geza von Gaspardy, chargé d'affaires of Austria; Count Kielmansegg, secretary of the Austrian legation, and Lieutenant Sommerhoff, military attaché of the German legation.

General Clayton delivered the following address:

"MR. PRESIDENT: Four years ago, upon an occasion similar to this, I had the honor to offer you the congratulations of the diplomatic corps at this capital.

The many congratulatory conditions which then existed exist to-day, although greatly augmented. I need not enumerate the happy conditions, so dear to your heart, upon which we now tender you our hearty congratulations, one of which, however, I can not refrain from referring to. It is the wonderful success which has attended the efforts of your administration to establish the national credit of Mexico upon a firm basis. It proves conclusively that in the money marts of the world full faith exists in Mexico's ability and the perfect integrity of her purpose to meet all of her financial obligations. To my mind, the effectuation of your proposed governmental monetary plans follows the establishment of your national credit as the day follows the dawn. As these are questions upon which the Mexican people appear to be united, I hope that I have committed no impropriety in alluding to them as subjects of special congratulation.

"Mr. President, we beg that you will accept our felicitations upon the good health with which you are so eminently blessed. May it continue, not only during your term of office, but for many years thereafter, so that you may experience the happy consummation of all that you have so wisely devised and for which you have so arduously labored.

"Mr. President, for yourself and family; for the distinguished citizen who now occupies the vice-presidential office; for the wise and loyal members of your cabinet, especially for him with whom we have our principal official relations, and who, by reason of his uniform kindness and courtesy, we hold in such high esteem: for Mexico and her people, and for the complete success of your administration, we beg to offer our heartiest best wishes."

The President made the following reply:

"MR. AMBASSADOR AND MESSRS. MINISTERS: Your presence in these halls for the purpose of congratulating me on the renewal of the popular mandate in my favor is an event as honorable and agreeable to me as it is flattering to the Mexican Republic, because it affords another demonstration of the friendly relations, diplomatic and commercial, which Mexico happily cultivates with the great powers which you so discreetly and patriotically represent near this Government.

"In conveying to you my profound gratitude for the honor which your valued visit confers upon me, I reciprocate your wishes by expressing my heartfelt desires for the felicity of your august sovereigns and worthy rulers, and for the peace and ever-increasing prosperity of the nations which they so wisely govern."

MOROCCO.

ABDUCTION OF ION PERDICARIS BY BANDITS.

NOTE.—See also under France, p. 307, and Great Britain, p. 338.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, May 19, 1904.

(Mr. Gummeré reports that on the night of the 18th of May, about 8.30 o'clock, a band of natives headed by a bandit named Raisuli, who kidnaped Mr. Walter Harris the year previous, broke into the country house of Mr. Perdicaris, a prominent American citizen, and carried away Mr. Perdicaris and his stepson, Mr. Varley, a British subject. Mr. Perdicaris's house is situated about 3 miles from Tangier.

The consul-general and the British minister have informed the Sultan's deputy that the Moorish authorities are to be held personally responsible, and in order to secure the release of the captives they have insisted that any terms demanded by Raisuli be immediately granted. They are also dispatching a special courier to the court to have the Sultan's deputy instructed to comply with such requests as they may make.

The consul-general regards the situation as serious, and asks that a man-of-war be sent to enforce the demands.)

Mr. Loomis to Mr. Gummeré.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 19, 1904.

(Mr. Loomis informs Mr. Gummeré that a war vessel has been ordered to Tangier, but that it may not arrive there for three or four days.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, May 20, 1904.

(Mr. Gummeré reports no terms have yet been received from Raisuli, who has carried the captives to the mountains, where it is impossible to pursue him. The aid of the Moorish authorities is given in every way. The presence of a ship of war will be of great assistance.)

Mr. Loomis to Mr. Gummeré.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 20, 1904.

(Mr. Loomis instructs Mr. Gummeré to urge the authorities of Morocco to make energetic efforts to secure the release of Mr. Perdicaris, and also to punish his abductors, if practicable.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, May 22, 1904.

(Mr. Gummeré reports that negotiations for the release of the captives have begun, the terms of which will be reported later. The captives have been communicated with and are well treated.)

Mr. Loomis to Mr. Gummeré.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 22, 1904.

(Mr. Loomis instructs Mr. Gummeré to work actively in behalf of Mr. Perdicaris and to forward full reports of any progress that may be made.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, May 25, 1904.

(Mr. Gummeré reports that the Sultan has sent vigorous instructions to authorities to act under the direction of the British minister and himself. The negotiations for the release of the captives most unsatisfactory and the situation at Tangier not reassuring. The arrival of the war ship, from which he has so far received no intelligence, is anxiously awaited.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, May 29, 1904.

(Mr. Gummeré reports that the lives of the captives have been threatened unless Raisuli's terms are granted and adds that every hour's delay may be serious.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, May 30, 1904.

(Mr. Gummeré reports the arrival of the American man-of-war *Brooklyn*, and that there have been no further developments.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, June 1, 1904.

(Mr. Gummeré reports the arrival of Admiral Jewell with the Mediterranean Squadron.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, June 8, 1904.

(Mr. Gummeré reports that the Sultan, through the grand vizier, has expressed his regret for the outrage, and is willing to do everything possible to secure the release of the captives. The minister for foreign affairs states that he is instructed to send his son and Raisuli's relatives to negotiate with him, paying whatever money may be agreed upon, and offering to remove the governor of Tangier and send him to Fez, appoint Raisuli over Zeenat and Briesh, release certain prisoners and guarantee the release of others, and attend as soon as possible to the arrest of certain chiefs.

Mr. Gummeré adds that in the meantime the Moorish Government must be held responsible for the safety of the captives.

Efforts are being made to send the fleet's surgeon to Mr. Perdicaris, who is ill.

A British man-of-war arrived on the 7th.)

Mr. Hay to Mr. Gummeré.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 9, 1904.

(Mr. Hay informs Mr. Gummeré that while the President desires everything possible to be done to secure the release of Mr. Perdicaris, the United States is not to be put in the position of guaranteeing any concessions made by the Sultan to the bandits. It should be clearly

understood that if Mr. Perdicaris should be murdered, the life of the murderer will be demanded, and in no case will the United States be a party to any promise of immunity for his crime. Anything which may be regarded as an encouragement to brigandage or blackmail should be avoided in the negotiations.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, June 10, 1904.

(Mr. Gummeré acknowledges the receipt of the Department's instructions and reports that in the endeavor to accomplish the release of the captives all possible efforts have been made. Pardon was offered by the British minister and himself without any other condition immediately after the outrage if the captives were released on a fixed date. That offer was rejected. Since this was reported through the British minister for foreign affairs, the consul-general has had no negotiations with bandit, having consistently impressed upon the Moorish Government, as previously reported, that the Government of the United States held it responsible for the life and the speedy release of Mr. Pedicaris and that all negotiations must be conducted by it. To accede to all the bandit's demands is the only means the Moorish Government has to procure the release of the captives. The Government has no authority, for the present at least, over these mountaineers. The bandit could never be caught and nothing could save the captives' lives if the negotiations were broken off. The Sultan's order to secure the captives' release is not being carried out vigorously by the minister for foreign affairs, but in accordance with the demands of the British minister and Mr. Gummeré he has promised active negotiations next Sunday or Monday. Strict attention will be given to carrying out the instructions of the Department.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, June 11, 1904.

(Mr. Gummeré reports that a further account of Mr. Perdicaris's serious illness has been received. Muley Ahmed, who is in Tangier, has received a letter from his brother, Shereef Muley Ali, who is with the captives, saying that if he can do so secretly Raisuli will permit him to bring Mr. Perdicaris down and will hold Mr. Varley alone, but not to come if the Sultan's answer to the demands was received. Muley Ahmed declared, in a conference with British minister, that although he was willing to go after Mr. Perdicaris, in

bringing him through the other tribes he was positive they would take him away and then make demands of their own. The Sultan's acquiescence to the demands having been received, Mr. Gummeré decided, after mature consideration, that the risk of bringing captives at this time was too great. The minister for foreign affairs, however, in accordance with Mr. Gummeré's demand for immediate action in carrying out the Sultan's orders has promised to send a negotiator to-morrow morning, and asserts that the prisoners, money and everything, are in readiness for the exchange of the captives.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, June 14, 1904.

(Mr. Gummeré reports that a letter from one of the Shereefs of Wazan has been shown to the British minister in which it is stated that guaranties are demanded by the brigand, from the British minister and himself, that neither Raisuli nor his tribe will be molested by the Moorish Government, but allowed to till their fields; and that the arrest of the sheiks in accordance with his demands shall be accomplished within a month.

Mr. Gummeré adds that it would be well to await the return of the messenger of the minister for foreign affairs, in order to learn whether the guaranties are really demanded. That his instructions forbid his giving such guaranties is fully understood by Consul-General Gummeré.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, June 15, 1904.

(Mr. Gummeré reports the receipt by the minister for foreign affairs of a reply from the brigand in which further demands are made, namely, the release of some additional prisoners, four districts to be handed over to him, and his requirement of the arrest and imprisonment of the sheiks to be complied with. It is the intention of the minister for foreign affairs to grant these further demands. In his letter the brigand states that the British minister and Consul-General Gummeré will probably be approached by him on this point through other channels than the Moorish authorities. Mr. Perdicas has been informed by the brigand, as the Shereef of Wazan was previously informed, that guaranties as to immunity will be required from the British and American Governments, but as to the guaranty of the imprisonment of the sheiks nothing was said by him to-day.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, June 15, 1904.

(Mr. Gummeré confirms his report of yesterday as to the new demands of the brigand. He has been informed to-day by the minister for foreign affairs that one of the sheiks and his two brothers have been arrested in accordance with the demands of the brigand, and that a negotiator has been sent to Raisuli to inform him that if the captives are released the new demands will be granted. It is evident, as was also reported, that no reliance is placed by the brigand upon any promises of his Government, and it is his intention to demand from the British minister and Mr. Gummeré guaranties which they have intimated will not be given. Threats against the captives' lives will probably follow, and the question as to how they are to be met is important. In view of the Department's intimation that the Moorish Government will be held responsible for the lives of the murderers, the absolute impotency of the Moorish Government and its inability to inflict punishment must be understood. The brigand utterly disregards the idea of punishment by the Moorish Government. The whole army of the Sultan consists of less than 2,000 men, and this number is daily diminishing. Having awaited the result of the negotiations for one month, the consul-general is now firmly convinced that the time has arrived when the brigand and his supporters should be plainly warned that they will be punished by the great Powers to whom the captives belong if they are injured or are not immediately released, and adds that their lives may in this way be preserved; but that in order not to jeopardize the lives of all Christians in Morocco it would be necessary that such a threat of punishment should be fulfilled to the letter.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, June 17, 1904.

(Mr. Gummeré reports that the brigand's negotiator returned last night and announces that the terms having been accepted, the Moorish prisoners were released to-day, and the \$50,000 in Spanish notes and \$20,000 gold must be delivered to the bandit at Tarrasant, where he is now, when Messrs. Perdicaris and Varley would be released. To this earnest objection was made by the British minister and Mr. Gummeré on the ground that the bandit, once having the money and prisoners, would not without further demand give up the captives. Finally it was proposed that \$20,000 silver, and the remainder in notes (gold coin having been waived), together with the prisoners, should be taken by Muley Ahmed, one of the Wazan Shereefs, and the brigand's negotiator, to the village of Zellal in the Beni Msur, a friendly tribe about six hours from Tangier, to be met there by Muley Ali, the other Wazan Shereef, with the captives, in charge of the brigand, and the exchange effected. To-day by special courier this proposal has been

sent forward and a reply is hoped for to-morrow. It is still feared that the demand of guaranties will be made at the last moment.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, June 19, 1904.

(Mr. Gummeré reports that unless some unforeseen obstacle should arise, conditions would appear to be favorable for the release of the captives on June 21.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, June 20, 1904.

(Mr. Gummeré reports that on the 19th Raisuli's representative returned and reported that the bandit had agreed to the proposed exchange of the captives at Zellal's village, but the minister for foreign affairs has been informed by Zellal that he will not permit the exchange in his territory, fearing that harm might come to him. The minister for foreign affairs was told by Mr. Gummeré that the manner of the negotiations was not satisfactory; that it could not be conceded that the Government had no authority over a petty chief, and that for every hour's further delay he would be held responsible. He now states that the bandit's negotiator will be sent to persuade Zellal to permit the meeting for the exchange of the captives, and should he fail, he will try to persuade the bandit to make the exchange either at Zeenak, Ramlah, or Breesh, all of which are near Tangier. It is also stated by the minister for foreign affairs that pardon will be granted for the bandit's tribe as demanded by him. A reply has been made to the minister that the proposed action in regard to arranging for a place of exchange seems reasonable, but that the British minister and Consul-General Gummeré will in no way be bound by any promise to grant pardon to those who have been implicated in the outrage on and the detention of the captives. The minister for foreign affairs has replied to this that his Government does not expect that anything it says or does should bind the British minister and Consul-General Gummeré.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, June 21, 1904.

(Mr. Gummeré reports that the release of the captives is being delayed and that his position is becoming humiliating. He urges

that, in the event of the failure of the effort reported yesterday for an exchange of captives, he may be empowered to present an ultimatum immediately claiming a large indemnity for each day's further delay and threatening to land marines and seize the customs. Such action appears to be necessary to secure the release of the captives and prevent further delay.

Mr. Hay to Mr. Gummeré.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 22, 1904.

(Mr. Hay states that this Government "wants Perdicaris alive or Raisuli dead." Further than this, least possible complications with Morocco or other powers is desired. Mr. Gummeré is instructed not to arrange for landing marines or seizing custom-house without the Department's specific directions.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, June 22, 1904.

(Mr. Gummeré reports that the negotiator returned this morning with word that Zellal had given his consent to allow the exchange of the captives at his village provided the Moorish Government will give him a written guaranty that he and his people shall not be molested hereafter. This promise was at once sent by the minister for foreign affairs. Raisuli has been told by special messenger to proceed with the captives and Muley Ali to Zellal's village early to-morrow morning, and the prisoners and the money, with Muley Ahamed and negotiator will be sent from here very early the same day. Directions that the captives should be brought there without resting have been given, as delays are considered dangerous. Mr. Gummeré states that the prospects of the release of the captives are brighter, but he is not entirely confident. He asks to be authorized to demand immediately after the release of the captives the punishment of all who were implicated in the abduction. As the Government is without sufficient power some means should be considered to enforce the demand.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, June 23, 1904.

(Mr. Gummeré acknowledges receipt of Department's instructions yesterday, and states that, while acting in close touch with the British minister, he has not entertained any idea of departing from his pres-

ent attitude without having first received positive instructions from the Department. He reports that Shereef left for Zellal's village very early this morning with money and prisoners.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, June 24, 1904.

(Mr. Gummeré reports that Messrs. Perdicaris and Varley have written that they are leaving for Lafculy this morning, and states that they are expected in Tangier to-night.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, June 24, 1904.

(Mr. Gummeré reports the arrival of the captives at their home shortly after midnight, and states that they are well, but have been fatigued with the long journey.)

Mr. Hay to Mr. Gummeré.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 25, 1904.

(Mr. Hay congratulates Mr. Gummeré and commends his energetic and successful work in bringing about the release of Mr. Perdicaris.)

Mr. Gummeré to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN CONSULATE-GENERAL,
Tangier, June 26, 1904.

(Mr. Gummeré thanks the Department and expresses his gratification at its commendation of his action. He reports that the British man-of-war left Tangier on the 25th and that the British minister has gone away on a long leave of absence. The Moorish minister for foreign affairs called upon the consul-general on the 25th and congratulated him on the withdrawal of the American fleet. Mr. Gummeré states that on the 25th the British note was sent to court and recommends that if the United States is to forward a formal communication to the Sultan it be presented by the vice-consul-general who is still at court. Otherwise, the vice-consul-general will be recalled.

He adds that the South Atlantic Squadron will leave on the 27th.)

PROTECTION OF TRADE-MARKS IN MOROCCO.

(NOTE.—See under Italy, p. 407.)

NETHERLANDS.

ARBITRATION OF THE PREFERENTIAL TREATMENT OF CLAIMS AGAINST VENEZUELA.

(NOTE.—Continuation of correspondence in Foreign Relations, 1903, pp. 410, 417, 452, 601, and 788.)

Mr. Loomis to Mr. Newel.

No. 379.]

DEPARTMENT OF STATE,
Washington, August 13, 1903.

SIR: The Department transmits herewith a printed copy of The Hague protocols. ^a Certified copies are on the way from Venezuela and will be forwarded to you as soon as received.

The arbitrators have not yet been named. As soon as they are named you will furnish, on behalf of Venezuela, to the International Bureau, a copy of these protocols, with the request that the proper steps be taken for the installation of the court. As soon as the Department is advised of the appointment of the arbitrators, it will cable you their names, on receipt of which you will carry out this instruction.

I am, etc.,

FRANCIS B. LOOMIS,
Acting Secretary.

Mr. Adee to Mr. Newel.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 18, 1903.

Hague arbitratres are Mourawieff, Russian minister of justice; Lardy, Swiss minister at Paris; and Professor Matzen, of Copenhagen University. See Department's 379, 13th instant.

ADEE, *Acting.*

Mr. Newel to Mr. Hay.

[Telegram.]

AMERICAN LEGATION,
The Hague, November 14, 1903.

Venezuelan arbitration finished hearing arguments yesterday noon. Adjourned with announcement by tribunal that parties may put in

^a Printed in Foreign Relations, 1903, pp. 439, 477, 611, and 804.

tabulated statements without comment or argument of the awards of mixed commission at Caracas until December 15, inclusive. They are to be handed to secretary-general in sufficient quantity for distribution. About one hundred copies should be printed and sent immediately. Tribunal further announced its decision will be rendered and communicated in due time. It is understood that they will meet here, probably in February, for that purpose.

NEWEL.

Mr. Newel to Mr. Hay.

No. 721.]

AMERICAN LEGATION,
The Hague, February 26, 1904.

SIR:

* * * * *

I have the honor to state that duplicate copies of the verdict in English text were sent to the Department on the 23d instant and that herewith I inclose two more copies of the sentence.^a * * *

In addition to the official representatives of the powers interested in this litigation there was a large assembly, consisting of members of the diplomatic corps, the minister of foreign affairs, and the Netherlands members of the court of arbitration. Immediately upon the opening of the sitting the president called upon the secretary-general to read the sentence, which was done first in English and then in French, upon which the president read his closing remarks, which were heard in profound silence.

* * * * *

I have etc.,

STANFORD NEWEL.

[Inclosure.]

Award of the Tribunal of Arbitration constituted in virtue of the Protocols signed at Washington on May 7th, 1903, between Germany, Great Britain, and Italy, on the one hand, and Venezuela on the other hand.

The Tribunal of Arbitration, constituted in virtue of the Protocols signed at Washington on May 7th, 1903, between Germany, Great Britain, and Italy on the one hand, and Venezuela on the other hand;

Whereas other Protocols were signed to the same effect by Belgium, France, Mexico, the Netherlands, Spain, Sweden and Norway, and the United States of America on the one hand, and Venezuela on the other hand;

Whereas all these Protocols declare the agreement of all the Contracting Parties with reference to the settlement of the claims against the Venezuelan Government;

Whereas certain further questions, arising out of the action of the Governments of Germany, Great Britain, and Italy concerning the settlement of their claims, were not susceptible of solution by the ordinary diplomatic methods;

Whereas the Powers interested decided to solve these questions by submitting them to arbitration, in conformity with the dispositions of the Convention, signed at The Hague on July 29th, 1899, for the pacific settlement of international disputes;

Whereas, in virtue of Article 3 of the Protocols of Washington of May 7th, 1903, His Majesty the Emperor of Russia was requested by all the interested Powers to name and appoint from among the members of the Permanent

^a See report upon "The Venezuelan Arbitration before The Hague Tribunal, 1903," Senate Document No. 119, 58th Cong., 3d session.

Court of Arbitration of The Hague three Arbitrators who shall form the Tribunal of Arbitration charged with the solution and settlement of the questions which shall be submitted to it in virtue of the above-named Protocols;

Whereas none of the Arbitrators thus named could be a citizen or subject of any one of the Signatory or Creditor Powers, and whereas the Tribunal was to meet at The Hague on September 1st, 1903, and render its Award within a term of six months;

His Majesty the Emperor of Russia, conforming to the request of all the Signatory Powers of the above-named Protocols of Washington of May 7th, 1903, graciously named as Arbitrators the following members of the Permanent Court of Arbitration:

His Excellency Mr. N. V. Mourawieff, Secretary of State of His Majesty the Emperor of Russia, Actual Privy Councillor, Minister of Justice, and Procurator-General of the Russian Empire.

Mr. H. Lammasch, Professor of Criminal and of International Law at the University of Vienna, Member of the Upper House of the Austrian Parliament, and

His Excellency Mr. F. de Martens, Doctor of Law, Privy Councillor, Permanent Member of the Council of the Russian Ministry of Foreign Affairs, Member of the "Institut de France";

Whereas, by unforeseen circumstances, the Tribunal of Arbitration could not be definitely constituted till October 1st, 1903, the Arbitrators, at their first meeting on that day, proceeding in conformity with Article XXXIV of the Convention of July 29th, 1899, to the nomination of the President of the Tribunal, elected as such his Excellency Mr. Mourawieff, Minister of Justice;

And whereas, in virtue of the Protocols of Washington of May 7th, 1903, the abovenamed Arbitrators, forming the legally constituted Tribunal of Arbitration, had to decide, in conformity with Article I of the Protocols of Washington of May 7th, 1903, the following points: "The question as to whether or not Germany, Great Britain, and Italy are entitled to preferential or separate treatment in the payment of their claims against Venezuela, and its decision shall be final.

"Venezuela having agreed to set aside 30 per cent. of the Customs revenues of La Guayra and Puerto Cabello for the payment of the claims of all nations against Venezuela, the Tribunal at The Hague shall decide how the said revenues shall be divided between the Blockading Powers on the one hand and the other Creditor Powers on the other hand, and its decision shall be final.

"If preferential or separate treatment is not given to the Blockading Powers, the Tribunal shall decide how the said revenue shall be distributed among all the Creditor Powers, and the Parties hereto agree that the Tribunal, in that case, shall consider, in connection with the payment of the claims out of the 30 per cent, any preference or pledges of revenues enjoyed by any of the Creditor Powers, and shall accordingly decide the question of distribution, so that no Power shall obtain preferential treatment, and its decision shall be final."

Whereas the abovenamed Arbitrators, having examined with impartiality and care all the documents and acts presented to the Tribunal of Arbitration by the Agents of the Powers interested in this litigation, and having listened with the greatest attention to the oral pleadings delivered before the Tribunal by the Agents and Counsel of the Parties to the litigation;

Whereas the Tribunal, in its examination of the present litigation, had to be guided by the principles of International Law and the maxims of justice;

Whereas the various Protocols signed at Washington since February 13th, 1903, and particularly the Protocols of May 7th, 1903, the obligatory force of which is beyond all doubt, form the legal basis for the arbitral Award;

Whereas the Tribunal has no competence at all either to contest the jurisdiction of the Mixed Commissions of Arbitration established at Carácas, nor to judge their action;

Whereas the Tribunal considers itself absolutely incompetent to give a decision as to the character or the nature of the military operations undertaken by Germany, Great Britain and Italy against Venezuela;

Whereas also the Tribunal of Arbitration was not called upon to decide whether the three Blockading Powers had exhausted all pacific methods in their dispute with Venezuela in order to prevent the employment of force;

And it can only state the fact that since 1901 the Government of Venezuela categorically refused to submit its dispute with Germany and Great Britain to arbitration which was proposed several times and especially by the Note of the German Government of July 16th, 1901;

Whereas after the war between Germany, Great Britain and Italy on the one hand and Venezuela on the other hand no formal Treaty of Peace was concluded between the belligerent Powers;

Whereas the Protocols, signed at Washington on February 13th, 1903, had not settled all the questions in dispute between the belligerent Parties, leaving open in particular the question of the distribution of the receipts of the Customs of La Guayra and Puerto Cabello;

Whereas the belligerent Powers in submitting the question of preferential treatment in the matter of these receipts to the judgment of the Tribunal of Arbitration, agreed that the arbitral Award should serve to fill up this void and to ensure the definite reestablishment of peace between them;

Whereas on the other hand the warlike operations of the three great European Powers against Venezuela ceased before they had received satisfaction on all their claims, and on the other hand the question of preferential treatment was submitted to arbitration, the Tribunal must recognize in these facts precious evidence in favor of the great principle of arbitration in all phases of international disputes;

Whereas the Blockading Powers, in admitting the adherence to the stipulations of the Protocols of February 13th, 1903, of the other Powers which had claims against Venezuela, could evidently not have the intention of renouncing either their acquired rights or their actual privileged position;

Whereas the Government of Venezuela in the Protocols of February 13th, 1903 (Article I) itself recognizes "*in principle the justice of the claims*" presented to it by the Governments of Germany, Great Britain and Italy;

While in the Protocol signed between Venezuela and the so-called neutral or pacific Powers the justice of the claims of these latter was not recognized in principle;

Whereas the Government of Venezuela until the end of January 1903, in no way protested against the pretension of the Blockading Powers to insist on special securities for the settlement of their claims;

Whereas Venezuela itself during the diplomatic negotiations always made a formal distinction between "*the allied Powers*" and "*the neutral or pacific Powers*";

Whereas the neutral Powers, who claim before the Tribunal of Arbitration equality in the distribution of the 30 per cent of the Customs receipts of La Guayra and Puerto Cabello, did not protest against the pretensions of the Blockading Powers to a preferential treatment either at the moment of the cessation of the war against Venezuela or immediately after the signature of the Protocols of February 13th, 1903;

Whereas it appears from the negotiations which resulted in the signature of the Protocols of February 13th and May 7th, 1903, that the German and British Governments constantly insisted on their being given guarantees for "*a sufficient and punctual discharge of the obligations*" (British Memorandum of December 23rd, 1902, communicated to the Government of the United States of America) ^a;

Whereas the Plenipotentiary of the Government of Venezuela accepted this reservation on the part of the allied Powers without the least protest;

Whereas the Government of Venezuela engaged, with respect to the allied Powers alone, to offer special guarantees for the accomplishment of its engagements;

Whereas the good faith which ought to govern international relations imposes the duty of stating that the words "*all claims*" used by the Representative of the Government of Venezuela in his conferences with the Representatives of the allied Powers (Statement left in the hands of Sir Michael Herbert by Mr. H. Bowen of January 23rd, 1903), could only mean the claims of these latter and could only refer to them;

Whereas the neutral Powers, having taken no part in the warlike operations against Venezuela, could in some respects profit by the circumstances created by those operations, but without acquiring any new rights;

Whereas the rights acquired by the neutral or pacific Powers with regard to Venezuela remain in the future absolutely intact and guaranteed by respective international arrangements;

Whereas in virtue of Article V of the Protocols of May 7th, 1903, signed at Washington, the Tribunal "shall also decide, subject to the general provisions laid down in Article LVII of the International Convention of July 29th, 1899, how, when and by whom the costs of this arbitration shall be paid";

^a See Foreign Relations, 1903, p. 461.

For these reasons, the Tribunal of Arbitration decides and pronounces unanimously that:

1. Germany, Great Britain, and Italy have a right to preferential treatment for the payment of their claims against Venezuela;

2. Venezuela having consented to put aside 30 per cent of the revenues of the Customs of La Guayra and Puerto Cabello for the payment of the claims of all nations against Venezuela, the three above-named Powers have a right to preference in the payment of their claims by means of these 30 per cent of the receipts of the two Venezuelan Ports above mentioned;

3. Each Party to the litigation shall bear its own costs and an equal share of the costs of the Tribunal.

The Government of the United States of America is charged with seeing to the execution of this latter clause within a term of three months.

Done at the Hague, in the Permanent Court of Arbitration, 22nd February, 1904.

(Signed)

N. MOURAWIEFF.
H. LAMMASCH.
MARTENS.

FINAL REPORT OF THE AGENT OF THE UNITED STATES IN THE VENEZUELAN
ARBITRATION OF 1903 BEFORE THE HAGUE TRIBUNAL.^a

Mr. Penfield to Mr. Hay.

WASHINGTON, *May 15, 1904.*

SIR: I have the honor to submit the following report of the proceedings of The Hague Tribunal in the arbitration between Great Britain, Germany, and Italy on one side, and, on the other, Venezuela, the United States, Mexico, Spain, France, Belgium, the Netherlands, and Sweden and Norway.

The arbitration had its origin in a controversy which arose over certain pecuniary claims of the subjects of Great Britain, Germany, and Italy against the Republic of Venezuela. A solution not having been reached by the diplomatic negotiations, the controversy culminated on December 11, 1902, in the ordering by Great Britain of a blockade of the ports of Venezuela. Two days afterwards Venezuela offered to submit the controversy to arbitration. This offer was ignored, and seven days later the blockade of the Venezuelan ports was declared by the British, German, and Italian Governments. The negotiations between the blockading powers and Venezuela had been prolonged, and the first offer from Venezuela to submit the matter to arbitration was made on December 13, 1902.

The United States, at the same time, had claims of long standing against Venezuela, which had been presented against the latter and had been the subject of much discussion between the two Governments. Mexico, Spain, France, Belgium, the Netherlands, and Sweden and Norway also held claims against Venezuela which had been the subject of more or less diplomatic negotiation, but no forcible measures had been employed by these Governments to secure the adjustment of their claims.

Mr. Herbert W. Bowen, the United States minister to Caracas, was appointed by Venezuela with full powers to negotiate with the representatives of the creditor powers a settlement of the entire matters in controversy. The negotiations took place at Washington during the winter and spring of 1903 between the plenipotentiary of Venezuela and the diplomatic representatives of the several creditor powers.

^a For full report see S. Doc. No. 119, 58th Cong., 3d sess.

In the course of his negotiations with the representatives of the blockading powers, Mr. Bowen, on January 23, 1903, placed in the hands of the British ambassador the following offer:

Mr. Bowen proposes that all claims against Venezuela shall be paid out of the customs receipts of the two ports of La Guaira and Puerto Cabello, the percentage to be 30 per cent each month of the receipts. In case of the failure on the part of Venezuela to pay the said 30 per cent the creditor nations will be authorized to put, with the consent and without any opposition on the part of Venezuela, Belgium customs officials in charge of the said two custom-houses and to administer them until the entire foreign debt is paid.

On the same day, in answer to a request of Mr. Bowen that the blockade be raised, the representatives of the blockading powers stated the terms on which the blockade would be raised. The British Government stipulated, first, for the cash payment of certain claims—styled first-rank claims—in the sum of £5,500; second, other claims for compensation, including railway claims and those for injury or wrongful seizure of property, must be met by immediate payment to His Majesty's Government or by a guaranty adequate to secure them. These claims to be submitted to a mixed commission.

The terms imposed by the German Government were of similar import to those demanded by the British Government, except that the cash payment was to be over \$400,000. The same terms and cash payment were demanded by the Italian Government as those named by Great Britain.

On January 24 Lord Lansdowne inquired whether it was proposed "that the 30 per cent should be paid to the blockading powers only, or are the whole of the creditor powers also to share the benefit?" He took the position that the claims of the blockading powers should not rank on the same line with other claims for compensation. Mr. Bowen answered, on January 27, that it was impossible to give to the blockading powers priority over other creditor powers in the payment of their claims; and on the same day he made an assignment of 30 per cent of the revenues of the two principal Venezuelan ports in the following terms:

I hereby agree that Venezuela will pay 30 per cent of the total income of the ports of La Guaira and Puerto Cabello to the nations that have claims against her, and it is distinctly understood that the said 30 per cent will be given exclusively to meet the claims mentioned in the recent ultimatums of the allied powers and the unsettled claims of other nations that existed when the said ultimatums were presented.

On January 28 Lord Lansdowne declared that—

His Majesty's Government can not admit that pledges given by Mr. Bowen to the powers which are not engaged in the blockade are binding on this country. His Majesty's Government can not accept a settlement which would force them to place their claims on the same footing as those of the nonblockading powers.

Mr. Bowen declined to accept this view, and it was agreed by Venezuela and the blockading powers to refer the question to the determination of The Hague Tribunal.

THE ISSUES.

The issues to be tried were stated in somewhat varying terms in the different and successive protocols signed between Venezuela and the creditor powers. In the protocols signed on February 13, 1903, between Venezuela and the blockading powers, the issue was stated

in substantially the same terms in the German and Italian protocols as it was in the British protocol, which reads as follows:

The Venezuelan Government being willing to provide a sum sufficient for the payment within a reasonable time of the claims specified in article 3, and similar claims preferred by other governments, undertake to assign to the British Government, commencing the 1st day of March, 1903, for this purpose, 30 per cent in monthly payments of the customs revenues of La Guaira and Puerto Cabello. * * * Any question as to the distribution of the customs revenues so to be assigned and as to the rights of Great Britain, Germany, and Italy to a separate settlement of their claims shall be determined, in default of arrangement, by the tribunal at The Hague, to which any other power interested may appeal. Pending the decision of The Hague Tribunal the said 30 per cent of the receipts of the customs of the ports of La Guaira and Puerto Cabello are to be paid over to the representatives of the Bank of England at Caracas.

The protocol of February 17, 1903, between the United States and Venezuela, for the creation of a mixed claims commission at Caracas, stated the issue which was to be submitted to The Hague Tribunal as follows:

In order to pay the total amount of the claims to be adjudicated as aforesaid (at Caracas) and other claims of citizens or subjects of other nations, the Government of Venezuela shall set apart for this purpose, and alienate to no other purpose, beginning with the month of March, 1903, 30 per cent in monthly payments of the customs revenues of La Guaira and Puerto Cabello, and the payments thus set aside shall be divided and distributed in conformity with the decision of The Hague Tribunal.

The issues as finally formulated and submitted in the protocols signed on May 7, 1903, between Venezuela and the blockading powers, were stated as follows:

ARTICLE I. The question as to whether or not Great Britain, Germany, and Italy are entitled to preferential or separate treatment in the payment of their claims against Venezuela shall be submitted for final decision to the tribunal at The Hague.

Venezuela having agreed to set aside 30 per cent of the customs revenues of La Guaira and Puerto Cabello for the payment of the claims of all nations against Venezuela, the tribunal at The Hague shall decide how the said revenues shall be divided between the blockading powers on the one hand and the other creditor powers on the other hand, and its decision shall be final.

If preferential or separate treatment is not given to the blockading powers, the tribunal shall decide how the said revenues shall be distributed among all the creditor powers, and the parties hereto agree that the tribunal in that case shall consider, in connection with the payment of the claims out of the 30 per cent, any preference or pledges of revenue enjoyed by any of the creditor powers, and shall accordingly decide the questions of distribution so that no power shall obtain preferential treatment, and its decision shall be final.

In accordance with the provision of Article VI of the protocols, the other creditor powers joined as parties to the arbitration. The litigating States consisted of Venezuela, the United States, Mexico, Spain, France, Belgium, the Netherlands, Sweden and Norway, Great Britain, Germany, and Italy—eleven in all.

THE AWARD.

The tribunal awarded to the blockading powers the preferential payment of their claims over those of the other creditor States against Venezuela out of the 30 per cent of the customs revenues of the ports of La Guaira and Puerto Cabello.

It was conceded by counsel on both sides that the law of nations afforded no clear rule for the decision of the controversy. No such case had ever before arisen, and in the course of the trial neither the

counsel nor the arbitrators were able to cite any authority, either from decisions of arbitral tribunals or from the writings of publicists, which was plainly applicable to the case. The collection of the Chinese indemnity, growing out of the Boxer movement in 1900, was most nearly in point, and was strongly urged by counsel for the United States in support of the principle of equality of treatment of creditor States.

The force and value of the award as a precedent can not yet be justly measured. By some it may be approved as giving to the blockading powers the just reward of their military exertions by securing the prompt payment of their claims, while leaving the other creditor States free to secure in their own way the payment of their claims. By others the award may be regarded as a premium on war, as inconsistent with the spirit of The Hague Convention, and as tending to incite armed conflicts between creditor States having claims against a common debtor. If the latter view, which was urged to the tribunal by the counsel for the United States, is correct, the injurious effects of the award as a precedent will be limited by other and later arbitral decisions and by the action of public opinion.

The arbitrators signed the award on February 22, 1904. The president of the tribunal thereupon called on the secretary-general of the tribunal to read the award in open session. Immediately after the award was read, and before this last session of the tribunal was closed, the president of the tribunal delivered an allocution touching on the war which had broken out in the Far East after the rupture of diplomatic relations between Russia and Japan on February 6, 1904. Not until after the conclusion of his address did the president declare the session closed and the tribunal of arbitration formally dissolved. In giving a faithful report of the arbitration proceedings from the beginning to the end, it is a painful duty to record the fact that this allocution was thus made a part of the proceedings. The speaker declared:

Obviously, it is neither the time nor the place for politics, and we will not treat of politics; but I may be permitted to speak a few words before closing this grand manifestation of the conciliatory spirit of nations and give expression to some personal considerations on the subject of recent events which have also so unfavorably changed the circumstances under which we first met within these hospitable walls. * * * We aspire to peace with all the strength of our soul, and labor for it assiduously with conviction and fervor and, nevertheless, we are not safe from a hostile challenge—from an unexpected attack. We sincerely desire the maintenance of peace and we are forced to accept courageously a war of legitimate self-defense in the name of the honor and dignity of our country. In this painful conflict of heart and duty there remains one supreme consolation—ardent and absolute faith in the just Providence of peoples and of battles, who will know how to distinguish between valid right and ambitious pretensions, between calm resolution and immovable constancy on the one hand, and warlike zeal and passionate ardor on the other. But when the tempest which throws the two currents, European and Asiatic, into such violent collision shall have passed—and everything passes in this world—then we religiously believe the thick clouds which have darkened our horizon will be scattered.

Considering the character of the tribunal, the exalted position of the speaker, and the occasion on which the address was delivered, it was received with a painful feeling of surprise, not unmixed with apprehension as to its possible effects on the future workings of the tribunal. Inasmuch as it was made a part of the permanent record

of the proceedings, it seems proper to annex to this report the formal protest of the Japanese Government, filed with the secretary-general on February 27, 1904, against the use of the high court for the purpose of "attacking the action, motives, or good name of any power signatory of The Hague Convention."

The award provided that each party to the litigation should pay its own costs and an equal share of the costs of the tribunal, and charged the United States Government with seeing to the payment of all these costs within three months from the date of the award. This portion of the award was calculated to place the United States Government in an embarrassing position. The protocols had conferred upon the tribunal no authority to delegate to the United States Government the duty and the power to require the litigant States to pay their respective shares of the ordinary costs of the litigation and of the compensation of the arbitrators. Accordingly, the Government of the United States had to decline to undertake the delicate task with which it had been honored by the mandate of the tribunal. It is a pleasure to be able to report that all of the interested States have fully acquitted themselves of their respective liabilities for the costs of the litigation and for the honorarium of the arbitrators.

THE PROCEDURE.

Under the protocols of May 7 the Russian Emperor was to appoint from the members of the permanent court three arbitrators, none of whom should be a citizen or subject of the creditor States, and who were to meet on September 1, 1903, and render their decision within six months thereafter. The protocols declared that the proceedings should be carried on in the English language, but that arguments might, with the permission of the tribunal, be made in any other language also.

Although the United States and Venezuela promptly notified the Russian Government of the making of the protocols and requested the appointment of the arbitrators by the Emperor, His Imperial Majesty did not appear to have been seasonably notified by certain other of the arbitrating States. On September 1 only one arbitrator appeared at The Hague, Mr. N. V. Mouravieff, the minister of justice and attorney-general of the Russian Empire. An adjournment was informally taken. On October 1, 1903, two other arbitrators having been duly appointed, the tribunal assembled and organized. The other arbitrators named were Professor Lammasch, member of the Upper House of the Austrian Parliament, and Mr. de Martens, permanent member of the council of the imperial ministry of foreign affairs at St. Petersburg. Mr. Mouravieff was chosen as president of the tribunal and formally declared its sessions opened.

When the tribunal opened its sessions on October 1, Venezuela submitted its preliminary examination to the tribunal, and on October 5 the tribunal adjourned its sittings to November 4. The interval was given for the preparation and submission by the other States of their preliminary examinations and to their study by the tribunal. The oral arguments occupied twelve days in all. They were made, under the ruling of the tribunal, in the alphabetical order of States, as follows: Belgium, France, Germany, Great Britain, Italy, Mexico,

the Netherlands, Spain, Sweden and Norway, the United States, and Venezuela. Opening arguments were permitted to be made in English or French, by all the counsel if they chose to do so, but the replies were limited to one counsel for each of the parties. Notwithstanding the plain provision of the protocol that the proceedings should be conducted in the English language, the preliminary notices of the tribunal were issued in the French language.

The president of the tribunal used the French language exclusively during the entire proceedings. The delegates of the French Government contended for the use of French as the official language. The counsel for Venezuela and the United States, as well as those of Great Britain and Germany, contended that the terms of the protocols had settled the question in advance. The tribunal finally decided to recognize the English as the official language of the proceedings and the French language as subsidiary, and equally authentic, on the ground that it was familiar to the arbitrators and to the majority of the representatives. The oral arguments of counsel were permitted to be made in English or French only, while the record of the proceedings was made up in both languages.

The agent appointed by the French Government to represent it before the tribunal was the legal adviser of its foreign office and happened to be a member of the permanent court. The counsel for Venezuela filed with the International Bureau their objections to the establishment of precedents which might seem to sanction the appearance of members of the permanent court as counsel before The Hague Tribunal, which was made up of members appointed from that court.

In the two cases which have been submitted to The Hague Tribunal members of the permanent court have appeared as counsel. In the Pious fund case the Mexican Government employed a member of the permanent panel as one of its advocates. Thereupon the American claimant employed another member of the panel as one of his counsel. This counsel was not employed by the United States Government, but as an act of favor to the claimant he was permitted to appear.

These incidents recall the efforts made by Lord Pauncefote to disqualify by The Hague Convention members of the permanent court from acting as counsel before the tribunal. Some of the more obvious objections to this practice were stated in a protest which was filed with the tribunal by the counsel for Venezuela in the recent arbitration. The stated grounds of objection were that "such persons, owing to their presumed acquaintance with other members of the tribunal in advance of its meeting and of their presumed fitness to express weighty opinions, might be supposed to possess certain advantages over counsel not so situated, and this conviction might lead litigants to suppose that a proper protection of their interests required them to retain some member of the court as counsel in a given case." The second objection urged was that suspicion might attach itself to the proceedings before the tribunal and that a decision in favor of a member of the tribunal acting as counsel in one instance might exert more weight when the counsel of yesterday, who received a favorable decision, is himself a judge to-day, and the judge of yesterday is appearing as counsel before him. Finally, the protestants expressed the opinion that the practice, if permitted, would impair the reputation of the permanent court for disinterestedness and impartiality.

Notice of this action of counsel was taken by the British Government, which also entered a protest against the appointment of a member of the permanent court to act as counsel in the Venezuelan arbitration. The protest declared it to be "of the utmost importance that the impartiality of the members of the court, who may be called upon to act as judges, should remain beyond all possibility of suspicion, and the force of the objections to their acting as advocates is greatly increased by the fact that the number of possible litigants is limited, while the questions to be decided will constantly affect the interests of a large number, or even of all, of these litigants. Unless precautions are taken to guard against such a contingency, members of the court will continually find themselves called upon to deal as judges with the interests of those who have been their clients in the not remote past or may become their clients in the not remote future."

This protest drew from the French Government a formal answer. It declared that it had designated its agent to represent it before the tribunal, and that this designation was conformable to its rights. It referred to article 37 of The Hague Convention, which leaves to the parties entire liberty to choose their own agents and counsel. It referred to a report made by a committee on the subject to The Hague Conference, in which it appeared that certain members considered it important to debar members of the permanent panel from appearing as agents and counsel before the tribunal, with the exception that a member of the panel might represent his own government in cases before the tribunal. Another member of the committee was of opinion that no member of the panel should, during the exercise of his functions as a member of one arbitral tribunal, accept employment as the agent or counsel before another tribunal.

The French Government did not meet the question on its merits, but, after stating certain views of the question expressed at The Hague Conference, truly affirmed that it was within its legal right in designating its agent in the case under consideration. It suggested that the question might be properly raised only in the future and through diplomatic channels.

Experience in the trial of the first two cases before The Hague Court, namely, in the Pious fund case and the Venezuelan case, suggests: First, that in future arbitrations the protocols should name directly the arbitrators selected by the litigating states; or, failing that, that the odd arbitrator should be named by the others thus directly selected. This is entirely practicable, considering the number of members of the permanent court from whom competent and satisfactory arbitrators may be chosen, and that the choice of the arbitrators is not limited to the members of the permanent court. Second, that the protocol should prescribe the language of the proceedings and of the debates, and that the arbitrators selected must have sufficient knowledge of that language to be able to understand and speak it readily. Third, that it should be stipulated that neither of the litigant states should employ as agent or counsel any member of the permanent court. Fourth, that the arbitrators be selected from the permanent court if that should be practicable, but that in no event should a citizen or subject of the litigant states be named as arbitrator, or that at least a majority of the arbitrators be chosen from citizens of states not parties to the litigation. This course was pursued in the

Pious fund and Venezuelan cases, and has been adopted in the pending arbitration between France and Great Britain of a dispute between them in regard to Muscat.

In-submitting this report I take pleasure in testifying to the official staff of the tribunal our appreciation of the many courtesies received at their hands, as well as to Mr. Charles Ray Dean and Mr. Walter Scott Penfield, secretaries of the American delegation, for their diligent attention and efficient aid in the preparation of the case for Venezuela and the United States. I gladly pay hearty tribute to Mr. Wayne MacVeagh and Mr. Herbert W. Bowen, of counsel in the case for Venezuela and the United States, for their energy, zeal, and devotion in behalf not merely of the particular cause they represented, but of the higher cause of international peace by arbitration. And to you, sir, I beg leave to express my grateful acknowledgments for the cordial cooperation, thoughtful consideration, and unflinching courtesy which cheered and sustained our labors throughout the entire controversy.

Respectfully submitted.

W. L. PENFIELD,
Agent and of Counsel for Venezuela and the United States.

Mr. Hay to Mr. Newel.

No. 410.]

DEPARTMENT OF STATE,
Washington, March 9, 1904.

SIR: The Department has given careful consideration to the award of The Hague tribunal in the case of the Venezuelan arbitration. The first and second clauses adjudge to Germany, Great Britain, and Italy the preferential payment of their claims over those of all other governments against Venezuela out of the 30 per cent of the assigned customs revenues of La Guaira and Porto Cabello. The third clause of the award decides that "Each party to the litigation shall bear its own costs and an equal share of the costs of the tribunal." To these three clauses of the award is added the decree that "The Government of the United States of America is charged with seeing to the execution of this latter clause within the term of three months."

Inasmuch as the protocols did not confer upon the tribunal any power to commission any government to see to the execution of the award or any part of it by other governments, the United States Government would feel great delicacy in undertaking to execute the mandate. The want of authority on its part to do so would make it extremely embarrassing. In case any one of the other States should refuse to pay its own costs or its share of the costs of the tribunal the United States Government would have no means to execute the mandate. The action of the United States in respect to the payment of the costs must, therefore, be limited to the payment of its own costs and its share of the costs of the tribunal.

At the time The Hague tribunal was in session a conference was held between the agents and counsel of the different interested governments and an understanding was informally reached that each of the arbitrators ought to be paid the sum of \$5,000 as an honorarium, and an additional sum of \$1,500 to cover their expenses. The

United States Government stands ready to bear its own costs and its aliquot share of the costs of the tribunal, testifying by its loyal acceptance of the award and by the payment of its share of the costs its great respect for The Hague tribunal, which must depend upon the corresponding voluntary action of the other interested governments for the performance of the award.

You will communicate the above to the international bureau, and advise the Department of the result and whether the other interested governments entertain the same opinion as the United States in relation to the amount of the honorarium and the expenses of the arbitrators. If so, the United States will promptly pay its share as above indicated.

I am, etc.,

JOHN HAY.

Mr. Newel to Mr. Hay.

No. 736.]

AMERICAN LEGATION,
The Hague, April 5, 1904.

SIR: Referring to Department dispatch No. 410, dated March 9, 1904, relating to the costs of the international tribunal in regard to the Venezuelan arbitration case, and instructing me to communicate the contents of that instruction to the international bureau;

I have the honor to inclose herewith a copy of the correspondence that has passed between this legation and the secretary general of the permanent court of arbitration on the subject, consisting of my note of the 21st of March, Jonkheer Ruysenaers' reply, and a translation of that note.

It will be observed that Jonkheer Ruysenaers offers, provided the United States Government should deem it advisable, to act as intermediary in regard to the honorarium to be paid to the three arbitrators; that, in confirming the agreement that that honorarium has been fixed upon at \$19,000, the United States quota thereof would be \$1,727.28, and, further, that he has addressed a similar communication to all the eleven powers interested in this litigation.

Awaiting the Department's instructions in the premises,

I have, etc.,

STANFORD NEWEL.

[Inclosure 1.]

Mr. Newel to Jonkheer Ruysenaers.

AMERICAN LEGATION,
The Hague, March 21, 1904.

SIR: Referring to my No. 71, dated March 10, 1904, relating to the liquidation of the costs of the tribunal of arbitration, constituted in virtue of the protocols of Washington of May 7, 1903;

I have the honor to state that I am instructed by my Government to say, that inasmuch as the protocols did not confer upon the tribunal any power to commission any government to see to the execution of the award or any part of it by other governments, the United States Government would feel great delicacy in undertaking to execute the mandate. The want of authority on its part to do so would make it extremely embarrassing. In case any one of the other States should refuse to pay its own costs or its share of the costs of the tri-

bunal the United States Government would have no means to execute the mandate. The action of the United States in respect to the payment of the costs must, therefore, be limited to the payment of its own costs and its share of the costs of the tribunal.

At the time The Hague tribunal was in session a conference was held between the agents and counsels of the different interested governments and an understanding was informally reached that each of the arbitrators ought to be paid the sum of \$5,000 as an honorarium and an additional sum of \$1,500 to cover their expenses. The United States Government stands ready to bear its own costs and its aliquot share of the costs of the tribunal, testifying by its loyal acceptance of the award and by the payment of its share of the costs, its great respect for The Hague tribunal, which must depend upon the corresponding voluntary action of the other interested governments for the performance of the award.

I have, etc.,

STANFORD NEWEL.

[Inclosure 2.—Translation.]

Jonkheer Ruysseuaers to Mr. Newel.

INTERNATIONAL BUREAU OF THE
PERMANENT COURT OF ARBITRATION,
The Hague, March 29, 1904.

Mr. MINISTER: Referring to the letter which your excellency kindly addressed to me under date of the 21st instant, I have the honor to notify your excellency that I place myself entirely at the disposal of the Government of the United States should it deem it of any service to remit to me through your excellency its quota of the indemnity allotted to the arbitrators and to undertake the remittance of this sum, with its acknowledgments to Messrs. Mourawieff, De Martens, and Lammasch.

For so far as I am aware, the agents and counsels of the eleven powers interested in the recent litigation agreed during their sojourn at The Hague, in regard to the question of the honorarium of these gentlemen, to propose to their governments that they fix the sum to be remitted to each of the arbitrators at 1,300 pounds sterling.

The quota of each government would therefore be—admitting that the propositions of the agents and counsels met with the approval of their governments—3,900 pounds sterling to be divided by eleven, to wit: £354 10s. 9d.

In adding that I have this day addressed a similar communication to the representatives of Germany, England, Italy, France, Spain, Belgium, the Netherlands, Sweden and Norway, Mexico, and Venezuela, I seize this occasion, Mr. Minister, to renew the assurance of, etc.

L. H. RUYSSENAERS.

Mr. Newel to Mr. Hay.

[Telegram.]

AMERICAN LEGATION,
The Hague, May 3, 1904.

England, Sweden and Norway, Italy, and Germany have each paid secretary-general quota of compensation of arbitrators in Venezuela case £354 9s. 10d. Shall I draw for equivalent amount in dollars, including loss of exchange, and pay our quota?

NEWEL.

Mr. Hay to Mr. Newel.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 4, 1904.

(Mr. Hay authorizes Mr. Newel to draw the sum mentioned in his telegram of the 3d instant for this Government's quota of compensation to arbitrators in the Venezuelan case.)

Mr. Newel to Mr. Hay.

No. 777.]

AMERICAN LEGATION,
The Hague, August 5, 1904.

SIR: I have the honor to state that I am informed that Mexico and Venezuela have paid their quotas of the honoraria to the members of the arbitral tribunal constituted in virtue of the protocols of Washington of May 7, 1903.

It is expected that the Spanish quota will be paid in a few days.

I have, etc.,

STANFORD NEWEL.

Mr. Newel to Mr. Hay.

No. 779.]

AMERICAN LEGATION,
The Hague, August 8, 1904.

SIR: Referring to my No. 777, of August 5, 1904, I have the honor to state that I am to-day informed that the Spanish Government paid, on the 6th instant, its quota of the honoraria to the members of the arbitral tribunal constituted in virtue of the protocols signed at Washington May 7, 1903. The amount paid by Spain was 4,275.70 francs.

I may add that the amounts paid by Venezuela on July 26, and by Mexico on July 29, were each £354 10s. 9d., and that all of those sums have been turned over to Messrs. Mouravieff, de Martens, and Lammasch in equal shares.

It will thus be seen that all the Governments that took part in the above-mentioned arbitration have paid their quotas of the honoraria of the above-mentioned members of the tribunal.

I have, etc.,

STANFORD NEWEL.

MEDICAL INSPECTION OF EMIGRANTS BY UNITED STATES MEDICAL OFFICERS.

Mr. Garrett to Mr. Hay.

No. 702.]

AMERICAN LEGATION,
The Hague, January 29, 1904.

SIR: Referring to Department unnumbered dispatch of August 19, 1903,^a in which it is stated that the Secretary of Commerce and Labor

^a Not printed.

desires to prevent by every lawful means the immigration into the United States of persons afflicted with loathsome or dangerous contagious diseases, and with this end in view, instructing this legation to inquire of the Netherlands Government whether it had any objection to granting permission to the United States to station at the ports of embarkation officers of the United States Public Health and Marine-Hospital Service to make medical inspections of all persons intending to emigrate to the United States from these ports.

I have the honor to inclose herewith copies of Mr. Newel's note of August 28, 1903, to the Netherlands minister of foreign affairs; Baron de Lynden's reply dated January 27, 1904, together with translation of a memorandum on this subject submitted by the ministry of waterstaat, commerce, and industry.

I have, etc.

JOHN N. GARRETT.

* * * * *

[Inclosure 1.]

Mr. Newel to Baron de Lynden.

AMERICAN LEGATION,
The Hague, August 28, 1903.

SIR: My Government advises me that the Secretary of Commerce and Labor states that in its efforts to enforce the act of March 3 last, to prevent the immigration of aliens into the United States, "his Department desires to prevent by every lawful means the immigration into this country of persons afflicted with loathsome or dangerous contagious diseases;" that this work would be greatly facilitated and the hardships of the steamship lines would be decreased if permission were given by the principal countries from which emigrants leave for the United States to the Government of the United States to station at the ports of embarkation officers of the United States Public Health and Marine-Hospital Service to make a medical inspection of all persons intending to emigrate to the United States.

Under these circumstances I am instructed to make inquiry of the Government of the Netherlands whether it has any objection to such course on the part of my Government.

Accept, etc.,

STANFORD NEWEL.

[Inclosure 2.—Translation.]

Baron de Lynden to Mr. Garrett.

MINISTRY OF FOREIGN AFFAIRS,
CONSULAR AND COMMERCIAL BUREAU,
The Hague, January 27, 1904.

MR. CHARGÉ D'AFFAIRES: Referring to the letter from his excellency Mr. Stanford Newel, dated September 5 last, I have the honor to send you herewith a note from the minister of waterstaat, commerce, and industry, from whence you will observe that Her Majesty's Government, to its regret, can not consent to the request of the United States Government conveyed in the above-mentioned note.

Accept, etc.,

BN. MELVIL DE LYNDEN.

[Subinclosure—Translation.]

In view of a request from the American minister, the supervisory committee appointed by the law of June 1, 1861 (Official Gazette No. 53), as revised by that of the law of July 15, 1859 (Official Gazette No. 124), relating to the transit and conveyance of emigrants, to superintend the conveyance of such persons at Amsterdam and Rotterdam, has been consulted, and both committees state that they regard the proposed measure as being neither in the interests of the emigrants nor of the shipping companies. In this connection they refer to the American immigration law of March 3, 1903, containing the provision that at the "port of arrival" it shall be determined whether or not immigrants shall be admitted, so that eventual sanction before embarkation will be no guaranty that disembarkation will be allowed, while as far as the steamship companies are concerned they for some time past have instituted the necessary investigation by experts as to any symptoms of skin disease and a short time ago as to any appearance of any ocular disease among emigrants, they being the parties the most interested in avoiding the imposition of a heavy fine to which they would be liable for the importation of sick immigrants.

In 1892, on account of the prevalence of the cholera in Hamburg, the United States Government stationed an American medical officer at Rotterdam. In 1900, too, such a step was taken, but the medical officer thus stationed was in no official relationship to the Netherlands Government and only acted as adviser to the American consul. Nothing more was done than to acquaint the Government with his presence.

On former occasions when the American Government has placed medical officers in this country with the said object the committee has reported no difficulties, but subsequently they have arrived at a different opinion. For instance, the Rotterdam committee has given notice that during the cholera time one of such officers on the exportation of Sumatra tobacco desired to have the stipulation relating to "vegetables" applied. It is apparent that when once officially allowed the medical officer here referred to will assume more authority, which, as was evident from the above-cited instance, proved detrimental to trade.

The measure proposed by the United States Government does not strike the Netherlands Government as either effectual or necessary in regard to the emigrants or the steamship companies; and hence, on the grounds of past experience, a negative answer must be given to the request made by Mr. Stanford Newel in the last clause but one of his note.

NEUTRALITY OF CHINA IN THE WAR BETWEEN RUSSIA AND JAPAN.

Mr. Hay to Mr. Garrett.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 10, 1904.

(Mr. Hay instructs Mr. Garrett to consult the Netherlands Government in regard to the possibility and desirability of an arrangement between the neutral powers to use their good offices with Russia and Japan for the purpose of inducing them to respect China's neutrality and administrative entity as far as possible, limiting and localizing the area of hostile operations to minimize the disturbance and excitement of the Chinese people and the injury to commerce and to the peaceful intercourse of the world. If no opposition to this proposition is offered, he is instructed to suggest that the representatives of the Netherlands at St. Petersburg, Tokyo, and Peking be instructed in this sense.)

Mr. Newel to Mr. Hay.

No. 717.]

AMERICAN LEGATION,
The Hague, February 19, 1904.

SIR: * * * I have the honor to inclose herewith a copy of the correspondence that has passed between this legation and the foreign office on the subject of the neutrality of China, consisting of my note of the 11th instant, the reply of the minister of foreign affairs, just received, and a translation of the latter.

I have, etc.,

STANFORD NEWEL.

[Inclosure 1.]

Mr. Newel to Baron de Lynden.

AMERICAN LEGATION,
The Hague, February 11, 1904.

SIR: Referring to my conversation with your excellency this morning with reference to the desirability and possibility of the neutral powers concurrently using good offices with Russia and Japan to induce them to respect the neutrality of China and in all practical ways to localize and limit, as much as possible, the area of hostilities, I have the honor to formally repeat that I was instructed by my Government to confer with you on that subject and to suggest that, if the idea is acceptable to the Netherlands Government, instructions may be sent to its representatives in St. Petersburg, Tokyo, and Peking to cooperate with the representatives of other neutral powers, so that undue excitement and disturbances of the Chinese people may possibly be prevented and the least possible loss to the commerce and the peaceful intercourse of the world may be assured.

Accept, etc.,

STANFORD NEWEL.

[Inclosure 2.—Translation.]

MINISTRY OF FOREIGN AFFAIRS, POLITICAL BUREAU,
The Hague, February 18, 1904.

MR. MINISTER: On the 11th instant your excellency asked me if the Royal Government would be disposed, concurrently with the other powers neutral to the conflict in which Japan and Russia are engaged, to use its good offices with the belligerent powers and the Government of China with a view to assuring the neutrality of China and of limiting as far as possible the area of hostilities. This step, in the opinion of the United States, would serve to prevent excitement and disturbances in the Chinese Empire and to limit as far as possible the loss which the war may occasion to the commerce and peaceful intercourse of the world.

In your note of the same date your excellency confirms the verbal explanations kindly given me in regard to the views of your Government.

In reply I have the honor to advise your excellency that Her Majesty's Government understands the first part of the proposition as having regard exclusively to the Chinese Empire, in its restricted sense, and not affecting in any way Manchuria.

Looking at it from this point of view, the Royal Government can not but applaud, from a humanitarian point, that which the United States expects to attain, and having reason to believe that this sentiment will be shared by all the governments interested, it is prepared to concur in the collective steps above indicated.

To this end it will be necessary that the representatives of the neutral powers shall receive identical instructions and that these powers agree as to the formula to be adopted.

It will therefore be of especial importance to me to be informed in due course of the text that your Government desires to suggest or in regard to which there perhaps exists already a preliminary agreement between it and certain other powers,

Concerning the step to be taken in respect to the Chinese Government, it might be desirable to obtain the cooperation of the two belligerent powers, and I should be greatly obliged if your excellency would kindly let me know the views of your Government on this point.

In conclusion I deem it my duty to state that the Government of the Queen, in associating itself with the above-mentioned steps, does not undertake any obligation to cooperate in any measures whatever that the neutral powers might deem necessary in consequence of such steps.

Accept, etc.,

BN MELVIL DE LYNDEN.

(NOTE.—See also circular of February 20, 1904, printed on p. 2.)

**NEUTRAL COMMERCE IN ARTICLES CONDITIONALLY CONTRA-
BAND OF WAR.**

(NOTE.—See also circular of June 10, 1904, printed on p. 3.)

Mr. Adee to Baron Gevers.

DEPARTMENT OF STATE,
Washington, February 16, 1904.

DEAR MR. MINISTER: Mr. Hay has requested me to communicate to you the accompanying memorandum in response to the inquiry you made of him this morning in regard to the Japanese proclamation of coal as contraband of war.

I am, etc.,

ALVEY A. ADEE.

MEMORANDUM.

DEPARTMENT OF STATE,
Washington, February 16, 1904.

The minister of the Netherlands inquires whether the declaration of Japan that coal is contraband of war entails any restrictions of the rule that coal may be supplied to a man-of-war of a belligerent (in a neutral port) in sufficient quantity to reach the belligerent's nearest home port.

By the general rule of international law neutrals are free to sell contraband of war, even arms and ammunition, to a belligerent, subject always to the risk of seizure by the other belligerent. The recently issued neutrality proclamation of the President^a merely limits the right of citizens of the United States to sell coal within the jurisdiction of the United States to a belligerent war ship to a certain amount, namely, enough to take the vessel to its nearest home port.

As the United States Government understands the matter, the Japanese proclamation merely declares that coal is contraband of war, the effect being to serve notice that where Japan finds coal being carried to her enemy by neutrals she will seize it. This does not appear to conflict with the declaration in the President's proclamation, which has application within the territorial jurisdiction of the United States.

^a Printed on page 32.

Jonkheer R. de Marees van Swinderen to Mr. Hay.

WASHINGTON, *May 3, 1904.*

MR. SECRETARY OF STATE: The royal legation has not failed to forward to the Government of the Queen the memorandum relating to the Japanese declaration about the sale of coal during the actual war in the far Orient which accompanied the note which your excellency kindly addressed to it on February 16 last.

I have been instructed to transmit to the Government of the United States the thanks of the Royal Government for the memorandum of which it has taken notice with great interest and in which it fully concurs.

I take this occasion, etc.,

VAN SWINDEREN.

TREATY BETWEEN THE UNITED STATES AND THE KINGDOM OF THE NETHERLANDS, EXTENDING THE EXTRADITION CONVENTION OF JUNE 2, 1887, BETWEEN THE TWO COUNTRIES TO THEIR RESPECTIVE ISLAND POSSESSIONS AND COLONIES.

Signed at Washington, January 18, 1904.

Ratification advised by the Senate, January 27, 1904.

Ratified by the President, May 26, 1904.

Ratified by The Netherlands, April 4, 1904.

Ratifications exchanged at Washington, May 28, 1904.

Proclaimed, May 31, 1904.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Netherlands extending to their respective island possessions and colonies the Convention for the extradition of criminals, concluded at Washington on June 2, 1887, was concluded and signed by their respective Plenipotentiaries at Washinton, on the eighteenth day of January, one thousand nine hundred and four, the original of which Convention, being in the English and Dutch languages, is word for word as follows:

The United States of America and Her Majesty the Queen of the Netherlands, having judged it expedient to extend to their respective island possessions and colonies the Convention for the extradition of criminals, concluded at Washington on June 2, 1887, by means of an additional Convention, have to that end appointed as their plenipotentiaries:

The President of the United States of America: John Hay, Secretary of State of the United States; and

Her Majesty the Queen of the Netherlands: Baron Willem Alexander Frederik Gevers, Her Majesty's Envoy Extraordinary and Minister Plenipotentiary to the United States;

who, after having communicated to each other their respective full powers, found in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

The provisions of the Convention for the extradition of criminals concluded at Washington June 2, 1887, shall be applicable to the island possessions of the United States of America and the colonies of the Netherlands; but, since they are based upon the law of the mother country, only provided that they are compatible with the laws or regulations in force in those island possessions and colonies, and with the observance of the following stipulations:

ARTICLE II.

In addition to the persons mentioned in article II of that Convention, those shall also be surrendered who are charged with or have been convicted of the crime of bribery, provided it be an extradition crime by the laws or regulations in force in the respective island possessions and colonies of the contracting parties, or of the crime of piracy by statute or by the law of nations.

ARTICLE III.

Application for the surrender of a criminal may be made directly to the governor or chief magistrate of the island possession or colony in which the criminal has sought refuge, by the governor or chief magistrate of an island possession or colony of the other contracting party, *provided* that both island possessions or colonies are situated in Asia, or both in America (including the West India Islands); in making such application, the intervention of a consular officer in such a possession or colony may be used, although no modification shall thereby be made in his capacity as a commercial agent. The aforesaid governors or chief magistrates shall have authority either to grant the extradition or to refer the matter for decision to the mother country. In all other cases, application for extradition shall be made through the diplomatic channel.

ARTICLE IV.

The beginning of paragraph 2 (in the alternat paragraph 1) of article XII of the Convention of June 2, 1887, shall, as regards the Dutch East Indies, read as follows: "It shall be lawful for any competent authority," etc.

ARTICLE V.

In the cases of direct application for extradition described in article III of the Convention, the certificate mentioned in the second (first in the alternat) paragraph of the said article XII may be given by the governor or the chief magistrate of the Dutch Colony; the certificate mentioned in the first (second in alternat) paragraph of the last named article, by the Chief Magistrate of the North American island possession. The term of preliminary arrest provided for in article XII of the Convention of June 2, 1887, shall for the enforcement of this article, be made sixty days.

ARTICLE VI.

The present additional Convention shall take effect three months after the exchange of the instruments of ratification. It shall remain in force for six months after a declaration to the contrary, made by one of the two Governments. Nevertheless, it shall be considered to have been denounced by the fact of the denunciation of the Convention of June 2, 1887.

It shall be ratified, and the instruments of ratification shall be exchanged as speedily as possible.

In testimony whereof, the respective plenipotentiaries have signed the present convention, in duplicate and have hereunto affixed their seals.

Done at Washington in the English and Dutch languages, on the eighteenth day of January in the year of our Lord nineteen hundred and four.

JOHN HAY [SEAL.]
GEVERS. [SEAL.]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the twenty-eighth day of May, one thousand nine hundred and four;

Now, therefore, be it known that I, Theodore Roosevelt, Président of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington, this thirty-first day of May, in the year of our Lord one thousand nine hundred and four, and [SEAL] of the Independence of the United States of America the one hundred and twenty-eighth.

THEODORE ROOSEVELT

By the President:

JOHN HAY

Secretary of State.

INTERNATIONAL CONVENTIONS RELATING TO DIFFERENCES IN MARRIAGE LAWS, DIVORCE LAWS, AND THE GUARDIANSHIP OF MINORS.

Mr. Newel to Mr. Hay.

No. 770.]

AMERICAN LEGATION,
The Hague, July 8, 1904.

SIR: I have the honor to inclose herewith copies of the conventions signed at The Hague, June 12, 1902, by the plenipotentiaries of Austria, Belgium, France, Germany, Hungary, Italy, Luxemburg, Netherlands, Portugal, Roumania, Sweden, and Switzerland; ratified by the Netherlands, July 24, 1903; ratifications deposited at The Hague, June 12, 1904, by Belgium, France, Germany, Luxemburg, Nether-

lands, Roumania, and Sweden, a majority of the original signatory powers; and published in the Netherlands official gazette, under date of July 6, 1904.

The conventions, three in number, have for their subjects the regulation of—

1. Differences in the laws of marriage.
2. Differences in the laws of divorce and separation.
3. The guardianship of minors.

I have, etc.,

STANFORD NEWEL.

[Inclosure 1.—Translation.]

Convention of June 12, 1902, for the settlement of conflicts of laws in matters regarding marriage.

(Between Germany, Austria-Hungary, Belgium, Spain, France, Italy, Luxemburg, the Netherlands, Portugal, Roumania, Sweden, and Switzerland.)

ARTICLE 1.

The right to contract marriage is regulated by the law of the nation to which each of the affianced parties belongs, unless some provision of this law refers expressly to another law.

ARTICLE 2.

The law of the place where the marriage is performed may prohibit the marriage of foreigners if such marriage should be contrary to its provisions regarding:

1. The degrees of relationship or affinity within which marriage is absolutely forbidden.

2. The absolute prohibition from marrying of persons guilty of adultery, on the grounds of which the marriage of one of them has been dissolved.

3. The absolute interdiction from marrying, decreed against persons condemned for having, in concert, made an attempt against the consort of one of them.

A marriage concluded contrary to one of the above-mentioned prohibitions shall not be annulled provided it is valid according to the law indicated in article 1.

Under reservation of the application of the first paragraph of article 6 of the present convention no contracting government obligates itself to cause a marriage to be performed which, by reason of a previous marriage or of an obstacle of a religious character, would be contrary to its laws. The violation of an impediment to marriage of this nature can not involve the nullity of the marriage in countries other than that where the marriage was celebrated.

ARTICLE 3.

The law of the place where the marriage is contracted may permit the marriage of foreigners notwithstanding the prohibitions of the law indicated in article 1, when these prohibitions are based exclusively on religious reasons.

The other nations have the right not to recognize as valid a marriage celebrated under these circumstances.

ARTICLE 4.

Foreigners must, in order to marry, prove that they fulfill the conditions required according to the law indicated in article 1.

This proof must be furnished, either by a certificate of the diplomatic or consular agents representing the nation to which the contracting parties belong, or by any other means of proof, provided the international conventions or the authorities of the country where the marriage is performed acknowledge the evidence as sufficient.

ARTICLE 5.

As far as the form is concerned, a marriage shall be recognized everywhere as valid provided it has been performed in accordance with the law of the country in which it has taken place.

It is understood, however, that countries whose laws require a religious ceremony may refuse to recognize as valid those marriages which have been contracted by their citizens abroad without this provision of the law having been observed.

The provisions of the law of the nation with regard to publication of banns should be respected, but the failure to make such publications shall not involve the nullity of the marriage in countries other than that whose law has been violated.

An authenticated copy of the marriage certificate shall be transmitted to the authorities of the country of each of the contracting parties.

ARTICLE 6.

As far as the form is concerned, a marriage celebrated before a diplomatic or consular agent in accordance with his laws shall be recognized everywhere as valid, if neither of the contracting parties belongs to the nation where the marriage is performed, and if this nation does not oppose it. It can not oppose it if the marriage is one which would be contrary to its laws (merely) by reason of a previous marriage or an obstacle of a religious character.

The reservation of the second paragraph of article 5 is applicable to diplomatic and consular marriages.

ARTICLE 7.

A marriage which is null with regard to form in the country where it has been celebrated, may nevertheless be regarded as valid in other countries, if the form prescribed by the law of the nation of each of the parties has been observed.

ARTICLE 8.

The present convention applies only to marriages celebrated in the territory of the contracting nations between persons at least one of whom belongs to one of these nations.

No nation is obliged, by the present convention, to apply a law which is not that of a contracting nation.

ARTICLE 9.

The present convention, which applies only to the European territories of the contracting nations, shall be ratified and the ratifications thereof deposited at The Hague, as soon as a majority of the high contracting parties shall be able to do it.

A record of this deposit shall be prepared, and a copy thereof, duly certified, shall be sent through diplomatic channels to each of the contracting nations.

ARTICLE 10.

The nations which were represented at the Third Conference on Private International Law, but which have not signed this convention, shall be permitted to adhere to it unqualifiedly.

A nation which desires to adhere shall make known its intention not later than December 31, 1904, by means of a document which shall be deposited in the archives of the Government of the Netherlands. The latter shall send a copy thereof, duly certified, through diplomatic channels to each of the contracting nations.

ARTICLE 11.

The present convention shall take effect on the 60th day from the deposit of the ratifications or from the date of the notifications of adherence to it.

ARTICLE 12.

The present convention shall continue in force for five years from the date of the deposit of the ratifications.

This term shall commence to run from the said date, even for nations which shall have made the deposit after that date or shall adhere to the convention later.

The convention shall be tacitly renewed every five years unless denounced. Denunciation must be made known, at least six months before the expiration of the term indicated in the foregoing paragraphs, to the Government of the Netherlands, which shall notify it to the other contracting nations.

Denunciation shall have effect only as regards the denouncing nation, the convention remaining in force for the other nations.

In witness whereof the respective plenipotentiaries have signed the present convention and affixed thereto their seals.

Done at the Hague June 12, 1902, in a single original, which shall be deposited in the archives of the Government of the Netherlands, and whereof a duly certified copy shall be sent, through diplomatic channels, to each of the Governments which were represented at the Third Conference on Private International Law.

[Inclosure 2.—Translation.]

Convention of June 12, 1902, for the settlement of conflicts of laws and jurisdictions in matters regarding divorce and separation from bed and board.

(Between Germany, Austria-Hungary, Belgium, France, Italy, Luxembourg, The Netherlands, Portugal, Roumania, Sweden, and Switzerland.)

ARTICLE 1.

Married persons may only file a petition for divorce when the law of their own nation and that of the place where the petition is filed both permit the divorce.

The same rule applies to separation from bed and board.

ARTICLE 2.

Divorce may only be applied for in those cases in which it would be permissible according to both the law of the nation of the married parties and that of the place where the petition is filed, even though for different causes.

The same rule applies to separation from bed and board.

ARTICLE 3.

Notwithstanding the provisions of articles 1 and 2, the law of the nation of the parties shall alone prevail, if the law of the place where the petition is filed so prescribes or permits.

ARTICLE 4.

The law of the nation of the married parties, referred to in the preceding articles, can not be invoked in order to constitute an act a ground for divorce when such act has taken place while one or both of the parties belonged to another nation.

ARTICLE 5.

A petition for divorce or for separation from bed and board may be filed:

1. Before the jurisdiction which is competent according to the law of the nation to which the married parties belong.

2. Before the competent jurisdiction of the place where the parties are domiciled. If, according to the laws of their nation, the parties have not the same domicile, the competent jurisdiction is that of the defendant. In case of desertion, and in case of a change of domicile effected after the cause for divorce or separation has supervened, the petition may also be filed before the competent jurisdiction of the last common domicile. However, the jurisdiction of the nation to which the parties belong prevails to the extent to which it is alone

competent to receive a petition for divorce or separation from bed and board. The foreign jurisdiction remains competent in case of a marriage which can not give rise to a petition for divorce or for separation from bed and board before the competent jurisdiction of the nation to which the parties belong.

ARTICLE 6.

In a case in which a married couple are not authorized to file a petition for divorce or for separation from bed and board in the country where they are domiciled, either of them may nevertheless apply to the competent jurisdiction of said country in order to have the provisional measures taken which are provided by its laws for the discontinuance of cohabitation. These measures shall be sustained if, within the period of one year, they are confirmed by the jurisdiction of the nation to which the parties belong; they will not continue any longer than is permitted by the law of the domicile.

ARTICLE 7.

Divorce and separation from bed and board, granted by a competent court, according to article 5, shall be recognized everywhere, provided the clauses of the present convention have been observed and provided that, in case the decision was rendered by default, the defendant has been summoned in conformity with the special rules whose observance is required by the law of his or her country in order that foreign decisions may be recognized.

A divorce or separation from bed and board granted by a competent administrative authority shall likewise be recognized, if the law of the nation of each of the married parties recognizes such divorce or separation.

ARTICLE 8.

If the married persons are not citizens of the same nation, the laws of the last nation to which they both belonged in common shall be considered the law of their nation in the application of the preceding articles.

ARTICLE 9.

The present convention applies only to petitions for divorce or for separation from bed and board filed in one of the contracting nations, provided at least one of the parties to the suit belong to one of these nations.

No nation obligates itself, by the present convention, to apply a law which is not that of a contracting nation.

ARTICLE 10.

The present convention, which applies only to the European territories of the contracting nations, shall be ratified and the ratifications deposited at The Hague as soon as a majority of the high contracting parties shall be able so to do.

A record shall be prepared of this deposit, whereof a duly certified copy shall be delivered through diplomatic channels to each of the contracting nations.

ARTICLE 11.

Those nations which were represented at the Third Conference on Private International Law, but which did not sign this convention, are permitted to adhere to it unqualifiedly.

Any nation desiring to adhere shall make its intention known not later than December 31, 1904, in a document which shall be deposited in the archives of the Government of the Netherlands. The latter shall send a duly certified copy thereof through diplomatic channels to each of the contracting nations.

ARTICLE 12.

The present convention shall take effect on the 60th day from the deposit of the ratifications or from the date of the notifications of adherence.

ARTICLE 13.

The present convention shall remain in force for five years from the date of deposit of the ratifications.

156 Fifth Avenue, New York.

This period shall begin to run from the said date, even for nations which shall have made the deposit after that date or which shall have adhered to the convention later.

The convention shall be tacitly renewed every five years, unless denounced.

Notice of denunciation must be given at least six months before the expiration of the period indicated in the preceding paragraphs to the Government of the Netherlands, which shall make it known to all the other contracting nations.

The denunciation shall take effect only with regard to the denouncing nation, the convention remaining in force for the other nations.

In witness whereof the respective plenipotentiaries have signed the present convention and fixed thereto their seals.

Done at The Hague, June 12, 1902, in a single original, which shall be deposited in the archives of the Government of the Netherlands, and a duly certified copy thereof delivered through diplomatic channels to each of the nations which were represented at the Third Conference on Private International Law.

[Inclosure 3.—Translation.]

Convention of June 12, 1902, to regulate the guardianship of minors.

(Between Germany, Austria-Hungary, Belgium, Spain, France, Italy, Luxembourg, the Netherlands, Portugal, Roumania, Sweden, and Switzerland.)

ARTICLE 1.

The guardianship of a minor is regulated according to the law of his or her nation.

ARTICLE 2.

If the law of the nation to which the minor belongs does not provide any arrangement for the guardianship of the minor in case the latter has his habitual residence in a foreign country, the diplomatic or consular agent authorized by the nation to which the minor belongs may provide for such guardianship, according to the law of said nation, provided the nation in which the minor resides does not oppose it.

ARTICLE 3.

However, the guardianship of a minor having his habitual residence abroad is established and exercised in conformity with the local law, provided it is not or can not be constituted in accordance with the provisions of articles 1 or 2.

ARTICLE 4.

The existence of a guardianship established in conformity with article 3 does not prevent a new guardianship from being constituted by applying articles 1 or 2.

Should this be done, the fact should be notified as soon as possible to the Government of the nation where the guardianship was first established. This Government shall inform thereof either the authority who instituted the guardianship, or, if such an authority does not exist, the guardian himself.

The laws of the nation where the older guardianship was established determine the time when such guardianship shall cease in the case provided for by the present article.

ARTICLE 5.

In all cases the guardianship begins and terminates at the periods and for the causes specified by the law of the nation to which the minor belongs.

ARTICLE 6.

The administration of a guardianship extends to the person and to all the property of the minor, wherever situated.

This rule may admit of exceptions with regard to real estate subjected by the *lex loci rei sita* to special real estate regulations.

ARTICLE 7.

Pending the establishment of a guardianship, and in all cases of urgency, the necessary measures for the protection of the person and the interests of a foreign minor may be taken by the local authorities.

ARTICLE 8.

When it becomes necessary to establish a guardianship for a foreign minor, the authorities of the nation in whose territory the minor abides should notify the fact, as soon as it reaches their knowledge, to the authorities of the nation to which the minor belongs.

The authorities thus notified shall make known as soon as possible, to the authorities who have given the notice, whether the guardianship has been or will be established.

ARTICLE 9.

The present convention applies to the guardianship of minors belonging to one of the contracting nations, who have their habitual residence in the territory of one of these nations.

However, articles 7 and 8 of the present convention apply to all minors belonging to the contracting nations.

ARTICLE 10.

The present convention, which applies only to the European territory of the contracting nations, shall be ratified and the ratifications deposited at The Hague, as soon as a majority of the high contracting parties shall be able so to do.

A record of this deposit shall be prepared, whereof a duly certified copy shall be delivered through diplomatic channels to each of the contracting nations.

ARTICLE 11.

The nations which were represented at the Third Conference on Private International Law, but which did not sign this convention, are permitted to adhere to it unqualifiedly.

Any nation which desires to adhere shall notify its intention not later than December 31, 1904, in a document which shall be deposited in the archives of the Government of the Netherlands. The latter shall send a copy thereof, duly certified, through diplomatic channels to each of the contracting nations.

ARTICLE 12.

The present convention shall take effect on the 60th day from the deposit of the ratifications or from the date of the notifications of adherence.

ARTICLE 13.

The present convention shall remain in force for five years from the date of deposit of the ratifications.

This term shall begin to run from the said date, even for nations which shall have made the deposit after that date or which may adhere to the convention later.

The convention shall be tacitly renewed every five years, unless denounced.

Notice of denunciation must be given, at least six months before the expiration of the term indicated in the preceding paragraphs, to the Government of the Netherlands, which shall make it known to all the other contracting nations.

The denunciation shall have effect only with regard to the denouncing nation, the convention remaining in force for the other nations.

In witness whereof the respective plenipotentiaries have signed the present convention and affixed thereto their seals.

Done at The Hague, June 12, 1902, in a single original, which shall be deposited in the archives of the Government of the Netherlands, and whereof a duly certified copy shall be delivered, through diplomatic channels, to each of the nations which were represented at the Third Conference on Private International Law.

NICARAGUA, COSTA RICA, AND SALVADOR.

SETTLEMENT OF THE CLAIM OF THE SALVADOR COMMERCIAL COMPANY ET AL. AGAINST SALVADOR.

Messrs. Hopkins & Hopkins, counsel for the Salvadorean Government, to Mr. Hay.

WASHINGTON, August 20, 1903.

SIR: At the request of the minister of El Salvador, we have the honor to transmit herewith for the files of the Department copy of an agreement entered into on the 17th of August, 1903, between the Republic of El Salvador and the Salvador Commercial Company et al., judgment claimants against that Republic. Under the terms of this agreement the claim in question is satisfied in full.

We are, etc.,

HOPKINS & HOPKINS.

[Inclosure.]

ARTICLES OF AGREEMENT.

1. The Republic of Salvador and the Salvador Commercial Company et al., the parties hereto represented, respectively, by Messrs. Hopkins & Hopkins, of Washington, as counsel, and Col. John P. Irish, of San Francisco, as attorney in fact, being desirous of harmoniously adjusting and settling the claim of the said Salvador Commercial Company et al. against the said Republic of Salvador, and each being clothed with full powers in the premises, have met and agreed upon the following terms:

2. The Republic of Salvador will, within four months from the date of this instrument, deliver to the Union National Bank, of Oakland, Cal., as trustee for the claimants, national bonds of said Republic, secured by 10 per centum of the customs, equivalent in value to 67½ per centum of the award made on May 8, 1902, under the Hay-Zaldivar protocol, of \$523,178.64.^a

3. Said bonds to be issued in seven series, representing their respective years of maturity, namely: 1904, 1905, 1906, 1907, 1908, 1909, and 1910, each serial issue being as follows: 36 bonds of \$1,000 each; 11 bonds of \$500 each; 74 bonds of \$100 each; 20 bonds of \$50 each; 1 bond of \$68.45; 1 bond of \$97.30; 1 bond of \$94.53; 1 bond of \$38.37; 1 bond of \$158.91; 1 bond of \$91.81.

Bonds of the series of 1904 shall fall due on the 8th day of May of that year, and bonds issued covering succeeding years shall fall due on the 8th day of January of such years.

4. Said bonds to be in the following form, in English and Spanish, and to bear interest at the rate of 6 per cent per annum from May 8, 1902:

\$----- U. S. gold coin.

No.-----
Series-----

REPUBLIC OF SALVADOR.

National indemnity bond.

Issued pursuant to law of the Republic, in accordance with provisions of agreement dated Washington, August 17, 1903.

The Republic of Salvador will pay to the Union National Bank, of Oakland, California, trustee for the lawful owner thereof, as evidenced by certificate of

^a Printed in Foreign Relations, 1902, p. 859 et seq.

ownership corresponding to this obligation, the sum of _____ dollars, in gold coin of the United States, at the said Union National Bank, of Oakland, California, on the 8th day of _____, 19—, with interest from May 8, 1902, at the rate of six per centum per annum.

SAN SALVADOR, _____.

5. With each bond issued as above by the Government of Salvador, a certificate corresponding to such bond shall be simultaneously issued and delivered to said trustee for delivery to the claimants, said certificate to be, in all respects, negotiable and likewise receivable, at the option of the holder, for customs dues, by the said Government, to its full value, in local coin or currency, equivalent to United States gold: *Provided, however,* That Salvador shall not be required to accept the same for customs dues in excess of the additional per centum duty levied in order to fulfil this agreement. Said certificate shall be in form as follows, in both English and Spanish:

\$----- U. S. gold coin.

No.-----

Series-----

REPUBLIC OF SALVADOR.

Certificate of ownership.

This certifies that there has been deposited with the Union National Bank, of Oakland, California, as trustee for _____, one national bond of the Republic of Salvador of the value of _____ dollars, United States gold, payable on the _____ day of _____, 19—, with interest at six per cent per annum from May 8, 1902, and when so paid the said Union National Bank, trustee, will thereupon pay such amount, with interest, to the lawful holder hereof.

This certificate is negotiable and is, at the option of the holder, also receivable for customs duties within the Republic of Salvador to its full value, in local coin or currency equivalent to United States gold, in accordance with the provisions of article 5 of agreement, dated Washington, August 17, 1903, and printed on the reverse of this certificate.

Given at San Salvador, the _____ day of _____, 19—.

6. Said certificates shall be apportioned among the several claimants in the following manner:

Salvador Commercial Company:

252 certificates, \$1,000 each	-----	\$252, 000. 00
70 certificates, \$500 each	-----	35, 000. 00
392 certificates, \$100 each	-----	39, 200. 00
140 certificates, \$50 each	-----	7, 000. 00
7 certificates, \$68.45 each	-----	479. 15
		<u>333, 679. 15</u>

H. H. Burrell:

21 certificates, \$100 each	-----	2, 100. 00
7 certificates, \$97.30 each	-----	681. 10
		<u>2, 781. 10</u>

Lewis Maslin:

49 certificates, \$100 each	-----	4, 900. 00
7 certificates, \$94.53 each	-----	661. 71
		<u>5, 561. 71</u>

J. H. Ellis:

14 certificates, \$100 each	-----	1, 400. 00
7 certificates, \$38.37 each	-----	268. 59
		<u>1, 668. 59</u>

J. B. Hayes:

7 certificates, \$158.91 each	-----	1, 112. 37
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G. F. Thompson :	
7 certificates, \$500 each-----	\$3,500.00
42 certificates, \$100 each-----	4,200.00
7 certificates, \$91.81 each-----	642.67
	8,342.67
	8,342.67
Total:	
Salvador Commercial Company-----	333,679.15
H. H. Burrell-----	2,781.10
Lewis Maslin-----	5,561.71
J. H. Ellis-----	1,668.59
J. B. Hayes-----	1,112.37
G. F. Thompson-----	8,342.67
	353,145.59
Grand total-----	353,145.59

7. Bonds to be paid by the Government of Salvador or by an authorized agent of that Government at the Union National Bank, of Oakland, Cal., on the 8th day of May, 1904, and on the 8th day of January of each year thereafter following, when, upon presentation of the certificates provided in paragraph 5 to the trustee, payment in full shall be thereupon made to lawful holders thereof by said trustee. The right is reserved to the Government of Salvador to redeem, at its option, any and all bonds issued pursuant to this agreement prior to maturity.

8. The Government of Salvador will notify the Department of State of the United States upon making payment to the trustee, and the latter will inform the Department of State upon payment or default.

9. The contracting parties further agree, each with the other, as follows:

That the payment in full of said bonds, as herein provided, shall operate as a settlement of the claim known and described as the Salvador Commercial Company et al. against the Republic of Salvador arising out of a certain concession granted by said Republic to "El Triunfo Company, Limited," and the same shall be considered as a full and complete payment of all and any claims held by said Salvador Commercial Company et al., as above described, against the said Republic; conditioned, however, upon the faithful performance of the undertakings herein entered into.

10. The Salvador Commercial Company et al. hereby renounce and relinquish in favor of the said Government of Salvador all their right, title, and interest in and to the corporation known as El Triunfo Company, Limited; it being understood and agreed, however, that the said Government of Salvador assumes no liability whatsoever on the part of the Salvador Commercial Company et al. as shareholders in the El Triunfo Company, Limited.

11. This agreement shall be submitted to and ratified by the National Assembly of Salvador on or before the expiration of sixty days from this date, of which ratification the Government of Salvador will notify that of the United States by cable. A copy of this instrument shall be filed in the State Department.

In faith whereof the said parties for and on behalf of their respective principals have hereunto subscribed their names and affixed their seals.

Done in the city of Washington, D. C., in triplicate, in English and in Spanish, this 17th day of August, 1903.

For the Republic of Salvador:

[SEAL.]

HOPKINS & HOPKINS,

As Counsel.

For the Salvador Commercial Company et al.:

[SEAL.]

JOHN P. IRISH.

As Attorney in fact.

Witnessed by:

F. BLAIR SHOEMAKER.

D. I. MURPHY.

Approved this 17th day of August, 1903.

[SEAL.]

RAFAEL S. LOPEZ,

Envoy Extraordinary and Minister Plenipotentiary, Salvador.

Mr. Merry to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
San Jose, Costa Rica, September 22, 1903.

(Mr. Merry reports that the Salvadorean Congress ratified on the 22d instant the agreement for the settlement of the arbitration of the Salvador Commercial Company's claim.)

Mr. Loomis to Mr. Merry.

No. 575.]

DEPARTMENT OF STATE,
Washington, February 4, 1904.

SIR: I inclose herewith the duplicate of a letter and of its inclosures from Messrs. John P. Irish and W. Lair Hill, attorneys of the Salvador Commercial Company and other American citizens, complaining of the nonfulfillment by the Salvadorean Government of the agreement of August 17, 1903, between that Government and said company, providing for the payment of the claim of the company against said Government.

You will bring the matter to the attention of the Salvadorean Government and say that unless there is a full compliance by that Government with the terms of the agreement of August 17, 1903, this Government will require the payment of the full amount of the award of May, 1902.

It is understood that the National Legislative Assembly of Salvador convenes during the present month, and that the matter should be taken care of at this session.

I am, etc.,

FRANCIS B. LOOMIS,
Acting Secretary.

[Inclosure.]

Messrs. Irish and Hill to Mr. Hay.

WASHINGTON, D. C., *February 3, 1904.*

SIR: The undersigned, the attorneys of Salvador Commercial Company and other American citizens, beg leave to present the following facts:

1. On the 8th day of May, 1902, an award was made by an international tribunal of arbitration, sitting at Washington and composed of the Right Honorable Sir Henry Strong, chief justice of Canada; Hon. Don M. Dickinson, of the United States, and Hon. José Rosa Pacas, of the Republic of El Salvador, in and by which award it was adjudged that the Government of El Salvador pay to the United States, for and on account of claims of Salvador Commercial Company and other American citizens, then and there represented by the undersigned, the sum of \$523,178.64 American gold, together with interest thereon at the rate of 6 per centum per annum from and after the said 8th day of May.

2. On the 17th day of August, 1903, said award not having been paid by the Government of El Salvador according to the terms of the protocol between that Government and that of the United States, by which said tribunal of arbitration was created, the said claimants, with the approval of the Department of State of the United States, entered into an agreement with the minister of El Salvador at Washington, subject to the approval of the legislative power of El Salvador, whereby it was agreed that the legislative power of El Salvador should provide

by law for the issuance of seven series of bonds, covering 67½ per centum of amount of said award, the first of said seven series to be paid on the 8th of May, 1904, and the other six series to be paid, respectively, on the 8th of January, 1905, and on the 8th day of January of each successive year to and including 1910; and that the said bonds should be deposited by the Government of El Salvador with the Union National Bank of Oakland, Cal., as trustee, and they should be paid at said bank at the respective dates of their maturity; and that the Government of El Salvador should at the same time with the deposit of said bonds also deposit with said bank certificates of the beneficial interests of the respective claimants in the amounts to be paid upon said bonds, such certificates to be negotiable and to be delivered by said bank to the claimants, respectively; and in and by said agreement it was further stipulated that said bonds should be secured by 10 per centum of the customs of the Republic of El Salvador until they were fully paid, and that upon the payment of said bonds at or before the respective dates of their maturity said award should be deemed satisfied as to the interests of the said claimants therein. One original of said agreement was filed in the office of the Secretary of State of the United States, and may be referred to for verification hereof.

3. On the 22d day of September, 1903, the legislative power of El Salvador passed an act declaring said agreement reducing the amount to 67½ per centum ratified, and specifically authorizing the Executive of that Republic to issue seven series of bonds covering the said 67½ per centum of said award, and directing and declaring that the Executive should "pay the claimants with said bonds, delivering them, with the certificates provided for in the agreement, to the Union National Bank of Oakland, Cal." No power is vested in the Executive to deliver the bonds and certificates except in payment of the claims. (The official paper of El Salvador, containing said act, is herewith presented, and a translation of said act into the English language is hereto annexed.)

4. The bonds and certificates having been prepared, they were transmitted by the Executive of El Salvador to the Hon. Encarnacion Mejia, consul-general of El Salvador at the city of San Francisco, Cal., for delivery, reaching him on or about the 15th of January, 1904; and that official, on the 16th of January, 1904, notifying the said Union National Bank of his readiness to deliver them, accompanied the notification by a form of receipt to be given by said bank, as trustee, in which form of receipt it is declared that the amount of money covered by said bonds and certificates is received, and that the delivery of said bonds and certificates is fulfillment by the Government of El Salvador of its obligations under said agreement of August 17, 1903. (A copy of said form of receipt in the Spanish language and a translation thereof into the English language are hereto annexed.)

5. Said bank has declined to receive said bonds and certificates, upon the ground that the delivery to it, and the receipt by it, of said bonds and certificates, under the terms and conditions prescribed and declared by said act authorizing the issue thereof, would be, as to said trustee and as to the claimants beneficially interested in said bonds and certificates, satisfaction of said award, leaving the claimants at the mercy of the Government of El Salvador as to the payment of the money promised in and by the bonds; and the claimants have notified said bank that they object to its receiving said bonds and certificates upon the terms and conditions of said act, or upon any terms and conditions under which their delivery would constitute satisfaction of said award.

6. Said claimants demand only that the said agreement of August 17, 1903, be carried out in good faith according to its terms and spirit; but they protest that the terms and conditions upon which said bonds are issued and directed to be delivered are in violation of most important provisions of said agreement; and particularly in this, that they are not secured upon 10 per centum or any amount of the customs of El Salvador; and that it was not contemplated in and by said agreement of August 17, 1903, that the bonds and certificates should be received in payment of, or as satisfaction of, or as substitute for, the award; but, on the contrary, it was distinctly agreed, understood, and specified that the award should be satisfied only upon payment of the moneys for which the said bonds were to be security.

The agreement provides for the issue and deposit of the bonds as security for payments at periods stipulated. It also requires that the bonds be guaranteed on 10 per centum of the customs, to provide the Executive with means for their payment.

The ratifying act of the Salvador Congress provides for the issue of the bonds, but does not guarantee them on 10 per centum of the customs revenue nor

provide any other source of means for their payment. It authorizes the Executive "to pay the claimants with said bonds," and a receipt is demanded of the trustee acknowledging the receipt of the bonds as so many dollars in payment of the claim.

It is plain, then, that the ratifying act does not conform to the agreement; that not providing the means to pay it, equips the Executive with that excuse for default, and that the exaction of a receipt for the bonds as money opens the way to repudiation of the whole obligation.

The Congress of Salvador should correct its statute to conform to its agreement of August 17, 1903, at its impending session of the current month, and we request that it be advised by the United States that failure to do so, and to perform all of its undertakings under said agreement, will constrain this Government to demand immediate payment in full of the award of May, 1902.

JOHN P. IRISH.
W. LAIR HILL.

[Subinclosure 1.]

TRANSLATION OF THE ACT OF SALVADOR LEGISLATURE OF SEPTEMBER 22, 1903.

The National Legislative Assembly of El Salvador:

Whereas the Executive power has made a report of the agreement made in Washington on the 17th of August last between our plenipotentiary and the Salvador Commercial Company and other American citizens, by which the amount awarded to said claimants is reduced to 67½ per cent, and the conditions and mode of payment are established; and

Whereas, although the arbitral judgment of the 8th of May, 1902, was unjust and illegal, because of its not having been subjected to the bases of the Hay-Zaldívar protocol, and because there was given to the claimants an indemnity purely imaginary and speculative, in express violation of article 6 of said protocol, which constitutes a going beyond its powers of arbitration; and in view of the official and hostile attitude of the American Government, which has demanded compliance with that iniquitous judgment, and to the end that the country may be spared greater humiliation and more grave damages,

It is decreed:

Article 1. The agreement concluded on the 17th of August last, in the city of Washington, between the Salvadorean legation and the Salvador Commercial Company and other American citizens, by which the amount awarded by the tribunal of arbitration as indemnity due from the Government of El Salvador to said citizens is reduced to 67½ per cent of the same, is ratified.

Article 2. The Executive power is authorized to issue the seven series of bonds for which said agreement provides, bearing interest at 6 per centum from the 8th day of May, 1902, in accordance with said judgment and the agreement ratified.

Article 3. The Executive power is likewise authorized to pay the claimants with said bonds, delivering them, together with the certificates for which said agreement provides, to the Union National Bank of Oakland, Cal.; and

Article 4. To recommend to the Executive power that there be addressed to the Governments of the Latin-American Republics a history of this scandalous affair by a statement in detail of the causes out of which the Burrell claim arose, of the irregular and anomalous conduct of the arbitrators and that which the United States pursued, with the corresponding protest against the violation of our rights, to the end that sometime we may be able to vindicate them, which we do not doubt will be the case when reason and justice prevail in the Government of that civilized nation.

Given in the chamber of sessions of the legislative power, San Salvador, at 10 o'clock in the forenoon of the twenty-second day of September, one thousand nine hundred three.

RAFAEL PINTO, *Vice-President.*
C. CIERRA, *Second Secretary.*

G. MAZZINI, *First Secretary.*

PALACE OF THE EXECUTIVE,
San Salvador, September 23, 1903.

Let it be done.

P. JOSE ESCALON.

MANUEL I. MORALES,
In Charge of the Department of Foreign Relations.

It will be observed that the ratifying clause of the above statute is, by its language, limited to the part of the agreement which reduces the award to 67½ per cent, and may well be taken as excluding ratification of other parts of the agreement, except as to the issue of the bonds provided by another section of the act.

[Subinclosure 2.]

Translation of the receipt demanded by the consul-general of El Salvador.

Thomas Prather, legal representative of the Union National Bank, of Oakland, Cal., duly authorized by said bank, as appears by a document which he exhibits, declares that he has received from Mr. Encarnacion Mejia, consul-general of El Salvador in the United States of America, the sum of \$353,145.59 American gold, in seven series on bonds of \$50,449.37 American gold each series, which will become due, respectively, on the 8th of May next those of 1904, and on the 8th of January each year those of 1905 to 1910, numbered from 1 to 1,029 and each bond accompanied by a corresponding certificate of ownership of the same value and number, and the delivery of which Mr. Mejia makes in the name of the Government of Salvador to the Union National Bank of Oakland, in fulfillment of the agreement entered into at Washington, D. C., on the 17th of August, 1903, between the authorized agent of the Republic of El Salvador and Mr. John P. Irish as the authorized agent of the Salvador Commercial Company and others, which agreement was approved on the same date by Dr. Rafael Severo Lopez, minister of El Salvador in the United States of America, and ratified by the legislative power of El Salvador on the 22d of September of the same year. The stubs from which the bonds have been detached remain in the hands of Mr. Mejia to be returned to the Supreme Government of El Salvador.

In faith of which Mr. Thomas Prather, representing the Union National Bank of Oakland, as trustee, declares: That by the delivery which is made to him and to which this corresponds, the Supreme Government of the Republic of El Salvador has complied with the obligations assumed in the agreement above cited; and he executes this receipt in quadruplicate before the witnesses and notary public who subscribe, in San Francisco, Cal., on the — day of January, 1904.

Mr. Hay to Mr. Merry.

No. 576.]

DEPARTMENT OF STATE,
Washington, February 9, 1904.

SIR: Supplementing instruction No. 575, of the 4th instant, on the subject of the claim of the Salvador Commercial Company against the Government of Salvador, I have now to call your attention to the essential points in which the legislation of Salvador fails to comply with the agreement of August 17, 1903, namely:

(1) It does not secure the bonds by 10 per cent of the customs, which is required by article 2 of the agreement; and

(2) It makes the delivery of the bonds payment of the claim, whereas under section 9 of the agreement the award on the claim is not to be deemed satisfied unless the bonds are paid at their respective dates of maturity.

I am, etc.,

JOHN HAY.

Mr. Merry to Mr. Hay.

No. 921.]

AMERICAN LEGATION,
San José, Costa Rica, February 25, 1904.

SIR: In acknowledgment of your No. 575, of February 4, and No. 576, of February 9, inclosing the complaint presented by the attorneys

of the Salvador Commercial Company, dated February 3, 1904, I have the honor to forward herewith copy of the dispatch which goes forward from this legation by first mail to the Government of El Salvador in compliance with instructions received from you.

* * * * *

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

[Inclosure.]

Mr. Merry to Señor Morales.

AMERICAN LEGATION,
San José, Costa Rica, February 24, 1904.

ESTEEMED SIR: I regret to advise you, under instructions from the Government of the United States, that the trustee for the Salvador Commercial Company, acting under competent legal advice, has declined to receive the indemnity bonds agreed by the Government of El Salvador to be delivered to said trustee on December 17, 1904, and tendered thereto by the consul-general of El Salvador on January 16, 1904. The reason given for this declination is that the legislation enacted by Salvador fails to comply with the agreement of August 17, 1903, in the following particulars:

(1) The said bonds are not secured by 10 per cent of the customs receipts, as required by article 2 of the agreement.

(2) It makes the mere delivery of the bonds full payment of the claim, whereas under section 9 of the agreement the award on the claim is not to be deemed satisfied unless the bonds are paid at their respective dates of maturity.

The Congress of El Salvador convening proximately, it is respectfully suggested that your excellency's honorable Government will rectify the above omissions by proper enactment, and thus carry out the agreement of August 17, 1903.

While assured that your excellency's Government will recognize the propriety of the amendment of the legislative enactment of September 22, 1903, above alluded to, I am instructed to notify your excellency that unless there is a full compliance with the terms of the agreement of August 17, 1903, the United States Government will require the payment of the full amount of the arbitration award made on May 8, 1902. With confidence that your excellency's Government will unhesitatingly provide for the execution of its agreement with the claimants, I respectfully await your further information thereon.

Be pleased, etc.,

WILLIAM LAWRENCE MERRY.

Mr. Merry to Mr. Hay.

No. 931.]

AMERICAN LEGATION,
San José, Costa Rica, March 31, 1904.

SIR: I have the honor to inclose herewith copy and translation of the law enacted by the Congress of Salvador on March 18, 1904, in accordance with our request, to cover the objections stated in my No. 165 of February 25 to the Salvador foreign office, copy of which accompanied my No. 921 of February 25 to the Department of State.

The promptness with which the Government of Salvador acceded to our request is gratifying, and indicates that the deficiency in the prior enactment was not intentional.

It now remains for the attorneys of the Salvador Commercial Company in California to permit only such receipt for the indemnity bonds as shall be in entire accordance with the amended enactment of March 18, 1904.

I trust that this matter is now definitely settled and that there will be no default in the payment of the bonds at maturity.

With assurances of my highest consideration, I beg to remain, sir, etc.,

WILLIAM LAWRENCE MERRY.

[Inclosure.—Translation.]

Law of March 19, 1904, Congress of Salvador, specifying method of indemnity payment to Salvador Commercial Company.

DECREE.

Article 1. The payment in representation to which refers the authorization contained in article 3 of the law of September 22, 1903, will not cancel the reclamation of the Salvador Commercial Company, and of the others interested, citizens of the United States, which shall be canceled as arranged in articles 7 and 9 of the contract signed at Washington, D. C., between the attorneys, respectively, of this Republic and of the same claimants, dated August 17, 1903.

Article 2. Notwithstanding that the general ratification contained in article 1 of the law before quoted covers the point in question, it is enacted that the bonds emitted and ordered in virtue of the same possess the guaranty of 10 per cent of the custom-house receipts, which secures the payment of said obligations in the said proportion.

Article 3. The Executive power continues authorized to expend in the cancellation of the said bonds up to 10 per cent of the customs receipts already referred to, being allowed to complete this fund of amortization with other national revenues, when by unforeseen circumstances it comes to be insufficient for the purpose for which it is intended.

Given in the hall of the sessions of the legislative power, San Salvador the 18th of March, 1904.

F. MEIJA,
President (of Congress).

**PEACE CONFERENCE BETWEEN THE PRESIDENTS OF NICARAGUA,
GUATEMALA, HONDURAS, AND SALVADOR.**

Mr. Merry to Mr. Hay.

No. 961.] AMERICAN LEGATION,
San José, Costa Rica, August 31, 1904.

SIR: I have the honor to advise that on the 21st instant, at Corinto, Nicaragua, the Presidents of Nicaragua, Honduras, and El Salvador, and a special delegate representing the President of Guatemala, held a conference ostensibly for the purpose of securing the peace of Central America. * * *

The parties holding the conference have issued a lengthy manifesto, which indicates nothing of interest to our Government except that the four governments represented are controlled by parties who will aid each other by military force, if necessary, in maintaining the status quo, and that the peace of Central America is thus reasonably assured by making revolutionary efforts more difficult and less liable to achieve success.

* * * * *

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

ARBITRATION OF THE BOUNDARY DISPUTE BETWEEN NICARAGUA AND HONDURAS.

Mr. Merry to Mr. Hay.

AMERICAN LEGATION,
San José, Costa Rica, October 28, 1904.

No. 983.]

SIR: I have the honor to advise that the commissioners appointed by the governments of Nicaragua and Honduras, Señor Salvador Castrillo, representing the former, and Doctor Membrano the latter Republic, have arranged to submit the question of the boundary line between the two countries to the King of Spain, who has not yet signified his acceptance, but it is confidently expected that he will not deny the courtesy. The commissioners have returned to their respective capitals. It is now expected that Hon. José Dolores Gomez, "Primer Designado," to the presidency and presiding officer of the Nicaraguan Congress, will present the case of his government at Madrid. This action will secure the public peace in northern Nicaragua. * * *

I shall not fail to keep you informed of further movements in this matter which may come to my knowledge from reliable sources.

With assurances, etc.,

WILLIAM LAWRENCE MERRY.

PANAMA.

CONVENTION BETWEEN THE UNITED STATES AND THE REPUBLIC OF PANAMA FOR THE CONSTRUCTION OF A SHIP CANAL TO CONNECT THE WATERS OF THE ATLANTIC AND PACIFIC OCEANS.

Signed at Washington, November 18, 1903.

Ratification advised by the Senate, February 23, 1904.

Ratified by the President, February 25, 1904.

Ratified by Panama, December 2, 1903.

Ratifications exchanged at Washington, February 26, 1904.

Proclaimed, February 26, 1904.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a Convention between the United States of America and the Republic of Panama to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific Oceans, was concluded and signed by their respective Plenipotentiaries at Washington, on the eighteenth day of November, one thousand nine hundred and three, the original of which Convention, being in the English language, is word for word as follows:

ISTHMIAN CANAL CONVENTION.

The United States of America and the Republic of Panama being desirous to insure the construction of a ship canal across the Isthmus of Panama to connect the Atlantic and Pacific oceans, and the Congress of the United States of America having passed an act approved June 28, 1902, in furtherance of that object, by which the President of the United States is authorized to acquire within a reasonable time the control of the necessary territory of the Republic of Colombia, and the sovereignty of such territory being actually vested in the Republic of Panama, the high contracting parties have resolved for that purpose to conclude a convention and have accordingly appointed as their plenipotentiaries,—

The President of the United States of America, John Hay, Secretary of State, and

The Government of the Republic of Panama, Philippe Bunau-Varilla, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Panama, thereunto specially empowered by said government, who after communicating with each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I.

The United States guarantees and will maintain the independence of the Republic of Panama.

ARTICLE II.

The Republic of Panama grants to the United States in perpetuity the use, occupation and control of a zone of land and land under water for the construction, maintenance, operation, sanitation and protection of said Canal of the width of ten miles extending to the distance of five miles on each side of the center line of the route of the Canal to be constructed; the said zone beginning in the Caribbean Sea three marine miles from mean low water mark and extending to and across the Isthmus of Panama into the Pacific ocean to a distance of three marine miles from mean low water mark with the proviso that the cities of Panama and Colon and the harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant. The Republic of Panama further grants to the United States in perpetuity the use, occupation and control of any other lands and waters outside of the zone above described which may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal or of any auxiliary canals or other works necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said enterprise.

The Republic of Panama further grants in like manner to the United States in perpetuity all islands within the limits of the zone above described and in addition thereto the group of small islands in the Bay of Panama, named Perico, Naos, Culebra and Flamenco.

ARTICLE III.

The Republic of Panama grants to the United States all the rights, power and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power or authority.

ARTICLE IV.

As rights subsidiary to the above grants the Republic of Panama grants in perpetuity to the United States the right to use the rivers, streams, lakes and other bodies of water within its limits for navigation, the supply of water or water-power or other purposes, so far as the use of said rivers, streams, lakes and bodies of water and the waters thereof may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal.

ARTICLE V.

The Republic of Panama grants to the United States in perpetuity a monopoly for the construction, maintenance and operation of any system of communication by means of canal or railroad across its territory between the Caribbean Sea and the Pacific ocean.

ARTICLE VI.

The grants herein contained shall in no manner invalidate the titles or rights of private land holders or owners of private property in the said zone or in or to any of the lands or waters granted to the United States by the provisions of any Article of this treaty, nor shall they interfere with the rights of way over the public roads passing through the said zone or over any of the said lands or waters unless said rights of way or private rights shall conflict with rights herein granted to the United States in which case the rights of the United States shall be superior. All damages caused to the owners of private lands or private property of any kind by reason of the grants contained in this treaty or by reason of the operations of the United States, its agents or employees, or by reason of the construction, maintenance, operation, sanitation and protection of the said Canal or of the works of sanitation and protection herein provided for, shall be appraised and settled by a joint Commission appointed by the Governments of the United States and the Republic of Panama, whose decisions as to such damages shall be final and whose awards as to such damages shall be paid solely by the United States. No part of the work on said Canal or the Panama railroad or on any auxiliary works relating thereto and authorized by the terms of this treaty shall be prevented, delayed or impeded by or pending such proceedings to ascertain such damages. The appraisal of said private lands and private property and the assessment of damages to them shall be based upon their value before the date of this convention.

ARTICLE VII.

The Republic of Panama grants to the United States within the limits of the cities of Panama and Colon and their adjacent harbors and within the territory adjacent thereto the right to acquire by purchase or by the exercise of the right of eminent domain, any lands, buildings, water rights or other properties necessary and convenient for the construction, maintenance, operation and protection of the Canal and of any works of sanitation, such as the collection and disposition of sewage and the distribution of water in the said cities of Panama and Colon, which, in the discretion of the United States may be necessary and convenient for the construction, maintenance, operation, sanitation and protection of the said Canal and railroad. All such works of sanitation, collection and disposition of sewage and distribution of water in the cities of Panama and Colon shall be made at the expense of the United States, and the Government of the United States, its agents or nominees shall be authorized to impose and collect water rates and sewerage rates which shall be sufficient to provide for the payment of interest and the amortization of the principal of the cost of said works within a period of fifty years and upon the expiration of said term of fifty years the system of sewers and waterworks shall revert to and become the properties of the cities of Panama and Colon respectively, and the use of the water shall be free to the inhabitants of Panama and Colon, except to the extent that water rates may be necessary for the operation and maintenance of said system of sewers and water.

The Republic of Panama agrees that the cities of Panama and Colon shall comply in perpetuity with the sanitary ordinances whether of a preventive or curative character prescribed by the United States and in case the Government of Panama is unable or fails in its duty to enforce this compliance by the cities of Panama and Colon with the sanitary ordinances of the United States the Republic of Panama grants to the United States the right and authority to enforce the same.

The same right and authority are granted to the United States for the maintenance of public order in the cities of Panama and Colon and the territories and harbors adjacent thereto in case the Republic of Panama should not be, in the judgment of the United States, able to maintain such order.

ARTICLE VIII.

The Republic of Panama grants to the United States all rights which it now has or hereafter may acquire to the property of the New Panama Canal Company and the Panama Railroad Company as a result of the transfer of sovereignty from the Republic of Colombia to the Republic of Panama over the Isthmus of Panama and authorizes the New Panama Canal Company to sell and transfer to the United States its rights, privileges, properties and concessions as well as the Panama Railroad and all the shares or part of the shares of that company; but the public lands situated outside of the zone described in Article II of this treaty now included in the concessions to both said enterprises and not required in the construction or operation of the Canal shall revert to the Republic of Panama except any property now owned by or in possession of said companies within Panama or Colon or the ports or terminals thereof.

ARTICLE IX.

The United States agrees that the ports at either entrance of the Canal and the waters thereof, and the Republic of Panama agrees that the towns of Panama and Colon shall be free for all time so that there shall not be imposed or collected custom house tolls, tonnage, anchorage, lighthouse, wharf, pilot, or quarantine dues or any other charges or taxes of any kind upon any vessel using or passing through the Canal or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance, operation, sanitation and protection of the main Canal, or auxiliary works, or upon the cargo, officers, crew, or passengers of any such vessel, except such tolls and charges as may be imposed by the United States for the use of the Canal and other works, and except tolls and charges imposed by the Republic of Panama upon merchandise destined to be introduced for the consumption of the rest of the Republic of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the Canal.

The Government of the Republic of Panama shall have the right to establish in such ports and in the towns of Panama and Colon such houses and guards as it may deem necessary to collect duties on importations destined to other portions of Panama and to prevent contraband trade. The United States shall have the right to make use of the towns and harbors of Panama and Colon as places of anchorage,

and for making repairs, for loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the Canal and for other works pertaining to the Canal.

ARTICLE X.

The Republic of Panama agrees that there shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the Canal, the railways and auxiliary works, tugs and other vessels employed in the service of the Canal, store houses, work shops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property, and effects appertaining to the Canal or railroad and auxiliary works, or their officers or employees, situated within the cities of Panama and Colon, and that there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the Canal and railroad and auxiliary works.

ARTICLE XI.

The United States agrees that the official dispatches of the Government of the Republic of Panama shall be transmitted over any telegraph and telephone lines established for canal purposes and used for public and private business at rates not higher than those required from officials in the service of the United States.

ARTICLE XII.

The Government of the Republic of Panama shall permit the immigration and free access to the lands and workshops of the Canal and its auxiliary works of all employees and workmen of whatever nationality under contract to work upon or seeking employment upon or in any wise connected with the said Canal and its auxiliary works, with their respective families, and all such persons shall be free and exempt from the military service of the Republic of Panama.

ARTICLE XIII.

The United States may import at any time into the said zone and auxiliary lands, free of custom duties, imposts, taxes, or other charges, and without any restrictions, any and all vessels, dredges, engines, cars, machinery, tools, explosives, materials, supplies, and other articles necessary and convenient in the construction, maintenance, operation, sanitation and protection of the Canal and auxiliary works, and all provisions, medicines, clothing, supplies and other things necessary and convenient for the officers, employees, workmen and laborers in the service and employ of the United States and for their families. If any such articles are disposed of for use outside of the zone and auxiliary lands granted to the United States and within the territory of the Republic, they shall be subject to the same import or other duties as like articles imported under the laws of the Republic of Panama.

ARTICLE XIV.

As the price or compensation for the rights, powers and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of ten million dollars (\$10,000,000) in gold coin of the United States on the exchange of the ratification of this convention and also an annual payment during the life of this convention of two hundred and fifty thousand dollars (\$250,000) in like gold coin, beginning nine years after the date aforesaid.

The provisions of this Article shall be in addition to all other benefits assured to the Republic of Panama under this convention.

But no delay or difference of opinion under this Article or any other provisions of this treaty shall affect or interrupt the full operation and effect of this convention in all other respects.

ARTICLE XV.

The joint commission referred to in Article VI shall be established as follows:

The President of the United States shall nominate two persons and the President of the Republic of Panama shall nominate two persons and they shall proceed to a decision; but in case of disagreement of the Commission (by reason of their being equally divided in conclusion) an umpire shall be appointed by the two Governments who shall render the decision. In the event of the death, absence, or incapacity of a Commissioner or Umpire, or of his omitting, declining or ceasing to act, his place shall be filled by the appointment of another person in the manner above indicated. All decisions by a majority of the Commission or by the umpire shall be final.

ARTICLE XVI.

The two Governments shall make adequate provision by future agreement for the pursuit, capture, imprisonment, detention and delivery within said zone and auxiliary lands to the authorities of the Republic of Panama of persons charged with the commitment of crimes, felonies or misdemeanors without said zone and for the pursuit, capture, imprisonment, detention and delivery without said zone to the authorities of the United States of persons charged with the commitment of crimes, felonies and misdemeanors within said zone and auxiliary lands.

ARTICLE XVII.

The Republic of Panama grants to the United States the use of all the ports of the Republic open to commerce as places of refuge for any vessels employed in the Canal enterprise, and for all vessels passing or bound to pass through the Canal which may be in distress and be driven to seek refuge in said ports. Such vessels shall be exempt from anchorage and tonnage dues on the part of the Republic of Panama.

ARTICLE XVIII.

The Canal, when constructed, and the entrances thereto shall be neutral in perpetuity, and shall be opened upon the terms provided

for by Section I of Article three of, and in conformity with all the stipulations of, the treaty entered into by the Governments of the United States and Great Britain on November 18, 1901.

ARTICLE XIX.

The Government of the Republic of Panama shall have the right to transport over the Canal its vessels and its troops and munitions of war in such vessels at all times without paying charges of any kind. The exemption is to be extended to the auxiliary railway for the transportation of persons in the service of the Republic of Panama, or of the police force charged with the preservation of public order outside of said zone, as well as to their baggage, munitions of war and supplies.

ARTICLE XX.

If by virtue of any existing treaty in relation to the territory of the Isthmus of Panama, whereof the obligations shall descend or be assumed by the Republic of Panama, there may be any privilege or concession in favor of the Government or the citizens and subjects of a third power relative to an interoceanic means of communication which in any of its terms may be incompatible with the terms of the present convention, the Republic of Panama agrees to cancel or modify such treaty in due form, for which purpose it shall give to the said third power the requisite notification within the term of four months from the date of the present convention, and in case the existing treaty contains no clause permitting its modification or annulment, the Republic of Panama agrees to procure its modification or annulment in such form that there shall not exist any conflict with the stipulations of the present convention.

ARTICLE XXI.

The rights and privileges granted by the Republic of Panama to the United States in the preceding Articles are understood to be free of all anterior debts, liens, trusts, or liabilities, or concessions or privileges to other Governments, corporations, syndicates or individuals, and consequently, if there should arise any claims on account of the present concessions and privileges or otherwise, the claimants shall resort to the Government of the Republic of Panama and not to the United States for any indemnity or compromise which may be required.

ARTICLE XXII.

The Republic of Panama renounces and grants to the United States the participation to which it might be entitled in the future earnings of the Canal under Article XV of the concessionary contract with Lucien N. B. Wyse now owned by the New Panama Canal Company and any and all other rights or claims of a pecuniary nature arising under or relating to said concession, or arising under or relating to the concessions to the Panama Railroad Company or any extension or modification thereof; and it likewise renounces, confirms and grants to the United States, now and hereafter, all the rights and property reserved in the said concessions which otherwise would belong to

Panama at or before the expiration of the terms of ninety-nine years of the concessions granted to or held by the above mentioned party and companies, and all right, title and interest which it now has or may hereafter have, in and to the lands, canal, works, property and rights held by the said companies under said concessions or otherwise, and acquired or to be acquired by the United States from or through the New Panama Canal Company, including any property and rights which might or may in the future either by lapse of time, forfeiture or otherwise, revert to the Republic of Panama under any contracts or concessions, with said Wyse, the Universal Panama Canal Company, the Panama Railroad Company and the New Panama Canal Company.

The aforesaid rights and property shall be and are free and released from any present or reversionary interest in or claims of Panama and the title of the United States thereto upon consummation of the contemplated purchase by the United States from the New Panama Canal Company, shall be absolute, so far as concerns the Republic of Panama, excepting always the rights of the Republic specifically secured under this treaty.

ARTICLE XXIII.

If it should become necessary at any time to employ armed forces for the safety or protection of the Canal, or of the ships that make use of the same, or the railways and auxiliary works, the United States shall have the right, at all times and in its discretion, to use its police and its land and naval forces or to establish fortifications for these purposes.

ARTICLE XXIV.

No change either in the Government or in the laws and treaties of the Republic of Panama shall, without the consent of the United States, affect any right of the United States under the present convention, or under any treaty stipulation between the two countries that now exists or may hereafter exist touching the subject matter of this convention.

If the Republic of Panama shall hereafter enter as a constituent into any other Government or into any union or confederation of states, so as to merge her sovereignty or independence in such Government, union or confederation, the rights of the United States under this convention shall not be in any respect lessened or impaired.

ARTICLE XXV.

For the better performance of the engagements of this convention and to the end of the efficient protection of the Canal and the preservation of its neutrality, the Government of the Republic of Panama will sell or lease to the United States lands adequate and necessary for naval or coaling stations on the Pacific coast and on the western Caribbean coast of the Republic at certain points to be agreed upon with the President of the United States.

ARTICLE XXVI.

This convention when signed by the Plenipotentiaries of the Contracting Parties shall be ratified by the respective Governments and

the ratification shall be exchanged at Washington at the earliest date possible.

In faith whereof the respective Plenipotentiaries have signed the present convention in duplicate and have hereunto affixed their respective seals.

Done at the City of Washington the 18th day of November in the year of our Lord nineteen hundred and three.

JOHN HAY [SEAL]
P. BUNAU VARILLA [SEAL]

And whereas the said Convention has been duly ratified on both parts, and the ratifications of the two governments were exchanged in the City of Washington, on the twenty-sixth day of February, one thousand nine hundred and four;

Now, therefore, be it known that I, Theodore Roosevelt, President of the United States of America, have caused the said Convention to be made public, to the end that the same and every article and clause thereof, may be observed and fulfilled with good faith by the United States and the citizens thereof.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States of America to be affixed.

Done at the City of Washington, this twenty-sixth day of February, in the year of our Lord one thousand nine hundred and [SEAL] four, and of the Independence of the United States the one hundred and twenty-eighth.

THEODORE ROOSEVELT

By the President:

JOHN HAY
Secretary of State.

[Translation.—Decree No. 24, 1903, December 2, approving a treaty with the United States of North America.]

The Junta of provisional government of the Republic of Panama, considering that there has been signed, by the envoy extraordinary and minister plenipotentiary of the Republic accredited to the Government of the United States of America, and the Secretary of State of that Nation, a treaty which copied literally reads as follows:

[Printed ante.]

And considering:

1. That the guaranty of independence for the Republic has been obtained in that treaty.

2. That for reasons of exterior security it is indispensable to take up consideration of the treaty with the utmost celerity, in order that the paramount obligation on the part of the United States may begin to be effectively fulfilled:

3. That by this treaty is realized the aspiration of the people of the Isthmus touching the building of a Canal for the service of the commerce of all nations; and

4. That the Junta of Provisional Government, chosen by the unanimous vote of the people of the Republic, possesses all the powers of the sovereign of the territory,

DECREES:

Sole article: The treaty, signed in Washington, the capital of the Republic of the United States of America, on the 18th of November of the present year, between His Excellency Philippe Bunau-Varilla, Envoy Extraordinary and Minister Plenipotentiary of this Republic, and His Excellency John Hay, Secretary of State of the Republic of the United States of America, is approved.

Let it be made public.

Done at Panama, December 2, 1903.

(Signed) J. A. ARANGO,

The Minister of Government,

The Minister of Foreign Relations,

The Minister of Justice,

The Minister of the Treasury,

The Minister of War and Navy,

For the Minister of Public Works,
The Secretary,

[SEAL OF THE REPUBLIC OF PANAMA.]

TOMAS ARIAS,
MANUEL ESPINOZA B.

EUSEBIO A. MORALES.

F. V. DE LA ESPRIELLA.

CARLOS A. MENDOZA.

MANUEL E. AMADOR.

NICANOR A. DE OBARRIO.

FRANCISCO A. FACIO.

SANITARY CONDITIONS ON THE ISTHMUS OF PANAMA.

Mr. Buchanan to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION, SPECIAL MISSION,
Panama, January 8, 1904.

(Mr. Buchanan states that in the interest of the United States on the Isthmus and on account of the number of marines camping there every precaution should be taken to prevent the appearance of contagious diseases, and recommends that United States medical inspectors be stationed at Ecuadoran, Peruvian, Venezuelan, West Indian, and Colombian ports and at Colon, who should be instructed to ascertain the sanitary condition of ports and of vessels bound for the Isthmus, and without delay to report the same to the consul-general at Panama. Mr. Buchanan further states that he intends to urge the Panaman Government to exercise care in the matter of quarantine.)

Mr. Buchanan to Mr. Hay.

No. 22.]

AMERICAN LEGATION, SPECIAL MISSION,
Panama, January 9, 1904.

SIR: Confirming my cable of yesterday, in which I recommended that medical inspectors should be stationed along the coast line ports

south of here, I have the honor to inclose herewith copies of letters that have passed between Rear-Admiral Glass and myself touching the subject, together with a copy of a note I am addressing to this Government with reference to the same matter. If I receive a reply to the latter previous to the closing of the mail by which this dispatch will go I shall include that as well.

I am greatly impressed by the insanitary condition, in appearance at least, of this place and of the ramshackle villages between here and Colon, as well as with that of the latter.

It seems to me that one need not wonder at the high death rate that has scourged these places in the past, but that any appearance of good health is found here.

The latter is, however, clearly a fact at this time, and it hence appears reasonable to believe that vigorous, intelligent measures applied hereabouts in the direction of cleanliness and sanitary common sense would result in making the Isthmus a normally healthful livable place.

I feel that our interests in every direction warrant us in urging here and in assisting, or, if nothing is done, in initiating, movements that will bring about a good cleaning up here and the enforcement of regulations that will result in maintaining that condition so far as possible.

I think that the first thing that should be done here by us after the passage of the treaty should be the creation of a joint sanitary board that would tear existing conditions into pieces and result in the building up of a new part of this place back on Ancon Hill or across the bay on the savannas.

A large portion of the present Panama is not possible of being made livable, nor worth the effort or cost, but it will have to be attempted and at least made accessible to water and sewerage facilities.

With electric traction there is no reason why a new part can not be created that will be pleasant, healthful, and comfortable. To do this, however, I believe it will be necessary for the engineers who plan the sanitary improvements here to so make them as to force people out of the present town into a newer and more sanitary section, wherein, with proper building restrictions enforced, a first rate pleasant place, or section, can be built up.

I hope my cable instructions may enable me to arrange for Doctor Pierce's presence in the sanitary visits made to ships here and his advice to be taken in the matter of sanitary regulation, and that my recommendation as to sending medical inspectors to the different ports about here and those above as to our course after the passage of the treaty may merit the Department's approval.

I have, etc.,

WM. I. BUCHANAN.

[Inclosure 1.]

Mr. Buchanan to Rear-Admiral Glass.

AMERICAN LEGATION, SPECIAL MISSION,
Panama, January 7, 1904.

SIR: In view of the current belief here that yellow fever is imported from other points and that it is not a product of the Isthmus, and that Ecuadoran

ports are responsible to a great degree for the appearance of the disease here, what would you think of the advisability of my recommending to our Government that to make sure that we omit nothing that we can do to keep the disease from reappearing here and getting among our men, and as a precautionary measure to that end our Government send to each Ecuadoran port from which passengers embark for this point or for others in this direction a thoroughly skilled medical officer to watch all outgoing passengers, with instructions to telegraph the consul-general here with regard to any suspected cases of any kind on board ships bound for here.

I shall be glad to be guided by your judgment in this matter.

I have, etc.,

W. I. BUCHANAN.

[Inclosure 2.]

Rear-Admiral Glass to Mr. Buchanan.

UNITED STATES FLAGSHIP MARBLEHEAD,
Panama, January 7, 1904.

SIR: I have the honor to acknowledge receipt of your letter of this date, suggesting certain precautionary measures to prevent the introduction of yellow fever, or other contagious diseases, on the Isthmus of Panama from ports in the Pacific.

2. I am of the opinion that it is of the utmost importance to prevent, by all means practicable, the introduction of such diseases into Panama and Colon, especially during the presence of the large naval force, both in the ports and on shore, which will probably be maintained here for some time, and that efficient quarantine measures should be strictly enforced, as among these measures the presence in all suspected ports of a competent officer of the United States hospital service, to give notice to the United States consular authorities on the Isthmus of the presence of contagious disease or the embarkation at those ports of infected passengers or merchandise, would be of great value.

I am, etc.,

HENRY GLASS,
Rear-Admiral United States Navy.

[Inclosure 3.]

Mr. Buchanan to Señor de la Espinella.

AMERICAN LEGATION, SPECIAL MISSION,
Panama, January 9, 1904.

SIR: Your excellency is so well aware of the strong desire felt by the Government of the United States that if possible no contagious diseases shall make their appearance again upon the Isthmus, both on account of the large number of troops now encamped thereon and because of the bad effect such fact would exert upon the fortunes of the Isthmian Canal, I am sure your excellency will permit me to bring to your excellency's attention some suggestions with regard to that subject.

I am happy to be able to say that from all I can now learn there exist at this moment no cases of the contagious diseases so much dreaded here and elsewhere—yellow fever, smallpox, or bubonic plague.

Let us hope that such may continue to be a fact, and to secure that end I believe that nothing should be left undone which might appear likely to aid in maintaining the existing conditions in that regard.

In considering this subject it has appeared to me wise to now take steps to guard against every possible contingency through which contagious diseases may find their way here from other points.

To that end I have cabled to my Government suggesting that skilled medical inspectors shall be stationed at all Ecuadoran, Peruvian, Venezuelan, Colombian, and West Indian ports, with instructions to keep a careful watch over the health conditions existing at such ports and to note the health conditions found among passengers on steamships bound for the Isthmus, and to report immediately to United States Consul-General Gudger here every information accessible to them.

I have also requested that a special medical inspector shall be stationed at Colon, and am glad to advise your excellency, in this connection, that Assistant

Surgeon Dr. Claude C. Pierce, of the United States Public Health and Marine-Hospital Service, has been assigned to duty at this port, in connection with our consulate-general, and that he is now here. His duties are limited to the observance and reporting upon the health conditions here and to guard against any cases of contagious disease leaving here for the United States. This would equally apply to any one who might be sent to Colon, in response to my suggestions, above referred to. I am fully aware of the deep interest taken by your excellency's Government in all that refers to the subject herein treated and of your strong desire to leave nothing undone toward protecting the health of your excellency's people and that of the United States forces now at or on the Isthmus. I do not, therefore, hesitate to express the confidence felt by my Government that extra vigor and care and caution will at this time be insisted upon by your excellency's Government in everything that relates to sanitary restrictions and precautions that can be made use of or taken to protect the general health of Panama, Colon, and the intervening territory by your health authorities.

In this connection I am glad to say to your excellency that I am certain, if your excellency's Government so desires, instructions will be given to Assistant Surgeon Pierce here, and, should a surgeon be sent to Colon, to that officer as well, to place his services entirely at the disposition of your health authorities as an adviser or helper in any way.

Doctor Pierce is a skilled and thoroughly competent surgeon, with a wide quarantine practice under the United States service, and is immune to yellow fever. It appears to me that a hearty cooperation in the matter of the general health here is now to be looked for among all having an interest in the Isthmus, and, as I have pointed out, the United States being deeply concerned in the subject, I hope your excellency will appreciate that in making the suggestions herein contained I am guided solely by my desire to see your excellency's authorities aided in every way possible.

If your excellency's health authorities at this port and at Colon and the health officer attached to our consulate at said ports can have the benefit that will without doubt be gained by both from close and interested cooperation and counsel, the best results may be anticipated, I am sure, for the health of all concerned here on the Isthmus.

May I venture further to say that I assume that the subject of a quarantine station at which passengers and baggage can be properly and easily cared for is one that has already had the attention of your excellency's Government, since I am aware of the great necessity that has always been felt here for such a thing and the great inconvenience and expense that has attended passengers and ships at many times in the past through the absence of any such provision.

Awaiting your excellency's wishes in the matters herein referred to, I avail, etc.,

WM. I. BUCHANAN.

Mr. Buchanan to Mr. Hay.

No. 29.]

AMERICAN LEGATION, SPECIAL MISSION,
Panama, January 16, 1904.

SIR: Referring to my No. 22 of the 9th instant, and to the copy of my note of the same date to this Government concerning what I thought might be done toward the lessening of contagious diseases hereabouts, I beg to inclose a translation of a note I have just received in reply from his excellency the minister for foreign affairs.

You will, I am sure, be gratified to note that my suggestions have been cordially met by this Government, and to learn that the junta on hygiene has already waited upon Doctor Pierce and requested that he give them his views and advice as to the steps they ought to take in the hospital of San Tomas, located in the center of this city, to improve its condition. There were two deaths in this hospital within the past forty-eight hours, both from yellow fever, and on Doctor Pierce reporting to me that no precautions of any kind were taken therein

to prevent the spread of the disease, I immediately followed up the subject of my note by making the doctor's observation the subject of a long personal talk with the members of the junta, the result being the step I have above spoken of as having been taken by the junta of hygiene.

For the Department's information I inclose a copy of Doctor Pierce's note to the medical junta, and beg to add that I have requested Consul-General Gudger and Doctor Pierce to follow things up closely here, and for the first to call the attention of the Government in my absence to any negligence or lack of care shown by the health authorities here in the matter of yellow fever especially.

I feel sure you will approve my action in this regard, as well as in that of assuring Doctor Pierce, as I have, that I felt certain Surgeon-General Wyman would be more than glad to have him answer every possible demand that might be made by the medical authorities here on his knowledge and assistance in the direction of preserving the public health here.

I also beg to inclose a copy of a note I am to-day sending to this Government with regard to the same general subject.

* * * * *

Consul-General Gudger is very conversant with the subject of health here, and assures me that it will be a great pleasure for him to follow up the steps I have taken vigorously and promptly.

The subject is one of such importance that I trust every aid will be given him and Doctor Pierce in doing what can be done with the health authorities here toward checking any probability of yellow fever breaking out here.

I have, etc.,

WM. I. BUCHANAN.

[Inclosure 1.—Translation.]

Señor de la Espriella to Mr. Buchanan.

REPUBLIC OF PANAMA,
MINISTRY FOR FOREIGN AFFAIRS,
Panama, January 15, 1904.

EXCELLENCY: Your excellency's note of the 9th, regarding cooperation in the matter of the prevention of contagious epidemics on the Isthmus, referred to a subject under the direction of the ministry of government; I transmitted said note to the minister of government, who has advised me that he has addressed the national hygiene junta as follows:

"I inclose herewith an authentic copy of a note addressed to his excellency the minister for foreign affairs on the 9th, by his excellency the minister of the United States, regarding cooperation in the matter of the measures proposed by him for his Government in connection with the steps that may be taken to keep contagious diseases from appearing on the Isthmus.

"The Government of the Republic hopes that the junta of hygiene, over which you so worthily preside, will charge itself with the importance of the suggested measures, and that you will lend Dr. Claude C. Pierce and any others of the medical corps referred to by the minister every facility that may assist him or them in successfully carrying out his work."

Before sending your excellency's communication to the minister, as I have above referred to, he informed the junta of government that steps would be at once taken to carry out the excellent suggestions made by your excellency, and that among other things sanitary authorities would be instructed to render medical officers of your excellency's Government every possible aid in their work.

I take, etc.,

FRANCISCO V. DE LA ESPRIELLA.

[Inclosure 2.]

*Mr. Buchanan to Señor de la Espriella.*AMERICAN LEGATION, SPECIAL MISSION,
Panama, January 16, 1904.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt of your excellency's note of the 15th, replying to mine of the 9th, and informing me of the steps that have been taken by your excellency's Government toward making practicable the suggestions I took the liberty to submit to your excellency with regard to the precautions that might be taken and the cooperation that I thought might be advantageously effected between your excellency's national health authorities and the United States medical inspectors stationed here to do what could be done toward lessening the probabilities of any contagious epidemic hereabouts.

I am most grateful to your excellency for the prompt and practical attention that your excellency's Government has been good enough to give to the suggestion I had the honor to submit.

Doctor Pierce informs me that he has had an interview with your authorities concerning San Tomas Hospital and that he has complied with their request that he should give them his views concerning the steps best to be taken there.

I am sure that the carrying into effect by your excellency's Government of the plans that may be thus formulated at any time will very materially lessen the dangers felt here by travelers and visitors from yellow fever.

In connection with the general subject I have to advise your excellency that I have made Consul-General Gudger and Doctor Pierce conversant with the correspondence exchanged between us, and have requested the first to leave nothing undone that would aid in bringing about the heartiest cooperation between Doctor Pierce, who bids me assure your excellency of the great pleasure it will give him to serve your excellency's Government in any way, and your excellency's health authorities, and to lend every assistance to see all practical suggestion resulting from such cooperation carried into effect.

May I say on the subject of precautions that may be taken against the spread of contagious diseases that I am given to understand that under Colombian law no obligation was imposed upon physicians here to report at once all cases of contagious diseases that came under their notice. The absence of such a law, which is in effect in all countries wherein such diseases abound, will, I am sure, be very early remedied by your excellency's lawmakers, since it is not too much to say that a heavy fine should be everywhere imposed by law upon omissions to report cases of contagious diseases coming to the knowledge of physicians and nurses in charge of hospitals or infirmaries of any kind.

I am transmitting your excellency's note to my Government and need not assure your excellency how gratified I know the Department of State will be to read the same.

I take this occasion, etc.,

WM. I. BUCHANAN.

[Inclosure 3.]

*Doctor Pierce to Señor Arango.*PUBLIC HEALTH AND MARINE-HOSPITAL SERVICE,
OFFICE OF MEDICAL OFFICER IN COMMAND,
Panama, January 16, 1904.

SIR: In compliance with your request that I make some suggestions as to the manner in which the Hospital de Santo Tomas in Panama could be rendered less likely to spread contagious diseases and be conducted more in keeping with modern ideas of sanitation, I have the honor to make the following suggestions, which can be carried out at small expense and at the same time save many lives.

The most important measure to inaugurate is to rearrange the patients so as to group the cases of similar diseases, placing all the tuberculous patients in one ward, with the proper separation of the sexes, the malarial diseases in another, the surgical cases in another, and to provide a ward in which the cases of yellow fever could be isolated and protected from the bites of mosquitoes.

The wards in which the yellow-fever and malarial patients are to be kept should be made absolutely mosquito proof, and for this purpose galvanized-iron or copper-wire gauze should be used. The window screens should be accurately fitted to cover the entire opening, and fixed on the outside of the windows so that the screens do not open.

The windows can be opened or closed from the inside without disturbing the screens. The doors should be fitted around the edges, both at the bottom, top, and sides, with a margin of sheet rubber, so as to provide for shrinkage during dry weather.

A vestibule should be constructed at the entrance, so that in passing through the double doors mosquitoes that might be on the clothing could be brushed off. Especial attention should be paid to screening all openings, such as the spaces between the corrugated-iron roof and the timbers supporting the same, the open work around the top of the walls provided for ventilation, and all places where mosquitoes could enter, as a very small opening will admit many mosquitoes or allow the infected ones to escape.

The wire gauze and other material needed for the work can be obtained from any wholesale hardware firm in New York City.

In regard to the patients suffering with pulmonary tuberculosis, they should be provided with spit cups in which they should be compelled to expectorate. The pattern suggested is the one having heavy paper within a square tin case. This case has a handle upon it and can be conveniently carried by the patient. The paper linings containing the sputum are to be removed once daily and burned. The tin cases should be sterilized or washed in a strong antiseptic solution every other day. The wards from which the tuberculous patients are taken should be scrubbed with a one to one thousand solution of mercuric chloride, both the walls, ceiling, and floors. The ward in which they are to remain should be kept mechanically clean and be scrubbed with the mercuric solution often enough to keep the room from becoming infected.

The patients in the surgical ward should be furnished with gowns or pajamas and not allowed to wear their own ordinary clothing.

The above suggestions, if carried out, will lessen the danger of infection to a great extent. The most important change to make is to isolate the yellow-fever cases in mosquito-proof wards, as it is now accepted by the entire medical profession that malaria, yellow fever, and some other less important diseases are transmitted by certain mosquitoes and in no other way.

To keep patients suffering with yellow fever in a general ward with other diseases, with no screens or other precautions taken, is to invite the transmission of the disease to all non-immunes who are exposed.

The hospital should also be equipped with an apparatus for the sterilization of water for the patients and employees, and precaution should be taken to have the stools of all patients suffering with any intestinal derangement thoroughly disinfected and removed to such a place as will be remote from any possible water supply.

The changes recommended are only such as can be quickly and easily carried out, and which seem to be urgently needed at once. The general efficiency of the entire establishment will be developed and increased by the doctors in charge in proportion as they are supported by the medical and sanitary authorities.

If I can be of any assistance to you in making the above changes please command me at any and all times.

Respectfully,

CLAUDE C. PIERCE,
Assistant Surgeon, Public Health and Marine-Hospital Service.

Mr. Buchanan to Mr. Hay.

No. 44.]

AMERICAN LEGATION, SPECIAL MISSION,
Panama, January 25, 1904.

SIR: Referring to my No. 29 of the 16th and my note to the minister for foreign affairs, I beg to inclose herewith a translation of a note I have received from the minister for foreign affairs with regard to the subject-matter, together with a copy of the decree he refers to in said note.

You will be pleased, I am sure, to note that steps have been taken in the direction indicated in my note to the minister.

I have, etc.,

WM. I. BUCHANAN.

[Inclosure.—Translation.]

Señor de la Espriella to Mr. Buchanan.

REPUBLIC OF PANAMA,
 MINISTRY FOR FOREIGN AFFAIRS,
Panama, January 23, 1904.

EXCELLENCY: Your excellency's note of the 16th instant to this ministry, which I acknowledged on the 15th instant, presented the necessity of obliging physicians to give notice of contagious diseases which they observed to the public officers charged with matters of health.

Although the penal code imposes such obligation, those failing therein being liable to fines, the junta of the provisional government on the 21st instant issued decree No. II, a copy of which I attach, and which you will note has for its object making effective the obligations of physicians and druggists with regard to the subject you referred to.

I have, etc.,

F. V. DE LA ESPRIELLA.

[Subinclosure.]

Republic of Panama.—Decree No. 11 of January 21, 1904, decreeing a measure of police precaution.

The junta of the provisional government, Republic of Panama, by the authority with which it is invested; and whereas:

First. Recognizing the dispositions actually in force regarding sanitation as deficient and inefficacious by reason of the difficulties met with by the authorities in their efforts to opportunely learn of the existence of contagious diseases or epidemics; and

Second. It being indispensable to decree police measures tending to correct these evils, with the agreement of the professors of medicine and their assistants, there is decreed:

Article 1. All physicians called to assist a patient who is found suffering from any contagious disease which could give place to the propagation of an epidemic must give immediate notice of such case to the president of the national board of hygiene, if the case occurs in the city of Panama, or to the prefects of the other provinces if the case occurs in the capitals thereof; or to the mayors in all of the other districts of the Republic.

Article 2. All druggists who by any mode learn of the existence of any disease such as treated of in article 1, either in the place where they exercise their profession or any other, must give notice thereof immediately to the authorities hereinbefore mentioned.

Article 3. The physician or druggist failing to carry out the obligations imposed by the preceding articles will be punished by the cancellation of his permission to practice his profession for a period of from three to six months.

This penalty will be imposed only after the fact has been proven before the authorities before whom the declaration should have been made as above referred to. An appeal from any such decision can be made to the ministry of government or before the office which may have charge of public health under other regulations.

This decree will be enforced from and after its publication.

Let it be communicated and published.

Given in Panama, January 21, 1904.

(Signed)

J. A. ARANGO.
 THOMAS ARRIAS.
 FREDIRICO BOYD.

Mr. Bunau-Varilla to Mr. Hay.

LEGATION OF THE REPUBLIC OF PANAMA,
Washington, D. C., February 20, 1904.

SIR: The Bureau of Public Health and Marine-Hospital Service details in foreign ports, which are under the suspicion of contagious

diseases, medical officers to assist the consuls of the United States in order to prevent the transportation of diseases from said ports to ports of the United States by ships bound for them.

In view of the importance of the sanitary precautions for the great work that is going to be accomplished by the United States on the territory of the Republic of Panama, I beg to suggest to your excellency that orders be given to the medical officers detailed at the contaminated ports to exercise their authority and to dictate the sanitary measures for all ships leaving said ports for the Republic of Panama exactly in the same manner as they are instructed to do for ships bound for the United States.

The adoption of this suggestion by the Government of the United States would be highly appreciated by the Government of the Republic of Panama.

I am, etc.,

P. BUNAU-VARILLA.

Mr. Hay to Mr. Bunau-Varilla.

No. 28.]

DEPARTMENT OF STATE,
Washington, March 4, 1904.

SIR: Referring to your note of the 20th ultimo, I have the honor to say that I am advised by the Acting Secretary of the Treasury that the Surgeon-General of the Public Health and Marine-Hospital Service will issue instructions to officers of the Service serving in contaminated ports, directing them to act in regard to vessels sailing for ports of Panama as they do in regard to vessels sailing for ports of the United States.

Proper instructions will also be issued by this Department to United States consular officers in such ports to cooperate with the medical officers in this work.

Accept, etc.,

JOHN HAY.

Mr. Barrett to Mr. Hay.

No. 78.]

AMERICAN LEGATION,
Panama, December 20, 1904.

SIR: So many letters and telegrams are pouring into this legation from anxious families, who have sons or daughters employed with the canal commission, asking about the prevalence or danger of yellow fever that I am impelled to make this brief report in the hope that the Department will give it some publicity.

Since the 1st of July (or during six months of this year), when American sanitary officers assumed control, there have been upon the whole Isthmus along the line of the canal only ten cases of yellow fever (the names, nationality, development, and result of which are given below over a signed statement of H. R. Carter, surgeon, United States Public Health and Marine-Hospital Service, chief quarantine officer of Panama).

Of these ten, only two have resulted in death, and one of these would probably have been saved if the patient had not been brought to the hospital in the last stages of the disease. Only one American has been attacked and she has recovered. None of the large number of Americans employed as engineers, clerks, stenographers, machinists, and foremen have contracted the disease. One nurse, a Canadian

woman, suffered a severe attack that was not fatal, but none of the other nurses associated with her have yet been afflicted. Her exposure was easily traced, and when she became ill she was immediately isolated.

I can not speak too highly of the extensive hospitals on Ancon Hill, where Colonel Gorgas, Major La Garde, Doctor Ross, Doctor Carter, and Miss Hibbard, assisted by a skillful corps of doctors and nurses, have charge, and I must commend the great success they have had in fighting yellow fever. Good nursing seems to be the most effective cure. The families of relatives on the Isthmus therefore may rest assured that their kindred will receive the best treatment possible in case of illness. What is true of the Panama end of the canal is also true of the Colon end and intermediate points.

A word more in general about yellow fever on the Isthmus. There is no reason for a scare here or in the United States because there are a few cases constantly discovered. Yellow fever has been characteristic of Panama in greater or less degree for scores of years, but a long time has passed since it has been epidemic, and the chances under the new sanitary control are against its securing a stronger hold on the population. Every effort is being made to kill off infected mosquitoes, and when they are vanquished there need be no fear of the return of the disease, and the bites of the mosquitoes that remain uninfected will be harmless except to cause temporary annoyance.

In conclusion, I would observe that the danger from yellow fever to Americans on the Isthmus is not half that from pneumonia to the people of Washington and New York during the winter.

I do not, however, wish to be regarded as portraying Panama as a health resort, or as minimizing the disagreeable features of this climate. I am simply stating the truth as it stands at this writing. If there should be an outbreak of yellow fever to-morrow and many should die, my report would not be inconsistent with the facts at this hour.

I have, etc.,

JOHN BARRETT.

[Inclosure.]

Memorandum on yellow-fever cases submitted to Minister Barrett by Doctor Carter, December 20, 1904.

Case.	Name.	Nationality.	Developed.	Result.
First	Charles Cunningham	Scotland	July 12	Died July 14.
Second	Antonio G. Herrera	Spain	July 28	Recovered.
Third	Damien Barbato	Italian	Sept. 10	Died Sept. 11 (12 hours after admission).
Fourth	Ernesto Rufo	do	Oct. 11	Recovered.
Fifth	do	do	Nov. 17	Do.
Sixth	Mrs. Cody ^a	American		Do.
Seventh	do ^b	Syrian	Dec. 1	Do. (c)
Eighth	Jose	Spain	Dec. 5	Recovered.
Ninth	Miss Reeves	Canada	Dec. 7	Do.
Tenth	Allan Watson	Scotland	Dec. 14	Do.

^a Developed in Colon; contracted in Panama.

^b Developed en route from Panama to Guayaquil; source of infection unknown.

^c Result unknown. From private advices from Guayaquil it is learned that No. 7 recovered.

An abstract of the official record in the office of the chief sanitary officer.

H. R. CARTER,

Surgeon, United States Public Health and Marine-Hospital Service,

Chief Quarantine Officer.

CONSTITUTION OF THE REPUBLIC OF PANAMA.*Mr. Russell to Mr. Hay.*

No. 56.]

AMERICAN LEGATION,
Panama, February 16, 1904.

SIR: I have the honor to report that the new constitution of the Republic of Panama was promulgated this afternoon, and the election for president took place, the result of which is as follows: President, Dr. Manuel Amador Guerrero; first vice-president, Dr. Pablo Arosemena; second vice-president, Don Domingo de Obaldia; third vice-president, Dr. Carlos Mendoza.

I am, etc.,

WILLIAM W. RUSSELL.

[Inclosure.]

CONSTITUTION OF THE REPUBLIC OF PANAMA.

[Translation.]

We, the representatives of the people of Panama, assembled in national convention for the purpose of constituting the nation, maintaining order, guaranteeing justice, promoting the general welfare, and securing the benefits of liberty for ourselves, our posterity, and all men who may inhabit Panama soil, invoking the protection of God, do ordain, decree, and establish for the Panama nation the following constitution:

TITLE I.

THE NATION AND THE TERRITORY.

ARTICLE 1.

The Panaman people hereby constitute themselves an independent and sovereign nation, ruled by a republican and democratic government, under the denomination of the Republic of Panama.

ARTICLE 2.

The sovereignty resides in the nation, which shall exercise it through its representatives in the manner established by this constitution and under the conditions therein expressed.

ARTICLE 3.

The territory of the Republic is composed of all the territory from which the State of Panama was formed by the amendment to the Granada constitution of 1853, on February 27, 1855, and which was transformed in 1886 into the Department of Panama, together with its islands, and of the continental and insular territory, which was adjudged to the Republic of Colombia in the award made by the President of the French Republic on September 11, 1900. The territory of the Republic remains subject to the jurisdictional limitations stipulated or which may be stipulated in public treaties concluded with the United States of North America for the construction, maintenance, or sanitation of any means of interoceanic transit.

The boundaries with the Republic of Colombia shall be determined by public treaties.

ARTICLE 4.

The territory of the Republic is divided into the provinces of Bocas del Toro, Coclé, Colón, Chiriquí, Los Santos, Panamá, and Veraguas. The provinces are divided into municipalities.

The National Assembly may increase or decrease the number of the former and of the latter or change their boundaries.

ARTICLE 5.

The territory, together with the public property which forms a part of it, belongs to the nation.

TITLE II.

NATIONALITY AND CITIZENSHIP.

ARTICLE 6.

The following are Panamans:

1. All those who were born or who may be born in the territory of Panama, whatever may be the nationality of their parents.
2. Children of Panaman mother or father who were born in another territory, provided they take up their domicile in the Republic and express their willingness to become Panamans.
3. Foreigners who, professing some science, art, or industry, or owning some real estate or capital in circulation, declare, before the municipal government of the territory in which they reside, their intention of becoming citizens of Panama and who have completed ten years of residence in the territory of the Republic. Six years of residence will suffice if they are married and have a family in Panama, and three years if they are married to a Panaman woman.
4. Colombians who, having participated in the achievement of the independence of the Republic of Panama, have declared their willingness to become Panamans or so declare before the municipal council of the district in which they reside.

ARTICLE 7.

Panaman nationality is lost:

1. By taking out naturalization papers in a foreign country and establishing domicile there.
 2. By accepting employment or honors from another government without the permission of the President of the Republic.
 3. Being born a Panaman, by refusing to indorse the movement for the independence of the nation.
 4. For having pledged one's self to the service of a hostile nation.
- Nationality can only be restored by act of the National Assembly.

ARTICLE 8.

It is the duty of all Panamans to serve the nation as prescribed by law, and it is both their duty and that of foreigners residing in the Republic to live in subjection to the constitution and the laws, and to respect and obey the authorities.

ARTICLE 9.

Foreigners shall enjoy the same rights in Panama as are granted to Panamans by the laws of the nation to which the foreigners belong, except as to what may be stipulated in public treaties, or, in the absence of the latter, by the provisions of the law.

ARTICLE 10.

Naturalized or domiciled foreigners shall not be obliged to take up arms against the land of their birth.

ARTICLE 11.

All Panamans over twenty-one years of age are citizens of the Republic.

ARTICLE 12.

Citizenship consists in the right of electing to public positions filled by popular vote and in the capacity to hold public office with authority and jurisdiction.

ARTICLE 13.

Citizenship once acquired is only lost:

1. As a penalty in accordance with the law, but rehabilitation can be obtained through the National Assembly.
2. By having lost Panaman nationality, according to the national constitution.

ARTICLE 14.

The rights of citizenship are suspended:

1. When a citizen is being criminally prosecuted, as soon as an order committing him to prison is given by the judge.
2. When he does not lawfully enjoy the free management of his property.
3. For habitual drunkenness.

TITLE III.

INDIVIDUAL RIGHTS.

ARTICLE 15.

The authorities of the Republic are constituted for the purpose of protecting all persons, whether residents or sojourners, in their lives, their honor, and their property, and of insuring the mutual respect of natural, constitutional and legal rights, repressing and punishing crime.

ARTICLE 16.

All Panamans and foreigners are equal before the law. There will be neither public nor private privileges.

ARTICLE 17.

Every person has the right to present respectful petitions to the authorities, for motives of either public or private interest, and to receive a prompt reply.

ARTICLE 18.

Legitimate public corporations are entitled to be recognized as legal personalities, and, as such, to perform civil acts and enjoy the guarantees insured under this head, with general limitations established by the laws for the sake of the general welfare.

ARTICLE 19.

There shall be no slaves in Panama. He who is a slave, and sets foot in the territory of the Republic, shall be free.

ARTICLE 20.

All the inhabitants of the Republic have the right to assemble peacefully and unarmed, and to form associations for all the legitimate purposes of life.

ARTICLE 21.

Every person may travel within the boundaries of the Republic and change residence without the necessity of a permit, passport, or other similar requisite, except as to what the laws prescribe with regard to judicial orders of restraint and concerning immigration.

ARTICLE 22.

No one shall be tried or sentenced except by competent judges or courts, in accordance with laws existing prior to the crime committed, and in the form established by these laws.

Nevertheless, officials who exercise authority or jurisdiction may punish without previous trial any person who may be insulting or disrespectful to them while they are discharging their duties; and military commanders and

captains of vessels may inflict summary penalties in order to check insubordination, maintain order, and repress crimes committed on board vessels and away from port.

ARTICLE 23.

No one shall be molested in his person or family, or be placed in prison or under arrest, or detained, or have his home searched, except by virtue of a warrant issued by a competent authority, with the legal formalities and for a cause previously defined in the laws.

In no case shall there be detention, imprisonment or arrest for debts or purely civil obligations, except that a party may be restrained by judicial order from leaving a place until he has answered the charge against him.

A culprit caught in the act of committing a crime may be apprehended and taken before the judge by any person whomsoever.

ARTICLE 24.

Any person who is detained or imprisoned without the legal formalities, or except in the cases prescribed in this constitution or in the laws, shall be set at liberty upon his own request or that of any other person. The law shall determine the form of this summary proceeding.

ARTICLE 25.

No one is obliged to testify in a criminal matter against himself, or against his consort, or against any member of his family within the fourth degree of consanguinity or the second of affinity.

ARTICLE 26.

The profession of all religions is free, as is also the practice of all forms of worship, without any other restriction than respect for Christian morality and public order. It is recognized, however, that the Catholic religion is that of the majority of the inhabitants of the Republic, and the law shall provide that it be aided in founding a theological seminary in the capital and in sending missions to the native tribes.

ARTICLE 27.

Every person may freely express his opinion, either orally or in writing, by means of the press, or by any other process, without being first subject to censorship, provided always that he refers to the official acts of public functionaries.

Legal responsibility will, however, be incurred when the honor of persons is assailed by any of these means.

ARTICLE 28.

Correspondence and other private documents are inviolable, and neither the former nor the latter shall be seized or examined except by direction of a competent judicial authority, and with the formalities prescribed by law. In all cases secrecy shall be maintained with regard to matters having no bearing on the object of the seizure or examination.

ARTICLE 29.

Every person may exercise any honorable trade or occupation without the necessity of belonging to a trades union or professional association.

The authorities shall exercise supervision over the industries and professions as regards public morality, safety, and health. It is necessary to possess a diploma of fitness in order to practice the medical professions and their auxiliary branches.

ARTICLE 30.

Obligations of a civil character arising from contracts or other acts, deeds, or omissions which produce them, can not be altered or annulled by either the executive or the legislative power.

ARTICLE 31.

The laws shall determine everything relating to the civil status of persons, together with the rights and duties connected therewith.

ARTICLE 32.

The laws shall not have a retroactive effect.

In criminal matters a permissive or favorable law shall be applied in preference to a restrictive or unfavorable one, even though it be subsequent to the latter.

ARTICLE 33.

Rights acquired in accordance with the laws shall not be encroached upon or disregarded by subsequent laws.

When the application of a law enacted for reasons of public utility interferes with the rights of private persons, the private interests shall yield to the public interests. If, however, it becomes necessary to make expropriations, full indemnification must first be granted.

ARTICLE 34.

The destination of gifts made inter vivos or by testament, in conformity with the laws, for objects of charity or public instruction, shall not be changed or modified by the legislator.

ARTICLE 35.

Private persons are not amenable before the authorities except for violation of the constitution or of the laws. Public officials are amenable for the same cause, for exceeding their authority, or for dereliction in the performance of their duties.

ARTICLE 36.

In case of flagrant violation of a constitutional precept to the detriment of any person, an order from a superior will not exempt from responsibility the agent executing it.

Enlisted men of the army, while on duty, are excepted from this provision, the responsibility falling solely upon the hierarchic superior who gives the order.

ARTICLE 37.

Games of fortune and chance shall not be permitted in the territory of the Republic. The law shall enumerate them.

ARTICLE 38.

There shall be no official monopolies.

ARTICLE 39.

There shall be no real estate which is incapable of being freely alienated, nor any irredeemable obligations.

ARTICLE 40.

Every author or inventor shall enjoy the exclusive ownership of his work or invention during the time and in the manner prescribed by law.

ARTICLE 41.

No one is obliged to pay a tax or duty which has not been legally established and which is not collected in the manner prescribed by the laws.

ARTICLE 42.

No one shall be deprived of his property, either in whole or in part, except as a penalty or by general taxation according to the laws.

For grave reasons of public utility, defined by the legislator, there may take

place a forcible alienation of property or of rights by judicial order, but the payment of the declared value shall be made before the owner is dispossessed of them:

ARTICLE 43.

Buildings devoted to any form of worship, theological seminaries, and the residences of bishops and parish priests shall not be subject to taxation, and shall only be occupied in case of urgent public necessity.

ARTICLE 44.

In no case shall the legislator establish the penalty of confiscation of property.

ARTICLE 45.

Prisons are places of security and expiation and not of cruel punishment; consequently, all severity which is not necessary for the custody and correction of the prisoners is forbidden.

ARTICLE 46.

The laws shall fix the degree of responsibility which officials of any class incur by encroaching on the rights guaranteed under this title.

ARTICLE 47.

The individual rights recognized and guaranteed in articles 21, 23, 24, 27, 28, and 42 may be temporarily suspended in all or in part of the Republic, when the safety of the State requires it, in case of foreign war or internal commotion which threatens the public peace.

This suspension shall be decreed by the National Assembly if it is in session; if, however, it is not in session and the danger is imminent, the President of the Republic may order the suspension by means of a decree signed by all his secretaries. In this case the President, in the same decree of suspension, shall convoke the National Assembly in order to explain to it the reasons upon which the decree was based.

ARTICLE 48.

The National Assembly is prohibited from enacting laws which may diminish, restrict, or impair any of the individual rights mentioned in the present title, without a previous amendment to the constitution, except in the cases provided for by the latter.

TITLE IV.

SUFFRAGE.

ARTICLE 49.

All citizens over 21 years of age are entitled to exercise the right of suffrage, except those who may be under a judicial interdiction and those who are judicially disfranchised on account of crime.

The law may provide that certain elections be held in two grades, and, in this case, it shall determine the qualifications of the electors of the second grade.

ARTICLE 50.

The laws shall fix the degree of responsibility incurred by public officials who, by their acts, encroach on the rights recognized in this title.

TITLE V.

THE BRANCHES OF THE GOVERNMENT.

ARTICLE 51.

The Government of the Republic is divided into three branches, to wit: The legislative, the executive, and the judicial.

ARTICLE 52.

Each branch of the Government is limited and exercises its functions separately.

TITLE VI.

THE LEGISLATIVE BRANCH.

ARTICLE 53.

The legislative power is exercised by a body called the National Assembly, composed of as many Deputies as correspond to the electoral districts, at the rate of one for every ten thousand inhabitants and one in addition for a remainder of not less than five thousand. The Deputies are elected for a period of four years.

There shall be substitutes to take the places of the regular incumbents in case they fail to appear absolutely or temporarily.

ARTICLE 54.

The National Assembly shall meet, without the necessity of a call, in the capital of the Republic, every two years, on the first day of September.

ARTICLE 55.

The duration of the regular sessions of the National Assembly shall be ninety days, which, in case of necessity, the assembly itself shall extend for as much as thirty days. The President of the Republic may call extraordinary sessions for such period as he may indicate and to deal exclusively with such matters as he may submit to it.

ARTICLE 56.

The Deputies to the National Assembly must be citizens who have attained the age of 25 years and are in the full enjoyment of their civil and political rights.

ARTICLE 57.

The members of the National Assembly shall not be responsible for their opinions or votes, given orally or in writing, in the discharge of their duties, and at no time or by any authority shall they be prosecuted on this account.

ARTICLE 58.

The President of the Republic, the secretaries of state, the justices of the supreme court, and the attorney-general of the nation shall not be eligible to membership in the assembly unless they shall have ceased to exercise their functions for a period of six months. Citizens who have exercised the executive power shall rest under the same disability.

ARTICLE 59.

In like manner no other officer shall be eligible as a deputy to the assembly who is vested with jurisdiction or command in an electoral district and has exercised his authority therein ninety days before the day of election.

ARTICLE 60.

For twenty days before the opening of the sessions, during the said sessions, and for twenty days thereafter, no members of the National Assembly shall be subject to criminal trial without the assent of the assembly. In cases of *flagrantis delicti*, a member may be arrested and immediately placed at the disposal of the said body. Members shall likewise be free from civil actions during the same period.

ARTICLE 61.

No increase of per diem or mileage allowances shall become effective until after the term of the members of the assembly which voted the said increase shall have expired.

ARTICLE 62.

The deputies of the assembly shall not enter, directly or indirectly, into any contract with the administration, nor shall they accept from any one powers of attorney to transact business connected with the Government.

ARTICLE 63.

In cases of temporary or permanent absence of a deputy, his place shall be taken by his substitute. When the substitution takes place after the principal member shall have attended the session, the mileage to the capital will belong to the latter and that from the capital to the substitute.

ARTICLE 64.

The President of the Republic may not confer on the deputies of the National Assembly other offices than those of secretary of state, governor of a province, or diplomatic or consular agent.

The acceptance of any one of those offices shall vacate that of deputy.

ARTICLE 65.

The following are legislative functions of the National Assembly:

1. To issue national codes and the laws necessary for the regulation of all the administrative branches of the Government, to revise them, and to repeal them.

2. To determine the flag and the coat of arms of the Republic.

3. To create or abolish offices, and to specify the functions, duties, and powers connected therewith; to fix the terms of office and to designate salaries.

4. To grant or refuse its approval to public treaties which the executive may negotiate; without such approval they can neither be ratified nor exchanged.

5. To approve or disapprove contracts or agreements made by the President of the Republic with private persons, companies, or political entities, in which the nation may be interested, if they have not been previously authorized, or if the formalities prescribed by the National Assembly have not been observed, or if any of the clauses therein should not be consistent with the appropriate empowering law.

6. To grant authority to the executive to conclude treaties, negotiate loans, alienate national property, and exercise other functions within the limits of the constitution.

7. To declare war, and to authorize the executive to make peace.

8. To designate the place where the supreme branches of the Government are to be located.

9. To divide the territory of the Republic into electoral districts.

10. To define and regulate the setting aside or granting of public lands.

11. To fix the numbers of the armed forces in time of peace.

12. To organize the national police.

13. To promote and foster public education, as well as sciences and arts.

14. To order by decree the public buildings which the Government may have to erect, and such other public works as may have to be undertaken at national expense.

15. To promote useful or beneficent enterprises worthy of furtherance and support, and to vote them aid.

16. To enact such laws as shall be necessary for taking the census of the population and gathering national statistics.

17. To grant amnesties, but if any civil liability is incurred with respect to private persons, the Republic shall be obliged to pay the indemnities.

18. To organize the public credit.

19. To acknowledge the national debt and regulate the service connected with it.

20. To make appropriations for the expenses of the administration, on the basis of the estimates presented by the executive, conforming or not to said estimates.

If for any reason whatever the appropriations act should not be passed by the National Assembly, the former financial act will continue in force.

21. To establish the duties, taxes, and revenues necessary to carry on the public service.

22. To decree the alienation of national property, or its devotion to public uses.

23. To determine the standard, weight, value, form, stamp, and denominations of the national money and regulate the system of weights and measures.

24. To increase or diminish the number of provinces and municipal districts, and to change their boundaries.

25. To frame regulations for their internal administration.

ARTICLE 66.

The judicial functions of the National Assembly are:

1. To take cognizance of charges and complaints lodged against the President or the person in charge of the executive power in cases involving their responsibility, the secretaries of state, the justices of the supreme court, and the attorney-general of the nation.

2. To try the President of the Republic, or person in charge of the executive power, in accordance with this constitution; the secretaries of state, the justices of the supreme court of justice, and the attorney-general of the nation, when charged with acts performed, during the discharge of their functions, against the safety of the State, against the free operation of the public powers, or in violation of the national constitution and laws.

The procedure to be followed in such cases and the penalty applicable thereto shall be determined by law.

ARTICLE 67.

The executive functions of the National Assembly are:

1. To inspect the credentials of its own members and to decide whether the said credentials are in the form prescribed by law or not.

2. To reinstate in their citizenship those who may have lost it.

3. To accept or decline the resignations of their offices that may be tendered by the President of the Republic or the "designados."

4. To elect at ordinary sittings and for a term of two years three "designados," who, in the absence of the President of the Republic, will exercise the executive power in the cases and order provided by law.

When, for any reason, the National Assembly shall have failed to elect any "designados," those who were previously elected shall retain their character as such in their order.

5. To appoint the members of the court of accounts.

6. To appoint a fiscal inspector of all the treasury offices of the Republic.

7. To appoint commissions for the demarkation of the boundaries of the nation.

8. To call upon the secretaries of state for such oral or written reports as it may need.

9. To examine and finally close at each ordinary session the general account of the treasury which may be submitted to it by the Executive.

10. To grant leave of absence to the President of the Republic or to the person in charge of the executive power.

11. To permit or refuse the sojourning of foreign war vessels in the ports of the Republic when the stay is longer than two months.

ARTICLE 68.

The National Assembly is inhibited:

1. From allowing by decree gratuities, indemnities, pensions, or other expenditures that shall not be intended for the settlement of debts or rights recognized in accordance with the existing law, except as to what is provided in Article 65.

2. From passing acts of proscription or persecution against any persons or corporations.

3. From passing resolutions of approval or censure regarding official acts; and

4. From offering to direct public officers.

TITLE VII.

THE EXECUTIVE BRANCH.

ARTICLE 69.

The executive power is exercised by a magistrate who shall be styled President of the Republic, and have for the discharge of his office the number of secre-

taries that may be fixed by law. The President shall enter upon the discharge of his constitutional functions on the first day of October following that of his election, and will remain in office for a term of four years.

The same law shall likewise determine the denomination and order of precedence of the secretaries of departments.

ARTICLE 70.

The requirements for the office of President of the Republic are :

1. To be a citizen of Panama by birth.
2. To be at least thirty-five years old.

ARTICLE 71.

The President-elect, or the person who may have to take his place, shall take possession of his office before the president of the Assembly and take the following oath: "I swear to God and to the country that I shall faithfully observe the constitution and the laws of Panama."

ARTICLE 72.

If, for any reason whatever, the President should be unable to take possession before the President of the National Assembly, he shall take the oath before the president of the supreme court of justice, and failing this, before two witnesses.

ARTICLE 73.

The duties of the President of the Republic are :

1. Freely to appoint and remove the secretaries of state, the governors of provinces, and all persons that are to fill any public office whatever, the appointment to which does not belong to other officials or corporations.
2. To see to the maintenance of public order.
3. To direct the diplomatic or commercial relations with other nations, freely to appoint and receive the respective agents, and to conclude public treaties and conventions which shall be submitted to the National Assembly for its approval.
4. To see to it that the National Assembly shall meet on the day appointed by the constitution or by the resolution or decree by which extraordinary sessions may be called, and to take in good time the necessary measures for the payment to the Deputies of the mileage allowed them by law.
5. To submit at the beginning of each legislature and on the first day of its ordinary sessions a message relative to the affairs of the administration.
6. To furnish the assembly with such special reports as the latter may call for.
7. To sanction and promulgate the laws, to obey them, and to see to their exact execution.
8. To submit, within the first ten days of the regular sessions of the National Assembly, the estimates of the receipts and expenditures for the following two years, and the general account of the budget and of the treasury.
9. To supervise the collection and administration of the revenues of the Republic and to order their expenditure in accordance with the laws.
10. To conclude administrative contracts for the performance of services and the execution of public works in accordance with the fiscal laws, with the obligation of furnishing an account thereof to the assembly in its ordinary sessions.
11. To grant charters for useful privileges in conformity with the laws.
12. To issue naturalization papers in conformity with the laws.
13. To grant to natives who request it permission to accept positions or distinctions from foreign governments.
14. To control, regulate and supervise national public instruction.
15. To see that the public institutions of the nation are properly conducted.
16. To sanction, promulgate and have executed all sanitary regulations prepared by the national board of health.
17. To appoint the justices of the supreme court, the attorney-general of the nation, the public prosecutors and their deputies, in accordance with the conditions required by law.
18. To grant pardons, and to commute and remit penalties in accordance with the law governing the exercise of this power.

19. To confer military grades in accordance with the constitutional and legal formalities.

20. To avail himself of the public forces as supreme head of the nation.

ARTICLE 74.

All acts of the President of the Republic, except the appointments or removals of his secretaries of state, shall be without any validity or force whatever until they are countersigned or acted upon by the secretary of the department to which they pertain, who by this very act renders himself responsible.

ARTICLE 75.

The President of the Republic, or the person in charge of the executive power, may refrain from the discharge of his office during a period of leave which shall be granted by the National Assembly, or, during a recess of the latter, by the supreme court of justice.

In case of illness, a previous notice to either body may suffice.

ARTICLE 76.

The President, in the exercise of his functions and in the public interest, may visit, for such a time as he may deem proper, any part of the Republic.

ARTICLE 77.

The salary allowed by law to the President of the Republic shall not be changed during the same term for which it has been allowed.

ARTICLE 78.

The President of the Republic or whoever acts in his place is amenable only in the following cases:

1. For exceeding his constitutional powers.
2. For acts of violence or coercion in elections, or which prevent the meeting of the National Assembly, or impede the latter and the other public bodies or authorities established by the constitution, in the exercise of their functions.
3. For crimes of high treason.

In the first two cases the penalty can be none other than removal from office, and, if the President should have ceased to exercise his functions, disqualification from holding any other public office. In the latter case common law shall be applied.

ARTICLE 79.

In the accidental or permanent absence of the President of the Republic, the executive power shall be exercised by one of the "designados" in the order in which they have been elected.

The only cases of permanent absence of the President are his death, his accepted resignation, or his removal.

The person in charge of the executive power shall enjoy the same pre-eminence and exercise the same powers as the President of the Republic whose place he is supplying.

ARTICLE 80.

In order to be a "designado" the same qualifications are required as for President of the Republic.

ARTICLE 81.

When the absence of the President can not for any reason be supplied by the "designados," the duties of President shall be performed by the secretary of state, who may be selected at a cabinet meeting by a majority of votes.

ARTICLE 82.

A citizen who has been elected President of the Republic shall not be re-elected to the following term if he should have filled the office of President within the eighteen months immediately preceding the new election.

ARTICLE 83.

Any citizen who may have been called upon to fill the office of President, and have so filled it within the six months preceding the day set for the election of the new President, as well as any relative of such citizen down to the fourth degree of consanguinity or the second of affinity, shall likewise be barred from election to this office.

TITLE VIII.

THE EXECUTIVE DEPARTMENTS.

ARTICLE 84.

The distribution of business according to its nature among the several departments of state devolves upon the President of the Republic.

ARTICLE 85.

In order to be a secretary of state (head of a department) the same qualifications are necessary as for a deputy to the National Assembly.

ARTICLE 86.

The secretaries of state are the sole organs of communication between the executive power and the National Assembly; they may propose bills and participate in the debates.

ARTICLE 87.

Each secretary of state shall present to the National Assembly, within ten days after the beginning of each Legislature, a report or statement concerning the condition of the business assigned to his department and regarding such reforms as he may deem expedient to introduce.

ARTICLE 88.

The National Assembly may require the assistance of the secretaries of state when it deems proper.

ARTICLE 89.

The cabinet council shall be composed of all the secretaries of state and shall be presided over by the President of the Republic.

TITLE IX.

THE JUDICIARY.

ARTICLE 90.

The judicial power shall be exercised in the Republic by a supreme court of justice, by such inferior and ordinary courts as the law may establish, and by such other tribunals or special commissions as it may become necessary to create in accordance with public treaties.

The Assembly exercises certain judicial functions.

ARTICLE 91.

The supreme court of justice shall consist of five justices, appointed for a term of four years. There shall be five substitutes, also appointed for four years, who shall fill, in their order, any accidental vacancy on the bench. In the event of permanent vacancy a new appointment shall be made. The office of justice shall be vacated through the acceptance of other offices.

ARTICLE 92.

In the ordinary courts which the law may establish, the judges shall be appointed by the court or judge immediately superior in rank.

ARTICLE 93.

In order to be justice of the supreme court, one must be a citizen of Panama by birth or by choice, have resided on the Isthmus for over 15 years, be fully 30 years of age and in the full enjoyment of civil and political rights, be a law graduate of a university, have had at least 10 years' practice as a lawyer of good standing, or discharged, during an equal period, the duties of judge or prosecuting attorney, and have received no sentence whatever for any common law offence.

The same qualifications shall be required of judges of the courts of justice that may be established by law.

ARTICLE 94.

No judge shall be suspended from his office except in the cases and with the formalities provided for by law, nor removed except by virtue of a judicial sentence.

ARTICLE 95.

The law shall determine what cases of a criminal character shall be tried by the jury system.

ARTICLE 96.

Justice shall be administered gratuitously throughout the territory of the Republic.

ARTICLE 97.

The law shall determine the salaries of officers of the judiciary, and such salaries shall neither be increased nor decreased during the term for which such officers shall have been appointed.

TITLE X.

THE MAKING OF THE LAWS.

ARTICLE 98.

Laws shall originate in the National Assembly on the proposition of its members or of the secretaries of state.

Excepted from this provision are laws concerning civil suits and judicial procedure, which may only be modified upon the proposition of special committees of the assembly, or of the justices of the supreme court.

ARTICLE 99.

No legislative act shall become law until it shall have received the approval of the National Assembly in three debates on separate days, a majority of the votes, and the sanction of the Executive.

ARTICLE 100.

The second debate on a law shall not be closed, nor shall the law be voted on in a third debate, without the presence of a majority of the members composing the assembly.

ARTICLE 101.

After its approval by the assembly a bill shall go over to the Executive, and, if the latter likewise approve it, he will take steps to cause it to be promulgated as a law. If the Executive should not approve the bill, he shall return it to the assembly, with a statement of his objections.

ARTICLE 102.

The Executive may avail himself of a term of six days in which to return any bill with his objections when the said bill shall consist of not more than fifty articles; of ten days, when the bill contains from fifty-one to two hundred articles, and of fifteen days when there are more than two hundred articles,

ARTICLE 103.

If the Executive should, at the expiration of those terms, have failed to return the legislative act with his objections, he shall be held to sanction and promulgate it; but if the assembly should take a recess before the expiration of the said terms, it shall be the duty of the Executive to publish the bill, whether approved or objected to, within ten days after that on which the National Assembly may have closed its sessions.

ARTICLE 104.

All bills objected to in their entirety by the Executive shall be returned to the assembly for a third debate: those objected to in part only will be reconsidered in second debate for the sole purpose of taking the objections of the Executive into account.

ARTICLE 105.

The Executive shall sanction every bill which, having been reconsidered, shall be passed by a two-thirds vote of the deputies present at the debate, provided always that their number be not less than that required for a quorum.

Should the Executive object to a bill on the ground of unconstitutionality, and the National Assembly insist upon pressing it, the bill should be referred to the supreme court of justice for the final decision of the latter body as to the validity of the law. If the decision should be in the affirmative, the Executive shall be bound to sanction and promulgate the law; if in the negative, the bill shall be laid aside.

ARTICLE 106.

If the Executive should fail in his duty of sanctioning the laws in the manner and under the conditions stipulated in this title, they shall be sanctioned and published by the president of the assembly.

ARTICLE 107.

Every law shall be promulgated within six days after it shall have been sanctioned.

ARTICLE 108.

The laws may be accompanied by an explanatory statement, and their text shall begin with the following preamble: "The National Assembly of Panama decrees."

ARTICLE 109.

Bills that remain pending in the session of one year shall not be again taken up, except as new bills in another legislature.

TITLE XI.

PUBLIC PROSECUTION.

ARTICLE 110.

Public prosecution shall be conducted by an attorney-general of the nation, by the public prosecutors and deputies, and by such other officers as the law may designate.

ARTICLE 111.

It shall be the duty of the officers of public prosecution to defend the interests of the nation; to see to the enforcement of the laws, execution of judicial sentences and administrative orders; to watch the official acts of public officials and to prosecute offenses and misdemeanors that disturb social order.

ARTICLE 112.

The term of office of attorney-general of the nation shall be four years.

ARTICLE 113.

The same qualifications as have been specified for justices of the supreme court shall be required for the office of attorney-general of the nation.

ARTICLE 114.

The special duties of the attorney-general of the nation shall be:

1. To see to it that all the public officials in the service of the nation properly discharge their duties.
2. To arraign before the supreme court such officials as must be tried by that body.
3. To see to it that the other officers of public prosecution faithfully discharge their duties and to take appropriate action to hold them responsible for all derelictions committed by them.
4. Freely to appoint and remove all his immediate subordinates.
And such other duties as the law may ascribe to him.

TITLE XII.

THE NATIONAL TREASURY.

ARTICLE 115.

The Republic of Panama holds in ownership:

1. All property within the territory that belonged, by whatsoever title, to the Republic of Colombia.
2. The rights and stock that the Republic of Colombia owned within or without the country by reason of the sovereignty it exercised over the territory of the Isthmus of Panama.
3. The property, revenues, lands, securities, rights, and stock that belonged to the former department of Panama.
4. The vacant lands, salt deposits, lode and placer mines, or mines of any other character, and those of precious stones, without prejudice to lawfully acquired rights.

ARTICLE 116.

The power of issuing legal tender money, of whatever description, is vested in the nation and can not be transferred. There shall be no private bank of issue.

ARTICLE 117.

No paper money shall be made legal tender in the Republic. Consequently, any person may refuse any note or other certificate in which he has no confidence, whether it be of official or of private origin.

ARTICLE 118.

The landed property in the Republic shall not be transferable to foreign governments, except as stipulated in public treaties.

ARTICLE 119.

No expenditure of public money shall be made without authority of law.

Likewise no appropriation shall be applied by transfer to any item not provided for in the estimates.

ARTICLE 120.

Should the necessity arise to make an expenditure which in the judgment of the Executive cannot be avoided, during the recess of the National Assembly and for which no fund, or an insufficient fund, may have been appropriated, an additional or extraordinary allowance may be granted to the department con-

cerned. Such allowance shall be granted by the cabinet council, under the joint responsibility of the whole cabinet, and an instrument shall be drawn up by which the allowance granted is to be fully justified.

The legalization of such allowances appertains to the National Assembly.

ARTICLE 121.

No indirect tax or increase of such taxes shall be collected until three months after the date of the promulgation of the law establishing such a tax or increase.

TITLE XIII.

PUBLIC FORCES.

ARTICLE 122.

All citizens of Panama are bound to take up arms whenever demanded by public necessity for the defence of national independence and the institutions of the country.

The law will determine the conditions for exemption from military service.

ARTICLE 123.

The law shall organize the military service and the national police.

ARTICLE 124.

The nation may maintain a permanent army for its defence. Recruiting is and shall be prohibited.

ARTICLE 125.

The public forces are not a deliberative organization. They may assemble only by order of the proper authority, and may make petitions only on subjects relating to the good service and the morality of the army, and in accordance with the laws of their establishment.

ARTICLE 126.

Crimes committed by military persons on active duty, or in connection with such duty, shall be taken cognizance of by courts-martial, or military courts, in accordance with the provisions of the military code.

ARTICLE 127.

The National Government alone may import and manufacture arms and munitions of war.

TITLE XIV.

PROVINCES.

ARTICLE 128.

There shall be in each province a governor, whose appointment and removal shall be at the pleasure of the President of the Republic, and whose powers and duties shall be defined by law.

ARTICLE 129.

There shall be in each municipal district a corporation that shall be styled municipal council and consist of the number of members determined by law and elected directly by popular vote.

ARTICLE 130.

Municipal districts are autonomous as to their internal affairs, but they cannot contract debts without the authorization of the National Assembly.

ARTICLE 131.

It shall be within the province of municipal councils to take, by means of their own resolutions or of regulations issued by technical boards or commissions, such dispositions as may be expedient for the government of the district; to vote local taxes and expenditures within the bounds established by the fiscal system of the nation, and to exercise such other functions as may be ascribed to them by law.

ARTICLE 132.

There shall be in each municipal district a mayor (alcalde) named in the manner to be provided for by law, who shall exert administrative powers in the capacity of agent of the governor and mandatory of the people.

TITLE XV.

GENERAL PROVISIONS.

ARTICLE 133.

Primary instruction shall be compulsory, and, when public, shall be free. There shall also be schools of arts and trades and institutions of secondary and professional instruction under Government control.

The law may decentralize public instruction and shall assign to it special revenues.

ARTICLE 134.

There shall be in Panama no office whose powers and duties shall not be particularized by law or regulations, and no public officer shall receive two or more salaries from the public treasury except under the provisions that may be made by law in special cases.

ARTICLE 135.

Ministers of the various religious denominations shall not hold any office, employment, or public trust in the Republic, whether personal, civil, or military, excepting such positions as are connected with charity or public instruction.

ARTICLE 136.

The Government of the United States of America may intervene in any part of the Republic of Panama to reestablish public peace and constitutional order in the event of their being disturbed, provided that that nation shall, by public treaty, assume or have assumed the obligation of guaranteeing the independence and sovereignty of this Republic.

TITLE XVI.

REVISION OF THE CONSTITUTION.

ARTICLE 137.

This constitution may be amended through a legislative act drawn up in the usual form, submitted by the Government to the following regular National Assembly for its final consideration, discussed anew by the latter and approved by two-thirds of the members constituting the Assembly.

TITLE XVII.

TRANSITORY PROVISIONS.

ARTICLE 138.

In order to secure for posterity a part of the pecuniary advantages derived from the negotiations for the construction of the interoceanic canal, the sum

of six million *dollars* is hereby set aside for investment in securities bearing a fixed annual interest. The said investment shall be regulated by law.

ARTICLE 139.

The law may impose the death penalty only for the crime of murder when it is of an atrocious character. This, while there are no good penal establishments or real penitentiaries in the Republic.

ARTICLE 140.

The first President of the Republic shall be elected by the National Convention by a majority of the votes on the day of the promulgation of this constitution. He shall enter upon his office at once and discharge its duties until the 30th of September, 1908.

The "designados" shall be elected on the same day as the President and their term shall expire on the 30th of September, 1906.

ARTICLE 141.

Any citizen may be elected first constitutional President of the Republic of Panama who, although not a Panaman by birth, shall have taken an active part in securing the independence of the Republic.

ARTICLE 142.

As soon as this constitution shall have been sanctioned by the board of provisional government of the Republic, the convention shall lose its character as such and shall assume all the functions assigned to the National Assembly, the prohibition contained in article 64 not applying to the delegates to the convention.

ARTICLE 143.

Before the date on which the first National Assembly is to meet, the constituent national convention shall again exercise the legislative functions whenever it may be called in extraordinary session by the Executive.

ARTICLE 144.

The first National Assembly shall meet on the 1st of September, 1906.

ARTICLE 145.

All of the acts executed by the Board of Provisional Government from the third (3rd) of November, 1903, to the fifteenth (15) of January of the present year, are hereby expressly ratified.

ARTICLE 146.

Existing monopolies and other privileges shall continue until the expiration of their respective legal contracts, unless it is possible to reach equitable agreements with the concessionaries for their immediate termination.

ARTICLE 147.

All laws, decrees, regulations, orders, or other dispositions which may be in force at the time this constitution is promulgated shall continue to be observed unless they are contrary to it or to the laws of the Republic of Panama.

ARTICLE 148.

This constitution shall take effect, as far as the supreme branches (powers) of the Government are concerned, from the day on which it is sanctioned; and as far as the Republic is concerned, fifteen days after its publication in the Official Gazette.

Given in the city of Panama, on the thirteenth day of February, nineteen hundred and four.

- PABLO AROSEMENA,
President of the National Constituent Convention, Delegate from the Province of Panamá.
- LUIS DE ROUX,
First Vice-President of the National Constituent Convention, Delegate from the Province of Panamá.
- H. PATIÑO,
Second Vice-President of the National Constituent Convention, Delegate from the Province of Panamá.
- ALBERTO G. DE PAREDES,
Delegate from the Province of Bocas del Toro.
- PACIFICO MELENDEZ P.,
Delegate from the Province of Bocas del Toro.
- RAFAEL NEIRA A.,
Delegate from the Province of Bocas del Toro.
- CASTULO VILLAMIL,
Delegate from the Province of Bocas del Toro.
- R. CHIARI,
Delegate from the Province of Coclé.
- E PONCE J.,
Delegate from the Province of Coclé.
- MODESTO RANJEL,
Delegate from the Province of Coclé.
- S. SUCRE J.,
Delegate from the Province of Coclé.
- AURELIO GUARDIA,
Delegate from the Province of Colón.
- J. A. HENRIQUEZ,
Delegate from the Province of Colón.
- JERARDO ORTEGA,
Delegate from the Province of Colón.
- JULIO ICAZA,
Delegate from the Province of Colón.
- J. M. DE LA LASTRA,
Delegate from the Province of Chiriquí.
- MANUEL C. JURADO,
Delegate from the Province of Chiriquí.
- MANUEL QUINTERO V.,
Delegate from the Province of Chiriquí.
- NICOLAS VICTORIA J.,
Delegate from the Province of Chiriquí.
- ARISTIDES ARJONA,
Delegate from the Province of Los Santos.
- ANTONIO BURGOS,
Delegate from the Province of Los Santos.
- I. QUINZADA,
Delegate from the Province of Los Santos.
- J. VASQUEZ G.,
Delegate from the Province of Los Santos.
- FABIO AROSEMENA,
Delegate from the Province of Panamá.
- DEMETRIO H. BRID,
Delegate from the Province of Panamá.
- JIL F. SANCHEZ,
Delegate from the Province of Panamá.
- N. TEJADA,
Delegate from the Province of Panamá.
- C. L. URRIOLA,
Delegate from the Province of Panamá.
- J. B. AMADOR G.,
Delegate from the Province of Veraguas.
- B. E. FABREGA,
Delegate from the Province of Veraguas.
- MANUEL S. PINILLA,
Delegate from the Province of Veraguas.
- LUIS GARCIA F.,
Delegate from the Province of Veraguas.
- JUAN BRIN,
Secretary.

BOARD OF PROVISIONAL GOVERNMENT OF THE REPUBLIC,
Panama, February 15, 1904.

Let this be published and executed.

J. A. ARANGO, FEDERICO BOYD, TOMAS ABIAS.

- EUSEBIO A. MORALES,
Minister of Government.
- F. V. DE LA ESPRIELLA,
Minister of Foreign Relations.
- CARLOS A. MENDOZA,
Minister of Justice.
- MANUEL E. AMADOR,
Minister of the Treasury.
- NICANOR A. DE OBARRIO,
Minister of War and Navy.
- JULIO J. FABREGA,
Minister of Public Instruction.

Mr. Russell to Mr. Hay.

No. 57.]

AMERICAN LEGATION,
Panama, February 22, 1904.

SIR: I have the honor to report that on Saturday, the 19th instant, the inauguration of Dr. Manuel Amador Guerrero as first President of the Republic of Panama took place with much pomp and ceremony. Admiral Glass, of the Pacific Squadron, sent a representative with 20 officers, all in uniform. Admiral Coghlan and staff, of the Atlantic Squadron, came up from Colon; and Colonel Biddle, with staff and 20 officers, represented the regiment of marines stationed in the center of the Isthmus. After the inauguration the President issued a circular, a translation of the portion of which referring to the United States I inclose.

The cabinet was named the same day, and is as follows: Government (which includes foreign affairs), Mr. Tomas Arias; treasury, Dr. F. V. de la Espriella; justice and public instruction, Julio Fábrega; public works, Manuel Quintero V.

Mr. Arias was a member of the junta of the provincial government and is a member of the Conservative party. Doctor Espriella was a minister for foreign affairs under the provisional government and is a Liberal. Mr. Julio Fábrega was minister of public instruction under the provisional government and is a Conservative. Mr. Manuel Quintero is a Liberal and was a revolutionist general in the last revolution.

I am, sir, with great respect, your obedient servant,

WILLIAM W. RUSSELL.

[Manifesto.—Extract.—Translation.]

I believe I echo the true sentiment of Isthmians when I take this opportunity to express our gratitude to the Government of the United States of America for its noble and generous attitude in listening to the just representations made to it after the proclamation of our independence, through our representative there, looking to our recognition as a free country worthy to figure in the list and with the same prerogatives as our other sister Republics of South and Central America.

TRANSFER OF THE CANAL ZONE TO THE UNITED STATES.

Mr. Russell to Mr. Hay.

No. 86.]

AMERICAN LEGATION,
Panama, May 24, 1904.

SIR: I have the honor to report that General George W. Davis, governor of the Isthmian Canal Zone, arrived at Colon on Tuesday, May 17. He requested me, by telegraph, to meet him and to arrange an interview with President Amador on the morning of Thursday, May 19.

General Davis was accompanied by Admiral Sigsbee, commanding the Caribbean Squadron and staff, and Major Lejeune, commanding the battalion of United States marines on the Isthmus, myself, and Mr. Lee, the secretary of this legation. President Amador received

General Davis at the foreign office, as the presidencia is undergoing repairs. After the presentation of the autograph letter from the President of the United States to the President of the Republic of Panama, General Davis made a short and appropriate address, which was replied to in kind by President Amador, who later in the day returned the visit of General Davis. The occasion was one of much ceremony and pomp; a detachment of the Panaman troops formed a guard of honor, and the Presidential band played the American and Panama anthems. I have the honor to inclose a copy of the announcement issued by General Davis to the inhabitants of the canal zone and published in the press of Panama on May 19.

I am, etc.,

WILLIAM W. RUSSELL.

[Inclosure.]

ISTHMIAN CANAL ZONE, PANAMA,
OFFICE OF THE GOVERNOR,
Culebra, May 19, 1904.

To the inhabitants of the Isthmian Canal Zone:

In pursuance of the terms of the canal convention between the United States and the Republic of Panama, the ratifications of which were exchanged on the 26th day of February, 1904, the Republic of Panama granted to the United States, on the Isthmus of Panama, the perpetual use, occupation, and control of a certain zone of land 10 miles in width, and land under water, including the islands within said zone, and also the islands of Perico, Maos, Culebra, and Flamenco, situated on the Bay of Panama, and the use, occupation, and control of certain other lands and waters outside said zone, which may be found to be necessary and convenient, all to be utilized for and in connection with the construction, maintenance, operation, sanitation, and protection of the ship canal which the United States is to construct, and which will extend from the Caribbean Sea, near Colon, to the Pacific Ocean, near the city of Panama.

In addition to the perpetual use, occupation, and control of the lands and waters referred to, the Republic of Panama has also granted to the United States all the rights, powers, and authority within said zone, auxiliary canals, islands, and lands under water which the United States would possess and exercise if it were the sovereign of the territory granted, to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, and authority.

The canal zone, and all the real and movable property situated within it that formerly belonged to the New Panama Canal Company have been purchased and taken possession of and are now occupied or controlled by or on behalf of the United States of America.

For the maintenance of order within the territory above described, the use, occupation, and control of which have been granted to the United States, and in order that the inhabitants may be protected in the full enjoyment of their liberty, property, and religion, the President of the United States has been empowered by the Congress to establish a temporary government for the canal zone, to which end he has been authorized to delegate to such person or persons as he may designate, and to control the manner of their exercise, all the military, civil, and judicial powers and authority granted to the United States by the Republic of Panama, as well as the power to make all needful rules and regulations.

With respect to the government and administration of the canal zone, the President has delegated to the undersigned, as governor of the zone, all necessary executive and administrative attributes, with power to appoint the officials and organize the police force necessary to preserve order and to carry out the purposes of government on the Isthmus. The power to make rules and regulations—in short, all matters of legislation for the zone and its inhabitants—have been delegated to the members of the Isthmian Canal Commission, of whom four constitute a quorum for legislative purposes; but it is provided that the governor of the zone and the legislative commission shall exercise their powers and

authority and carry on their work always under the supervision and direction of the Secretary of War.

The President has ordered that the laws of the land which were in force on the 26th of February, 1904, shall continue in force in all places on the Isthmus of Panama over which the United States has jurisdiction until said laws are altered or annulled by the canal commission, and the people are entitled to security in their persons, property, and religion, and in all their private rights and relations. They will be disturbed as little as possible in their customs and avocations that are in harmony with the principles of well-ordered and decent living, but there are certain great principles of government that have been made the basis of our existence as a nation which are deemed essential to the rule of law and the maintenance of order, and will have force within the canal zone and within other lands on the Isthmus that are controlled by the United States. The principles referred to may be generally stated as follows:

That no person shall be deprived of life, liberty, or property without due process of law; that private property shall not be taken for public use without just compensation; that in all criminal prosecutions the accused shall enjoy the right of a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel in his defense; that excessive bail shall not be required nor excessive fines imposed, nor cruel or unusual punishment inflicted; that no person shall be put twice in jeopardy for the same offense, or be compelled in any criminal case to be a witness against himself; that the right to be secure against unreasonable searches and seizures shall not be violated; that neither slavery nor involuntary servitude shall exist, except as a punishment for crime; that no bill of attainder or ex post facto law shall be passed; that no law shall be passed abridging the freedom of speech or of the press, or of the rights of the people to peaceably assemble and petition the Government for a redress of grievances; that no law shall be made respecting the establishment of religion, or prohibiting the free exercise thereof. Provided, however, that the commission shall have power to exclude from time to time from the canal zone and other places on the Isthmus over which the United States has jurisdiction, persons of the following classes who were not actually domiciled within the zone on the 26th of February, 1904, viz: Idiots, the insane, epileptics, paupers, criminals, professional beggars, persons afflicted with loathsome or dangerous contagious diseases, those who have been convicted of felony, anarchists, those whose purpose it is to incite insurrection, and others whose presence it is believed by the commission would tend to create public disorder, endanger the public health, or in any manner impede the prosecution of the work of opening the canal; and may cause any and all such newly arrived persons, or those of the same classes alien to the zone, to be expelled and deported from the territory controlled by the United States, and the commission may defray from the canal appropriation the cost of such deportation, as necessary expenses of the sanitation, the police protection of the canal route, and the preservation of good order among the inhabitants.

The President has further directed notification to the inhabitants of the canal zone that the establishment and maintenance of lotteries and the holding of lottery drawings, or sale of lottery tickets, or the conduct of gambling methods and devices of a character that is prohibited by the laws of the United States are to be strictly forbidden by the canal commission, within the canal zone, and that any violation of the law respecting lotteries and gambling, to be enacted, will subject the offender to severe punishment.

The municipal laws of the canal zone are to be administered by the ordinary tribunals substantially as they were before the change of government. Alcaldes, comisarios de barrios, and other persons in lawful discharge of official duties in the zone that are in harmony with the principles of government herein set forth will be continued in office for the present. A judge of a superior court will soon be appointed, and as soon as practicable the limits of the zone will be defined.

The following announcements are made of heads of departments in the government of the zone:

Secretary: Mr. Ernest Lagarde, jr.

Treasurer: Paymaster E. C. Tobey, United States Navy.

Captain of police: Mr. G. R. Shanton.

Sanitary officer: Dr. L. W. Spratling, United States Navy.

GEO. W. DAVIS, *Governor.*

Mr. Russell to Mr. Hay.

No. 88.]

AMERICAN LEGATION,
Panama, May 27, 1904.

SIR: I have the honor to inclose the translation of a note from the secretary of government to General Davis, in which note is set forth the views of the Panama Government in regard to the jurisdiction of the United States in the canal zone. This note came from the foreign office the day after the departure of the mail steamer and was suggested by General Davis in an interview he had with Mr. Arias, secretary of government.

I am, etc.,

WILLIAM W. RUSSELL.

[Inclosure.—Translation.]

Mr. Arias to General Davis.

PANAMA, May 25, 1904.

GENERAL: In compliance with instructions from his excellency the President of the Republic I hasten to make to you the following statement: The Government of the Republic of Panama considers that upon the exchange of ratifications of the treaty for opening an interoceanic canal across the Isthmus of Panama its jurisdiction ceased over the zone and other lands necessary for the work and preservation of the same, more particularly described in Article II of said treaty; but it also thinks that the Government of the United States of America can not exercise real and effective jurisdiction over said lands until they have actually been delivered to it, for which purpose a previous delimitation of them is necessary. After the delimitation and delivery of said lands in any manner which may be agreed upon the jurisdiction of both countries is clearly bounded, thus preventing all sorts of difficulties which surely would arise if such a proceeding were not adopted. But in order not to interfere with the plans of the United States with regard to its jurisdiction over said lands, the Government of Panama is willing to turn them over provisionally until commissioners are named to carry out the work of delimitation for a final delivery. Consequently the Government of Panama proposes to appoint the governors of the provinces of Panama and Colon, who, on the 1st day of June, for example, shall deliver to the representative of the Government of the United States the canal zone and other lands mentioned in Article II of the treaty; all this to be arranged and to be embodied in a formal public document to be signed by the representatives of both parties. And on the date agreed upon all the authorities and public employees in the service of the Republic in the canal zone shall cease to act, and they shall deliver up in accordance with a strict inventory to the governors the public archives and other documents pertaining to each office in order that these may be safely held until it be decided what shall be done with them. The delivery to be made in the following manner: To the governor of Panama, the archives, fixtures, etc., of the districts of Emperador and Gorgona; and those of the districts of Buena Vista and Gatun, to the governor of Colon. This succinct statement, I think, is made with due regard to the interests of both Governments, and I promise you that the suggestions contained therein shall be carried out with all the promptness and care which the case demands.

I offer you the assurance, etc.,

THOMAS ARIAS.

Mr. Lee to Mr. Hay.

[Telegram.—Paraphrase.]

PANAMA, June 17, 1904.

(Mr. Lee reports that the negotiations for the delimitation of Panama, Colon, and the canal zone have been completed, that maps

were made, and that General Davis, the minister for foreign affairs, and the attorney-general of Panama signed the papers on the 16th instant.)

**ESTABLISHMENT OF UNITED STATES PORTS, CUSTOM-HOUSES,
AND POST-OFFICES IN THE CANAL ZONE.**

Mr. Lee to Mr. Hay.

No. 116.]

AMERICAN LEGATION,
Panama, July 18, 1904.

SIR: I have the honor to embody in this dispatch the principal points in a memorial addressed to the President of Panama by the local chamber of commerce. This memorial was presented to the President on July 15:

First. That the canal zone has been granted to the United States in perpetuity, for the use, occupation, control, maintenance, operation, sanitation, and protection of the canal exclusively for such purpose, but not in order to establish ports, custom houses, and tariffs.

Second. That although according to article 3 of the canal treaty it seems that the United States may exercise sovereignty over the said zone, it is clearly understood that it shall do so only as far as may be necessary for the construction, maintenance, etc., of the canal within said zone. This is what has been leased to the United States by the Republic of Panama and confirmed in article 13 of the canal treaty whereby the United States may import into the zone, free from any charges, all that it may need for the construction and maintenance of the canal.

By the above-mentioned article 13 the United States is exempt from import duties of any nature. If this stipulation had not been made, the Republic of Panama could levy duties, but neither in articles 2 nor 13 is the United States empowered to establish ports, customs-houses, or tariffs; on the contrary by article 9 the Republic of Panama is the one empowered to establish ports, custom-houses, and tariffs.

As the Republic of Panama has stipulated that it is authorized to establish custom-houses in Panama and Colon (article 9) this fact alone makes it still more necessary that the United States should have provided for itself such authorization.

In summarizing all the articles of the treaty pertinent to importation, etc., it is clearly shown that neither the spirit nor the wording authorizes either of the contracting parties to establish custom-houses, tariffs, or ports within the zone of the canal.

Had there been any intention that the United States would establish them within the zone it should have been so stipulated, the same as the Government of Panama stipulated in regard to the cities of Panama and Colon.

If custom-houses be established in the zone, all merchandise and produce save those of the United States would be shut out, and the produce of this country, such as rice, corn, beans, rum, coffee, tobacco, cattle, etc., certainly a very small production, would be shut out from the very place where the people of Panama would expect to have a ready sale and receive some benefit thereby.

Commerce, agriculture, and the cattle business would be strangled, and the Government of Panama, which should derive its revenues from these sources, would suffer the same fate.

Disaster would be general and all would be forced to emigrate. By article 1 of the treaty, the independence of the Republic of Panama is guaranteed by the United States. By the proposed establishments the Republic of Panama would be reduced to the worst kind of dependence and servitude that exists, that of starvation.

THE COMMISSION.

* * * * *
I am, etc., JOSEPH W. J. LEE.

Mr. Barrett to Mr. Hay.

[Telegram.—Paraphrase.]

PANAMA, *July 25, 1904.*

(Mr. Barrett reports that President Amador in replying to Mr. Barrett's presentation address protested against the tendency to contradict the spirit as well as the letter of the canal treaty, referring to the imposition of the Dingley tariff and the establishment of customs ports of entry at Ancon and Crystobal in conformity with the President's order of June 24, 1904. (Printed below.))

OFFICE OF THE ISTHMIAN CANAL COMMISSION,
Washington, D. C., June 25, 1904.

The following order of the Secretary of War is published for the information and guidance of all concerned:

WAR DEPARTMENT,
Washington, June 24, 1904.

To the CHAIRMAN OF THE ISTHMIAN CANAL COMMISSION:

By direction of the President it is ordered:

SECTION 1. The territory of the canal zone of the Isthmus of Panama is hereby declared open to the commerce of all friendly nations. All articles, goods, and wares, not included in the prohibited list, entering at the established customs ports, will be admitted upon payment of such customs duties and other charges as are in force at the time and place of their importation.

SEC. 2. For the purposes of customs administration in said canal zone, there are hereby established two collection districts, as follows:

First. The district of Ancon, comprising the southern half of said canal zone, more particularly described as follows:

The port of entry in said district shall be Ancon.

Second. The district of Crystobal, comprising the northern half of said canal zone, more particularly described as follows:

The port of entry in said district shall be Crystobal.

SEC. 3. There is hereby created and shall be maintained in the government of the canal zone a subdivision of the executive branch to be known as the customs service; the general duties, powers, and jurisdiction of the customs service shall be to administer the customs laws and tariff regulations in force in said zone. The governor of the canal zone shall be the head of the customs service. There shall be a collector of customs for each collection district, who shall receive an annual salary of \$2,500 in gold, payable in monthly installments. It shall be the duty of the collector to collect all revenues derived from the enforcement of the customs laws and tariff regulations in the district subject to his jurisdiction and to perform such other service in the administration of such laws as is ordinarily performed by a collector of customs or as he may be required to perform by the governor of the canal zone. The collector of customs shall be appointed by the governor, with the advice and consent of the Isthmian Commission. The governor of the canal zone is hereby authorized to appoint and fix the compensation of deputy collectors, surveyors of customs, and such other subordinates and employees as may be necessary for the efficient administration of the customs laws and service.

SEC. 4. The governor of the canal zone is hereby authorized and empowered to prescribe and enforce rules and regulations for the administration of the customs laws and service of said zone, and report the same to the chairman of the Commission, and said rules and regulations shall have the force and effect of law until annulled or modified by legislative act of the Isthmian Canal Commission or other competent authority.

SEC. 5. Until otherwise provided by competent authority duties on importations into the canal zone are to be levied in conformity with such duties as Congress has imposed upon foreign merchandise imported into other ports of the United States.

SEC. 6. Goods or merchandise entering the canal zone from ports of the United States or insular possessions of the United States shall be admitted on the same terms as at the ports of the States of this Union.

SEC. 7. All goods or merchandise, whether free or dutiable, entering the canal zone by water, by rail, or otherwise, for transportation across said zone must be entered at the custom-house of the collection district wherein the point of entrance is situated. Violation of this requirement shall subject the goods to seizure and forfeiture by the customs officials.

SEC. 8. The governor of the canal zone is authorized to enter and carry out an agreement with the President of the Republic of Panama for cooperation between the customs service of the canal zone and that of the Republic of Panama to protect the customs revenues of both Governments and to prevent frauds and smuggling.

SEC. 9. The governor of the canal zone is hereby authorized to enter upon negotiations and make a tentative agreement with the President of the Republic of Panama respecting reciprocal trade relations between the territory and inhabitants of the canal zone and appurtenant territory and the Republic of Panama; also a readjustment of customs duties and tariff regulations so as to secure uniformity of rates and privileges and avoid the disadvantages resulting from different schedules, duties, and administrative measures in limited territory subject to the same conditions and not separated by natural obstacles. The governor shall report as to such negotiations and proposed agreement to the chairman of the Isthmian Canal Commission for submission and consideration by the Commission and such action by competent authority as may be necessary to render said agreement effective in the canal zone.

This order will be proclaimed and enforced in the canal zone at Panama.

(Signed) WM. H. TAFT,
Secretary of War.

This order will be duly published and enforced.

(Signed) J. G. WALKER,
Chairman Isthmian Canal Commission.

Mr. Barrett to Mr. Hay.

No. 4.]

AMERICAN LEGATION,
Panama, July 26, 1904.

SIR: Referring to my telegram of July 25 in regard to the port and tariff question, I shall make a brief statement only. * * *

There is so much agitation of the subject in Panama that it seemed best to inform you of the situation by telegraph. The question is most important because it involves the whole issue of sovereignty in the zone. General Davis is convinced not only that the President's order of June 24 is in accordance with the treaty but that its continued enforcement is absolutely essential for successful administration of the zone. * * *

The chief difference is now over the entrance and clearance of vessels at La Boca, Port Ancon. The Panama Government contends that the United States is acting in contravention of the treaty and denies the right of the canal authorities to enter and clear ships.

Despite Panama's objections vessels are arriving and departing from La Boca, but the tension is growing stronger each day and something must be done to end the trouble or to break the deadlock. The Chilean steamer *Limari* is now discharging cargo, but the Panama authorities threaten to arrest and fine both captain and agent unless she leaves port or complies with Panama's regulations. The agent has appealed to General Davis and he has replied that he will not permit any interference by other authorities (referring to Pan-

ama officials) with the movement of vessels at La Boca. He, however, has informed the agents of all lines, as well as the Panama Government, that all vessels are privileged to stop at a common anchorage near Flamenco Island and then, unloading or loading by lighters through Panama Bay (proper), thus to be entered and cleared by Panama authorities. If, moreover, they desire to clear from Panama for Ancon in order to come in to the La Boca dock for movement of cargo or to clear from Ancon to Panama for the same purpose, the zone officials will readily receive or grant the necessary papers.

But if vessels arrive cleared from some South American or North American port for Ancon in the United States canal zone and they wish to enter, or clear direct from, Ancon they must be permitted to do so without interference. Up to this writing nine merchant vessels have been received at La Boca. Until the arrival of the *Limari* the Panama Government only protested through the captain of the port; since her arrival the Panama authorities have tried in every way to compel her captain or agent to respect their orders. * * *

In conclusion, I beg to state that I hope to be able through conferences with the Panama minister of foreign affairs and General Davis to bring about a better understanding or, at least, to arrange a modus vivendi agreeable to both governments, until the question at dispute may be finally settled. General Davis and I have gone over the question to-day carefully and I expect to see the Panama minister of foreign affairs to-morrow or Thursday. The present situation is almost intolerable for shipping interests, and some temporary adjustment must be reached before Admiral Walker and colleagues arrive, in order to prevent some unfortunate incident that might endanger the relations of the Panama Government and the canal zone administration.

I have, etc.,

JOHN BARRETT.

Mr. Barrett to Mr. Hay.

[Telegram.—Paraphrase.]

PANAMA, *July 27, 1904.*

(Mr. Barrett reports that the Panama minister for foreign affairs has agreed to a modus vivendi in regard to the port question, that the Panama Government should limit its action to the filing of a formal protest pending the final adjustment of the question.)

Mr. Barrett to Mr. Hay.

No. 6.]

AMERICAN LEGATION,
Panama, August 2, 1904.

SIR: I have the honor to inclose copies of some correspondence bearing directly on the port question.

The first includes copies of certain letters exchanged between Governor Davis and the minister of foreign affairs which the latter placed in my hands. I would explain, however, that this represents

only a small part of the entire correspondence between these two officials, copies of which General Davis has himself forwarded to Washington.

The second is a new statement of the Panama argument submitted to me by the minister of foreign affairs.

* * * * *

I have, etc.,

JOHN BARRETT.

[Inclosure 1.—Translation.]

Mr. Arias to Mr. Barrett.

PANAMA, July 27, 1904.

YOUR EXCELLENCY: In accordance with the offer which I made to your excellency this morning I have the pleasure to inclose herewith copies in the English language of my note of the 9th instant, directed to Gen. George W. Davis, governor of the canal zone. I send this in order that your excellency may be able to inform yourself of the correspondence relating to the incident which has arisen over the interpretation of article 3 of the canal treaty.

Once again I present to your excellency the assurances, etc.,

TOMAS ARIAS.

[Subinclosure.]

Mr. Arias to General Davis.

PANAMA, July 9, 1904.

GENERAL: I have received your very esteemed communication of the 5th instant and have to express my sincere acknowledgment for your attention to my request, contained in my note of the same date, relative to the dispatch of the Chilean steamer *Loa* by the authorities of La Boca (district of Ancon).

Referring to the subject-matter of the foregoing communications, I consider the occasion propitious to intimate that the Government of the Republic of Panama has no other aim in view than that of cooperating with the American nation toward the accomplishment of the vast undertaking of the Inter-oceanic Canal, and to this end it has afforded every possible facility in the way of immediately sanctioning the Varilla-Hay treaty without the slightest objection to some of its clauses which appeared inconvenient for the Republic, and relying solely in the good faith and friendly relations that exist between the contracting governments to arrive at the settlement of any difficulty that in actual practice could present itself, otherwise by adhering strictly to one and all of the stipulations of the treaty; but for the very reasons just quoted my Government is desirous of avoiding every possibility of difficulties in the dealings of the contracting parties, and with that end in view the communication is addressed to you trusting to have a very important point clearly explained for the benefit of all concerned. The point I refer to is the following:

According to Article II of the treaty previously quoted the Republic of Panama ceded in perpetuity to the United States the use, occupation, and control of a strip of land and of lands under water for the construction, maintenance, operation, sanitation, and protection of a canal across the Isthmus of Panama connecting the Atlantic and Pacific oceans, the strip of land or zone being 10 miles wide—that is to say, 5 miles on either side from a central line in the projected waterway—said zone starting from a point in the Caribbean Sea 3 miles at mean low water, extending across the Isthmus up to a distance of 3 miles at mean low water on the Pacific side; it being expressly provided that the cities of Panama and Colon and ports adjacent thereto comprised within the described zone were not included in the above-mentioned concession, and by Article III of the same treaty the Republic of Panama ceded to the United States all the rights, power, and authority in the afore-mentioned zone, described in Article II, to be exercised thereby as if it were sovereign of the territory, the use, occupation, and control of which were granted by the Republic of Panama, the

cities of Panama and Colon and adjacent ports thus remaining beyond the jurisdictional action of the American Government.

The provisions of those clauses are quite to the point, hence the meaning according to the letter should not be disregarded in consulting the spirit in which they are framed.

Moreover, to better explain myself, I beg leave to make certain remarks relative to the meaning of the words "adjacent and port." The word "adjacent" means close to or near by, hence, in geographical terms, it is quite proper to say that the Balearic and Pitucas islands are adjacent to the Spanish peninsula. The word "port" is a part of the sea wherein ships find convenient shelter from the heavy seas and winds; wherein water is to be found in sufficient quantity to permit navigation and to allow ships to ride at anchor.

It follows, therefore, that the spot around the islands of Flamenco, Naos, and Parico, fronting the city of Panama, used as anchorage by ocean steamers, is a port, inasmuch as the steamers find there convenient shelter from the heavy seas and winds, it offers ample room for navigation, and the ships are able to load and discharge therein; and it is, in fact, adjacent to the city of Panama, because it is close to or near by the city.

In accordance, therefore, with the exception provided in Article II of the Varilla-Hay treaty, though that spot is comprised within the zone, it does not, however, come within the jurisdictional action of the United States, and it is for this reason that my Government considers that when a ship casts anchor at the mentioned anchorage it comes forthwith under its jurisdiction, it being, of course, understood that this in no way is to be construed as affecting the rights acquired by the United States over the lands in the islands of Naos, Perico, and Flamenco.

The mere fact that in the provisional agreement of demarcation, relative to the cities of Panama and Colon and the zone, the port referred to was not expressly excepted can not be reasonably advanced against the rights claimed by my Government, because, apart from the fact that the agreement of demarcation is not definitive the contract has the force of law as concerns the parties who signed it, and it can not be altered, modified, or otherwise changed except by means of another treaty concluded with the same formalities.

On the other hand, the spot to which I refer is the only one situated within the Bay of Panama and close by the city of same name which offers shelter and anchorage for the shipping engaged in the trade between Panama and the ports of North, Central, and South America; and if my Government were to acknowledge that said port is not excepted by Article II of the treaty, so often quoted, Panama would remain by that fact without any port whereby to hold intercourse with the outside world, and its maritime commerce would be totally ruined for the simple reason that the part of the bay comprised between Punta de Chiriqui and Punta de Patilla is not a port properly speaking, but a small open bay, where shipping of fair draft can not anchor, and it is hardly credible that the American Government could contemplate the idea of inflicting such a serious injury on the Republic of Panama in the face of the unmistakable interest which it has shown toward the development and progress of this nation.

Furthermore, if what is expressly provided in Article II did not exist the omission would in no way make less clear the claims advanced by my Government, since it is a well-known principle of law that the acknowledged intentions of the contracting parties shall prevail in preference to what is literally expressed in words, and the intention of the American Government of not exercising jurisdiction at the ports giving access to the zone is clearly determined in Clause XIII of the treaty in question, as otherwise that article in the treaty would be superfluous and devoid of value.

Regarding the spot denominated La Boca, the Government of the Republic has never considered it a port for international commerce, but simply as a place giving access to the canal, and in proof thereof I may mention that when the Panama Railroad Company was exonerated from the obligation of extending its line to the islands of Naos, Perico, and Flamenco, the Colombian Government declared that the Panama Railroad Company and other companies working in connection with it might use the maritime channel extending from said islands to La Boca wharf, provided the canal company gave permission for doing so, and, further, that the Government would assume no responsibility nor would otherwise interfere in any controversy relative to said permission.

I sincerely trust, General, that the foregoing remarks may bring about a change in your opinion relative to the matter at issue, and that, considering the justice which is clearly on the part of my Government, you will kindly cause to

be conveyed the necessary orders suspending the further dispatch of vessels from La Boca wharf without appeal to our port authorities and without compliance with our law governing such matters.

My Government, as I have already intimated to you, faithfully fulfills and will fulfill all its treaty obligations undertaken for the benefit of the world at large and more particularly so for the benefit of the noble American nation, and it trusts that those same sentiments may eventually prevail in your distinguished opinion.

I avail, etc.,

TOMAS ARIAS.

[Inclosure 2.—Translation.]

Mr. Arias to Mr. Barrett.

MEMORANDUM.

OFFICE OF THE SECRETARY OF
GOVERNMENT AND FOREIGN AFFAIRS,
Panama, July 27, 1904.

The undersigned, secretary of government and foreign affairs of the Republic of Panama, has received instructions from the President of the aforesaid Republic to submit to his excellency the envoy extraordinary and minister plenipotentiary of the United States the following:

Pursuant to orders given by the President of the United States of America for the creation of ports and establishments of customs regulations in the canal zone, the governor of said zone has forthwith declared as ports of entry the section denominated La Boca, wherein he has, in consequence, thought fit to assume, disregarding the Republic of Panama, the prerogatives of sovereign of the port, entering and clearing vessels, establishing and collecting port dues, and, finally, adopting measures tending to the establishment in the canal zone of the customs system of the United States.

In a similar fashion the postal tariff and postage stamps of the United States have been made obligatory within the limits of the canal zone, and it appears the belief was entertained that the United States could, at its option, establish in the canal zone a monetary system different from any adopted by the Republic of Panama.

Such proceeding and intentions are, undoubtedly, the result of the interpretation given by the United States of America to the treaty concluded with Panama on the 18th of November, 1903, on points such as those of vital importance for the growing Republic, and as said interpretation clashes with the opinion of the Government of Panama in what concerns the treaty itself and points at issue, the undersigned, in the name of the President of the Republic, respectfully invites his excellency the envoy extraordinary and minister plenipotentiary of the United States to exchange views in connection with the measures recently adopted in the canal zone, so as to convey to the treaty, by mutual accord, such interpretation as is found more to conform to the spirit and letter of its stipulations.

Although the Republic of Panama, when negotiating with the United States the treaty of the 18th of November, 1903, could not offer any obstacle whatsoever to the wishes and convenience of the United States, it did observe, nevertheless, with pleasure, when approving without restrictions said treaty, that the United States had waived in favor of the Republic of Panama that which was neither needed by the United States nor by the canal enterprise, but which for the Republic constitutes the most effective guaranty of its existence—in other words, fiscal and economical sovereignty within and without the canal zone.

This point is of great importance because if it is really a fact that a nation can cede part of its territory and sovereign rights in connection therewith, without materially affecting its proper existence, in surrendering life itself, and this very life, without the corresponding nourishment, is thereby doomed to sure death.

From this it follows that the treaty concluded with the United States amply provides, on the one hand, for all requirements of the canal enterprise, and, on the other hand, it fully provides for the perpetual existence of the Republic of Panama.

The said Republic thus agreed to surrender a strip of land of the required

size and boundaries to be excavated for a canal and to be eventually used by the shipping communicating the Atlantic and Pacific oceans, and the zone thus surrendered was ceded to the Government of the United States, in perpetuity, for "the construction, maintenance, operation, sanitation, and protection of said canal." (Article II of the treaty.)

Whatever was considered indispensable by the United States to secure perpetually the canal enterprise was readily granted by the Republic of Panama. By such concession the canal zone, properly speaking, was comprised in the grant, and such lands and waters without the zone as would be found necessary the islands of Perico, Naos, Culebra, and Flamenco, and, moreover, the rights, power, and authority (as per Article III of the treaty) which the United States "shall have and exercise as if it were sovereign of the territory wherein said lands and waters are located," entirely precluding the Republic of Panama in the exercise of such sovereign rights, power, or authority.

But the general, and so to speak, the universal phase of these concessions of sovereignty has, to judge from the treaty, two conceptions—one conditional and the other exceptional, both indispensable to the existence of the Republic of Panama.

These two points are those which the undersigned believes have been disregarded by the authorities of the canal zone, by means of the measures set forth at the commencement of this memorandum.

According to the clause in question, referred to in Article II of the treaty, "the cities of Panama and Colon and adjacent ports which are included in the described zone shall not be considered as comprised in this concession."

This provision has an object further than that of indicating the material possession of said cities and ports. The evident object of that provision tends to insure and safeguard the very existence of the Republic of Panama, reserving to it, in perpetuity, the aforesaid cities and ports as fiscal resources, wherefrom to derive the most effective means of subsistence.

The canal zone, before being ceded to the United States, and subsequent to its cession, forms part of the region wherefrom importation and exportation takes place and is the central spot between the two seas. The very existence of the Republic is derived from there; hence it was necessary to reserve that spot, although in other respects ceded to the United States.

Such is, in the opinion of the undersigned, the reason and the object why from the canal zone the cities of Panama and Colon are set apart and the ports adjacent thereto, virtually leaving the zone without jurisdictional ports.

Hence the right of levying and collecting maritime taxes, etc. (without regard to the exceptions provided in the treaty referring to all shipping and otherwise everything connected with the canal enterprise), has invariably been a prerogative of the Republic of Panama, and the Republic claims it by virtue of the spirit and letter of the treaty concluded on the 18th of November, 1903.

Not only that, the Republic claims the acknowledgement to the full extent of its economical and fiscal sovereignty within the canal zone, not only because it considers having right according to the treaty, but that its very existence and future depend on it. The fact stands, therefore, that Panama, being the original owner of the canal zone, clearly reserved what it did not expressly surrender.

The sovereign right of levying taxes within the zone does not appear by any of the stipulations of the treaty to have been expressly surrendered to the United States. On the contrary, the right is implicitly acknowledged by Clauses X and XIII, wherein are specified the effects that can not be subject to taxes. It follows, therefore, that other effects are liable to taxation. In other words, national taxes and contributions take effect in the canal zone in so far as not expressly excepted by said Articles X and XIII.

This being the case, the fact of excluding from the canal zone, by order of the authorities there, the postal tariff and postage stamps of the Republic of Panama is, to say the least, improper, inasmuch as such proceeding affects, in a marked manner, a source of revenue from which it expects brilliant results in the near future.

Finally, and as logical understanding of the meaning of the treaty whereby the fiscal and economical sovereignty is assured to the Republic, it considers that the rights which it so clearly and expressly reserved to itself have not been taken into proper consideration.

The foregoing are the ideas which have been considered as proper to submit to his excellency the envoy extraordinary and minister plenipotentiary of the United States of America as a true expression of the feeling of the national

Government in order to serve as the basis of interpretation of the treaty of the 18th of November, 1903, in a matter of such vital importance for the Republic of Panama.

TOMAS ARIAS.

Mr. Barrett to Mr. Hay.

No. 8.]

AMERICAN LEGATION,
Panama, August 2, 1904.

SIR: I have the honor to inclose copies of the protest addressed to me by the minister for foreign affairs in the port matter of the Panama Government, and of my reply thereto. * * *

I have, etc.,

JOHN BARRETT.

[Inclosure 1.—Translation.]

Mr. Arias to Mr. Barrett.

DEPARTMENT OF FOREIGN RELATIONS,
Panama, July 28, 1904.

MR. MINISTER: On account of the opening of ports in the Panama Canal Zone and the consequent acts executed by the authorities of that territory and by the agents of navigation companies and the captains of ships, there have arisen grave difficulties and an outlook extremely deplorable in every way for the future life of the Republic of Panama, which, as an independent and sovereign State, has the right to be respected even by the most powerful nations in the world, and by the United States of America, to which Panama is a natural ally, and the Republic of Panama has not only the right to expect common respect, but more especial and deferential treatment than that which she has received.

The treaty of November 18, 1903, can not and should not serve as a pretext for unusual tendencies; it is really a bond of perpetual union between the two nations, upon which the eyes of the universe are fixed with the expectation of the great benefit which the world has every right to look forward to. Starting, then, with this sane conception, my Government can not accept the idea that the opening of the said ports was in obedience to the orders of your excellency's Government, but to the erroneous interpretation of the respective treaty on the part of the authorities of the canal zone; but be it as it may, the acts accomplished are highly alarming, because they impair the interest and lessen the dignity of the Republic, and on this account I take this opportunity to present to your excellency a most courteous but solemn and energetic protest against such acts and those acts which can be accomplished while the illustrious Government of your excellency does not take the steps which such an exceptional situation demands.

I take, etc.,

TOMAS ARIAS.

[Inclosure 2.]

Mr. Barrett to Mr. Arias.

AMERICAN LEGATION,
Panama, August 1, 1904.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's esteemed note of July 28, in which you protest against the opening of the ports in the canal zone and the consequent acts executed by the authorities of that territory. A copy thereof has been delivered to Governor Davis and

another copy will be forwarded in the first mail to the Department of State at Washington.

While reserving for another time the discussion of the issue involved, beyond assuring your excellency that this protest shall have my careful and thoughtful consideration, I beg to call your valued attention to two observations in your communication.

In the first portion of your excellency's note, if my translation is correct, you say that the Republic of Panama has not only the right to expect common respect, but more especial and deferential treatment than that which she has received from the United States. In view of the intimation implied in these words, I must observe, on behalf of my Government, that an honest and sincere interpretation of its rights under a convention and the acts which it regards as legitimate under the same should not be arbitrarily classed by the other nation, which is party to the treaty, as showing lack of respect or deference for the latter.

Again, your excellency sees fit to state that your Government can not accept the idea that the opening of the said ports was in obedience to the orders of my Government, but rather due to the erroneous interpretation of the respective treaty on the part of the authorities of the canal zone. On this point I have only to say in justice to such authorities of the canal zone that they acted in accordance with orders from Washington, copies of which, I believe, Governor Davis placed in your excellency's hands soon after they reached Panama.

Whatever may be the difference of opinion between our respective governments, I take pleasure in saying to your excellency that you will always find me ready not only to discuss with you in complete fairness and frankness all questions at issue, but to report impartially thereon to my Government at Washington.

I seize, etc.,

JOHN BARRETT.

Mr. Loomis to Mr. Barrett.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 2, 1904.

(Mr. Loomis instructs Mr. Barrett to assure the Government of Panama that the United States Government will do nothing inconsistent with the honor and true interests of both Republics; that it will assist and uphold Panama in every proper way, and that it will not adopt at this time any permanent policy without fully consulting Panama.)

Mr. Barrett to Mr. Hay.

No. 10.]

AMERICAN LEGATION,
Panama, August 2, 1904.

SIR: I have the honor to report good progress in my efforts to relieve the tension of the port question and to calm both official and public opinion in Panama. To-night the situation is very different from one week ago. As a result of the arrangement of a *modus vivendi* between the minister for foreign affairs on the one hand and Governor Davis and myself on the other, and of my assurance to the former that the United States would deal in entire fairness and justice with Panama, together with the changed tone of the local press, due to frank talks I have held with the editors, there is a readiness to await the final settlement of the issue that was lacking a few days ago.

When I communicate to-morrow to the minister for foreign affairs the sentiments expressed in the Department's telegram received this afternoon, I am confident that the returning good feeling will be further strengthened.

I have, etc.,

JOHN BARRETT.

Mr. Barrett to Mr. Hay.

No. 14.]

AMERICAN LEGATION,
Panama, August 9, 1904.

SIR: There has been no particular change in the situation here since my No. 10 of August 2 was written.

The pursuance of a sincerely friendly attitude toward the Panama Government on my part, coupled with the transmission of your cabled instructions of August 2, has tended to allay official and public excitement, until now there is general confidence in a settlement acceptable to both countries.

* * * * *

I have to-day made my first direct proposal looking to a basis of settlement and inclose a copy of my communication thereon to the minister for foreign affairs. It would seem to me that we can make concessions in accordance with sections 8 and 9 of the President's order of June 24, that will offset what Panama contends she is losing in the establishment of the Port of Ancon.

On account of the hope of an early understanding the Panama minister for foreign affairs has asked that there be no formal signing of a "modus vivendi" as written in my No. 9 of August 2, but that I accept his oral assurance that Panama will not interfere with the existing status pending final settlement. To avoid further discussion of a secondary point I have agreed to this intimation.

As a matter of record I beg to inclose copies, respectively, of my letters to the minister for foreign affairs and his reply thereto in regard to your cabled instructions of August 2.

I have, etc.,

JOHN BARRETT.

[Inclosure 1.]

Mr. Barrett to Mr. Arias.

AMERICAN LEGATION,
Panama, August 3, 1904.

MR. MINISTER: I have the honor to inform your excellency that I have received cabled directions from my Government to assure your excellency's Government that the United States will do nothing inconsistent with the honor and true interests of both republics, and that it desires to assist and uphold Panama in every proper way. My Government further desires me to state that no permanent policy will be adopted at this time without the fullest consultation with Panama.

As my Government also telegraphs me that this assurance was given Monday to the minister of Panama in Washington, it is probable that your excellency's Government has already been acquainted by him with the purport of what I have communicated to you above.

In informing your excellency of this instruction, it gives me profound pleasure

to remind you that, no matter how certain acts of the canal zone authorities may have been construed by the Panama Government, there has never been the slightest intention of my Government to swerve from an honorable and just interpretation of the treaty. I desire also to call your excellency's esteemed attention to the fact that the spirit and thought of these instructions are in absolute accord with the methods and words I have had and shall have the honor to employ in discussing with your excellency all questions at issue between the two governments. At the same time I have impartially imparted to my Government the representations you have submitted to me.

In conclusion I beg to express the hope that your excellency will early communicate to me your readiness to sign the "modus vivendi" now under consideration on the port question, so that the way be entirely cleared for calm and thorough consideration of the main issue.

I, etc.,

JOHN BARRETT.

[Inclosure 2.—Translation.]

Mr. Arias to Mr. Barrett.

DEPARTMENT OF FOREIGN RELATIONS,
Panama, August 5, 1904.

MR. MINISTER: I have before me the important note of the 3d instant, in which your excellency informs me that cabled instructions have been received from your Government with the assurance to my Government that the United States will do nothing incompatible with the honor and true interests of both republics, and the desire of the United States to help and sustain Panama by all possible correct means.

Your excellency, besides communicating the above, makes other manifestations, all converging to bring to the understanding of my Government the intimate persuasion of the sincere offers of your excellency in connection with the honorable and just interpretation of the treaty of November 18, 1903, which offers serve to make stronger the high conception of the United States held by the undersigned.

Welcome in the highest degree to my Government are the clear manifestations of your excellency, inasmuch as they foretell the facile settlement of the difficulties which have arisen, and they augur conciliation of the interests of both states.

I take this opportunity to express to your excellency that a cablegram has been received from the diplomatic functionary of the Republic at Washington, in which it is communicated that his excellency the President of the United States will send instructions to your excellency and to Rear-Admiral Walker to bring about the solution, in this capital, of the questions arising over the application of article 2 of the treaty. I beg, then, that your excellency will kindly inform me if, subsequent to your note which I now acknowledge, your excellency has received these instructions, so as to begin and to finish as soon as possible the discussion of an affair of such great and transcendental importance to the interests of the republics.

Very soon I shall have the pleasure to treat with your excellency with respect to the projected "modus vivendi."

TOMAS ARIAS.

[Inclosure 3.]

Mr. Barrett to Señor Arias.

AMERICAN LEGATION,
Panama, August 9, 1904.

MR. MINISTER: I have the honor to acknowledge the receipt, yesterday, of your excellency's esteemed note bearing date of August 5, in which you courteously discuss certain points in my note which you consider to need rectification in order to fix their true meaning.

As I think I understand your lucid exposition of these points, and as there is no reason therefore for further comment thereon, I will simply express the hope that we may soon be able to reach an interpretation of the treaty that will be mutually acceptable.

In this connection I first beg to call your excellency's kind and thoughtful attention to two sections of the original order of the President of the United States, dated June 24, 1904, as follows:

SEC. 8. The governor of the Canal Zone is authorized to enter and carry out an agreement with the President of the Republic of Panama for cooperation between the customs service of the Canal Zone and that of the Republic of Panama to protect the customs revenues of both governments and to prevent fraud and smuggling.

SEC. 9. The governor of the Canal Zone is hereby authorized to enter upon negotiations and make a tentative agreement with the President of the Republic of Panama respecting reciprocal trade relations between the territory and inhabitants of the Canal Zone and appurtenant territory and the Republic of Panama; also a readjustment of customs duties and tariff regulations so as to secure uniformity of rates and privileges and avoid the disadvantages resulting from different schedules, duties, and administrative measures in limited territory subject to the same conditions and not separated by natural obstacles. The governor shall report as to such negotiation and proposed agreement to the chairman of the Isthmian Canal Commission, for submission and consideration by the Commission and such action by competent authority as may be necessary to render said agreement effective in the Canal Zone.

These two sections were not embodied in the President's order as published in Panama by Governor Davis, because he thought it best that they should not be made public until their purport and possibilities were fully discussed with the Panama Government. Various conditions and the difference of opinion as to the establishment and administration of the Port of Ancon interfered to prevent his taking up these provisions with your excellency.

By considering them carefully your excellency will at once note that they are most liberal in suggestion and scope. They show clearly that the United States Government desires to respect the true interests of Panama and to assist and uphold it in every proper way. They provide for a protection of the fiscal and economic system of your excellency's government which may open the way to a satisfactory adjustment of the main issue between the two governments.

Now that the distinguished chairman of the Canal Commission and a majority of his colleagues are in Panama, it should be possible to reach an agreement mutually agreeable to all concerned. And I may add, Mr. Minister, that you will find me always ready to do everything in my power to assist in bringing about such an agreement and understanding.

I take, etc.,

JOHN BARRETT.

Mr. de Obaldía to Mr. Hay.

[Translation.]

No. 7.]

LEGATION OF PANAMA,
Washington, August 11, 1904.

EXCELLENCY: I have the honor to transmit to you the statement with regard to the difficulties which have arisen in Panama owing to the interpretation given to some obscure points in the Bunau-Varilla-Hay treaty. In this statement I have endeavored to clear up these points, which, after being elucidated, seem to me to show that the conduct observed by the governor of the canal zone is not in conformity with the letter and spirit of the treaty.

When your excellency shall have studied this statement in detail, you will find that the Republic of Panama is clearly and unmistakably right in demanding of this nation that its rights be recognized, which, if denied it, would bring upon it ruin and dishonor as an autonomous entity.

I do not doubt that your excellency, being guided by justice and equity, will determine this incident, as I hope to have demonstrated it in the accompanying statement.

My Government trusts that your excellency's decision will be in accord with the conduct with which you have always observed and which reflects such great credit on your industrious public life.

With feelings of the highest regard, etc.,

J. D. DE OBALDÍA.

Mr. de Obaldía to Mr. Hay.

[Translation.]

No. 6.]

LEGATION OF PANAMA,
Washington, August 11, 1904.

EXCELLENCY: I have received instructions from my Government to take before your excellency's illustrious Government steps looking toward the obtaining of a satisfactory settlement of the difficulties which have unexpectedly arisen between the authorities of the Republic and the governor of the canal zone, owing to the interpretation given by the latter to some of the clauses of the agreement concerning the Isthmian Canal concluded between the two countries on November 18 last.

There are several points on which a difference of opinion has arisen, and it is necessary, first of all, to make a general estimate of the treaty as a whole, in order to apply, in each case, the interpretation which is most in conformity with the harmony among its various clauses, most in concord with previous declarations made by your excellency's illustrious Government, and most suited for the maintenance of the cordiality which has existed between the two countries since my country became part of the family of nations.

As an indispensable antecedent of the Hay-Varilla convention must be regarded the Hay-Herran treaty, concluded January 22, 1903, approved by the United States Senate, and rejected by the Republic of Colombia.

Both treaties were concluded with the same principal object—viz, to facilitate for the United States the construction of a ship canal between the Atlantic and Pacific oceans. In neither case was it the intention of the high contracting parties to conclude a treaty for the cession of territory or for the absolute renunciation of sovereignty on the part of either of them. Your excellency's illustrious Government, in order to make clear before the world, and especially before the nations of Central and South America, the real object of the negotiations which resulted in the conclusion of the Hay-Herran treaty, made in the latter the formal and categorical declaration contained in Article IV, which reads as follows:

The rights and privileges conceded to the United States by the terms of this convention shall not affect the sovereignty of the Republic of Colombia over the territory within whose limits such rights and privileges are to be exercised. The Government of the United States fully recognizes this sovereignty and disclaims any intention to minimize it in any manner or to increase its own ter-

ritory at the expense of Colombia or of any of the sister republics of Central and South America; it desires, on the contrary, to strengthen the power of the republics on this continent, and to promote, develop, and preserve their prosperity and independence.

This solemn declaration, made in a public document of the most elevated character, as is a treaty among nations, involves, in the opinion of my Government, the perpetual promise of a generous and noble line of conduct on the part of the United States, a promise which has not been destroyed by the fact that the Hay-Herran treaty no longer exists, for the declaration in which it is embodied expresses the purpose of following a frank and honest policy, accepted and confirmed afterwards by the Senate of the United States, which is the highest legislative body in this country. This declaration, as your excellency knows, had for its object the removal of the fear existing in the American republics of a more or less remote absorption by this nation, which is so powerful in every respect; and it had a decisive influence on the Government of my country in causing it to approve unreservedly and without modification the Varilla-Hay convention.

As my Government considers that this solemn and spontaneous declaration has a perpetual and definitive character, it trusts that your excellency's illustrious Government will interpret the agreement concerning the Isthmian Canal in the manner most harmonious and consistent therewith, and in this conviction I will now lay before your excellency some other more specific observations.

I.

THE AGREEMENT CONCERNING THE ISTHMIAN CANAL DOES NOT IMPLY CESSION OF TERRITORY AND ABSOLUTE TRANSFER OF SOVEREIGNTY.

The simple reading of Article IV of the Hay-Herran treaty, which is an antecedent of inappreciable value, inasmuch as therein is expressed the intention of the United States in negotiating with Colombia, is sufficient to establish the truth of the proposition which I have just set forth; but there are, besides, powerful reasons to sustain it, deduced from the Varilla-Hay treaty, which is identical in most of its clauses with the Hay-Herran treaty. In effect, as I have had the honor to observe to your excellency before in this same note, both treaties relate to the concession to the United States of the use, occupation, and control of certain lands and waters in order to facilitate the construction, preservation, exploitation, sanitation, and protection of a maritime canal between the Atlantic and the Pacific. This is the principal and dominant idea in both documents; in neither of them was there used any expression implying transfer of the absolute dominion over the territory, much less the transfer of sovereignty.

This concession might have been made by Colombia before November 3, 1903, and by the Republic of Panama after that date to any legal company or association, without its being possible, by reason of the grant, that a right should be claimed to the dominion over the strip of land in which the work was to be executed, or much less the exercise of absolute sovereignty.

The legal relation in this supposed case, just as in the present case, would be that which exists between a lessor and a lessee. Owing solely to the fact that the lessee is another republic, there may be confusion respecting the character and the essence of the contractual relations created by the agreement.

If the intention of the high contracting parties in either of the two cases to which I have just referred had been the absolute cession of the dominion and sovereignty of the territory, both treaties might have been reduced to two articles, one specifying the thing sold and the other expressing the price of sale; but both parties understanding that this was not the case, and satisfied that the intention was otherwise, found themselves obliged to fix, as far as possible, the relations between the lessor and the lessee, taking into account the peculiar circumstances of that highly important negotiation and the necessities that might arise owing to the very nature of the work which was about to be undertaken.

Thus, for example, inasmuch as the enterprise was to be one of indisputable utility, in which were to be invested considerable sums from the Federal Treasury of the United States, and in connection with which daily controversies might arise with regard to the work, would it have been wise on the part of Colombia, first, and Panama afterwards, to demand absolute jurisdiction over all these questions and to claim the exclusive power to settle and decide them when one of the parties was a foreign nation?

It was natural that some provision should be made in this regard, and hence certainly arose the idea of conferring on the United States the authority of establishing a restricted judicial power in this zone.

In the Varilla-Hay treaty this concession was broader than in the Hay-Herran treaty, but still it was not absolute.

Article III of the Varilla-Hay treaty, the only one treating of the rights of sovereignty, stipulates that the United States should (shall) possess and exercise the rights, power, and authority which the Republic of Panama conceded it over the zone, as if it were sovereign in the territory; but this expression implicitly conveys the idea that it is not sovereign, and although in the final part of the article is added "to the entire exclusion of the exercise by the Republic of Panama of such sovereign rights, power, and authority," these words, which are in obvious contradiction to those which precede, must be interpreted in accordance with other subsequent articles of the agreement which demonstrate the real intention of the contracting parties.

In Article VI, for instance, the property rights of private persons in the zone are treated of, and it was agreed that all damages caused by reason of the concessions made to the United States or of the construction, preservation, exploitation, sanitation, and protection of the canal and its auxiliary works should be investigated, appraised, and decided upon by a mixed commission appointed by the two countries and whose decisions should be final. If the United States possessed the sovereignty over the zone to the absolute exclusion of the Republic of Panama, this clause would be inexplicable.

By Article X the Republic of Panama obligates itself not to levy or to allow to be levied contributions or taxes of any kind, either

national, departmental, or municipal on the canal itself or on the railroad and auxiliary works or on its tugs and vessels, nor on the employees, workmen, and other persons in the service of the canal, of the railroad, and of the auxiliary works; but from this stipulation it is deduced that it does preserve the right to levy these contributions on property and persons not comprised in the exception.

According to Article XII the Republic of Panama is obliged to permit the immigration and free access to the lands and workshops of the canal and of its auxiliary works, of all employees and workmen of whatever nationality who may arrive, either already contracted for or in search of work, and it obligates itself to consider them as exempt from military service.

In conformity with Article XIII the United States may import into the zone and the auxiliary lands of the canal, free of duty on the part of the Republic of Panama, all kinds of ships, dredges, machines, etc., necessary and suitable for the construction, exploitation, sanitation, and protection of the canal, as well as everything necessary for the laborers, employees, and their families. The same observation should be made regarding this article as I made with regard to Article X.

Finally, it was agreed between the parties, according to Article XXIII, that the United States should enjoy the right to employ its own land and naval forces for the protection of the railroad, the canal, and its auxiliary works, and that it might construct fortifications for this purpose.

As is deduced from these stipulations contained in clauses subsequent to Article III, and all in clear, precise, and peremptory terms, the Republic of Panama still preserves part of the judicial power of the canal zone; she has pledged herself to permit the entry into the canal zone of certain immigrants, which implies that if the clause did not exist she could prevent it; she has obligated herself not to levy contributions on the canal or its auxiliary works, etc., which demonstrates that if it were not for the special renunciation contained in the article she would preserve the sovereign right to levy them; she has agreed to admit the introduction into the zone, free of import duties, of all articles necessary for the canal, the auxiliary works, and the employees thereof, an obligation which can only be contracted by one having the authority and right to levy such taxes; finally, she has authorized the United States to use its land and naval forces in case they should be necessary for the protection of the canal, which necessarily implies that if this clause did not exist the United States would not have such authority.

None of the stipulations which I have enumerated would have any *raison d'être* if the Republic of Panama had renounced the dominion over the zone and her rights of sovereignty absolutely; but her intention never was to renounce these rights, nor was it the purpose of the United States to acquire them, for the latter, quite to the contrary, has declared that it does not wish to increase its territory at the expense of Colombia or of any other republic of Central or South America, and there is nothing to justify the most remote suspicion that this declaration is not sincere.

In public treaties the existence of useless or contradictory clauses can not be admitted. Those which appear useless must be interpreted

in such manner as to produce some effect, and those which are contradictory should be interpreted by taking into account the tenor of the last ones, for it is to be supposed, as Woolsey says, that these express the last idea or thought of the parties.

If there should exist any discrepancy between the clauses to which I have just called your excellency's attention and the third one of the Bunau-Varilla-Hay treaty, it is obvious that the last ones should prevail, because they are more specific and more clear, and because they are more in conformity than that one with the remaining clauses of the same treaty and with the external policy of the United States with regard to the South and Central American nations.

My Government considers that the idea of the contracting parties is obscure in everything relating to these delicate questions of dominion and sovereignty; but after a careful study the conclusion may be arrived at that the two countries exercise conjointly the sovereignty over the territory of the canal zone, and that in the cases expressly specified in the Bunau-Varilla-Hay treaty the use of such right belongs to the United States by virtue of delegation from the Republic of Panama, but in all that concerning which the treaty is silent the rights of the Republic of Panama remain unalterable and complete.

Such a situation, which would give rise to constant disputes if it were prolonged, necessitates the conclusion of an explanatory convention to be discussed by the parties in the conciliatory spirit which has hitherto prevailed in the relations of the two countries, and to this the Government of my country is disposed.

Passing on now to the special questions which have been raised, your excellency will please permit me to treat them separately.

II.

PORTS.

In the canal zone, as described in Article II of the Bunau-Varilla-Hay treaty, are not included the cities of Panama and Colon or their adjacent ports. Both have been expressly excluded from said zone, and consequently, even conceding the assumption that the United States possesses the right of sovereignty over the zone, such right could not be extended to what by the same treaty is considered as excluded from its jurisdiction.

There would remain two things to be considered in regard to this subject:

1. Whether the United States has the authority, according to the Bunau-Varilla-Hay treaty, to make ports of entry of any place comprised within the zone, as if they were its own, and to open them up to the commerce of the world, even to the detriment of the interests of the Republic of Panama.

2. Whether, under the assumption that this authority exists, the United States can extend it so far as to declare as ports of its own and subject to its jurisdiction any or part of any of those which actually exist and belong to the Republic of Panama, even including those excepted by Article II of the treaty.

It must first of all be observed that the establishment of a port and its opening up to the commerce of the world is a right inherent in the

sovereign of the territory; and as I have already demonstrated in the first part of this note that the United States does not enjoy absolute sovereignty over the zone, but only the special rights conceded by the Bunau-Varilla-Hay treaty, it is clear that such authority does not reside in the United States.

Foreseeing, without doubt, the need which the United States might come to have of ports during the period of construction of the canal and after the latter should be opened to the use of commerce, the Republic of Panama agreed to concede to the United States, as is seen in the final part of Article IX, the right to use the ports and cities of Panama and Colon as places of anchorage, repairs of vessels, loading, unloading, depositing, or transshipping cargoes either in transit or destined for the service of the canal.

The ports of Panama and Colon are by the nature of the land the entrances of the canal. It being so, the idea of other ports for the same use or destination could not occur to the negotiators; and as the United States has, under the convention, the right to use them, thereby recognizing them as the property of the Republic of Panama, it is clear that it is not in its power to declare them to be ports of its own, subject to its exclusive jurisdiction. It is obvious that, in like manner, the United States can not, under the convention, declare that it holds sway over a greater or lesser part of those ports merely because the fiction of a different name, such as Port Ancon or Port Cristobal, may be resorted to.

The Port of Panama is one, and includes the whole coast that surrounds the city, the neighboring islands, and all the waters that wash that part of the national territory. Article II of the Varilla-Hay convention, in all its amplitude, bears on that port, and the place known by the name of La Boca is embraced within its limit. As part of the port of Panama, La Boca remains outside the canal zone, but owing to the same circumstance the place may be used by the United States for loading, unloading, depositing, and transshipping cargoes by virtue of the right granted it to that effect.

The same conditions obtain at the port of Colon. The place called Cristobal is nothing but a ward of the city. There is nothing there which can ever, by a straining of the words, be considered as a distinct port, and the whole is in consequence under the exclusive jurisdiction of the Republic of Panama, but the United States has the right to use it as stipulated in the repeatedly mentioned Article IX of the convention.

If the authorities of the zone had confined themselves to exercising that right, their position would have been unobjectionable and my Government would have discharged, with the greatest alacrity, the obligations under which it lies, but things have gone differently. Gen. G. E. Davis has issued an order of an unquestionable legislative character by which he converts into ports of the zone the places known as La Boca in Panama and Christobal in Colon, declares them open to the trade of the world and subject to his exclusive jurisdiction, absolutely setting the Republic of Panama aside, regardless of the clause which excludes from the zone the cities of Panama and Colon, together with their adjacent ports.

My Government can not accept this situation, which it considers contrary to the spirit and letter of the Varilla-Hay convention, and is

convinced that the course followed by the authorities of the zone has not been in obedience to instructions bearing especially on the point that has been raised by this distressing controversy, but is the outcome of local suggestions.

III.

CUSTOM-HOUSES.

General Davis, in his capacity as supreme authority in the canal zone, has also ordered the establishment of custom-houses at the places he has erected into ports of entry and put into operation the tariff of import duties now in force in this Republic.

There is no clause in the Varilla-Hay convention that empowers the United States to establish custom-houses at the ports of Panama and Colon, or to collect import duties in any port of the canal zone. This power, like that relative to the ports, is vested in the sovereign of the territory, and the United States does not possess that absolute sovereignty which would carry the right of establishing its own fiscal system.

The portion of its sovereign rights that the Republic, on considerations of a high order, has granted to the United States has reference to all that may be necessary or expedient to afford effective protection to the canal, in peace and in war, to maintain it free and open to the commerce of the world, and to prevent its being improperly used by any foreign power. The Republic of Panama has also granted the exercise of its rights for the establishment of a public administration that would maintain order within the canal zone, so that the works should not be interrupted or the service impaired after the completion of the canal, but it has never entered the mind of either party that the United States should turn the canal zone into a source of revenue by enforcing high customs tariffs, even against the Republic of Panama, which is the lord of the territory and still holds over it rights that it has not relinquished.

Quite to the contrary, several articles of the Varilla-Hay convention contain a record of the will of the parties in the sense that the canal zone should be a territory entirely open and free to commerce, and with this view obligations were assumed by the Republic of Panama which could not otherwise be explained.

Article IX of the convention sanctions the principle that the entrances of the canal and the cities of Panama and Colon (cities and entrances which are identical, as I have hereinabove observed), and in effect that there shall not be imposed at either place custom-house tolls, tonnage, anchorage, light-house, wharf, or other dues upon vessels passing through the canal, except such charges as may be imposed by the United States for the use of the canal and other works, or as may be established by the Republic of Panama upon merchandise destined to be consumed in the rest of the Republic.

If to this stipulation there be added that contained in Article XIII, by virtue of which the Republic of Panama allows the United States to import into the zone free of customs and all other duties all that may be required for the construction, service, operation, sanitation, and protection of the canal and its auxiliary works, it is clear that

the United States, before securing the acceptance of this clause, did not consider itself as holding the right of importing into the zone its own machinery, material, provisions, etc., without paying the regular duties to the Republic of Panama; and such being the case it is even clearer that it can not put its own tariff into operation, which, after all, results in injury to the Republic of Panama, and especially its principal cities.

By interpreting these clauses so as to bring them all into harmony, it is possible to reach the conclusion that if any customs tariff can be established at the ports of Panama and Colon; that is to say, the entrance of the canal, on the importation of articles of trade destined for use or consumption in the zone, it is for the Republic of Panama and not the United States to do so, for the Republic alone has bound itself by Article XIII of the convention to allow the United States to "import at any time into the said zone and auxiliary works free of customs duties, imports, taxes, or other charges, without any restrictions any and all vessels, dredges, engines, cars, machinery, tools, explosives, material, supplies, and the other articles necessary and convenient in the construction, maintenance, operation, sanitation, and protection of the canal and auxiliary works, and all provisions, medicines, clothing, supplies, and other things necessary and convenient for the officers, employees, workmen, and laborers in the service and employ of the United States and for their families," so that any importation into the zone of merchandise or articles not included in the exception clearly and categorically expressed in the article; that is to say, any importation made, not by the United States, but by persons that are not in the employ of the canal, may be taxed by the Republic of Panama.

This is the interpretation that accords best with the general character of the Isthmian canal convention, for it must be borne in mind that its object is not the cession by one party or acquisition by the other of areas of territory or of fiscal and other public revenues. The contemplated end is the construction of the canal, and the aim of every stipulation in the agreement is to facilitate, not to hamper, the said construction.

IV.

POSTAL SERVICE.

Post-offices have been established in the canal zone and make use for foreign mails of stamps differing in value from those now in use by the Republic of Panama. As the value of those stamps is less in the zone and as their sale is subject to no restriction whatever, the public buys its stamps and mails its correspondence at those offices, thus causing a serious loss for the Republic in that national source of revenue.

My Government holds that the United States may conduct a domestic-mail service within the zone, but can not forward mails to foreign countries, as this right belongs to the Republic of Panama.

In addition to the foregoing remarks, in which I have endeavored to present the juridical side of the question by keeping within the clauses of the Varilla-Hay convention, I deem it expedient to lay

before the enlightened Government of your excellency other phases of the subject that are entitled to equal consideration.

Even assuming that the Varilla-Hay agreement could be interpreted in the sense of conceding to the United States the right to establish ports, custom-houses, and post-offices in the canal zone, even accepting as clearly and finally recognized in favor of the United States the absolute right of control and sovereignty over the territory, if the exercise of such rights should redound to the grave and irreparable injury of the Republic of Panama and result in a condition of commercial and financial ruin that the parties never intended to bring about, for no one wittingly enters into a contract to bring upon himself incalculable and irremediable injury. Your excellency's Government and this country, where a deep-seated spirit of justice and a lofty sense of equity prevail, should find occasion for earnest mediation in this matter of enforcing measures such as those as I am now dealing with, which would be attended with such results and deal the blow of death to my country without yielding any advantage to the United States.

I am well aware that sentiment has no part in negotiations of this character, but even looking at the matter in the light of the most selfish expediency, what interest can the United States have in the financial ruin of the Republic of Panama, in the disappearance of its fiscal resources which would make its pecuniary position untenable, and in seeing it finally incapacitated for the proper discharge toward the world of the inherent obligations of a free and sovereign nation? Is it not rather to the interest of the United States to foster the development of the Republic of Panama and to contribute to its prosperity and aggrandizement?

If the measures ordered in regard to ports, custom-houses, and mails should continue in force, the principal cities of the Republic would lose the importance they have always had as places of transit, and all the trade would be diverted from them and concentrated at such places as the United States may select for it in the shape of ports. The revenues derived therefrom by the Republic and those that are indirectly yielded by the traffic would completely vanish. Even now the steamship companies of the Pacific will not clear their ships except for the so-called Port Ancon, and decline to accept cargoes for the port of Panama, so that, if this condition of things should endure, those cities would soon become deserted places, cut off from all direct commercial contact with the world; that is to say, they would be placed in a worse condition than that which they occupied before the conclusion of the treaty, in which they founded their hopes of improvement and progress.

If the tariff set up against the importation of merchandise that does not come from the United States should be continued in force, the business of commerce that has flourished heretofore would entirely disappear or perhaps be reduced to the importation of the necessities of the impoverished population of the interior of the Republic. In effect, American manufactures would come into our markets and there pay the duty to which they are subject; they could not in consequence compete with those that are admitted free of duty into the zone. Manufactures imported by Panama from Europe could not cross into the zone and there be offered for sale without paying a high duty and,

in consequence, would be subjected to a double tax which would place them in a disadvantageous situation. The home industries would likewise find in the tariff of the zone an insuperable obstacle, and therefore the Republic of Panama would suffer worse injury from this cause than any other country. Neither the main necessities of life nor the staples of most constant use and consumption produced in the country could cross the dividing line without submitting to considerable surtaxes which in the end would be prohibitory.

So heavy a blow to the native commerce and industry would make away with the revenues of the Republic, and inasmuch as the canal treaty has placed it under certain obligations which restrict its financial resources of every description and under certain responsibilities that involve a considerable outlay, the prospect held before my country is one of weakness, poverty, and retrogression instead of the bright future which the United States intended to achieve for it when it extended to it its generous hand and its loyal and effective support in its hour of trial.

My Government does not believe that your excellency's Government has entertained the purpose of inflicting such huge and irreparable injuries upon the Republic of Panama; quite to the contrary, it is confident that a mere statement of such injuries will suffice to put an end to the situation that has been created, and to establish the bases of a common form of life in which regard shall be had to the interests of both countries, not an impossible but, on the contrary, a very feasible matter.

But before reaching that final agreement which must embrace many details and can be discussed with your excellency by me on some other occasion, I confine myself for the present to asking that your excellency in the exercise of the administrative powers conferred upon you, and with the object of putting an end to the delicate situation in which the Republic of Panama is placed, will issue appropriate orders to the end that the measures ordered by the authorities of the canal zone in regard to ports, custom-houses, and post-offices be suspended until such time when an agreement respectful of our common interests shall have been reached.

I give your excellency full assurance that the Government of my country cherishes the most earnest and sincere desire to effect such an arrangement on generous terms that will be satisfactory to the United States.

With sentiments, etc.,

J. D. DE OBALDÍA.

Mr. Hay to Mr. de Obaldía.

DEPARTMENT OF STATE,
Washington, August 18, 1904.

MY DEAR MR. MINISTER: I have the honor to acknowledge receipt of the two communications, dated the 11th instant, in which you submit for my consideration certain observations regarding the interpretation of passages in the Isthmian canal treaty which your Government regards as obscure.

Before making official response to the matters presented therein, I venture to inquire whether your present communications were written in the light of the note from Señor Bunau-Varilla, dated January 19 last, on the subject of the interpretation of certain passages of the treaty. For your greater convenience I beg to inclose a copy of that note herewith.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Varilla to Mr. Hay.

LEGATION OF THE REPUBLIC OF PANAMA,
Washington, Tuesday, January 19, 1904.

SIR: After the conversation I had the honor to have with you to-day on the amendments to the treaty of the 18th of November, which the press reports as having been adopted by the Senate Committee of Foreign Affairs, I have been led to think that they bore more on questions of reaction than on questions of principles.

As these amendments have been inspired only by the legitimate desire of making the text clearer, there might be found some way to obtain this result without going through the course of amending the treaty, with all the delays consequent upon such a procedure, at a time when the enemies of the treaty can take advantage of them to precipitate war on the Isthmus as a supreme weapon against the construction of the canal and the final realization of the treaty which insures it.

The most simple of the ways which can be devised to clear the text of a convention is for the plenipotentiaries to express what was the exact sense they attributed to said text.

I do not hesitate, sir, to give you in my name and in the name of my Government, the following explanations on the meaning of the clauses which have not been deemed sufficiently outlined by the committee of the Senate:

FIRST. HARBORS ADJACENT TO THE CITIES OF PANAMA AND COLON.

The harbors adjacent to the cities of Panama and Colon (adjacent comes from *ad jacens*: lying at the side of) are, in my understanding, the harbors in contact of said cities and putting them into communication with the sea.

These harbors are completely separated from and independent of the harbors of the canal, of the harbors situated at its two entrances and which ships going through the canal will have to use.

The harbor at the Colon end of the canal is an interior harbor made by dredging in the bay of Fox River, adjacent to the city of Christopher Columbus, and protected by a breakwater.

The harbor adjacent to the city of Colon is constituted by a series of wharves built in the open sea without any artificial shelter.

A ship lying in the Colon harbor and leaving it to go into the canal harbor will have first to go into the open sea and then pass the breakwater which protects the entrance of the canal harbor.

At Panama the canal harbor is also an interior harbor situated at La Boca, several miles from the wharf, which forms the Panama harbor, a wharf built in open sea like those of Colon. The very same thing may be said of the Panama as of the Colon harbors. Both are local harbors, strictly limited to the service of the respective townships and out of the way of the canal and of its approaches to its entrance.

There is not a shadow of probability that the harbor adjacent either to Panama or to Colon will ever be used for anything but for the local trade of the town, and therefore the United States will never necessitate to do anything in relation to the canal with any part of any of them.

But even supposing the impossible, supposing that an unforeseen event renders it necessary for the United States to do something in either harbor. I understand that the Republic of Panama would not have a shadow of objection to such a course as we are bound by the Article II of the treaty, which stipulates that "The Republic of Panama grants to the United States in perpetuity the

use, occupation, and control of any other lands and waters outside of the zone which may be necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the canal."

The towns of Panama and Colon and their adjacent harbors being not included in the zone are outside of it and, therefore, the United States are at liberty to use, occupy, and control any land in the town, any water in the harbors for anything necessary and convenient for the construction, maintenance, operation, sanitation, and protection of the canal.

Any amendment modifying these extensive faculties could give authority, but for something that is not necessary or convenient, either for the construction or for the maintenance or for the operation or for the sanitation or for the protection of the canal. Any such authority given to the United States would upset the economy of the whole treaty, which is that the United States will have all they need for the canal and nothing more.

SECOND. SANITATION.

I understand that the amendment on this point is designed to give more immediate authority to the United States to enforce its sanitary regulations without waiting a reasonable time.

It has always been my understanding, and I express rigorously the understanding of the Government of Panama, that in such a question the failure to comply with the sanitary ordinances of the United States gives instantaneously to the United States the right to enforce them.

In this case the reasonable space of time to wait is no time at all, as in all cases where the preservation of life depends upon prompt action.

In the question of sanitation the stricter the ordinances may be the quicker they will be enforced by the United States, the happier will be the Government of Panama, if it fails to be absolutely adequate to its task.

THIRD. LIMITATION OF TOWNS.

I understand that the expression of "the cities of Panama and Colon" does not appear to the committee of the Senate to sufficiently define the space which remains outside of the zone.

In my conception the expression "cities of Panama and Colon" corresponds to the actual space covered by the two actual agglomerations of houses, and can not be understood as referring to any administrative definition covering a theoretical surface.

I consider that the United States are not bound to give one inch outside of the actual surface covered by the agglomerations in both cases, and that no protest can be raised if it does not allow a suburban space to be added to the actual surface for the ulterior development of the towns.

At the same time I consider it probable that the United States will find it to be to the interest of both parties to give to the Republic of Panama certain surface adjacent to the towns for their ulterior expansion.

The determination of these surfaces is, in my mind, entirely left to the judgment of the United States, and can not be asked for as resulting from a right by the Panama Government, because in the intentions of the authors of the treaty the cities were considered as actual agglomerations and not as administrative and theoretical conceptions unknown to both plenipotentiaries.

I am, etc.,

BUNAU-VARILLA.

Mr. de Obaldía to Mr. Hay.

[Translation.]

LEGATION OF PANAMA,
Washington, August 19, 1904.

MY DEAR MR. SECRETARY: I take pleasure in answering your courteous note of yesterday.

I had knowledge of Mr. Bunau-Varilla's note of the 19th of Janu-

ary last, addressed to you, before submitting to your Department my statement of the 11th instant.

Notwithstanding the views set forth in that note, I could not base my argument on any document other than the Hay-Bunau-Varilla treaty.

The motives that actuated me in taking this course can not escape your sagacious perspicacity.

With my best thanks for the sending of a copy of the said note, I avail etc.,

J. D. DE OBALDÍA.

Mr. Barrett to Mr. Hay.

AMERICAN LEGATION,
Panama, August 20, 1904.

No. 23.]

SIR: I have the honor to report that the submission by me to the Panama minister of foreign affairs of a copy of the letter of Bunau-Varilla to Secretary Hay,^a coupled with my intimation that the United States is ready to undertake negotiations to protect the revenues and trade of Panama, on lines outlined in the President's order of June 24 has created a good impression and tended to allay public excitement.

There is indignation in certain circles against the original position taken by Bunau-Varilla and criticism of the junta of that time for allowing their ministers to write such a letter, but they recognize that it commits the Panama Government and that it absolves the United States Government from blame for alleged arbitrary interpretation of the treaty.

* * * * *

I have, etc.,

JOHN BARRETT. .

Mr. Barrett to Mr. Hay.

[Telegram.—Paraphrase.]

PANAMA, August 23, 1904.

(Mr. Barrett reports that the minister for foreign affairs unofficially admits that the Varilla letter practically settles the port question, but is not ready to officially concede the same. As the minister for foreign affairs prefers that negotiations toward a settlement of the question be continued here, Mr. Barrett suggests that the Panama minister at Washington be advised in that sense.)

Mr. Adee to Mr. de Obaldía.

No. 10.]

DEPARTMENT OF STATE,
Washington, August 29, 1904.

SIR: Referring to the Department's note of the 18th, and in further reply to your two notes of the 11th and one of the 19th instant, all

relating to the differences which have arisen between the governments of the United States and Panama, growing out of the establishment by the United States, in virtue of the stipulations of the treaty between the two republics, of certain ports and custom-houses in the canal zone, I have the honor to say that it has been deemed expedient by the President that the discussion of the questions raised, which has begun at Panama, should continue there, where the means of ascertaining the pertinent facts are more within the reach of the American legation and the Government of Panama.

This Government is also disposed to believe that this disposition of the question would be preferred by your Government, and I have, therefore, the honor to suggest that you may advise your foreign office in the sense above stated.

The Department will at once instruct Mr. Barrett in the sense above suggested.

Accept, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Mr. Barrett.

No. 15.]

DEPARTMENT OF STATE,
Washington, August 29, 1904.

SIR: Referring to your No. 14 of August 9 relating to the differences which have arisen between the governments of the United States and Panama, growing out of the establishment by the United States, in virtue of the stipulations of the treaty between the two republics, of certain ports and custom-houses in the canal zone, I have to say that, in view of your suggestion that the discussion of the questions raised could be carried on to more advantage at Panama, where it began, and your statement that the Panaman Government preferred that course, the President has deemed it expedient that your suggestion should be adopted.

Copies of the correspondence on the subject exchanged with the Panaman minister at Washington are inclosed for your information in carrying out this instruction.^a

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. de Obaldia to Mr. Hay.

[Translation.]

LEGATION OF PANAMA,
Washington, August 31, 1904.

EXCELLENCY: I have received your courteous note of the 29th instant, marked No. 10, relative to the differences that have arisen between the governments of the United States and of Panama, and agreeably to its contents, I have acquainted my Government with the decision of the President of this country touching the place at which the difficultis that have unfortunately intervened are to be adjusted.

I trust that instructions will be sent to Minister Barrett, so as not to defer longer the settlement of the unforeseen incidents that have created great excitement in Panama and are working serious injury to trade and to the peaceful progress of its Government.

I hope that a fair arrangement, acceptable to both republics, may put an end to the deplorable conditions under which Panama has been placed by the enforcement of measures detrimental to that country.

I ardently wish that a happy conclusion will be reached, and that any and all causes that would tend to impair the pleasant relations of two countries which should never allow the memory of the noble and reciprocal efforts by which the far-reaching and popular act which gave Panama its independence was achieved to fade will honestly be forgotten.

Be pleased to accept, etc.,

J. D. DE OBALDÍA.

Mr. Barrett to Mr. Hay.

No. 31.]

AMERICAN LEGATION,
Panama, September 6, 1904.

SIR: I have much pleasure in reporting that the Government of Panama has finally accepted the suggestion submitted by me to the minister for foreign affairs on August 9 (see my No. 14 of August 9) for the purposes of settling the differences which have arisen over the port question, that negotiations should be begun for the protection of the revenues of Panama, regulation of customs duties, and perfection of reciprocal trade relations between Panama and the zone, as outlined in sections 8 and 9 of the President's order of June 24, 1904. * * *

I have, etc.,

JOHN BARRETT.

[Inclosure 1.]

Mr. Barrett to Mr. Arias.

AMERICAN LEGATION,
Panama, August 31, 1904.

MR. MINISTER: In your excellency's esteemed note of the 23d instant replying to my letter of the 16th, in which I had the honor to cite a letter of Minister Bunau-Varilla to Mr. Hay as practically clearing up the disputed question of the ports and to suggest that we should proceed to negotiate an agreement covering the revenues, customs laws, and trade relations of Panama and the canal zone, as outlined in sections 8 and 9 of the President's order of June 24, you stated that you deemed it best to await discussion of the main question in Washington before continuing further the discussion in Panama.

Acting in accordance with this intimation, in due deference to the desire of your excellency, and having in mind the import of our informal conference, I cabled my Government the position taken by the Panama Government.

I now have the honor to communicate to your excellency that I received a telegram from my Government to the effect that it had informed the minister of Panama in Washington that it was the wish of the President of the United States that the discussion of the question should take place in Panama. This telegram further states that the minister of Panama was requested also to inform the Panama Government that I had been instructed accordingly.

While my Government fully respects the suggestion made by your excellency

about consideration of the question in Washington, and while it has, in a spirit of perfect fairness, given careful heed to the representations of Panama's diplomatic representative in Washington, it frankly believes that the best place for discussion is on the ground where the actual interests of both Panama and the zone are constantly before our eyes and where all the commission, except one, are now present and ready to take whatever action is best, without the long delay and consequent depletion of Panama's revenues incident to the discussion in Washington and the approaching departure of the commission, which must pass upon any laws for the zone.

I await your excellency's pleasure, as suggested in my informal note of this morning, in designating an hour when we can meet in interview for the purpose of exchanging preliminary views along lines intimated in my communication.

Accept, etc.,

JOHN BARRETT.

[Inclosure 2.]

Mr. Arias to Mr. Barrett.

SECOND SECTION,
DEPARTMENT OF FOREIGN RELATIONS,
Panama, September 3, 1904.

MR. MINISTER: I have received your excellency's esteemed note of the 31st of August, in which you inform me that on the 30th of that month you received a telegram from your Government in which the wish was expressed that the discussion which has arisen regarding the application of some of the stipulations of the Isthmian Ship Canal treaty may be settled in this capital, as being the most suitable place on account of the facilities here for arriving at a prompt solution. My Government readily accepts the desire expressed by your excellency, and prepares for the discussion.

I hope that your excellency will fix a convenient time and place to talk over the matter and to exchange ideas respecting the subject referred to in your excellency's communication relating to customs duties and the regulation of the same, and commercial relations between the canal zone and Panama.

I should prefer that the exchange of these ideas, because of the importance of the subject, be carried on in writing, and so I beg to suggest to your excellency with the request that you favor me with your views.

Etc.,

TOMAS ARIAS.

Mr. Hay to Mr. de Obaldia.

No. 12.]

DEPARTMENT OF STATE,
Washington, October 24, 1904.

MR. MINISTER: I have the honor to acknowledge the receipt of your communication dated August 11, 1904, advising this Department that you had received instructions from the Republic of Panama "to take steps looking toward the obtaining of a satisfactory settlement of the difficulties which have unexpectedly arisen between the authorities of the Republic and the governor of the canal zone owing to the interpretation given by the latter to some of the clauses of the agreement concerning the Isthmian Canal concluded between the two countries on November 18 last."

The action of the zone authorities of which complaint is made was taken pursuant to orders,^a copies of which are herewith transmitted, issued by the direction of the President of the United States, and therefore it is inaccurate to attribute said orders to the governor of the canal zone.

^a Printed ante.

I have read, with the care and consideration its importance requires, the argument set forth in your communication in support of the contention that the United States is acting in excess of its authority (1) in opening the territory of the canal zone to the commerce of friendly nations; (2) in establishing rates of customs duties for importations of merchandise into the zone; (3) in establishing post-offices and a postal service in said zone for the handling of foreign and domestic mailable matter.

The right of the United States to adopt and enforce the provisions of said orders is dependent upon its right to exercise the powers of sovereignty as to the territory and waters of the canal zone, and whether or not the United States is authorized to exercise sovereign powers in that territory is to be determined by the terms of the convention of November 18, 1903, between the Republic of Panama and the United States, referred to in your communication as the Hay-Varilla convention.

The United States can not accede to the proposition advanced by you as follows:

As an indispensable antecedent of the Hay-Varilla convention must be regarded the Hay-Herran treaty, concluded January 22, 1903.

Whatever could or would have been the effect of the stipulations of the proposed treaty with Colombia, known as the Hay-Herran treaty, is rendered unimportant by the fact that said treaty was not concluded but was rejected by Colombia.

I note your reference to the provision of said proposed treaty with Colombia (Article IV):

The Government of the United States * * * disclaims any intention * * * to increase its own territory at the expense of Colombia or of any of the sister republics of Central and South America; it desires, on the contrary, to strengthen the power of the republics on this continent, and to promote, develop, and preserve their prosperity and independence.

The policy thus announced did not originate with the proposed treaty with Colombia. It is the long-established policy of the United States, constantly adhered to; but said policy does not include the denial of the right of transfer of territory and sovereignty from one republic to another of the western hemisphere upon terms amicably arranged and mutually satisfactory, when such transfer promotes the peace of nations and the welfare of the world. That the United States may acquire territory and sovereignty in this way and for this purpose from its sister republics in this hemisphere is so manifest as to preclude discussion.

The Government of the Republic of Panama having seen fit to object to the exercise by the United States within and over the canal zone of the ordinary powers of sovereignty, this Government, while it can not concede the question to be open for discussion or the Republic of Panama to possess the right to challenge such exercise of authority, considers it fitting that the Republic of Panama should be advised as to the views on the subject entertained by the United States and the reasons therefor.

The United States acquired the right to exercise sovereign powers and jurisdiction over the canal zone by the convention of November 18, 1903, between the Republic of Panama and the United States.

The character and extent of the grant of governmental powers to

the United States and the resulting right and authority in the territory of the zone, are set forth in a separate article as follows:

Article III. The Republic of Panama grants to the United States all the rights, powers, and authority within the zone mentioned and described in Article II of this agreement and within the limits of all auxiliary lands and waters mentioned and described in said Article II, which the United States would possess and exercise if it were the sovereign of the territory within which said lands and waters are located to the entire exclusion of the exercise of the Republic of Panama of any such ~~foreign~~^{sovereign} rights, power, or authority.

Let us test the existing controversy by the provisions of this article. If the United States * * * "were the sovereign of the territory," would it possess the right and authority to regulate commerce there-with, establish customs-houses therein, and provide postal facilities therefor? This question must be answered in the affirmative.

If it were conceded that the abstract, nominal, "rights, powers, and authority of sovereignty in and over the zone" are vested in the Republic of Panama, there would still remain the fact that by said Article III the United States is authorized to exercise the rights, power, and authority of sovereignty "to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority."

If it could or should be admitted that the titular sovereign of the canal zone is the Republic of Panama, such sovereign is mediatized by its own acts, solemnly declared and publicly proclaimed by treaty stipulations, induced by a desire to make possible the completion of a great work which will confer inestimable benefit upon the people of the Isthmus and the nations of the world. It is difficult to believe that a member of the family of nations seriously contemplates abandoning so high and honorable a position, in order to engage in an endeavor to secure what at best is a "barren scepter."

Under the stipulations of Article III, if sovereign powers are to be exercised in and over the canal zone, they must be exercised by the United States. Such exercises of power must be therefore in accordance with the judgment and discretion of the constituted authorities of the United States, the governmental entity charged with responsibility for such exercise, and not in accordance with the judgment and discretion of a governmental entity that is not charged with such responsibility and by treaty stipulations acquiesces in "the entire exclusion of the exercise by it of any sovereign rights, power, or authority," in and over the territory involved.

Article II of the convention provides that "The Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal * * *."

The Panaman authorities now contend that the words "for the construction, maintenance, operation, sanitation, and protection of said canal" constitute a limitation on the grant, that is to say, that the grant is confined to the purposes so stated. The position of the United States is that the words "for the construction, maintenance, operation, sanitation, and protection of the said canal" were not intended as a limitation on the grant, but are a declaration of the inducement prompting the Republic of Panama to make the grant.

A document evidencing a grant or transfer usually sets forth a

description of the property granted, the inducement leading up to the grant, the compensation and appropriate words of conveyance. The compensation for the grant under consideration is set forth in Article XIV of the treaty, as follows:

As the price or compensation for the rights, powers, and privileges granted in this convention by the Republic of Panama to the United States, the Government of the United States agrees to pay to the Republic of Panama the sum of ten million dollars (\$10,000,000) in gold coin of the United States. * * *

Article I of the treaty provides that "The United States guarantees and will maintain the independence of the Republic of Panama."

It would undoubtedly be offensive to the Republic of Panama to be placed before the world as having been induced to consent "to the entire exclusion * * * of any sovereign rights," in the territory of the canal zone, by the payment of money or because of a want of ability to maintain its independence. It would, however, be highly honorable and entirely justifiable to consent to such exclusion of sovereign right when the moving cause or inducement is "the construction, sanitation, maintenance, operation, and protection" of a work of such stupendous magnitude and world-wide importance as the Isthmian Canal.

The grant to the United States, provided for in said treaty, included also property other than the territory of the zone. Article VIII stipulates that:

The Republic of Panama grants to the United States all rights which it now has or hereafter may acquire to the property of the New Panama Canal Company and the Panama Railroad Company, as a result of the transfer of sovereignty from the Republic of Colombia to the Republic of Panama over the Isthmus of Panama. * * *

If the grant is subject to the condition and limitation contended for by the Panaman authorities, and the United States is not entitled to the revenues or benefits of the territory of the zone, or to regulate its commerce with foreign nations, or to control its international relations, it also follows that the United States, while it may use the Panama Railroad "for the construction, maintenance, operation, sanitation, and protection of said canal," is not at liberty to regulate the use of said railroad by foreign commerce, and such revenue as is received by virtue of the rights conferred by the treaty, excepting for local traffic, belongs to the Republic of Panama. The proposition refutes itself.

The great object sought to be accomplished by the treaty is to enable the United States to construct the canal by the expenditure of public funds of the United States—funds created by the collection of taxes and moneys derived from the revenue measures of the United States. For many years after the adoption of our Constitution the belief prevailed that the funds of the National Government could not be expended in the construction of public improvements, excepting those required for the use of the National Government, such as the Capitol, executive department buildings, arsenals, forts, custom-houses, post-offices, etc. The construction of highways, railroads, etc., the improvement of rivers and harbors, etc., the protection and improvement of water powers, construction of canals, and similar undertakings for the use and convenience of the general public and private enterprises, was considered to be outside the competency of the National Government, although said works were to be constructed in territory subject to the

national sovereignty. Finally, it was established that the National Government had the authority to enter upon the construction of public works of the character referred to, and to devote the public funds of the nation thereto; and the reasons inducing such determination are all predicated on the fact that such public works are to be situated in territory subject to the national sovereignty. It is quite probable that this phase of the situation is not considered by the Panaman authorities, and that they do not distinguish the difference between the Government of the United States and the French Canal Company. The French company was a private enterprise and derived its funds from individuals who voluntarily devoted their private means to promoting the endeavor; such funds could be expended anywhere and for any purpose sanctioned by the contributors. But the Government of the United States in building the canal does not expend private funds, but public moneys derived by public taxation for public purposes. Moneys so realized may be used for national purposes outside the territory subject to the national sovereignty, such, for instance, as the promotion of a war in foreign territory, for in time of war the war powers of the nations are called into activity, and those powers are coextensive with the nation's necessities, and the conduct of the war is especially enjoined upon the National Government by our Constitution; so also these funds may be expended for the purchase of ground for the erection of embassies, coaling stations, etc., for those are instrumentalities of the National Government; but the Isthmian Canal is an instrumentality of commerce, a measure for the promotion of the purposes of peace. Commerce is the life of a nation, but it is conducted by individual citizens in a private capacity and not as a governmental institution.

That the plain and obvious meaning of Article III was the one originally intended by the parties to the treaty is further shown by the provisions of Articles IX, X, XII, and XIII.

For the proper understanding of the provisions of said articles it is necessary to bear in mind that the city of Colon, on the Atlantic, and the city of Panama, on the Pacific, each have a harbor in which are constructed wharves and piers suitable for landing cargoes and passengers. Both of these cities are in territory of the Republic of Panama. On the Pacific side the canal pierces the Isthmus at a point nearly 5 miles distant, following the shore line from the ships' landing in the harbor at Panama, and about $2\frac{1}{2}$ miles distant, straight across the peninsula. On the Atlantic side the canal pierces the Isthmus at a point half a mile across the bay from the piers in the harbor of Colon.

At the Pacific entrance to the canal the French company erected a large pier and dredged out a channel so that vessels of deep draft might come up to this pier. This point is called La Boca. A branch of the Panama Railroad connects said pier with the main line. Vessels, however, continue to enter the harbor at the city of Panama and discharge their cargoes. The waters of this harbor are shallow, and deep-draft vessels anchor offshore and lighter their cargoes as they did for more than a century before the pier was built and the channel dredged at La Boca.

On the Atlantic side of the Isthmus the harbor and piers of the city of Colon are the ones of more convenient access to vessels. The entrance to the canal on the Atlantic side is called Cristobal, at which

point there is a small temporary wharf, recently constructed, but a channel has not been dredged out. Consequently practically all vessels sailing the Atlantic from the United States and elsewhere land at the Colon piers. The Panama Railroad Company has a line of steamers between Colon and New York, and there is also a steamship line between Colon and New Orleans. By far the greater portion of the commerce of Colon is with the United States, and it was obvious, at the time the treaty was negotiated, that a large quantity of materials and supplies and a large number of employees for the canal construction and the government of the zone would arrive at Colon from the United States. Two piers in the Colon harbor belonged to the Panama Railroad Company, and are now owned by the Government of the United States, but between said piers and the line of the canal zone there is a strip of land subject to the sovereignty of the Republic of Panama.

The provisions of Articles IX, X, XII, and XIII are intended to provide for the proper exercise of governmental authority under these conditions of fact. Article IX relates to the exercise of authority by both governments. When separated the provisions read as follows:

The United States agrees that the ports at either entrance of the canal and the waters thereof shall be free for all time so that there shall not be imposed or collected custom-house tolls, tonnage, anchorage, light-house, wharf, pilot, or quarantine dues or any other charges or taxes of any kind upon any vessel using or passing through the canal, or upon the cargo, officers, crew, or passengers of any such vessels, except such charges as may be imposed by the United States for the use of the canal or other works.

If it were intended that the United States should not secure the right to regulate foreign commerce entering the zone, why was it required to stipulate that it would not impose or collect custom-house tolls, tonnage, anchorage, light-house, wharf, pilot, or quarantine dues or any other charges or taxes of any kind upon the cargo, officers, crew, or passengers of ships entering the canal? If the Republic of Panama is the sovereignty exercising jurisdiction over foreign commerce within the zone, why was the exception respecting tolls and charges for the use of the canal and other works made in favor of the United States?

The stipulations of said Article IX respecting the exercise of authority by the Republic of Panama are as follows:

The Republic of Panama agrees that the towns of Panama and Colon shall be free for all time so that there shall not be imposed or collected custom-house tolls, tonnage, anchorage, light-house, wharf, pilot, or quarantine dues or any other charges or taxes of any kind upon any vessel issuing or passing through the canal, or belonging to or employed by the United States, directly or indirectly, in connection with the construction, maintenance, operation, sanitation, and protection of the main canal, or auxiliary works, or upon the cargo, officers, crew, or passengers of any such vessels, except tolls and charges imposed by the Republic of Panama upon merchandise destined to be introduced for the consumption of the rest of the Republic of Panama, and upon vessels touching at the ports of Colon and Panama and which do not cross the canal.

The expression "the rest of the Republic of Panama" must be held to refer to that portion of the territory of the Republic as existing at the time the treaty was negotiated, lying outside the boundaries of the proposed Canal Zone, unless it is insisted that it refers to that portion of the Republic which is not included in the towns of Colon and Panama, a contention that would hardly find favor with the

authorities of the Republic. Why this exception in favor of the Republic of Panama if that Government possesses the right to regulate foreign commerce with the territory of the zone?

Article IX contains the further provision :

The Government of the Republic of Panama shall have the right to establish in such ports (the ports at either entrance of the canal) and in the towns of Panama and Colon such houses and guards as it may deem necessary to collect duties on importations destined to other portions of Panama, and to prevent contraband trade.

Why this provision, if the right existed? For the proper understanding of Article X it is necessary to bear in mind that the French Canal Company owned and the United States purchased from it a large amount of real estate situated in the towns of Colon and Panama, which towns are subject to the sovereignty of the Republic of Panama. Among other pieces of property, the canal office building, a large structure in the center of the town of Panama, the railroad station and terminals at Colon and Panama, the large piers in the harbor at Colon, the steamships, tugs, and other water craft belonging to the Panama Railroad, and the canal company's warehouses filled with machinery, materials, and supplies.

Practically all the employees working in and around these structures, and many other employees of the government of the zone, the Panama Railroad, and the canal-construction department reside in Colon and Panama. To meet this situation, the treaty provides as follows:

ARTICLE X. The Republic of Panama agrees that there shall not be imposed any taxes, national, municipal, departmental, or of any other class, upon the canal, the railways and auxiliary works, tugs and other vessels employed in the service of the canal, storehouses, workshops, offices, quarters for laborers, factories of all kinds, warehouses, wharves, machinery and other works, property and effects appertaining to the canal or railroad or auxiliary works, or their officers or employees, situated within the cities of Panama and Colon, and that there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the canal and railroad and auxiliary works.

Attention is directed to the fact that by the foregoing article the Republic of Panama foregoes the right to impose "any taxes, national, municipal, or departmental," on the property of the United States and its employees situated in the cities of Panama and Colon. If it had been contemplated that the Republic of Panama retained sovereign rights in the zone, or was at liberty to exercise those rights in that territory, the United States would certainly have required the same exemptions for the large amount of its property in the zone as it required for its property in the cities of Panama and Colon.

Perhaps no more complete refutation of the claims advanced by the Republic of Panama is necessary than to propound the inquiry, Is the Republic of Panama authorized to impose national, municipal, and departmental taxes on the property of the United States situated in the Canal Zone?

So well understood was it that the exercise of sovereign powers by the Republic of Panama was to be confined to the territory remaining to the Republic that in at least three articles referring to such exercise of power the territory of the Republic is not mentioned, although manifestly no other territory was under consideration.

The articles referred to are X, XII, and XIII.

Article X provides "that there shall not be imposed contributions or charges of a personal character of any kind upon officers, employees, laborers, and other individuals in the service of the canal and railroad and auxiliary works."

Article XII provides:

The Government of the Republic of Panama shall permit the immigration and free access to the lands and workshops of the canal and its auxiliary works of all employees and workmen of whatever nationality under contract to work upon or seeking employment upon or in anywise connected with the said canal and its auxiliary works, with their respective families, and all such persons shall be free and exempt from the military service of the Republic of Panama.

It is perfectly plain that these stipulations relate to the exercise of governmental authority in the territory outside of the Canal Zone.

Let it be supposed that this treaty did not contain the provision "all such persons shall be free and exempt from the military service of the Republic of Panama." Would anyone contend after reading Article III of the treaty that a citizen of the United States employed on the canal and residing in the zone owed such temporary allegiance to the Republic of Panama as to be liable to military service for that Government?

Article XIII must also be considered as relating to the territory of the Republic of Panama. That article provides that "the United States may import (pass through the territory of the Republic) into the zone and auxiliary lands, free of customs duties, imports, taxes, or other charges, and without any restrictions," certain designated articles, respecting which further provision is made as follows:

If any such articles are disposed of for use outside of the zone and auxiliary lands granted to the United States and within the territory of the Republic, they shall be subject to the same import or other duties as like articles imported under the laws of the Republic of Panama.

Manifestly it is not until the goods are "outside the zone" and "within the territory of the Republic" that they are subject to "import or other duties under the laws of the Republic of Panama."

The Panamanian authorities insist that it is by virtue of Article XIII that the property of the United States acquires the right of free entry into the zone. Such contention is not warranted. Said article is intended to give the right of free transit across the territory of the Republic of Panama for goods belonging to the United States. The right of the United States to take its property into the zone results from the provisions of Article III. The construction contended for by Panama makes Article XIII contradict, if not nullify, Article III, for by the terms of Article III the Republic of Panama grants to the United States "all the rights, power, and authority" of a sovereign "to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority" in the Canal Zone.

When due consideration is given Article III it is apparent that Article XIII relates to the exercise of sovereign powers by the Republic of Panama in territory wherein such exercise is contemplated by the treaty, to wit, the territory of the Republic.

Under the construction of Article XIII contended for by Panama, the right of that Republic to tax the goods in question depends upon the ownership of the property without regard to the place of final

destination. If the goods are the property of the United States they enter free and remain exempt from tariff imports, so long as they continue to be the property of the United States; if, however, the United States parts with the ownership the sovereignty of Panama may impose on said goods the customs duties prescribed by the laws of that Republic.

If the Republic of Panama is authorized to exercise sovereign powers in the Canal Zone, and the sovereign right to impose customs duties is restrained only by the fact of ownership by the United States, it would follow that if the United States transferred the ownership of property deposited in the Canal Zone such property would be subject to said right, whether it remained in the zone or not. But said Article XIII expressly declares that the right to impose customs duties on such property is to be exercised in the event only that "such articles are disposed of for the use outside the zone and auxiliary lands granted the United States and within the territory of the Republic."

Clearly the exercise by the Republic of Panama of the sovereign right to impose customs duties on goods of the character under consideration is dependent upon two facts: First, that the goods are owned by some one other than the Government of the United States; second, that the goods are to be used outside the zone and within the territory of the Republic of Panama by some one other than the United States.

A careful examination of the provisions of Article XIII discloses that they combine definite description of specific articles and indefinite classification of property in general.

The article under consideration (XIII) reads as follows:

The United States may import, at any time, into the zone and auxiliary lands, free of customs duties, imports, taxes, or other charges, and without any restrictions, any and all vessels, dredges, engines, cars, machinery, tools, explosives, materials, supplies and other articles necessary and convenient in the construction, maintenance, operation, sanitation, and protection of the canal and auxiliary works, and all provisions, medicines, clothing, supplies, and other things necessary and convenient for the officers, employees, workmen, and laborers in the service and employ of the United States and for their families.

Read by the light of contemporaneous history, it is difficult to see how this article can be considered as relating to the exercise of authority anywhere except in the territory of the Republic of Panama.

That the grant accomplished by the treaty was a grant of land and sovereign right thereover, and not a mere concession or privilege, is shown by the granting clauses and also by the references to the grant in subsequent clauses of the treaty—for instance, Article XIII, employs the expression "outside the zone and auxiliary lands granted to the United States and within the territory of the Republic."

In support of the contention advanced by the Government of the Republic of Panama, you quote Article IV of the proposed treaty with Colombia. The first stipulation of that article is as follows:

The rights and privileges granted by the terms of this convention shall not affect the sovereignty of the Republic of Colombia over the territory within whose boundaries such rights and privileges are to be exercised.

No such provision as the foregoing appears in the convention between the United States and the Republic of Panama; on the contrary, Article III of the convention with Panama provides that:

The Republic of Panama grants to the United States all the rights, powers, and authority within the zone * * * which the United States would possess and exercise if it were the sovereign * * * to the entire exclusion of the exercise by the Republic of Panama of any such sovereign rights, power, or authority.

This stipulation is plain and its purpose manifest. If the powers of sovereignty are to be exercised in that territory the right to exercise them belongs to the United States.

Permit me to call your attention to certain official acts of the Government of the Republic of Panama which evidence that the legislative, executive, and judicial branches of that Government have heretofore accepted and acted upon the theory that the convention of November 18, 1903, conveyed the territory of the canal zone and sovereign jurisdiction thereover to the United States.

The constitution of the Republic of Panama was formulated during the time the treaty between the United States and Panama was pending before the Senate of the United States. The constitution was adopted on February 13, and proclaimed February 15, 1904. The Senate recommended the ratification of the treaty on February 23, and the President carried out the recommendation on February 25, 1904.

The constitution of Panama described the boundaries of that Republic as follows:

Article 3. The territory of the Republic is composed of all the territory from which the State of Panama was formed by the amendment to the Granada constitution of 1853 * * * together with its islands and of the continental and insular territory. * * * The territory of the Republic remains subject to the jurisdictional limitations stipulated or which may be stipulated in public treaties concluded with the United States of North America for the construction, maintenance, or sanitation of any means of interoceanic transit.

What is meant by "jurisdictional limitations" if it were intended that the pending treaty should convey nothing but rights of property? Why was this limitation placed upon the extent of the national domain if the United States was to be a mere concessionaire, subject to the jurisdiction of the Republic of Panama?

The legislative branch of the Government of the Republic of Panama has recognized the right of the United States to exercise the sovereign authority to regulate foreign commerce with the territory of the zone, and has enacted two statutes with reference to such exercise of authority by the United States.

Law No. 65, enacted by the National Assembly of Panama on June 6, 1904, "conferring certain authority upon the Executive," is as follows:

Article 1. Authority is given to the Executive to reduce, as may be convenient, those duties, the collection of which, at the rates established by the present laws, ordinances, or decrees, would be prejudicial to commerce and to the public because of great differences there might be between them and those established by the United States Government for the canal zone.

Article 2. Authority is also given to the Executive to enter into an agreement with the Government of the United States respecting the rates of duties to be collected in the canal zone and the cities of Panama and Colon; provided, however, that the said duties shall be uniform throughout the territory named, which agreement shall remain in force until annulled by the national assembly.

Your attention is directed to the fact that the foregoing act of the National Assembly of Panama was enacted eighteen days prior to the date of the order of the President of the United States opening the territory of the canal zone to commerce and establishing customs houses therein.

Law No. 88, enacted by the National Assembly of Panama, on July 16, 1904, provides as follows:

Article 23. The Executive is authorized to reduce the slaughterhouse duty on cattle killed in the districts of Panama, Colon, and Bocas del Toro, when the fiscal system to be introduced into the zone ceded to the United States, in his opinion, requires it.

It can not escape observation that the legislative branch of the Government of the Republic of Panama by legislative enactment declared the zone to be "ceded to the United States" and dealt with it accordingly.

The executive branch of the Government of the Republic of Panama, also, has recognized the right of the United States to exercise the powers of sovereignty in the canal zone. On July 17, 1904, his excellency, the President of that Republic, officially advised the governor of the canal zone, as follows:

REPUBLIC OF PANAMA, PRESIDENCIA,
Panama, July 17, 1904.

Maj. Gen. GEO. W. DAVIS,
Governor of the Canal Zone, Present.

DEAR SIR: I have the pleasure to inform you that I am fully authorized by law, recently enacted by the National Assembly, to reduce or increase our duties and taxes accordingly with the rates which your Government shall establish at the canal zone.

Yours truly,

(Signed) M. AMADOR GUERRERO.

To carry out the suggestion contained in the foregoing letter, and to enable the executive branch of the Government of the Republic of Panama to pursue the course obviously intended and provided for by the National Assembly of Panama, it was necessary for the United States to make known what duties and taxes would be levied and collected in the canal zone; whereupon the President of the United States directed the issuance of the order of June 24, 1904, of which complaint is now made.

Conclusive as to the right of the United States to exercise sovereign jurisdiction in the zone, is the fact that upon the arrival of Maj. Gen. George W. Davis, whom the President had appointed governor of the canal zone, and delegated to administer the government of said territory, all the officials of the Republic of Panama ceased to exercise any authority respecting the administration of government in that territory; the soldiers and police of that Republic stationed in the territory were withdrawn; the officers of all branches of government stationed in the territory surrendered their offices and were superseded by appointees of the United States.

The withdrawal from the zone of the officials of the Republic of Panama was pursuant to an order issued by the secretary of state and foreign affairs of that Republic, upon the signing of the agreement respecting the boundary line between the zone and the cities of Colon and Panama. The order was dated June 17, 1904, and reads as follows:

GOVERNOR, *Colon*:

Districts of railway line are comprised within canal zone, and from to-day authorities and public employees in said zone cease in their functions as members of the Government of the Panama Republic, according to convention signed yesterday. Advise you for your information.

Attentive servant,

TOMAS ARIAS.

Upon the assumption of governmental authority over the zone by the United States it became important that the line of separation between the zone and the Republic of Panama, especially that separating the zone from the towns of Panama and Colon, should be ascertained and declared. Major General Davis, governor of the zone, on behalf of the United States, and his excellency, Tomas Arias, secretary of government and foreign affairs, and Ramon Valdez, attorney-general of the Republic of Panama, on behalf of that Government, entered into and signed a provisional agreement as to such demarcation of boundaries on June 15, 1904.

This agreement was duly published in the *Gaceta Oficial* of the Republic of Panama. The following extracts are quoted from that publication:

Whereas * * * it is necessary that the extent and boundaries of the territory ceded to the Government of the United States by the Republic of Panama under the terms and provisions of said convention shall be provisionally agreed upon.

Section 1. The limits of the canal zone, including lands under water and islands, ceded * * * delivery of which lands, waters, and islands has been made by Panama and possession of which has been taken by the United States are indicated and shown on the attached map * * * and said indicated boundary, or line of division, between the territory ceded by the Republic of Panama to the United States for canal purposes.

* * * * *

That the entrance channel of the Panama Canal through said harbor of Colon * * * is hereby declared to be a part of the canal zone, under the exclusive jurisdiction of the United States.

It is manifest that at the time this agreement was signed, both the secretary of state and the attorney-general of the Republic of Panama considered that the rights of the United States in the canal zone were something more than those of a private concessionaire or lessee.

The judicial branch of the Government of the Republic of Panama has determined the question as to which Government possesses sovereignty over the canal zone in favor of the United States. The question was presented by numerous cases of criminal offenses committed in the territory of the zone since the transfer. The courts of Panama held that they are without jurisdiction and transmitted the papers to the foreign office of their Government for transmission of the case and the person of the accused to the zone authorities. From the correspondence in a large number of instances the following are selected:

Etienne Lamour was arrested, charged with the offense of assault and battery, committed at Emperador on June 5, 1904. The papers were transmitted to the second circuit court, one of the courts of the Republic of Panama, and submitted to the fiscal for report. The fiscal recommended that, as Emperador is situated in the canal zone, the court lacked jurisdiction, and therefore the papers should

be transmitted to the secretary of justice for submission to the proper American authorities. The papers were so transmitted to the secretary of justice, who returned them to the court, with a statement that the question be decided by the court "as the transfer of sovereignty in the districts of the railroad line has been officially communicated."

The letter of the secretary of justice is as follows:

REPUBLIC OF PANAMA, NATIONAL EXECUTIVE POWER,
DEPARTMENT OF PUBLIC INSTRUCTION AND JUSTICE,
DIVISION OF JUSTICE, No. 423,
Panama, June 30, 1904.

To the second circuit judge in criminal matters, city:

I return to you the proceedings and papers you sent to this office with note No. 275 of the 28th instant, tending to show that Etienne Lamour is guilty of the offense of assault and battery.

This office abstains from deciding what should be done with the said proceedings as it considers that you are the one that should do so, as the transfer of sovereignty in the districts of the railroad line has been officially communicated.

God preserve you.

JULIO I. FABREGA.

THIRD CIRCUIT COURT,
Panama, July 12, 1904.

As by reason of the delivery of the canal zone, the jurisdiction which the judges of this circuit exercised over the districts of Emperador and Gorgona has ceased, the undersigned can not continue to take cognizance of this matter. Therefore, let these proceedings be sent to the secretary of government, through the secretary of public instruction and justice, in order that he may transmit them to the North American authority competent to take cognizance of the case in question.

Let it be notified and recorded.

ALFONSO FABREGA, *Judge.*
RAFAEL BENITEZ, *Secretary.*

Another case proceeded as follows:

Victor Guillot, a French citizen, was accused by his employer of stealing at Culebra, on May 5, \$65 gold, \$4 in American bank notes, and about 10 pesos in silver; preliminary investigation was conducted by the police inspector of Culebra, and showed that the money was stolen from the pockets of the complainant by cutting through them while he was asleep. The papers were transmitted by the police inspector to the first circuit court for criminal matters of the Republic of Panama, and thence to the second circuit court for criminal matters; they were referred to the fiscal of the latter court, who reported that the hamlet of Culebra was situated within the provisional demarcation of the canal zone and that the circuit judge lacked jurisdiction, and that the papers should be transmitted to the secretary of public instruction and justice for submission to the proper American authorities. The papers were transmitted by the circuit judge to superior judge for decision. The fiscal of the superior court recommended the transmission of the papers to the department of foreign affairs and that the accused be held subject to said secretary's orders, which recommendation was approved by the superior judge.

The secretary of government and foreign affairs for the Republic

of Panama transmitted the papers to the governor of the canal zone in a communication reading as follows:

DEPARTMENT OF GOVERNMENT AND FOREIGN AFFAIRS,
Panama, July 9, 1904.

Mr. GOVERNOR: I have the honor to transmit to you herewith the record of the preliminary proceedings instituted against Victor Guillot for robbery committed within the jurisdiction of the canal zone, with the request that you issue the proper orders to have these preliminary proceedings duly continued.

I have to inform you, for such action as you may deem proper, that the accused Guillot is confined in the jail of this city.

With expressions of the highest consideration, I have the honor to be, your obedient servant,

TOMAS ARIAS.

Gen. GEORGE W. DAVIS,
Governor of the Canal Zone, City.

Raimundo Lizano was brought before the superior court at Panama, charged with the crime of theft, perpetrated in the territory of the canal zone. The case was sent to the first circuit court for criminal matters. The decision of that court was as follows:

THIRD CIRCUIT COURT,
Panama, July 22, 1904.

Whereas the crime involved in these proceedings was committed on territory of the canal zone, where the undersigned has no jurisdiction, with the concurrence of the fiscal it is decided that these proceedings be sent to the secretary of state for transmission to the proper person.

Let it be communicated and recorded.

ALFONSO FABREGA, *Judge.*
RAFAEL BENITEZ, *Secretary.*

The United States, at all times since the treaty was concluded, has acted upon the theory that it had secured in and to the canal zone the exclusive jurisdiction to exercise sovereign rights, power, and authority.

On April 28, 1904, Congress enacted an act entitled "An act to provide for the temporary government of the canal zone at Panama, the protection of the canal works, and for other purposes."

Said act provides as follows:

SEC. 2. * * * all the military, civil, and judicial powers, as well as the power to make all rules and regulation necessary for the government of the canal zone and all the rights, powers, and authority granted by the terms of such treaty to the United States, shall be vested in such person or persons and shall be exercised in such manner as the President shall direct for the government of said zone. * * *

Pursuant to the provision of said act, the President directed that all the governmental power in and over said canal zone should be vested in the Isthmian Canal Commission, to be exercised under the supervision and direction of the Secretary of War.

The power of legislation respecting the government of the zone was conferred upon the commission.

Maj. Gen. George W. Davis, U. S. Army, was appointed governor of the canal zone by the President and ordered to proceed at once to the Isthmus of Panama, and in the name of the President and for and on behalf of the United States, as the chief executive in the canal zone, to see that the laws are faithfully executed, and maintain possession of said territory; he was also vested with pardoning power.

The President further designated what laws should be continued

in force in the territory of the zone, by what officials said laws should be administered, and provided for the temporary exercise of the judicial power.

The Isthmian Canal Commission, by the exercise of the legislative power vested in them, enacted laws for the organization and establishment of the executive and judicial branches of the government of the canal zone, the establishment and government of municipal subdivisions, and for the collection of revenues, a postal service, the sanitation of the Isthmus, quarantine of the ports, policing the zone, a penal code, and a code of criminal procedure, besides other enactments required for the proper administration of the government in the zone.

In full confidence that it had secured the right to exercise all powers of sovereignty in the Zone, the United States paid to the Republic of Panama \$10,000,000 in gold, and to the French Canal Company \$40,000,000. The Congress appropriated \$150,000,000 to complete the canal. The President appointed the Isthmian Canal Commission, and the work of construction was immediately entered upon. Agencies of the Government have been established in the Zone, and the necessities of the social organism provided at the expense of the United States.

I note your reference to the exercise of sovereign powers by the United States over the harbors constituting the Atlantic and Pacific entrances to the canal.

As understood by me, your contention is that whatever may be the authority of the United States in other parts of the Canal Zone this Government is without authority at these two points (Cristobal and La Boca) for the reason that these points are within the harbors adjacent to the cities of Colon and Panama, and therefore excluded from the grant made by Article II of the convention.

For convenient reference, I quote a part of said article:

The Republic of Panama grants to the United States in perpetuity the use, occupation, and control of a zone of land and land under water for the construction, maintenance, operation, sanitation, and protection of said canal of the width of 10 miles extending to the distance of 5 miles on each side of the center line of the route of the canal to be constructed; the said zone beginning in the Caribbean Sea 3 marine miles from mean low-water mark and extending to and across the Isthmus of Panama into the Pacific Ocean to a distance of 3 miles from mean low-water mark, with the proviso that the cities of Panama and Colon, and harbors adjacent to said cities, which are included within the boundaries of the zone above described, shall not be included within this grant.

A strip of land 5 miles wide on either side of the entrances to the canal would include all of the city of Colon and substantially all of the city of Panama. The Republic of Panama desires to retain sovereign jurisdiction over the inhabited portions of the territory of these municipalities, hence the exemption in the grant. In this connection attention is called to the fact that if the Republic of Panama intended to retain the right to exercise sovereign jurisdiction over the entire Zone, this exemption would have been unnecessary.

You will recall that when this convention was being considered by the United States Senate the opposition to its confirmation suggested the possibility that the Republic of Panama might advance, thereafter, the contention now presented. Thereupon, the matter was brought to the attention of Mr. Bunau-Varilla, the duly accredited

representative of the Republic of Panama, by whom said convention was negotiated.

In response, the representative of the Republic of Panama, by a letter dated January 19, 1904, advised the United States as follows:

I do not hesitate, sir, to give you in my name, and in the name of my Government, the following explanations on the meaning of the clauses which have been deemed not sufficiently outlined by the committee of the Senate:

First. Harbors adjacent to the cities of Panama and Colon: The harbors adjacent to the cities of Panama and Colon (adjacent comes from *ad jacens*—lying at the side of) are, in my understanding, the harbors in contact of said cities and putting them into communication with the sea.

These harbors are completely separated from and independent of the harbors of the canal, or the harbors situated at its two entrances and which ships going through the canal have to use.

The harbor at the Colon end of the canal is an interior harbor, made by dredging in the bay of Fox River, adjacent to the city of Christopher Columbus, and protected by a breakwater.

The harbor adjacent to the city of Colon is constituted by a series of wharves built in the open sea without any artificial shelter.

A ship lying in the Colon Harbor and leaving it to go into the canal harbor will have first to go into the open sea and then pass the breakwater which protects the entrance of the canal harbor.

At Panama the canal harbor is also an interior harbor situated at La Boca, several miles from the wharf which forms the Panama Harbor, a wharf built in open sea like those of Colon.

The very same thing may be said of the Panama as of the Colon harbors. Both are local harbors, strictly limited to the service of the respective townships and out of the way of the canal and its approaches to its entrance.

There is not a shadow of probability that the harbor adjacent either to Panama or Colon will ever be used for anything but for the local trade of the town, and, therefore, the United States will never necessitate to do anything in relation to the canal with any part of them.

The administration of the Government of Panama, being advised by Bunau-Varilla, of this letter, wrote to him as follows:

YOUR EXCELLENCY: Most opportune indeed was your excellency's communication of January 19 to the Secretary of State, dissipating, as it did, the new obstacles raised to prevent the prompt approval of the treaty by the American Senate.

All the matters which your excellency mentions were at the same time discussed with the honorable Mr. Buchanan.

Etc.,

(Signed)

F. V. DE LA ESPRIELLA.

The foregoing correspondence being brought to the attention of the secretary of government and foreign affairs for the Government of Panama, he replied as follows:

OFFICE OF THE SECRETARY OF THE GOVERNMENT
AND FOREIGN RELATIONS,
DEPARTMENT OF FOREIGN RELATIONS,
Panama, August 23, 1904.

SEÑOR MINISTER: I have before me your excellency's attentive communication, No. 23, of the 16th instant, wherein you refer to the letter which Mr. Bunau-Varilla addressed to Mr. Hay, Secretary of State of the United States, on the 19th of January of the present year, with regard to the interpretation of certain clauses in the treaty of November 18, 1903, a copy of which your excellency was good enough to send me, and the existence of which I had forgotten. As was natural, I ordered that a search be made of the archives in this office for the missing document, and it was found, the original of which your excellency informs me will be presented to the minister plenipotentiary and envoy extraordinary of Panama in Washington.

The authorities of the Canal Zone report that for a limited period following the promulgation of the President's order establishing

ports of entry at the harbors at the entrances of the canal, said orders were acquiesced in by the Republic of Panama without protest. Several vessels were cleared from the port of Panama for the port of Ancon (La Boca) in the Canal Zone, in which port the vessels were received by the American authorities.

In this connection attention is called to the following correspondence between the owners of the steamship *Loa* and the chief of the national customs service of Panama :

PANAMA, July 2, 1904.

The Captain of the Port, Chief of the National Customs Service, Panama:

Please certify below whether the steamship *Loa*, which entered this port on the 26th of June last, was authorized to proceed to the La Boca wharf.

Yours, etc.,

H. EHRMAN Co.

HEADQUARTERS OF THE NATIONAL CUSTOMS SERVICE,
Panama, July 2, 1904.

The writer, chief of the national customs service of Panama, certifies :

That the Chilean steamship *Loa* was duly received at 9 a. m., on the 26th ultimo, and was authorized to discharge and receive cargo where most convenient to do so. With regard to the observance of formalities in order to proceed to La Boca this is a matter which pertains exclusively to the governor of the Zone, because that is American property.

As the boat was received by the Panamanian authorities, it was natural that in order to enter and tie alongside of the wharves of the said port of La Boca it was subject to comply with the formalities required by the authorities of that place (La Boca).

[SEAL.]

LEONIDES PRETEL.

The United States learns with regret that the officials of the Republic of Panama are apprehensive that the course adopted by the United States will substantially reduce the revenues of that Republic. Permit me to express the belief that future developments will show such fear to be without foundation. The construction of the canal will cause a large increase in the population of the Zone and of the Republic. Vast expenditures of money will be made by the Commission in canal construction, which will be expended largely in the commercial centers of the country, to-wit, Panama and Colon. This will occasion increased importations, with resulting increase of revenue to the Government exercising sovereign jurisdiction over those cities.

The United States has sought at all times to secure and preserve for the Republic of Panama sufficient means for adequate revenues. In this connection permit me to call your attention to the fact that the proposed treaty with Colombia contained the following provision (Article VIII) :

The ports leading to the canal, including Panama and Colon, also shall be free to the commerce of the world, and no duties or taxes shall be imposed, except upon merchandise to be introduced for the consumption of the rest of the Republic of Colombia, of the Department of Panama, and upon vessels touching at the ports of Colon and Panama, and which do not cross the canal.

Under such provision merchandise imported into the ports of Colon and Panama for consumption within those municipalities would have entered free of duty.

The convention between the Republic of Panama and the United States permits the Republic of Panama to impose customs duties on merchandise imported into those cities for consumption therein, as well as elsewhere in the Republic.

Your attention is directed to the fact that, under the rule of law established by the United States Supreme Court, goods from the United States were entitled to free entry into the zone as soon as the sovereignty of the United States permanently attached to the territory. (Vide *Dooley v. United States*, 183 U. S., 151; *Cross v. Harrison*, 16 Howard, 164.)

It was recognized that free entry into the zone of goods from the United States might work a hardship on the tradespeople of the near-by cities of Panama and Colon, as the latter were obliged to pay customs duties to the Republic of Panama. To meet this contingency the order of June 24, 1904, regulating commerce with the zone, provides as follows:

The governor of the canal zone is authorized to enter into and carry out an agreement with the President of the Republic of Panama for cooperation between the customs service of the canal zone and that of the Republic of Panama to protect the customs revenues of both governments and to prevent frauds and smuggling.

The governor of the canal zone is hereby authorized to enter upon negotiations and make a tentative agreement with the President of the Republic of Panama respecting reciprocal trade relations between the territory and inhabitants of the canal zone and appurtenant territory and the Republic of Panama; also a readjustment of the customs duties and tariff regulations, so as to secure uniformity of rates and privileges and avoid the disadvantages resulting from different schedules, duties, and administrative measures in limited territory subject to the same conditions and not separated by natural obstacles. The governor shall report as to such negotiations and proposed agreement to the chairman of the Isthmian Canal Commission, for submission and consideration by the Commission, and such action by competent authority as may be necessary to render said agreement effective in the canal zone.

Admiral J. G. Walker, chairman Isthmian Canal Commission, advises this Department that although several attempts have been made by the authorities of the canal zone to initiate negotiations contemplated by the foregoing provisions of said order and by the provisions of laws Nos. 65 and 88 of the National Assembly of Panama, the authorities of the Republic of Panama decline to enter upon such negotiations. Permit me to express the hope that the Government of Panama will recognize the desirability of taking up this matter with the governor of the canal zone and ascertaining if a satisfactory solution of the existing discrepancies in customs duties and administration is attainable. The Government of the United States sincerely desires to effect such an arrangement on terms both just and generous to the Republic of Panama.

Accept, etc.,

JOHN HAY.

Mr. Loomis to Mr. Barrett.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 17, 1904.

(Mr. Loomis informs Mr. Barrett that the Secretary of War will be the guests of the Panama Canal Commission and of this Government, and that the fleet will remain at Panama. Instructs him to inform the President of Panama.)

No. 71 B.]

AMERICAN LEGATION,
Panama, December 6, 1904.

SIR: I have the honor to report as follows in regard to the visit of the Secretary of War and his party.

* * * * *

It gives me great pleasure to state that the mission of the Secretary of War to Panama has been successful. The results he has obtained all seem to be for the best interests alike of Panama and the United States. Inclosed are copies, respectively, of the address delivered by Secretary Taft to the President upon his arrival here, of the addresses of himself and others delivered at the Government banquet last Thursday night, December 1, and of the agreement reached by him with the Panama officials and promulgated in the form of an order. Last night the Secretary of War made another address before a great crowd of people gathered in the public plaza, which created a profound and favorable impression, but I have not been able to obtain a copy of it for this report. At the second official dinner given by me at this legation on Saturday night he made an informal address that was characterized with words of deep sympathy and cordiality for the welfare of this Republic, and which was answered in a similar vein toward the United States by Vice-President Pablo Arosemena and other prominent Panama statesmen.

* * * * *

The Secretary of War and Mrs. Taft have made themselves most popular with everybody in Panama by their kindness and cordiality toward every one they have met, and by their hearty participation in all festivities and social events arranged in their honor.

The method of procedure followed by the Secretary in conducting the negotiations has been to lay each day before the Panama officials the proposed order to be issued by him, which in turn the Panama officials would consider and return to him; he would then lay it before Admiral Walker, General Davis, Judge Magoon, and myself in conference and return it with further amendments, suggestions, or approval of the Panama amendments. Mr. Nelson W. Cromwell, assisted by Mr. Farnham, has acted as an intermediary between the two Governments, and as an adviser of Panama. Mr. Cromwell's work in this respect seems to have been of great assistance in bringing about a mutually satisfactory adjustment.

The legation has done everything in its power to make the visit of the Secretary a success in all respects, and, both by arrangements before he arrived and by close attention to the necessities of the situation during his stay, has been able to carry through the programme with hardly a change and with no serious delays or hindrances. The Secretary of War has been good enough especially to compliment the legation on what it has done to facilitate his labors.

* * * * *

I have, etc.,

JOHN BARRETT.

[Inclosure 1.]

Remarks of Secretary Taft to President Amador, Sunday, November 27, 1904.

MR. PRESIDENT: It gives me great pleasure to carry to you the greeting of the President of the United States; to congratulate you and the Republic of Panama on such an auspicious beginning of a long and prosperous life; to congratulate you on the fact that this life is to be a peaceable life; to be a life of a Government which shall know no changes, except those according to the rules of law and the constitution which you have adopted; to assure you that in securing the continuance of this life of ordered law and liberty the Government of the United States will render every needed assistance under your constitution and the treaty between the Governments; to say to you that the Government of the United States has no intention in being in this Isthmus to do other than to build a canal which shall connect the two oceans and thus bring great benefit, not only to your country, but to the United States and mankind. It has no desire to exercise any power except that which it deems necessary under the treaty to insure the building, maintenance, and protection of the canal. I hope in the next two or three days to confer with you upon these matters, with respect to which there has arisen some discussion, and hope to reach such a solution as will be honorable and useful both to the Republic of Panama and to the Republic of the United States. I have great honor, Mr. President, in conveying to you the personal greetings of the President of the United States, and his good will, both to yourself and Mrs. Amador, and to the people of the Republic of Panama.

[Inclosure 2.]

Grand banquet given by Government—Secretary Taft the honored guest of the Republic—Distinguished Americans and prominent Panamans at festal board.

The Republic of Panama extended its official hospitality to the Hon. William H. Taft, Secretary of War of the United States, at a banquet given by President Amador and his cabinet to the distinguished visitor at the Hotel Central, Thursday evening, December 1.

Never before in the history of the Republic has there been an affair of the kind of such imposing character as the repast given to Secretary Taft. The large dining hall of the hotel was transformed by tastefully-hung flags of the Republic of Panama and of the United States, which at regular intervals were supplemented by decorations of palms and festoons of native flowers. The three long tables, as well as the table for the guests of honor, were resplendent with beautiful flowers, cut glass, and ornamental candelabra. The Messrs. Ehrman and the committee in charge well deserve the praise which the appearance of the banquet hall elicited from all present.

The Republican band and a local stringed orchestra, which were stationed in an adjoining room, furnished the music during the dinner.

Besides Secretary Taft, there were present as distinguished guests of the occasion Mgr. J. Junjuito, the bishop of Panama; Hon. William Nelson Cromwell, who is general counsel for the Republic of Panama; Rear-Admiral John Walker, chairman of the Isthmian Canal Commission; Judge Magoon, counsel for the canal commission; Minister Barrett; Chief Engineer Wallace; the secretary of state of the Republic of Panama, Don Santiago de la Guardia; Dr. Pablo Arosemena, Vice-President of the Republic; the French minister, and other members of the diplomatic and consular corps.

At the other tables were seated about 150 guests, comprising the leading men in the commercial and financial life of Panama.

It is principally to these gentlemen, in whose hands rest nearly all the business interests of the Republic, that the visit of Secretary Taft is of the utmost importance, for it is upon the result of his action with respect to the questions which he came to Panama to settle that their prosperity and commercial success depend.

They knew that ever since his arrival the honorable Secretary of War had been conferring with the President of the Republic and his advisors, Messrs. Cromwell and Ricardo Arias and Ministers Guardia and Obaldía, and it was

expected that at the banquet Secretary Taft would be able to give the anxiously looked for assurance that the troubles which existed to the detriment of the business prosperity of the Republic had been cleared away.

After a most excellent menu had been disposed of, and coffee and cigars served, Secretary of State Santiago de la Guardia arose and made the speech of welcome. He spoke in Spanish, slowly and impressively, welcoming the distinguished guest of the Republic. He said:

"MR. SECRETARY: In dedicating this banquet to your excellency, on behalf of the Panaman people and the Chief Magistrate of the nation, permit me, your excellency, to begin by publicly manifesting the joy that we have all experienced at the great honor with which we have been favored by his excellency, President Roosevelt, in designating such persona grata as your excellency, and who at present holds the elevated position of Secretary of War of the United States of America, to pay us this visit. This selection, so significant and so transcendental, which from the outset has been of happy augury for our fatherland your excellency, on your part, had the refined perception to embellish with the companionship of that noble dame with whom you share your illustrious name; and this pleasing circumstance enlivened the hopes which we cherished that yonder gigantic and portentous people, presided over by the great Roosevelt, and with the cooperation of men of such eminence, among which figure one Hay and one Taft, which is astonishing the universe, never would have sacrificed the interests of a people diminutive in numbers and in volume, but also great for its generous aspirations and the benevolent spirit with which it views the universal welfare of which it is to be the theater.

"The Government of Panama, sir, has always had faith in that of your excellency and in the American people, side by side with whose interest ours can and should continue parallel but never opposed.

"The events which very soon will be known to the world will confirm my assertion; and of your excellency's visit to this country I am confident that only the most agreeable and imperishable recollections will remain.

"I offer this toast, gentlemen, for the American people, for President Roosevelt, who at present is as its symbol, as has just been demonstrated by the immense majority of his fellow citizens: for the eminent statesman, Mr. Hay, and with great pleasure and particularly for the person of Mr. Taft and his distinguished spouse."

When Secretary Taft arose to reply he was warmly applauded. His first words with respect to the treatment of Panama brought forth a storm of cheers and applause.

Secretary Taft said:

"MR. MINISTER, MR. PRESIDENT, AND GENTLEMEN CITIZENS OF THE REPUBLIC OF PANAMA:

"It is a great honor to be made the guest at such a beautiful banquet as this, attended by the President and the cabinet of the Republic of Panama, by the bishop of Panama, and by the cultured and educated gentlemen who represent the Republic of Panama at this board.

"This visit has been one of intense interest and of the pleasantest surprises to me; the truth is that the people of Panama, and the country of Panama, have not been done justice. [Applause.]

"And it is a pleasure for me to correct the impression which the slanderers of your country had made upon my mind, and I am sure, upon the minds of those who have not looked closely into the facts. [Applause.]

"Your history has been one of trial and misfortune down to the present; trial and misfortune, because there was a time in your history when your hopes were high, and when you saw before you the development of your resources, and the construction of a work which should make your country one of the most important upon the globe, and then you saw those hopes dashed to the ground. [Applause.] You had, if I might call it so, or what we would call it in the United States, a boom that burst, and you suffered the demoralization that comes from such a condition. I shall not go into the history of your politics; I wish to make no invidious charges against the countries or the confederations with which, for so long a time, your history was so intimately and, I may say, not altogether fortunately associated. [Applause.]

"But I congratulate you that circumstances have now arisen that enable you to carve out your own fortune, to make your country and its prosperity your own, and at the same time to call upon yourselves the responsibility for your future. [Applause.]

"Now you have assumed to organize a self-governing community; you have

said to the world, if I understand what you have said, that hereafter you propose to have liberty and law—well ordered liberty and tranquillity—that you propose to have a stable government. Now, stability of government is absolutely impossible unless there is implanted in the breasts of all your people who take part in the government as voters, profound respect for the law and the constitution which you yourselves have founded. [Applause.] You must have a government necessarily because it is a popular government by the majority, but a government in which the minority shall enjoy equal rights with the majority. A government in which the minority, upon the election by the majority, retires from the borders of the country in exile only to await the result of the next successful revolution, is not a government at all. [Applause.]

“It is a tyranny! You can have a despotism as complete by a majority of the people as by one man, and unless you respect the rights of each individual in your community you will have no government worth the supporting. [Applause.]

“Now I congratulate you on your auspicious beginning. I know that your history and experience in the past have been such that you do not propose that the government which you solemnly establish shall go down, because you may disagree with the personnel of it at one time, or with the policy of it at another. If it must depend upon election, my dear friends, it must depend upon honest election. [Applause.] If it is to be understood that the men in power can control the elections so that the vote of the people amounts to nothing, then you have a tyranny, and you have a government that is not by law, and it ought to go down. [Applause.]

“Now this Republic has, in my belief, a great future before it. It is stationed at the gateway of the Pacific. The development of the future of the world in the next fifty years is likely to be in the Pacific, Orient, and in the Tropics, and here you have the gateway to both. Your future is bound up and intimately associated with the future of the United States of America. [Applause.] It can not be that the great Republic of North America, interested as it is in the construction of this gateway, should not have an intense interest in the welfare of this country and of the people thereto; and you can count on the assistance of the Government of the United States in maintaining law and order in this community, and in carrying on every work of prosperity and peace that may be for your benefit. [Applause.]

“I can not tell you, my dear friends, the intense interest that is felt in every corner of the United States in the construction of the great work which the United States has here begun. It was my good fortune to address many audiences during the late Presidential campaign in many of the important States of the Union, and it was easy to determine the intensity of interest that there was on the part of every man in the community, and every woman in the community in this work which the Administration under President Roosevelt has begun, and which the Administration of President Roosevelt intends to carry on as far as possible in the four years toward its completion. [Applause.] You have here a State of 40,000 square miles and 300,000 people. You have not scratched the earth in this State; you have not developed its resources at all; you are apt to think that the little strip which you have turned over to the United States in which to build the canal is the kernel of your country. But the future will know that to be only a mere thread, but something which shall develop the rest of your country. Railroads must be built, and that railroad which has now proceeded so far toward completion as to reach down to the south boundary of Mexico, and which is to unite the two continents, must cross and make a junction with this gateway of the world.

“Now, under those circumstances, can it be that the State which is at the most prominent corner or cross earth, shall not enjoy the prosperity of that earth? Well, it will or it will not, according to the people of Panama. As they shall show themselves the lovers of stable government; as they shall show themselves industrious, enterprising, and prudent, so will they improve the tremendous advantage that they have in being in this center of the business of the earth. [Applause.]

“Now, it does not follow that because you are here this will necessarily be a prosperous country. Take the canal of Suez, and visit the towns along that canal, and you will see that it is possible to have a great canal and to have a very poor country at its side. But there they have a desert; here you have 40,000 square miles that will grow anything. In this Isthmus, too, you have mining capacity; you have cattle; you have things that go to make up the

wealth of any country, and I am sure that if these things are developed the dreams which you have of the future will be fully realized.

"And now, to the canal and what good the United States may directly do. First, it is a necessary result of the early construction in the building of the canal that you will have here a water power sufficient to give you power by electricity, sufficient to light your cities, sufficient to run many of your factories; that you will have, by virtue of the treaty, sewers; that you will have that which you need so much in the dry season here, good water; that you will not have that which in the past has so interfered with your growth, the reputation for bad sanitary arrangements, the reputation for having yellow fever and malaria at every turn. [Applause.]

"The truth is that I look forward in the near future to this work in Panama to demonstrate the possibility of living in the Tropics without endangering the health. Nobody can read now the statistics of the 400 marines who have been on this Isthmus for one year without saying that the charges which have been made against your climate are unfounded; that is, that they are unfounded if the people look after themselves as they should.

"And, now, I am aware that there is impatience; that the work of the canal is not done in a night. Well, the work of this canal is a tremendous work; it needs the full time so that mistakes shall not be made. But I say to you, with a certainty of knowledge upon the subject, that the American people intend that this canal shall be built, and that they will make any administration responsible for its building that does not meet that responsibility wince under the blow that the administration will receive at the ballot box. [Applause.]

"And, now, gentlemen, your distinguished secretary of state has been good enough to refer in complimentary terms to the mission upon which I have been sent by the President to this Republic. I need not go over the circumstances that seemed to make it necessary that he should give some evidence to you of his intense desire that the people of Panama should feel confidence in the purposes of the Government of the United States. [Applause.] I do not speak with too great assurance when I say that the conferences which I have been permitted to have with your distinguished President, your distinguished secretary of state, and others in the Government, have led to a point from which there is every reason to expect that a solution has been reached of all the difficulties which will be honorable to both countries alike. [Applause.] The negotiations have not reached that final and complete character that enables me to state what the result is, but I am hopeful that to-morrow or the next day they will have reached that state. [Applause.] I had cherished the hope that I might announce the complete solution to-night, but we must understand that important things take time, and they do not suit themselves always to social engagements. [Applause.]

"And, now, gentlemen, I can not speak too much of the personal features of the visit which I have been permitted to enjoy in your community. If Mrs. Taft and I shall survive the effect of your overwhelming kindness and hospitality we shall cherish this visit to Panama as one of the most pleasant episodes of our lives. [Applause.] The opportunity to associate with your distinguished President and his charming wife, and with the delightful gentlemen who form his cabinet, and those in the opposition, who do not form his cabinet [applause], and the ladies in and out, is a pleasure I can not exaggerate. I can not offer you, should you come to Washington, the hospitality that has been offered to us here, because in the north the blood runs colder in our veins than it does through yours. [Applause.] But I can assure you a hearty and warm welcome.

"I shall take back to President Roosevelt the information that if he places his confidence in the stability, the earnestness, and the friendship of the people of Panama to assist him in the great work of building this canal, his confidence will not be misplaced."

When the Secretary had concluded his speech, every man of Panama present felt that a load of apprehension and doubt had been lifted from him, and gave expression to his feelings in the round after round of applause which followed the end of his remarks.

After Secretary Taft the greatest interest centered in Hon. William Nelson Cromwell, who, as general counsel for the New Panama Canal Company and the Panama Railroad Company, and now general counsel for the Republic of Panama, has been known for years by name to every one on the Isthmus. Mr. Cromwell was instrumental in bringing to the attention of President Roosevelt the real condition of affairs in respect to the disagreements over the interpreta-

tion of the canal treaty, and after several conferences in Washington with the President was asked by the latter to accompany Secretary Taft to Panama and aid in bringing about a mutually satisfactory settlement of the troubles. It was, therefore, with great pleasure that those at the dinner saw Mr. Cromwell arise to address them. He was given an enthusiastic greeting that convinced him of the friendship and esteem in which he is held by all Panamanians.

Mr. Cromwell said:

"MR. PRESIDENT AND FELLOW-CITIZENS OF PANAMA: What must have been the emotions of the Roman soldiers as after years of absence in foreign wars they reentered the capital city, following their victorious generals and bearing the trophies of their valor and the symbols of fresh conquests?

"All the weary marches, the pain of wounds, the sacrifices and privations of battle were forgotten in the glad acclaim of welcoming hosts, the flower-strewn paths, the glory of their Empire.

"Does not this suggest something of the sentiments which possess me, a humble soldier in the Panama cause, as I come to greet you after the years which have separated us while I have been battling at the front for the canal—the hope of the Isthmus, and upon the fate of which, indeed, hung its very existence?

"In speaking to you to-night I will not to any great extent refer to the campaign waged for the Panama Canal, but only to the wondrous advantages which you now enjoy, which should be treasured by you, if one but recalls the words and the struggles of the last six years; a campaign of education to reverse the conviction of 70,000,000 people, every one of whom, only five years ago, were against the Panama Canal. To educate them in an engineering question was a work of five years. Then the battle for an independent commission, like its predecessors, to inspect, examine, and determine for the first time in the history of the United States the Panama Canal as compared with the others. The law was passed in 1899, and another commission presided over, as now, by the distinguished admiral who graces this table.

"The next great campaign was the Colombian treaty, first the Hay-Concha and then the Hay-Herran, carrying us through a period of two years, under conditions that I will describe only in sentiments of regard for those who have been formerly Colombians, although those treaties proved, through the folly of our sister Republic, that they are the best logic and support of that which we now enjoy.

"The battle for the choice of route was perhaps the greatest of all, which terminated in a contest unparalleled in severity in Congress, and which resulted, as you know, in the selection of the Panama route by the narrow majority of five human beings.

"Then came the long-drawn-out negotiations for the sale of the canal property; the examination of the titles, and the preparation of legal documents in respect to the transfer of title to the United States.

"A contest of far more importance, in the wider or more philosophical sense, was the neutralization of the canal itself, and the reversing of all the predilections, sentiments, and prejudices of the American people that the work should always be done only by Americans, and the canal controlled by Americans, and that there be no participation therein by another. That policy had to be killed, or there would have been no canal. The outcome, under the leadership of our great statesman John Hay, led to the Hay-Pauncefote treaty, which made this canal neutral, and made possible the passage of the laws which led to its construction.

"But no matter what may be the fluctuations of American opinion, no matter what may be the patience, I can say with pride that in the end the American people come always to a correct conclusion; and so it transpired that the result of all these words was a victory for the Panama route, and the dream for centuries is now being realized.

"A remarkable evidence of the development and progress of civilization is that this has resulted by measures of peace, and not by war; that a nation has created the greatest work of mankind, being accomplished not by the loss of blood, but by a force intellectual and moral; not homes destroyed, but homes created; not lands demolished, but nature's products cultivated; not commerce annihilated, but all the value and advantage of free transportation and means of transit; and all this for the benefit of all humanity and upon terms of perfect equality. [Applause.]

"This canal is not constructed for the benefit of the United States alone, and I beg you to treasure this thought, not for the benefit of the United States

primarily or preferentially. The United States gives its services, its brains, and its influence to all the world alike, without preference to its own commerce or to its own ships of war; building this canal for the whole earth, without a contribution by any other nation, not even your good selves, of a single dollar. Let us realize, then, more fully what good things the United States has done. It has thrust aside the proffered hand of Nicaragua, and has chosen yours; it has guaranteed your independence, that which it has done for no other nation of the world. You, and you alone, are the ones favored thus; you, and you alone, are thus made brothers with that nation. [Applause.] Therefore it is at your service when needed against a foreign foe, even against internal enemies. They have neutralized the canal, as I have said.

"Now, all this would suggest that something should be done by us. When I say us, I mean Panama.

"Gentlemen and friends, the honorable Secretary has uttered a thought which never must be torn out of your minds. All this splendid opportunity must be availed of, not merely talked of. You must energize your people; you must work as we do; utilize these splendid opportunities; cultivate your land; open your mines, build your railroads, interest commerce and capital, and give the security that you expect from others. With your license and permission—an honor which I can not too highly estimate when I was delegated to associate myself with the fiscal commission to invest your millions—I invested your millions in New York City property mainly; your money is under the protection of the American flag to-day. You want it kept secure; so does capital want its investment when it comes here. [Applause.] Cultivate the arts of peace, not the arts of war; therein lies our strength.

"Speaking now of the citizens of Panama, and the voting privilege just acquired, we must cultivate those arts that entitle us to the respect of mankind the world over—quietude, restfulness, work, industry. These are the qualities that are respected everywhere; these are the qualities that will bring to you capital, friendship, and immigration; these, and these only. And I do not doubt, my friends, that all this will be availed of in the fullest measure.

"There is no part of the world more concerned to mankind that this spot on which we stand. It is literally true that the eyes of the world are upon you. Will you measure up to the expectation of mankind? The standard is high because the opportunity is so vast. The responsibility is great, greater far because the opportunities are so varied and so magnificent. Will you measure up to it? I doubt it not, and I gather confidence in you, not only from my affection for you, but from what has been done while the earth has revolved only once around the sun in the short space of a single year; you have gained your independence, and have placed yourselves as a liberty-loving, law-abiding, worthy people among the nations of the earth; you have adopted a constitution, and have had made a simple but strong and excellent workable treaty establishing upon your soil the greatest undertaking that mankind has ever adjusted itself to; laws made, organization of government complete in every department, including your ministers, of which I have had the good fortune to meet the distinguished minister in Washington who has our love and respect. [Applause.]

"You have made provision in a businesslike way for the conduct of the Government; you have treasured the millions that have certainly come to your hands. The whole world was watching you; the people of all the earth were wondering what Panama would do with its millions; grave concern was expressed about it, too. The President of the United States himself spoke to me very earnestly about it. You are provided with a wisdom that I would like the whole world to know. You have set apart six millions of those dollars, not for yourselves alone, but for posterity, and, gentlemen, every dollar of that money is invested to-day in securities as good as the bonds of the Government of the United States. [Applause.] And other millions are distributed to arrange for the internal development of your country, so that they might give you those roads which you have been deprived of.

"You have reformed your currency, established the gold standard, and placed your monetary system upon a parity with that of the most enlightened nations.

"You have joined the United States in every measure reasonably required to facilitate expedition in improving the sanitation of your ports. This, gentlemen, is a splendid record, which any nation could be proud of; all this within the compass of a single year; to come out of the old condition into the new, without a breath of scandal upon any man, and under the leadership of your George Washington, our George Washington, President Amador [applause], establish-

ing a secure administration under the most trying conditions. And not only because of your birthright are you entitled to liberty.

"Now, my friends, I say that our interests are linked, and linked forever, with the United States. Everything that prospers, then, in the construction of the canal and its protection reciprocally benefits us; inevitably so. Everything that lessens the activity of operation, retards construction, or discourages capital here, like a two-edged sword, cuts our own hands in the grasping. Our interests are those of the United States, as their interests are ours; we are inevitably and happily bound together. Let us cultivate those relations; let us promote them in every reasonable manner, and in a spirit of mutual endeavor place ourselves in the aspect of joining with the United States in the construction of this canal; for it is as much our canal as theirs, in that sense. [Applause.] It is not foreign territory; it is a territory in which we have every sympathy and interest, every sympathy of association, and every interest material and honorable; and in holding the hands of the United States, gentlemen, you are giving yourselves the inestimable benefits that will come from the construction of this great work, and prosper beyond our dreams." [Applause.]

Dr. Pablo Arosemena was the next speaker. He addressed the gathering in Spanish, and his remarks were delivered with great earnestness, which aroused those present to a high state of enthusiasm.

Doctor Arosemena said:

"GENTLEMEN: The President of the United States of America has paid us a compliment which we should appreciate to its full value. He has made his delegate to the Republic of Panama the Secretary of War of the powerful State of which he is the worthy head, which was founded and has been maintained in constant progress by the virtues of that immortal who was first in peace, first in war, and first in the hearts of his countrymen. And I add—one of the first in the admiration of mankind. Too gallant a courtesy should not surprise us; it demonstrates the character of the eminent man who distinguishes himself as much by his prudence in the council, as by his bravery upon the battle field.

"In the speech delivered by our distinguished guest when he was received by the President of the Republic in solemn audience, he stated that our national life had to be pacific; the life of a government in which only the anticipated changes in the constitution will occur; he affirmed that in said existence we should have the aid of the United States, and that the Government of those States only desired to construct an interoceanic canal for the benefit of the universe; that it would only exercise on the Isthmus the authority necessary to carry the work to an end, maintain and protect it. In conclusion, he manifested that he, within a short time, would hold conference with the President regarding these affairs, and hoped to arrive at honorable and equitable conclusions. I think it superfluous to say that the declarations of the Secretary of War—frank and true—have given us consummate satisfaction. He is an ambassador that brings in the folds of his mantle conciliation with honor and equity.

"Referring to those declarations, I affirm, with the certainty of being the true echo of the Isthmian people, that in the Republic of Panama only those changes that are determined by the natural course of events shall occur. We have definitively closed the period of blood—so prolonged and so distressing—and opened the era of peace which the consolidation and prosperity of the Republic requires.

"We must justify the achievement of independence—so grave and transcendental—and that end can only be reached by basing peace on law, which is justice, and preserving order, which is liberty and civilization. We will discuss, but let us not quarrel. The recourse to arms so costly and fruitless shall not be made by either party of the young nation which came into existence the 3d of November of 1903. Instead of the weapon that kills, we shall employ the word that enlivens; instead of the sword, the press, the tribune, and suffrage. We shall render to reason the efforts that we have given to force, and we shall strive to win, not the victories of the bloody battle, but the triumphs of peace, legitimate and fruitful, that do not leave in our conscience the thorn of remorse.

"We appreciate with all exactness the gravity of our duties and the extension of our responsibility. We shall with determination, cordially unite, to fulfill the one and to save the other. We shall everywhere erect the temple that is called the school, and we shall lay the foundation of a morally robust State, absolutely worthy of the society of nations.

"We have not, it is true, the means of being on the morrow rich and powerful, but we have of being sound and honest, and to merit the respect and esteem of

other peoples, practicing without vacillation the policy of honesty, which is the best policy. That policy is condensed in these words:

"In the interior, the constitution; and in the exterior, religious respect for international agreements. We know full well that living this life, and none other, we shall have the valuable support of the United States of America. An infant people, we need it; we shall accept with good will and do whatever lies in our power to deserve it.

"The logic of events, which is irrevocable, has placed us under their protection. The United States guarantees the independence of the Republic of Panama, which means that it is assured, if we do not jeopardize that inestimable blessing by persisting in those methods the fruits of which have been ruin and discredit.

"The American nation by a solemn treaty is our ally; it is necessary that it should also be our friend; let us win its affection by our conduct. Alliances are effected through documents, friendships are not. Hearts palpitate, but do not think; it is necessary to win them by good behavior, by moderation, and by patriotism. We shall adopt the criterion of the fatherland as the only one, and we shall elevate on high the national laborum. I shall answer for the victory in the battles that may be fought in its shadow.

"The rejection of the treaty celebrated January 22, 1903, between the United States and the Republic of Colombia for the excavation of an interoceanic canal was, without doubt, the decisive cause for the independence of the Isthmus. That act of the Colombian Congress was one of the highest imprudence, because it wounded interests of enormous magnitude. For the people of the Isthmus the independence was an act of defense.

"To insure the excavation of a canal by the United States, and through our territory, the convention of November 18, 1903, was celebrated. Differences, which are now being studied and discussed with serene mind, have resulted from its application. We, like the Secretary of War of the United States, are confident that useful and honorable solutions will be reached. The interests of both countries require them; they impose the ties of friendship which to-day unite them. I assure you that if it depends on us, that friendship shall be each day more firm, because we shall cultivate it with incessant energy. We are determined to take advantage of the teachings that its greatness will give us; magnificent labor of peace, of liberty, and of justice. It is a greatness which corresponds to the origin of that great nation, synthetized in these words of Abraham Lincoln—illustrious martyr of a grand cause—pronounced in Gettysburg in 1864: 'Four score and seven years ago our fathers brought forth upon this continent a new nation, conceived in liberty and dedicated to the proposition that all men are equal.'"

After a slight pause not a few of those present turned their attention in the direction of Dr. Belisario Porras, a distinguished Panaman lawyer and a man of powerful political influence. Doctor Porras, who was the last man to take the floor, arose and said:

"GENTLEMEN: When we contemplate a beautiful statue or a valuable oil painting, and admire in ecstasy the lines, the profile, and the coloring; when we see a steamer sail or a locomotive move, they control our imagination and carry it with them; when we take in our hands some product, the outcome of any industry, and apply it to our necessities, we do not stop to consider the patient labor, the constancy of effort, the privations of labor, the ingenuity, the inspiration, the firmness and courage with which obscure and virtuous laborers carried it to a finish—pleasing ourselves only with the actual and momentary satisfaction. So it happens to us when we contemplate, amazed, the power, the wealth, and prosperity of the great American nation.

"The present splendrous scene holds us spellbound, and we have eyes only to see it and hearts but to feel emotioned; our spirit of reflection, which might stop to consider whence comes this great power, this immense wealth, and this incalculable prosperity, is extinguished in its presence.

"It is but just that an infant nation like ours should always bear in mind that the mysterious ways by which the colossus of the north has reached the degree of splendor in which it finds itself to-day have not been by violence, nor by wars, nor by lies, nor deception, nor by spoil and usurpations, nor by privileges, nor the accumulation of wealth by the privileged ones.

"She owes it to like or similar virtues of the obscure laborer of industry, to the love of labor, to peace, and to truth, to religious and political tolerance, to respect for justice, to frugality and laborious simplicity, which in a high degree were possessed by the first settlers of that great nation and which have been afterwards imitated and practiced with such good results by their children.

"In offering this glass, therefore, for the great American nation, which honors us with its friendship and by sending the illustrious guests who sit with us at this same table, let us do it invoking the remembrance of the spirit of justice, tolerance, respect for justice, of love for truthfulness which has animated their children, and let us try to imitate them in this, convinced that it is with these great virtues that we can establish something stable, lasting, and great. Let us drink it also to the person of honorable Secretary Taft, to the distinguished Minister Barrett, to the intelligent attorney, Cromwell, and to all the esteemed American gentlemen with whom we to-day break our bread, and who share with us a ray of the sun on this continent, a ray of light, and a ray of liberty."

[Inclosure 3.]

Aware of the general eagerness and even anxiety with which the result of the conferences between Hon. William H. Taft, Secretary of War of the United States, and representative of President Roosevelt, and his excellency Dr. Manuel Amador Guerrero, President of the Republic of Panama, are awaited by our fellow-citizens and all residents on the Isthmus, we have, through the courtesy of Secretary Taft, secured the documents containing the executive order embodying the agreement reached between the two governments, and we publish them for the benefit of all interested:

PANAMA, December 3, 1904.

SIR: I herewith transmit an executive order of this 3d day of December for publication and enforcement.

Very respectfully,

WM. H. TAFT,
Secretary of War.

Rear-Admiral JOHN G. WALKER, U. S. Navy,
Chairman of the Isthmian Canal Commission, Panama.

PANAMA, December 3, 1904.

By the direction of the President it is ordered that, subject to the action of the Fifty-eighth Congress, as contemplated by the act of Congress approved April 28, 1904:

SECTION 1. No importations of goods, wares, and merchandise shall be entered at Ancon or Cristobal, the terminal ports of the canal, except such goods, wares, and merchandise as are described in Article XIII of the treaty between the Republic of Panama and the United States, the ratifications of which were exchanged on the 26th day of February, 1904, and except goods, wares, and merchandise in transit across the Isthmus for a destination without the limits of said Isthmus, and except coal and crude mineral oil for fuel purposes to be sold at Ancon or Cristobal to sea going vessels, said coal and oil to be admitted to those ports free of duties for said purpose:

Provided, however, that this order shall be inoperative, first, unless the Republic of Panama shall reduce the ad valorem duty on imported articles described in class 2 of the act of the national convention of Panama passed July 5, 1904, and taking effect October 12, 1904, from 15 per centum to 10 per centum and shall not increase the rates of duty on the imported articles described in the other schedules of said act except on all forms of imported wines, liquors, alcohol, and opium, on which the Republic may fix higher rates; second, unless article 38 of the constitution of the Republic of Panama, as modified by article 146 thereof, shall remain in full force and unchanged, so far as the importation and sale of all kinds of merchandise are concerned; third, unless the consular fees and charges of the Republic of Panama in respect to entry of all vessels and importations into said ports of Panama and Colon shall be reduced to 60 per cent of the rates now in force; and, fourth, unless goods imported into the ports of Panama and Colon consigned to or destined for any part of the Canal Zone shall not be subjected in the Republic of Panama to any other direct or indirect impost or tax whatever.

SEC. 2. In view of the proximity of the port of Ancon to the port of Panama and of the port of Cristobal to the port of Colon, the proper customs or port official of the canal zone shall, when not inconsistent with the interests of the United States, at the instance of the proper authority of the Republic of Panama, permit any vessel entered at or cleared from the ports of Panama and Colon,

together with its cargo and passengers, under suitable regulations for the transit of the imported merchandise and passengers to and from the territory of the Republic of Panama, to use and enjoy the dockage and other facilities of the ports of Ancon and Cristobal, respectively, upon payment of proper dockage dues to the owners of said docks:

Provided, however, that reciprocal privileges as to dockage and other facilities at Panama and Colon, together with suitable arrangement for transit of imported merchandise and passengers to and from the territory of the canal zone, shall be granted by the authorities of the Republic of Panama, when not inconsistent with its interests, to any vessel, together with its cargo and passengers, entered at or cleared from the ports of Ancon and Cristobal: provided, however, that nothing herein contained shall affect the complete administrative, police, and judicial jurisdiction of the two Governments over their respective ports and harbors, except as hereinafter provided in section 6.

Provided, also, that vessels entering or clearing at the port of Panama shall have the absolute right freely to anchor and lade and discharge their cargoes by lighterage from and to Panama at the usual anchorage in the neighborhood of the islands of Perico, Flamenco, Naos, and Culebra, though included in the harbor of Ancon under the provisional delimitation as amended under section 5 hereinafter, and to use the said waters of said harbor for all lawful commercial purposes.

SEC. 3. All manifests and invoices and other documents in respect to vessels or cargoes cleared or consigned for or from the ports of Panama and Colon shall, as heretofore, be made by the officials of the Republic of Panama. All manifests, invoices, and other documents in respect to the vessels and cargoes cleared or consigned for or from the ports of Ancon or Cristobal shall be made by officials of the United States.

SEC. 4. No import duties, tolls, or charges of any kind whatsoever shall be imposed by the authorities of the canal zone upon goods, wares, and merchandise imported, or upon persons passing from the territory of the Republic of Panama into the canal zone; and section 5 of the executive order of June 24, 1904, providing that duties on importations into the canal zone are to be levied in conformity with such duties as Congress has imposed upon foreign merchandise imported into ports of the United States, is hereby revoked; but this order shall be inoperative unless the authorities of the Republic of Panama shall grant by proper order reciprocal free importation of goods, wares, and merchandise, and free passage of persons from the territory of the canal zone into that of the Republic of Panama.

SEC. 5. The provisions of this order also shall not be operative except upon the condition that the delimitation of the cities and harbors of Colon and Panama, signed on the 15th day of June, 1904, by the proper representatives of the governments of the Republic of Panama and of the canal zone, shall be provisionally in force; and while the same shall remain in force, with the consent of both parties thereto, the provisional delimitation shall include not only the terms set forth in the writing thereof, but also the following, viz: That the harbor of Panama shall include the maritime waters in front of said city to the south and east thereof, extending 3 marine miles from mean low-water mark, except the maritime waters lying westerly of a line drawn from a stake or post set on Punta Mala through the middle island of the three islands known as Las Tres Hermanas, and extending 3 marine miles from mean low-water mark on Punta Mala, which waters shall be considered in the harbor of Ancon.

SEC. 6. This order also shall be inoperative unless the proper governmental authorities of the Republic of Panama shall grant power to the authorities of the canal zone to exercise immediate and complete jurisdiction in matters of sanitation and quarantine in the maritime waters of the ports of Panama and Colon.

SEC. 7. The executive order of June 24, 1904, concerning the establishment of post-offices and postal service in the canal zone, is modified and supplemented by the following provisions:

All mail matter carried in the territory of the canal zone, to or through the Republic of Panama, to the United States and to foreign countries, shall bear the stamps of the Republic of Panama, properly crossed by a printed mark of the canal zone government, and at rates the same as those imposed by the Government of the United States upon its domestic and foreign mail matter, exactly as if the United States and the Republic of Panama for this purpose were common territory. The authorities of the canal zone shall purchase from the

Republic of Panama such stamps as the authorities of the canal zone desire to use in the canal zone at 40 per centum of their face value; but this order shall be inoperative unless the proper authorities of the Republic of Panama shall by suitable arrangement with the postal authorities of the United States provide for the transportation of mail matter between post-offices on the Isthmus of Panama and post-offices in the United States at the same rates as are now charged for domestic postage in the United States, except all mail matter lawfully franked and inclosed in the so-called penalty envelopes of the United States Government, concerning the public business of the United States, which shall be carried free, both by the governments of Panama and of the canal zone: provided, however, that the zone authorities may, for the purpose of facilitating the transportation of through mail between the zone and the United States in either direction, inclose such through mail, properly stamped or lawfully franked, in sealed mail pouches, which shall not be opened by the authorities of the Republic of Panama in transit, on condition that the cost of transportation of such mail pouches shall be paid by the zone government.

SEC. 8. This order also shall not be operative unless the currency agreement made at Washington June 20, 1904, by the representatives of the Republic of Panama and the Secretary of War of the United States, acting with the approval of the President of the United States, for the establishment of a gold standard of value in the Republic of Panama and proper coinage, shall be approved and put into execution by the President of the Republic of Panama, pursuant to the authority conferred upon him by law of the Republic of Panama No. 84, approved June 20, 1904; and unless the President of the Republic of Panama, in order that the operation of the said currency agreement in securing and maintaining a gold standard of value in the Republic of Panama may not be obstructed thereby, shall, by virtue of his authority, conferred by law No. 65, enacted by the National Assembly of Panama on June 6, 1904, abolish the tax of 1 per cent on gold coin exported from the Republic of Panama.

SEC. 9. Citizens of the Republic of Panama at any time residing in the canal zone shall have, so far as concerns the United States, entire freedom of voting at elections held in the Republic of Panama and its provinces or municipalities, at such places outside of the canal zone as may be fixed by the Republic and under such conditions as the Republic may determine; but nothing herein is to be construed as intending to limit the power of the Republic to exclude or restrict the right of such citizens to vote as it may be deemed judicious.

SEC. 10. The highway extending from the eastern limits of the city of Panama, as fixed in the above-mentioned provisional delimitation agreement of June 10, 1904, to the point still farther to the eastward where the road to the "savanas" crosses the zone line (which is 5 miles to eastward of the center axis of the canal), shall be repaired and maintained in a serviceable condition at the cost and expense of the authorities of the canal zone; and also in like manner the said road from the said eastern limits of the city of Panama to the railroad bridge in the city of Panama shall be repaired at the cost of the authorities of the canal zone. But this order shall not be operative unless the Republic of Panama shall waive its claim for compensation for the use in perpetuity of the municipal buildings located in the canal zone.

SEC. 11. The United States will construct, maintain, and conduct a hospital or hospitals, either in the canal zone or in the territory of the Republic, at its option, for the treatment of persons insane or afflicted with the disease of leprosy, and the indigent sick, and the United States will accept for treatment therein such persons of said classes as the Republic may request; but this order shall not be operative unless, first, the Republic of Panama shall furnish without cost the requisite lands for said purposes if the United States shall locate such hospital or hospitals in the territory of the Republic, and, second, unless the Republic shall contribute and pay to the United States a reasonable daily per capita charge in respect of each patient entering upon the request of the Republic, to be fixed by the Secretary of War of the United States.

SEC. 12. The operation of this executive order and its enforcement by officials of the United States on the one hand, or a compliance with and performance of the conditions of its operation by the Republic of Panama and its officials on the other, shall not be taken as a delimitation, definition, restriction, or restrictive construction of the rights of either party under the treaty between the United States and the Republic of Panama.

This order is to take effect on the 12th day of December, 1904.

(Signed)

WM. H. TAFT,
Secretary of War.

PANAMA, *December 3, 1904.*

YOUR EXCELLENCY: After very full conferences with you and your advisers, I have drafted an executive order, which I have the authority of the President of the United States to sign and put in force, and which in its operation and conditions, if complied with, seems to me to offer a solution, honorable and satisfactory to both nations, of the differences between the United States and the Republic of Panama. I inclose a draft of the order. I understand that you and your advisers concur in the wisdom of this solution, but I should be glad to have an expression of your approval of it before formally signing the order and giving it effect. Your Excellency will observe that the order is drawn to take effect on the 12th of December. This delay is for the purpose of giving full publicity to all concerned.

I have the honor to be, with the assurances of my most distinguished consideration,

Your obedient servant,

WM. H. TAFT,
Secretary of War.

DR. MANUEL AMADOR GUERRERO,
President of the Republic of Panama, Panama.

REPUBLICA DE PANAMÁ,
PODER EJECUTIVO NACIONAL PRESIDENCIA,
Panama, December 3, 1904.

HON. WILLIAM H. TAFT,
Secretary of War of the United States, at Panama.

SIR: As the embodiment of the conclusions reached by our respective Governments, after the full and satisfactory conferences which have been had between you, myself, and advisers, I have the pleasure to express the concurrence of the Republic in the executive order of the Secretary of War made by direction of the President of the United States under date of this the 3d day of December, 1904.

Aside from the wisdom and justice evidenced by this happy solution of the differences between the United States and the Republic of Panama, permit me to express, in behalf of the Republic and of myself and advisers, our gratitude for your gracious visit to Panama and your patient, judicial and statesmanlike considerations of the subjects involved.

I have the honor to be, my dear Mr. Secretary, and with assurances of my highest esteem, sincerely yours,

M. AMADOR GUERRERO,
President of the Republic of Panama.
SANTIAGO DE LA GUARDIA,
Secretary of Government and Foreign Affairs.

Mr. Barrett to Mr. Hay.

[Telegram.—Paraphrase.]

PANAMA, *December 13, 1904.*

(Mr. Barrett reports that the new system of relations in the Canal Zone were successfully inaugurated and that the details are being perfected by Governor Davis, the minister for foreign affairs, and himself.)

EXTRADITION OF HERMAN E. HAASS.*Mr. Adee to Mr. Barrett.*

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 8, 1904.

Ascertain and report whether Government of Panama will entertain request for surrender as act of comity of a fugitive from the United States charged with embezzlement. While United States Government can not, until treaty becomes effective, promise reciprocity, the early ratification of treaty by our Senate will enable this Government to grant extradition.

ADEE.

Mr. Barrett to Mr. Hay.

[Telegram.]

PANAMA, *September 8, 1904.*

Panama Government agrees as act of comity to entertain request for surrender of fugitive.

BARRETT.

Mr. Adee to Mr. Barrett.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 12, 1904.

Referring to your telegram of September 8, request as act of comity provisional arrest and detention of Herman E. Haass, charge embezzlement \$20,000 of Corn Exchange National Bank, Chicago. Warrant of arrest issued. Formal papers being prepared. Supposed Haass is or will be at Gran Hotel Central, Panama City, to-morrow, under assumed name Frank Edwards. Description: Age 49, height about 5 feet 9, weight 155, hair brown, somewhat bald, eyes blue, very nervous, continually chewing gum.

ADEE.

Mr. Adee to Mr. Barrett.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, September 13, 1904.

(Mr. Adee informs Mr. Barrett that Haass has been in Panama for some time, and that it is expected that he will be at the Hotel Gran Central to-day.)

Mr. Barrett to Mr. Hay.

No. 40.]

AMERICAN LEGATION,
Panama, September 13, 1904.

SIR: I have the honor to acknowledge and confirm telegrams received and sent by this legation.

I beg to state that the police of Panama have been notified, and that every possible precaution has been taken by them and by this legation to apprehend the individual in question.

I have, etc.,

JOHN BARRETT.

Mr. Barrett to Mr. Hay.

No. 41.]

AMERICAN LEGATION,
Panama, September 19, 1904.

SIR: Referring to the Department's telegrams and those from this legation, I have the honor to advise you of the arrest and detention of Herman E. Haass (alias Frank Edwards), who defaulted from the Corn Exchange National Bank of Chicago with \$20,000 gold.

Immediately upon receipt of the Department's telegram of the 12th instant the Panama authorities were notified, and as a result of their efficient action Haass was captured at the Astor House, Colon, on the 14th. He had sent from there a note to the Hotel Central, Panama, with the request that letters arriving for him should be forwarded to the former place.

The prisoner was brought to Panama with his effects, protesting violently that he had never been in Chicago, that he was not the man wanted, but "Frank Edwards," and that the whole affair was a case of mistaken identity.

On the morning of the 15th he was visited by Mr. Lee, the secretary of this legation, who entered the prisoner's cell abruptly and addressed the man as Haass, and asked how long it was since he had left Chicago. The prisoner, taken unawares, faltered and replied that it had been some months since he had left that city, and he asked Mr. Lee how he knew that his (the prisoner's) name was Haass. Then the defaulter tried to retract what he had said and broke down, but identification had been established and was afterwards thoroughly proven when his papers were examined.

In the meantime, however, another man, A. W. Rhude, about to sail for Central American ports, and whose appearance was somewhat similar to the Department's cabled description, was kept under surveillance but not under arrest, at my request, by the Panama police. He sails for his destination to-morrow, and I have settled with him for his hotel bill, which amounts to \$30 silver (\$14.28 gold), for which I inclose receipt in duplicate, with the request that the Department collect the same from the responsible parties so that I may reimburse myself.

I have communicated the Department's thanks to the Panama authorities, and through them to Chief Arango for his able and successful action which resulted in the capture of Haass, who will be delivered to the officer about to arrive with formal papers.

I have, etc.,

JOHN BARRETT.

Mr. Loomis to Mr. Barrett.

No. 22.]

DEPARTMENT OF STATE,
Washington, September 23, 1904.

SIR: You are instructed to request the Government of Panama, as an act of comity, to surrender to John T. Connors, the extradition agent, Herman E. Haass (alias Frank Edwards), charged with embezzlement from a national bank, with a view to his return to the United States for trial on that charge.

Mr. Connors, who carries the President's warrant, will hand to you the papers. After authenticating them you will present them to the Panaman foreign office in support of your request.

I am, etc.,

F. B. LOOMIS,
Acting Secretary.

Mr. Lee to Mr. Hay.

No. 52.]

AMERICAN LEGATION,
Panama, October 11, 1904.

SIR: I have the honor to report that John T. Connors, a Pinkerton detective, furnished with an extradition warrant from the President, arrived in Panama on the night of October 3, for the purpose of taking into custody the person of Herman E. Haass (alias Frank Edwards), alleged to have defrauded the National Corn Exchange Bank of Chicago of approximately the sum of \$20,000.

Through the kind and efficient cooperation of the authorities of Panama I was able to send the detective back to New York with his prisoner on the steamer sailing from Colon on October 4. Mr. Connors seemed much surprised, and stated that in all his career he had never been connected with a mission conducted with such celerity.

After taking charge of the money found on the person of Haass, the detective left here in care of the chief of police the sum of \$80 gold to defray the expenses of the prisoner while on the Isthmus, as follows: Hotel Colon, \$16; maintenance in Panama, \$44. I have the honor to inclose receipts for the above amounts, and also the sum of \$20, being balance remaining from the \$80 left by Mr. Connors.

There will also be found inclosed a copy of a resolution from the Panama Government giving up the person of Haass, at the request of the United States, as an act of comity.

I am, etc.,

JOSEPH J. W. LEE.

[Inclosure.]

Resolution.

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The Government of the United States has requested through diplomatic channels the detention and surrender of the American citizen Herman E. Haass, alias Frank Edwards, charged with a crime.

As at the present time there exists no extradition treaty between the United States and Panama, this request was made as an act of international comity; and as article 18 of the penal code of the Republic, founded upon the mutual

duty of States, permits extradition in cases such as this, the detention of Haass was ordered until the necessary documents should be received.

Such being the state of affairs, the chargé d'affaires of the United States informed the Government of Panama that a special officer of his Government had arrived at Panama to take Haass in charge and to convey him to the United States, and the chargé d'affaires requested that the individual in question be delivered over to the officer, and also presented various documents, duly authenticated, which set forth that Haass had defaulted from the National Corn Exchange Bank of Chicago with, approximately, \$20,000, and therefore the agent of the police was sent to take him in charge.

In view of the before-mentioned statements and considering the crime with which Haass is charged is a grave one, and that the punishment therefor will exceed five years' imprisonment according to the law of the United States, it is resolved to acquiesce in the request of the United States for the extradition of the American citizen Haass, alias Frank Edwards.

This department will expect, in due course of time, a copy of the indictment and sentence of the said Haass, in order that it may have in its archives all the papers relating to the case.

Let this be copied, communicated, and published.

(Signed)

TOMAS ARIAS,

Secretary of Government and Foreign Affairs.

OCTOBER 3, 1904.

Mr. Hay to Mr. Lee.

No. 27.]

DEPARTMENT OF STATE,
Washington, November, 19, 1904.

SIR: I inclose herewith a certified copy of the indictment and sentence in the case of Herman E. Haass for transmission to the Panamanian Government, in accordance with the request made by that Government at the time of the surrender of the accused.

I am, etc.,

JOHN HAY.

SEDITIONOUS AND MUTINOUS CONDUCT OF THE ARMY OF PANAMA.

Mr. Lee to Mr. Hay.

No. 66.]

AMERICAN LEGATION,
Panama, November 14, 1904.

SIR: * * * At midnight yesterday (Sunday) I was called up by the alcalde of Panama and Raul Amador, son of the President, and consul-general for Panama at New York. They had been sent by the President to inform me of the discovery of a plot by General Huertas and Dr. Belisario Porras to arrest President Amador and Mr. de la Guardia, minister for foreign affairs, this morning (Monday) at 6 o'clock while attempting an inspection of the troops in honor of the minister for foreign affairs, who is also minister of war. General Huertas had written to the President in peremptory terms demanding that he be present at the ceremony. I advised his Excellency to remain at home, and this he did, finally, but with misgivings as to whether it would not be safer for him to go, because he feared that General Huertas might send men to take him by force.

The U. S. S. *Bennington* was due here yesterday to take aboard her commander, Capt. Lucien Young, and I informed the President simply of the fact that she might be sighted at any moment.

At half past 5 this morning I was called up by President Amador's private secretary, sent by the President, to ask me to call a force of marines from Empire, in the canal zone. This proposition I would not entertain. I, however, conveyed the information in a decided tone to General Huertas that article 136 of the constitution of Panama stated the right of the United States to interfere for the preservation of constitutional order if necessary; that I considered it high time for such proceedings as he contemplated to cease, and that I was sure that he had the best interests of his country at heart and did not wish to stain the fair fame of Panama.

The minister for foreign affairs went alone to the review and no attempt was made to detain him. * * *

I am, etc.,

JOSEPH W. J. LEE.

Mr. Loomis to Mr. Lee.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 15, 1904.

(Mr. Loomis instructs Mr. Lee to confer with the President of Panama, and to tender, under the provisions of the treaty, assistance from the Government of the United States in suppression of the seditious and mutinous troops, if such be desired by the Government of Panama.)

Mr. Barrett to Mr. Hay.

No 70.]

AMERICAN LEGATION,
Panama, November 22, 1904.

SIR: I have the honor to report as follows on the events which have transpired since my arrival (Wednesday, November 16), and which have been the subject, in part, of telegrams I have sent to the Department, confirmed in accompanying dispatches.

After Mr. Lee, secretary of legation, had fully described to me the incidents of the few days preceding my arrival, including the attitude of General Huertas toward President Amador, I went to Government house to present my compliments to the President upon my return and to hear his description of the situation. He told me that a crisis was at hand, which must end either in General Huertas's resignation, retirement, or leave of absence. He also suggested that Panama would benefit by the disbandment of the army. He concluded his statement with the request that I should arrange with Admiral Goodrich for the detention of one of the ships of his squadron until the difficulties of the hour were adjusted, and intimated that he would like to have the marines ready to act if necessary. * * *

On Thursday I accompanied Admiral Goodrich and two of his staff officers to call on the President, and again took up the discussion of the situation. Admiral Goodrich, who had previously informed me that he had received instructions from the Navy Department to cooperate with the legation and to use all the forces at his command,

including the marines, at Empire, to maintain order if requested by the President, then repeated these instructions to the latter and said that one at least of his ships would remain near Panama as long as was desired by the President. It was then decided that the President should notify Huertas that his resignation would be expected that day or early the next morning, and, if he attempted any resistance with the soldiers under him, the admiral and I would cooperate to support the President and to prevent any disturbances or mutinous acts of the soldiers. In the meantime the admiral ordered Major Lejeune at Empire to bring to Ancon, near the border of Panama City, one company of marines. Their presence there at a point where, within fifteen minutes, they could reach any part of the city, and the proximity of the American squadron in the bay had a most excellent moral effect on the city and practically precluded any efforts at revolution.

Thursday afternoon General Huertas came to see President Amador and told him that he would send in his resignation if the President desired it.

Although Thursday night many of Huertas's friends and followers, including several prominent men in the liberal party, advised him not to resign, he evidently saw the folly of holding out and prepared a long letter tendering his resignation. This he sent to President Amador early Friday morning, and in the presence of Mr. Lee, secretary of legation, the President signed a decree accepting the resignation and placing Huertas practically on the retired list at \$500 per month. That same morning, in response to the invitation of Admiral Goodrich, the President made a call upon the flagship *New York*, and was further strengthened in his purpose to be firm in this difficulty by his conference with the admiral. Friday afternoon, accompanied by Mr. Lee, I again conferred with President Amador and Minister Guardia in regard to the disbandment of the army. As the President had already assured them that he would give them sixty days' pay upon their dismissal, I suggested, as a safeguard against the soldiers taking all of this money and so feeling that they were under no obligations to the Government, that they should be given thirty days' pay upon disbandment and the other thirty days' pay a week later on condition that they behaved themselves. The President approved of this suggestion, and also decided to close all the saloons and drinking places for three days, so that the soldiers, tempted by so much ready money, would not have the opportunity of getting drunk and excited, as they would if everything were left open. In the meantime General Huertas had written a second letter to the President, stating that practically all the soldiers, approximately 200, wished to be disbanded at once, on account of their love and regard for Huertas and their desire not to remain in the army after he, their commander in chief, had resigned. This was deemed a good opportunity to disband the force without further delay, and I advised President Amador to permit them to go at once, especially while we had the naval force at hand in the bay and the company of marines at Ancon.

It was finally arranged that the soldiers were to report at the Government house at 1 o'clock Saturday to be paid off upon the terms of the Government. By 2 o'clock they had not put in an appearance, and President Amador sent for me to know what was the best thing

to do. He was afraid that the army might have decided to resist his terms, especially as the friends of Huertas and of the army were doing all they could to make them show some resistance. Upon my arrival at Government house I advised the President to wait half an hour more. * * *

Just before the half hour expired the first detachment of some fifty soldiers came marching, unarmed, to the Government house, followed by a great crowd. When they halted they sent up word to the President, evidently not knowing that I was there, to the effect that they would not accept the Government's terms of two payments, but they demanded the whole pay at that moment. The President was naturally much disturbed at this ultimatum, and asked me what he should do. I immediately told him to be absolutely firm and yield in no way to their demands, emphasizing that they had already been guilty of gross insubordination. This word was sent to them, but they still persisted in their position and muttered threats against the President.

When this word came up from the street I saw that there must be no further delay in bringing matters to an end, and taking General Guardia, the minister of foreign affairs and war, with me, I went downstairs and out upon the sidewalk in front of the soldiers who were there assembled. In brief words I told General Guardia to say to them that the United States, with its forces, stood back of the Government in this crisis, and that they must accept the terms of the Government or accept the consequences. They were warned that if they did not accept these terms and engaged in any acts of insurrection, riot, or mutiny, they would be dealt with in a most summary way, and that if necessary the naval forces in the bay and the marines at Ancon and Empire would be used to maintain order, with the severest punishment for those who were responsible for disorder. This warning had the desired effect, and the soldiers immediately declared that they would accept the terms of the Government. Within two hours afterwards the entire army, with the exception of about three men and twenty officers, who were faithful to the Government and who would meet the statutory requirements for a standing army, had been paid off and disbanded. From that moment there has been absolute quiet, and the feeling is general that the crisis has been successfully passed. The disbanded soldiers have so far committed no acts worthy of notice, and by the time they are paid the rest of the money due them public interest in their doings will have so diminished that they will not find excited sympathy for them among the people, as there was Saturday night. General Huertas left yesterday for his country home, or ranch, at Agua Dulce, about 100 miles east of Panama on the Pacific side of the Isthmus.

As stated in my cable of yesterday, the business community and the Government are most grateful for the attitude and action of the legation during this crisis.

I would supplement that statement with the further information that I have taken no part in these events that was not entirely warranted by the conditions or inspired by the request of the President himself. There has been no actual interference by the forces of the United States, and no step whatever has been taken by the United States officials which has not reflected full credit upon our Government.

and which can ever be the cause of regret on the part of the Government at Washington.

Through it all I have been in the closest conference with Admiral Goodrich and General Davis, and they have supported me heartily in everything I have done. I wish, moreover, to commend the way Mr. Lee conducted matters before my arrival and his assistance during the last few days. While all these events may seem very small at Washington, they have completely absorbed the attention of this community, and have been the most stirring that have occurred in its small limits since the revolution of one year ago.

I have, etc.,

JOHN BARRETT.

Mr. Hay to Mr. Barrett.

No. 32.]

DEPARTMENT OF STATE,
Washington, December 8, 1904.

SIR: I have to acknowledge the receipt of your No. 70 of the 22d ultimo, reporting the facts regarding the disbandment of the Panamanian army, and the advice given by you to the President in the matter.

Your course is commended by the Department.

I am, etc.,

JOHN HAY.

PAYMENT OF THE CANAL INDEMNITY.

Mr. Bunau-Varilla to Mr. Hay.

LEGATION OF THE REPUBLIC OF PANAMA,
Washington, December 10, 1903.

SIR: I think it is necessary, in view of the ratification of the canal treaty by the Government of the Republic of Panama, and in view of the steps taken by his excellency the President of the United States for the ratification by the Government of the United States, to inform you of the name of the banking house that has been designated to be the financial agents of the Republic of Panama in the United States.

I have, therefore, the honor, sir, to notify you and through you his excellency the Secretary of the Treasury, that by letter dated November 17, 1903, and in virtue of the full power given me by my Government in fiscal questions, I have named the firm J. P. Morgan & Co. the financial agents of the Republic of Panama for one year, with the full and exclusive power to collect for the account of the Republic of Panama any sum the Government of the United States may have to pay the Republic of Panama for any cause whatsoever.

It goes without saying that the Government of the Republic of Panama will notify the Government of the United States in due time, and previously to the collection by Messrs. J. P. Morgan & Co., the amount that the Government of the Republic intends to withdraw from the United States Treasury on the sums placed to its disposition according to the conventions in force.

I am, etc.,

P. BUNAU-VARILLA.

Mr. Bunau-Varilla to Mr. Hay.

LEGATION OF THE REPUBLIC OF PANAMA,
Washington, March 3, 1904.

SIR: In our conference this morning you notified me that the moment had come to deliver to the Government of Panama, according to Article XIV of the treaty of the 18th of November last, the \$10,000,000 fixed by said article as a part of the price of compensation, and that it was the desire of the Government of the United States to settle this question without delay.

You further asked me if anything had taken place that would modify the notification I made to the Department of State by letter of December 10, 1903, to the effect that Messrs. J. P. Morgan & Co. had been appointed financial agents of the Republic of Panama for one year, with full and exclusive power to collect for the account of the Republic any sum the Government of the United States may have to pay to Panama for any cause whatsoever. You added that if nothing had modified this power the Secretary of the Treasury was going immediately to transmit to you a check of \$10,000,000, payable to Messrs. J. P. Morgan & Co. for the account of the Republic of Panama.

I beg to confirm what I had the honor to answer to you:

First. That the Government of the Republic was undoubtedly ready to comply with Article XIV of the treaty, as well as with any other.

Second. That the appointment of the firm of J. P. Morgan & Co. as financial agents, with the power above mentioned, had been explicitly ratified by the junta, whose acts have been in their turn ratified by the constitutional convention; that such appointment with such power was definitive, and that therefore the check of \$10,000,000 could be prepared, payable to J. P. Morgan & Co., for the account of the Republic of Panama. I added, though, that according to my letter of December 10, 1903, to the Department of State, any withdrawal of funds by the financial agents from the United States Treasury had to be preceded by a specific order of the Government of Panama, and that I was going to cable to Panama to this effect. In the meanwhile, I respectfully request your excellency to keep the check of \$10,000,000 pending the transmission of said order.

I am, etc.,

P. BUNAU-VARILLA.

Mr. Russell to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Panama, April 23, 1904.

(Mr. Russell reports that he has been requested by the Panaman Government to ascertain when the United States will make payment to Panama on account of the canal indemnity.)

Mr. Hay to Mr. Russell.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 25, 1904.

(Mr. Hay informs Mr. Russell that the amount due Panama on account of the canal indemnity will be paid in a few days, and asks to be informed to whom payment is to be made.)

Mr. Russell to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Panama, April 25, 1904.

(Mr. Russell states that the Government of Panama asks that one million of the indemnity be paid to J. P. Morgan & Co., and that the balance be held until the arrival of the newly appointed minister, who will sail for Washington by the first steamer in June.)

Mr. Hay to Mr. Russell.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 30, 1904.

(Mr. Hay informs Mr. Russell that \$1,000,000 will be paid to J. P. Morgan & Co. on the 2d proximo, and that the balance will be held in the Treasury until the arrival of the Panaman minister.)

Mr. Loomis to Mr. Russell.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 16, 1904.

(Mr. Loomis instructs Mr. Russell to state to the Panaman Government that the Government of the United States desires to pay the balance of the amount due the Government of Panama, and will pay the same at once to J. P. Morgan & Co., the accredited fiscal agents of Panama, to whom one million has already been paid.)

Mr. Russell to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Panama, May 17, 1904.

(Mr. Russell reports that the special commission appointed by the National Assembly to receive the amount due Panama will sail for New York to-morrow, and that the Panaman Government urgently requests that the amount due be held until the arrival of the commission.)

Mr. Loomis to Mr. Russell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 18, 1904.

You will immediately communicate the following to the Panaman Government and energetically urge prompt withdrawal of the request set forth in your cablegram of yesterday.

Quote this to the Government:

Upon the faith of your agreement constituting J. P. Morgan & Co. fiscal agents of the Panaman Government to receive the entire consideration payable to the Panaman Government under the treaty, this Government has recognized such fiscal agents for such purpose, and has paid to them \$1,000,000 on account. This Government can not see how, as between it and such fiscal agents, having recognized their authority, it can now repudiate that authority and refuse to pay the balance of the consideration. This Government does not intend to become involved in any question as between such fiscal agents and a commission appointed by the Panaman Government subsequent to the appointment and authorization of such fiscal agents, and for that reason and the foregoing ones desires at once to close the matter by payment to such fiscal agents here of the balance due, leaving the commission to deal directly with such fiscal agents upon its arrival.

LOOMIS, *Acting.*

Mr. Russell to Mr. Hay.

[Telegram.]

AMERICAN LEGATION,
Panama, May 18, 1904.

Your cable has been communicated to the Panama Government and withdrawal of their request energetically urged. Panama unwilling to authorize payment to Morgan and maintain that it has a right to have payment made to the commission which was appointed as a result of your cable of April 30, complying with its request to pay one million to Morgan and hold balance for their account.

RUSSELL.

Mr. Loomis to Mr. Russell.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 19, 1904.

(Mr. Loomis instructs Mr. Russell to inform the minister of foreign affairs of Panama that the United States Government declines to modify the arrangement made with Panama concerning the payment of the \$10,000,000 due under the canal treaty.

The direction to pay it to Panama's fiscal agent here was accepted by this Government and acted upon after the exhibition by Morgan & Co. of its written authority from the Government of Panama to receive the entire amount due from the United States.

The suggestion of such an unusual course as to hand over so vast a sum to individual commissioners, who may present themselves for that purpose, can not be accepted by the Government as a substitute for the conventional method agreed upon.

The suggestion by the Panama Government that it has appointed a commission to receive the money because of this Government's statement that it would, as a favor, defer paying over the nine millions to Panama's fiscal agent here until the arrival of its minister can not be acquiesced in by this Government as deducible from the facts.

The suggestion to wait until the arrival of Panama's minister was accompanied by representations that a plan of safe investment was being considered that might obviate the necessity of handling the money twice, hence this Government's expressed willingness to retain possession of the balance until the minister's arrival.

Upon the whole, it is deemed best by this Government to adhere to the original arrangement, and it has accordingly paid over the nine millions to J. P. Morgan & Co. for account of the Republic of Panama, being balance in full of amount due under the treaty.

The representation to this Government by Panama, made prior to the ratification of the treaty, that at least eight millions of this fund should be safely invested to secure the stability of Panama's finances, this Government will expect to be carried out in good faith.)

Mr. Russell to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Panama, May 21, 1904.

(Mr. Russell reports that he has received written reply from the Government of Panama accepting terms of the United States relating to the payment of the canal indemnity to J. P. Morgan.)

PERSIA.

PASSPORT APPLICATION OF ABLAHAT ODISHU SAMUEL.

Mr. Pearson to Mr. Hay.

No. 31.]

AMERICAN LEGATION,
Teheran, January 20, 1904.

SIR: I have the honor to inclose herein the application for a passport of Ablahat Odishu Samuel. I have declined to issue the passport until instructed by the Department.

The claim is weakened and clouded by the following circumstances, which appear upon the face of the application:

1. The man resided three years in the United States, and then three years abroad, presumably in Persia, as two of his children whom he asks to be included in the passport were born in Persia during the period in which he claims a domicile in the United States.

2. He then returned to the United States and pieced out broken intervals of time necessary to make five years in order to secure the certificate of naturalization, and almost immediately thereafter he returned to Persia, where he has since resided continuously. He thus leaves the unavoidable inference that the sole purpose of his second journey to the United States was to secure the certificate of naturalization.

3. He expresses an intention to return to the United States within three years, this making the residence of this alleged citizen nine years in Persia and five years in the United States.

“To allow such pretensions would be to tolerate a fraud upon both governments, enabling a man to enjoy the advantages of two nationalities and to escape the duties and burdens of each.” (Secretary Fish to Mr. Motley October 14, 1869.)

The case in question resembles that of Demetrias Chrysanthides, described by Mr. Leishman in *Foreign Relations*, 1901, page 519 et seq., but in all essential features it is weaker. In that case the residence prior to naturalization was unbroken except by an absence of five months. Chrysanthides remained in the United States more than three years after his naturalization; he was naturalized in the State in which he had resided for five years, and he expressed the intention to return within one year.

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I am, etc.,

RICHMOND PEARSON.

Mr. Hay to Mr. Pearson.

No. 22.]

DEPARTMENT OF STATE,
Washington, February 25, 1904.

SIR: I have to acknowledge the receipt of your dispatch No. 31, of the 20th ultimo, reporting your refusal to issue a passport to

Ablahat Odishu Samuel, the facts of the case, as appear upon the face of the application, being as follows:

Samuel resided three years in the United States—from 1893 to 1896—and then three years abroad—from 1896 to 1899. His residence abroad was presumably in Persia, as two of his children, whom he asks to have included in his passport, were born in that country, one on May 17, 1897, and the other on January 19, 1900. He then returned to the United States and remained here from 1899 to 1901, thus making up, in two periods, the five years' residence necessary for naturalization. Almost immediately thereafter he returned to Persia, where he has since resided continuously. He thus leaves the unavoidable inference that the sole purpose of his second journey to the United States was to secure the certificate of naturalization.

Samuel expresses an intention to return to the United States within three years, thus making his residence nine years in Persia and five years in the United States, since his first arrival in this country.

Your action in refusing a passport is approved. As set forth in the Department's circular instruction of March 27, 1899,^a "a naturalized citizen who returns to the country of his origin and there resides without any tangible manifestation of an intention to return to the United States may, therefore, generally be assumed to have lost the right to receive the protection of the United States."

The same circular, in speaking of the peculiar status of residents in a semibarbarous country, or one in which the United States exercises extraterritorial jurisdiction, says: "If they were subjects of such power before they acquired citizenship in the United States, they are amenable, upon returning, to the same restrictions of residence as are laid down in the beginning of this instruction (as quoted above) and for the same reasons."

It would appear that Samuel is permanently resident in Persia, and his application may be rejected for that reason, as well as for the reason that his residence in this country before naturalization was not continuous, and, therefore, does not satisfy the requirements of law.

I am, etc.,

JOHN HAY.

MURDER OF REV. BENJAMIN W. LABAREE, AN AMERICAN MISSIONARY IN PERSIA.

(NOTE.—See also under Turkey, page 835.)

Mr. Pearson to Mr. Hay.

[Telegram.]

AMERICAN LEGATION,
Teheran, March 13, 1904.

American Missionary Labaree was murdered near Urumia, Persia, 9th instant. Motive apparently robbery. Government, at my request, has ordered search for criminal and prompt punishment.

PEARSON.

^a Printed in Foreign Relations, 1902, p. 1.

Mr. Hay to Mr. Pearson.

[Telegram.]

DEPARTMENT OF STATE
Washington, March 23, 1904.

Insist on energetic action by Persian authorities to apprehend and punish murderer of Labaree, and urge efficient protection of all American missionaries. Keep Department advised.

HAY.

Mr. Pearson to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Teheran, March 25, 1904.

(Mr. Pearson reports that the murderer of Labaree, named Seyd Jafer, is identified and located near Mount Ararat on the Turkish frontier. This same man murdered a British subject, and the American and British legations are jointly insisting on energetic action on the part of the Government to bring the murderer to justice. At the request of Mr. Pearson the Persian Government sent stringent telegraphic orders for the protection of Christians.)

Mr. Pearson to Mr. Hay.

No. 44.]

AMERICAN LEGATION,
Teheran, April 18, 1904.

SIR: It is now forty-one days since the Rev. Benjamin W. Labaree, an American missionary was murdered near Khoi, almost under the shadow of Mount Ararat. I had hoped before this to cable you that one or more of the murderers had been arrested, but I can only report at present that a large expedition, under command of an energetic general who is highly respected and commended by the missionaries, is actually scouring the mountains in search of any and all of the gang who are all known and identified.

It will be seen that while only four men actually participated in the killing of Mr. Labaree and his servant, ten other Kurds of the same gang were accomplices. They had simply taken another road for the purpose of entrapping their prey and must be held guilty as accessories before the fact.

The brutality and atrocity of the murder remove any doubt as to its motive, and eliminate entirely the suggestion in my first cable that the "motive was apparently robbery." The stealing of the horses and other property was a mere incident. The inspiration of the deed was religious and race hatred, without the slightest personal animosity. The fact that the chief and leader of the criminals is a "Seyid," an alleged lineal descendant of Mahomet, adds greatly to the difficulty of the arrest. These Kurds are all Mohammedans of the Sunni sect, and their fanaticism, which is both ardent and sincere, added to their

hereditary and instinctive love of blood and pillage make them a dangerous and difficult population to deal with.

The home of the Kurds or "Kurdistan" is an indefinite geographical expression, but may be roughly understood as beginning at Mount Ararat on the north and stretching south to where the mountains fade away into the plains of Mesopotamia above Bagdad, say, 300 miles; the width of the region may be measured by the distance between Lake Urumia in Persia and Lake Van in Turkey—something like 100 miles; the area of this region is as large as the State of South Carolina. It disregards imperial boundaries, as its inhabitants disregard imperial laws and orders; it extends into Persia or Turkey according to the pleasure and habits and wanderings of these wild people.

* * * * *

Notwithstanding the strict laws that require passports to enter Turkey or Persia, the Kurd relies with confidence and success upon his rifle and scimitar rather than upon paper and seals and visas, and so crosses indifferently into either territory to commit crimes, or to escape the consequences of his crimes. This is the Kurd, the creature we have to deal with in this case.

* * * * *

I am etc.,

RICHARD PEARSON.

Mr. Tyler to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Teheran, May 5, 1904.

(Mr. Tyler reports that the American legation and the British minister presented a joint note to the prime minister insisting upon the immediate dispatch of a fully equipped expedition for the capture of the murderers of Labaree.)^a

Mr. Tyler to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Teheran, May 18, 1904.

(Mr. Tyler reports that Mir Ghaffar, the murderer of Mr. Labaree, was arrested yesterday.)

Mr. Tyler to Mr. Hay.

No. 51.]

AMERICAN LEGATION,
Teheran, May 30, 1904.

SIR: I have the honor to inform you that I had a long conversation this morning with the minister for foreign affairs concerning the

measures taken for the arrest of the accomplices in the murder of the late Mr. Labarre and his servant. I told his excellency that it was some satisfaction to know that Mir Ghaffar, about whose participation in the crime there could be no doubt, had been arrested; but from the information which had been received at the legation and communicated to him, there were still three Kurds, at the least equally culpable with the principal, who must be apprehended.

I also told his excellency that there was a rumor that the Madjdes-Sultaneh, commander of the troops in Urumia, who was better acquainted with the whole facts of this and other outrages, and was not only capable but anxious to bring these criminals to justice, was about to be superseded. I urged him to use his influence to have this officer kept in his position until the case was settled. He assured me that he would do all he could and would telegraph to the Crown Prince not to remove him; and that no exertions were to be relaxed until the culprits were arrested.

It has on several occasions been reported to this and the English legation that the chief ecclesiastic in Urumia had used his position not only to shelter the criminals, but there were strong suspicions that he had even instigated the crimes. In my conversation I reminded his excellency that it was a most serious responsibility to keep a man in such a position who used his power and opportunities for breaking the law and frustrating the ends of justice, and I considered that if these offenses were proved against him he should not be allowed to escape with impunity. He said he agreed with me and that he would try and find some means of marking the Government's disapproval of his actions.

In view of this crime, the periodical outrages, murders, robberies, and destructions of property which took place on the Turkish frontier, I told his excellency that the only effectual remedy would be in disarming the Kurds, and I begged him to take this matter into serious consideration. The minister took notes of the various points we had discussed, and desired me to write and assure you that he agreed with me in these matters and that he would do all in his power to remove the evils which were continually festering and disturbing the safety and tranquillity of those regions.

I have, etc.,

JOHN TYLER.

Mr. Hay to Mr. Tyler.

No. 30.]

DEPARTMENT OF STATE,

Washington, June 20, 1904.

SIR: I have to acknowledge the receipt of your telegram of the 18th ultimo, in which you reported the arrest of Mir Ghaffar, the leader of the gang who murdered Mr. Labarre and his servant.

The Department expects the legation to continue to be perseveringly attentive to this case, to the end that full justice may be meted out to the participators in the crime.

I am, etc.,

JOHN HAY.

Mr. Tyler to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Teheran, June 24, 1904.

(Mr. Tyler reports that the accomplices in the murder of Mr. Labarre will not be arrested unless a peremptory message is sent by the Department.)

Mr. Hay to Mr. Tyler.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 24, 1904.

(Mr. Hay states that it is most important that punishment should be inflicted upon the accomplices in the murder of Mr. Labarre, and that the President hopes that this case may be settled before the arrival of the new Persian minister.)

Mr. Hay to Mr. Tyler.

No. 31.]

DEPARTMENT OF STATE,
Washington, June 25, 1904.

SIR: I have to acknowledge the receipt of your dispatch No. 51, of the 30th ultimo, reporting a conversation between you and the Persian minister for foreign affairs wherein you indicated to him what ought to be done to arrest and punish the murderers of Mr. Labarre, and to repress crime and outrage on the Turkish frontier.

Your action in the matter is approved by the Department.

I am, etc.,

JOHN HAY.

Mr. Tyler to Mr. Hay.

No. 56.]

AMERICAN LEGATION,
Teheran, July 1, 1904.

SIR: I have the honor to inclose for your information copies of correspondence relating more especially to the accomplices of the murderer of the late Mr. Labaree and his servant. From a perusal of these papers it will be painfully evident that, notwithstanding the presence of the English consul-general in Urumia, the strong representations of a very capable locum tenens in Tabriz, the persistent efforts of the English minister in Teheran, the repeated and urgent requests, oral and verbal, of this legation, how little progress has been made since the murderer was arrested, and even his criminality has

been denied, in obtaining hardly a show of justice or a serious attempt to apprehend these culprits.

* * * * *

Before communicating your telegram of the 24th of June I went into the country on the 27th and had an interview with the English minister, who agreed with me that it would be advisable that I should personally take a translation and copy of the message, which he thought excellent, to the minister for foreign affairs, and insist that, as the President's name was mentioned, he should present it to His Majesty the Shah, and obtain the strongest possible order on the Crown Prince, governor of Azerbaijan, to arrest the accomplices. His excellency also authorized me to say that unless the culprits were arrested with little more delay we should send in an identical note, and if that were not sufficient ask for joint audience of the Shah.

In my interview with the minister I told him that the Government of the United States was in earnest, that in its eyes the case had assumed very grave proportions, and that it required that the guilty parties to this barbarous murder, whoever they might be, should be arrested and punished. I told his excellency that we had been frequently advised that the most stringent orders had been given and all necessary measures taken to this end only to find that nothing had been done. I added that I did not ask that any more orders should be issued, but rather that he should insist that such as had been given should be executed, for this repetition of commands and instructions had ceased to have any effect with the authorities or to inspire any confidence in us. I mentioned my interview with the English minister, and conveyed to him the message as to an identical note and a joint interview with himself and an audience of His Majesty the Shah. I pointed out to him the dangers to which United States citizens were exposed, the natural dread in which they were living, and that the responsibility for all this rested with the authorities. In leaving a copy of the telegram I asked his excellency to present it to the Shah on the very first opportunity, and to let me have a reply as soon as possible, as I was expected without delay to transmit an answer by telegraph.

I was assured that the strongest orders had been sent, only two days before, to the crown prince to arrest these men, and there was to be no more excuse, for the Government demanded them and required that they should be presented as prisoners.

He told me that he had done all he could, and that now the Government had insisted that nothing but the apprehension of the criminals would satisfy their demands. The minister told me that he should certainly present the telegram to the Shah, and asked me to telegraph that the strongest orders had been issued, and his intention to have them enforced.

I propose, however, before complying with this request, to see some practical effect of the new orders, in default of which I shall probably telegraph, not, however, to give assurance, but rather to ask for still further instructions.

I have, etc.,

JOHN TYLER.

[Inclosure 1.]

*Mr. Tyler to the Mushir-ed-Dowlah.*AMERICAN LEGATION,
Teheran, June 2, 1904.

YOUR EXCELLENCY: In the conversation which I had with you on the 30th of May with reference to the arrest of the accomplices of Mir Ghaffar in the murder of Mr. Labaree, I informed your excellency that the Government of the United States had written very strongly, and had shortly before sent a peremptory telegram indicating that in accordance with the commands of His Majesty, the authorities of Azerbaijan should be ordered, without fail, to arrest these criminals, and at the same time urging me to make the strongest possible request to have this carried out.

You asked me to furnish you with the names of these accomplices, but I beg to remind your excellency that with the dispatch of the United States minister of the 27th of Muharram a translation of a letter from Doctor Cochran, of Urumia, was sent to you, which contained the names of these men, with certain other particulars regarding the crime, and in reply you stated that a copy of that letter had been sent to the government in Tabriz. As your excellency has required a repetition of the names I beg to inform you as follows: Seydi, son of Gehanger Beg, of Ambi; Timur Beg, Khosruki Changis Beg, son of Hassan Beg, of Derbend, near to Ambi, and Mir Mohammad, of Bedri, with eight others of the village of Sheikh-Shamo-ed-din, who, including Mir Ghaffar, number 14.

These 13 criminals I consider to be in every respect as culpable as Mir Ghaffar, for while he could plead that he was, on account of these murders, a fugitive from the dwellings and neighborhood of men, these criminals were under no apprehension of the punishment of offenses, and therefore could have no motive for the perpetration of the crime but lawlessness, robbery, cruelty, and murder.

With reference to Mirza Hussein Aga, who is not only an executor of the law, but is also one of the chiefs of the nation, and by his position ought to promote order and concord among the people, instead of, as can be seen from the above mentioned translation, being a protector of Mir Ghaffer and other criminals, I have no doubt His Majesty's Government will, under these circumstances, consider the advisability of his being punished and removed from the city.

It is reported that the Madjdes-Suttaveh has received orders to go to Tiflis, but as he is the only official thoroughly conversant with the particulars of these crimes, and the one man capable of arresting these men, until this matter is settled I have to strongly request that he should not be suspended. In the furtherance of justice in this case success or failure depends on the knowledge or ignorance of the person to whom it is intrusted.

I beg to appeal to you as strongly as possible to have the case settled before Mr. Pearson reaches Washington, so as to obviate the necessity for a damaging report.

It is notorious that in the province of Urumia the Kurds, from natural habit and custom, periodically perpetrate murders, robberies, maimings, and other outrages, and that the only safe method of preventing these is to deprive them of their arms and ammunition, and to ordain that any members of the tribes who shall be found with firearms or other weapons shall be fined and otherwise punished; only thus will people be able to move about without fear and attend to their business without molestation. If His Majesty's Government can see its way to take this step, there can be no doubt but that it will be of great advantage to the people of these regions.

In the present state of uncertainty, when any of our subjects have to leave their homes they are obliged to send out scouts to examine the roads and other places to assure themselves that no one is lurking in ambush with sinister intentions, and even then with much preparation and under the protection of guards go out and attend to their business.

I have received information that on the 9th of this month 40 Kurds raided a Mussulman village only a mile from Urumia, and carried off 200 sheep. If such an offense can be committed within so short a distance of the city, with what impunity can it be carried out when distance insures protection.

I have on many occasions when reporting occurrences to the United States Government had much pleasure in noting my appreciation of the alacrity with which His Majesty's Government have attended to my requests, and I hope that on this occasion I shall have no cause to complain.

I have, etc.,

JOHN TYLER.

[Inclosure 2.]

*Mr. Tyler to the Mushir-ed-Dowlah.*AMERICAN LEGATION,
Teheran, June 11, 1904.

YOUR EXCELLENCY: At your request on the 17th of this Persian month I communicated to your excellency certain particulars regarding the accomplices of Mir Ghaffar in the murder of Mr. Labaree, but up to the present time I have heard nothing of the results.

* * * * *

It is, moreover, with extreme regret and disappointment that I learn from other sources that notwithstanding the urgent and persistent appeals of this legation, and the numerous orders issued from the government to the authorities in Azerbaijan, no practical and decisive steps have been taken.

It is now more than three months that the legation has urged with the greatest emphasis that the high authorities of Tabriz and Urumia shall, in obedience to the Imperial commands and the orders of the central government, exert themselves to the utmost to arrest the perpetrators of these murders.

From the successive replies received from your excellency, the minister of the United States was persuaded of the ultimate success of the measures which he believed had been adopted, that he assured the United States Government that the authorities would relax no efforts put forth for the satisfaction of justice.

I am now apprehensive that after these representations, when I shall inform it that the authorities in Tabriz and Urumia, notwithstanding the orders which have been sent, have done absolutely nothing, a most unfavorable impression will be produced.

It is evident that if the commands and orders that have been sent to those provinces had been carried out, the subjects of foreign States would not now be in such a state of terror, anxiety, and danger, insomuch that they can not go out of their houses with any assurance of safety.

I have, therefore, again most urgently to request your excellency, in the name of the United States Government, whose citizen has been wantonly and cruelly murdered, that you will use your commanding influence to compel the authorities in Azerbaijan to execute the order which His Imperial Majesty and his Government have considered necessary for the arrest of these criminals and restoring confidence in the city and districts of Urumia, where our citizens, men and women, reside.

* * * * *

I have, etc.,

JOHN TYLER.

[Inclosure 3.]

*The Mushir-ed-Dowlah to Mr. Tyler.*MINISTRY FOR FOREIGN AFFAIRS,
Teheran, June 16, 1904.

SIR: I have to acknowledge the receipt of your dispatch, dated the 26th of Rabi-ul awal, June 11, 1904, in which you implicate certain Kurds as accomplices of Mir Ghaffar in the murder of Mr. Labaree, and in reply have to state:

Firstly, Doctor Cochran's letter, a copy of which you inclosed, can not on the evidence of one Christian, whose statements admit of any possible construction, be considered as proof of the complicity of Gurgin Beg in the murder of Mr. Labaree. The facts of the case can not be deduced from this narrative.

Secondly, The Government of the United States is fully aware that previously to the arrest of Mir Ghaffar, both it and the legation urged the Persian Government to direct all his energies to the arrest of the murderer of Mr. Labaree. Moreover, it is clear to what an unusual extent this Government has undertaken labor and incurred expense in the arrest and imprisonment of the accused. And now that he has been secured you have imported into the case certain accomplices; but the authorities in Azerbaijan having instituted the fullest inquiries have made it plain that Mir Ghaffar had no associates, and proved that in this case the Kurds are free from all responsibility. For why?

These Begzadehs in the pursuit of Mir Ghaffar gave the authorities every support and in his arrest and delivery into prison rendered much service. And now after all the efforts put forth by this Government to procure the arrest of Mir Ghaffar, its expectations are at variance with the arguments of the Government of the United States, as set forth in this dispatch.

Furthermore, it has become evident that the measures adopted by this Government and the authorities of Azerbaijan to bring this matter to a conclusion have assured to foreign subjects in that region the greatest personal safety and freedom from anxiety. It is, again, indisputable that when it is clearly manifest to what extent the forces of the Government have been put in motion for the arrest of a single murderer and the bringing to justice of offenders, such persons as are the object of suspicion can not and will not allow themselves to betray their evil propensities and their inherent villainy.

As these Begzadehs have in this case supported the views of the authorities of Azerbaijan, and rendered considerable service in the arrest of Mir Ghaffar, it should be made an opportunity for recognizing and appreciating the services which they have rendered to the State rather than to visit them with punishment, that might in the future be a source of regret.

The Government of the United States should be made acquainted with this aspect of the case; for to pursue the Kurds without sufficient proof of their complicity would lead to a state of enmity between them and the Christians, and probably be a source of further trouble and difficulty. This is certainly far from being advisable, and any measures which might have this result could not be satisfactory and it is possible that in their obstinacy and resentment they (the Kurds) might find an excuse to create fresh troubles.

In the arrest of Mir Ghaffar and the absence of proofs regarding accomplices, it is not just to bring forward this charge, which might produce animosity between the Khans of Dasht and the Christians, and bring on a result not now foreseen or anticipated.

It is to be hoped that the Government of the United States will, after considering the statements of this dispatch, agree with its conclusions.

I take, etc.,

(Sealed)

MUSHIR-ED-DOWLAH.

[Inclosure 4.]

Mr. Tyler to the Mushir-ed-Dowlah.

AMERICAN LEGATION,

Teheran, June 18, 1904.

YOUR EXCELLENCY: I have just received from his excellency the Secretary of State a dispatch instructing me to bring to your notice the unexpectedly long delay which has intervened in the arrest of the accomplices of Mir Ghaffar for the murder of Mr. Labaree and his servant and to urge you with the greatest emphasis to see that all necessary and possible measures be taken for the arrest and punishment of these criminals.

In my conversation on the 23d of May and in my dispatches of the 2d and 11th of June I have impressed upon you as forcibly as I could the absolute necessity which exists for the arrest of these men, whose names and places of abode I have sent you, but up to the present it does not appear that a sufficient force, with imperative orders to effect this purpose, have been given by the authorities.

I beg to tell your excellency that nothing short of the punishment of these culprits will satisfy the Government of the United States, and I therefore request that no further excuses or delays be suffered to interfere with the course of justice.

I inclose translations of extracts from letters just received from Urumia giving accounts of robberies and murders in the very neighborhood of the city of Urumia.

I have, etc.,

JOHN TYLER.

[Inclosure 5.]

*Mr. Tyler to the Mushir-ed-Dowlah.*AMERICAN LEGATION,
Teheran, June 22, 1904.

YOUR EXCELLENCY: I beg to acknowledge the receipt of your dispatch, dated the 16th of June, with reference to the accomplices of Mir Ghaffar in the murder of Mr. Labaree and his servant.

In reply I regret to observe that it appears from the tenor of this communication that the whole of the correspondence on this subject with your excellency, the telegrams of the authorities of Azerbaijan, the telegrams and letters of the English consul-general at Tabriz, and the translations of intelligence from other sources from the date of the perpetration of this crime on the 21st of Zeehejjeh, the 9th of March, 1904, until to-day has been obliterated from your memory. Your excellency remarks that "The Government of the United States is fully aware that previously to the arrest of Mir Ghaffar both it and the legation urged the Persian Government to direct all its energies to the arrest of the murderer of Mr. Labaree, * * * and now that he has been secured you have imported into the case certain accomplices."

I beg most respectfully to remind your excellency that from the date of the commission of the crime until the present day there has been no vacillation on this point by the legation. The contention when not stated in exact terms has always been implied by the use of the plural number to signify the culprits.

This is more especially emphasized in the letter of the United States minister, dated the 27th of Muharram, 14th of April, inclosing a translation of a letter from Doctor Cochran, a copy of which you sent to Tabriz for the information of the authorities of Azerbaijan, in which fourteen persons were charged with the crime. And in the telegraphic reply of the Emir-i-Nizam, a copy of which your excellency sent to the legation, it is categorically stated that the murderers are Mir Ghaffar and three men of the Dasht Kurds, who must be Mohammadis, and these miscreants are in hiding among this tribe. From this statement of the governor it is quite evident that Mir Ghaffar was not without partners in the perpetration of the outrage; and this attempt on the part of the authorities of Azerbaijan to exonerate the Kurds from all complicity is a perversion of the plainest facts.

I beg, moreover, to report for your excellency's information that previously to the departure of his excellency, the minister of the United States, on the 4th of May, the whole of the correspondence, from the first intimation of the murder until the latter date, including translations of telegrams and letters sent and received in Persian, with a report on all the circumstances of the case, indicating the measures adopted and the efforts put forth by His Majesty's Government was sent to the Secretary of State at Washington.

It is in consideration of this complete knowledge of the facts of the case that I am urged to press upon the attention of your excellency the absolute necessity for the arrest of the accomplices of Mir Ghaffar, as stated in my dispatch of the 4th of Rabi-es-Sani, 18th of June. As therein intimated, the Government of the United States can not be satisfied with less than the arrest and punishment of the accomplices in these murders.

I need not tell your excellency that human credulity can not admit that a single person in the plain of Dilmakan, unless he were inspired by the utmost confidence in his accomplices, would dare in broad daylight to stop two horsemen, murder and strip one, and then taking his clothes and horse, compel the other to go a distance of 6 miles to a lonely place, stand unresistingly while he was hacked to pieces, and then load up the plunder and lead two horses back to his hiding place. Such a supposition is utterly incredible, but the result is the strongest possible proof of the presence and diabolical cruelty of the accomplices.

After three and a half months' correspondence, in which every possible detail and occurrence has been reported, indicating as an indubitable certainty that a number of men were implicated in the perpetration of the crime, I feel it extremely difficult to report to the Government of the United States these statements, so fallaciously in conflict with all opinion on the subject.

If it were not for the dispatch under consideration, I should not think it necessary to indicate to your excellency that no one connected with the United States in Persia would think of bringing a charge not founded on fact against

any person and demand his punishment for a crime of which he was innocent. Immunity from the effects of complicity will be gladly conceded when the plea of not guilty is established.

From the translations of extracts from Doctor Cochran's letters, inclosed in my dispatches of the 26th of Rabi-ul-aval and the 4th of Rabi-es-sani, it can be seen how well grounded are the suspicions directed against these people, whose lives are spent in robbery, plunder, and outrage. If you will carefully examine these papers I feel sure you will admit the truth of the statements.

I beg still once more to request that your excellency will close your ears to these misleading reports and insist upon the arrest and punishment of the guilty parties to this disgraceful murder without any further delay.

I avail, etc.,

JOHN TYLER.

Mr. Pearson to Mr. Hay.

TEMPORARILY AT WASHINGTON,

July 8, 1904.

SIR: I have the honor to hand you herewith copy of an identical note addressed to the Persian Government by the British minister to Persia and by myself as minister of the United States.

I am pleased to be able to add that the note, however unusual in its tone, has had for its effect the capture and incarceration of Seyid Ghaffar, who has murdered a British subject and an American citizen, both within the past six months, and whose claim of lineal descent from Mahomet made his arrest difficult and peculiarly embarrassing to the Persian Government.

I am, etc.,

RICHMOND PEARSON,
American Minister to Persia.

[Inclosure.]

Identic note to His Highness the Ain-ed-Dowleh from His Excellency Sir A. Harding and the Hon. Richmond Pearson.

TEHERAN, *May 1, 1904.*

The undersigned, ministers plenipotentiary of His Majesty the King of Great Britain and Ireland, Emperor of India, and of the United States of America, have the honor to invite your highness's most serious attention to the condition of affairs in the district of Urumia. As the Persian Government is aware, from the separate representations which the undersigned have repeatedly made to it, no adequate steps have been taken to apprehend Seyid Ghaffar, who, after first killing, several months ago, a naturalized British-Canadian subject named Daniel, has since assassinated, with circumstances of revolting atrocity, the Rev. Benjamin Labaree, an American citizen, who was a highly respected member of the American clergy working in Azerbaijan. The murderer and his accomplices are still at large in the neighborhood of Urumia, but, though orders have been sent to the acting governor of Urumia to arrest them, he is powerless for want of troops. The latest telegram received from Consul-General Wratislaw, who represents British and United States interests at Tabriz, is to the effect that nothing is being done for the arrest of the murderers, and that the governor proposes to hold a court of inquiry, which would probably be absolutely useless. No doubt it is desirable, when a person is charged with murder, that every care should be taken to investigate the charge, but a criminal trial in the absence of the accused is hardly likely to advance the ends of justice. The consequence of this deplorable inaction on the part of the Persian authorities is that the Kurds, emboldened by it, are plundering Christian villages, and that both the British and American missionaries at Urumia are in imminent danger. The British missionaries have telegraphed to the Archbishop of Canterbury, the chief prelate of the English Church, to ask his grace to represent the gravity

of the situation to His Majesty's Government, and Mr. Wratislaw has, at his own suggestion, been instructed by telegraph to proceed himself to Urumia in order to reassure them and to advise as to the necessary steps. The Kurds number about 1,000 men, and as there appear to be absolutely no Persian troops at Urumia, an extraordinary state of affairs considering the constantly disturbed condition of that frontier district, the Persian officials have apparently no means of enforcing the authority of the Shah's Government.

It appears to the undersigned that the following measures are urgent and should be adopted without a moment's delay:

(1) A sufficient force, which they suggest might be two infantry regiments and 300 cavalry, should be dispatched by telegraphic orders either from Tabriz, or from the nearest garrison to Urumia, to overawe the Kurds and occupy the principal roads and passes leading from Urumia into Ottoman country, so as to prevent the escape of the murderers across the border. If this had been done when the matter was first represented to the Persian Government the criminals might by now have been captured, but every day which passes will render their arrest more difficult, as the roads are fast opening with the melting of the snow in the passes. No time should therefore be lost in taking these essential steps.

(2) The governor of Urumia should be authorized to draw 15,000 tomans, and such further sums as he may subsequently find to have been requisite, from the nearest branch of the Imperial or Russian Bank for the expenses of his operations.

(3) He should be informed that the successful arrest of the murderers will be a condition of his maintenance in office.

(4) The Mollah Mirza Hussein Agha of Urumia, who has extended his protection to Seyid Ghaffar, should be removed from Urumia and informed that if he attempts to resist he will be treated as an accessory to the crime.

(5) A pecuniary reward should be offered for any information which may lead to the apprehension of the murderers, and a proclamation issued and circulated through the district that any village sheltering them will be burned, and that any person assisting them will be shot as an accessory after the fact to their crime and as a rebel against the Shah's authority.

If these measures are taken without further procrastination there is some hope that justice may be eventually done, but it is imperative that they should not be delayed. The undersigned, confident that the Persian Government must feel as deeply as they do themselves the disgrace which will attach to it in the eyes of the civilized world if it be shown to be powerless to punish the brutal murder of inoffensive foreigners within its territories, are convinced that the earnest appeal which they hereby make to your highness to act promptly and energetically in this matter will not be addressed to you in vain.

The undersigned reserve for the present the question of the pecuniary indemnity to be claimed by them from the local government on behalf of the families of the victims.

ARTHUR H. HARDINGE.
RICHMOND PEARSON.

Mr. Loomis to Mr. Pearson.

DEPARTMENT OF STATE,
Washington, July 22, 1904.

SIR: It affords me much gratification to acknowledge the receipt of your unnumbered dispatch of the 8th instant, inclosing copy of an identic note addressed to the Persian Government by the British minister to Persia and yourself, the effect of which, as you state in your dispatch, has been to cause the capture and incarceration of Seyid Ghaffar, the murderer of the Rev. Benjamin W. Labaree, an American citizen.

Your course in the matter is highly commended by the Department.

I am, etc.,

F. B. LOOMIS,
Acting Secretary.

Mr. Tyler to Mr. Hay.

No. 63.]

AMERICAN LEGATION,
Teheran, July 23, 1904.

SIR:

* * * * *

My letter of the 13th instant to the minister for foreign affairs was being written when your dispatch of the 20th of June opportunely arrived, and I took advantage of the occasion to send a translation of its contents, and make it the foundation for strong and explicit representations. This communication was evidently shown to the Shah, and brought about the note of the prime minister to the minister for foreign affairs; and also, by instructions of the latter, a visit from one of the principal secretaries of the foreign office, notwithstanding the dread of the cholera, which prevails.

This gentleman told me that he had been sent with instructions to talk over the question of the arrest of the accomplices, and to ask in regard to charges that had been made against Kurds, whether it would not be possible to obtain from Urumia the specific proofs on which the accusations were made, so as to avoid difficulties and disturbances which might arise on the arrest of the wrong men.

I reminded him that we had, ever since the perpetration of the crime, furnished the foreign office with all the particulars on which representations had been made and action demanded; and that so far, although with many obstructions, we had maintained and confirmed the position we had originally assumed. I affirmed and reaffirmed that the Government of the United States asked only for justice, but that it would not withdraw its hand until justice was vindicated.

I reminded him that in foreign countries it was usual to offer a reward for information that would lead to the arrest and punishment of such criminals, and but for the intervention of the cholera I should have spoken to the foreign minister on the subject, and I hoped that he would repeat to his excellency what I had said on this as well as other subjects. He promised to do this without fail.

For the past three weeks, on account of the cholera, all the public departments have been closed and secretaries and clerks advised to disperse. Ministers have shut themselves up in their private apartments, and a strong cordon of guards has been placed around the palace to prevent anyone, excepting ministers only on most urgent matters, and then quite alone, from approaching the Shah. Business has been entirely disorganized, although during the last two or three days there have been symptoms of a restored confidence and a return to the usual conditions of life.

I have, etc.,

JOHN TYLER.

[Inclosure 1.]

Mr. Tyler to the Mushir-ed-Dowlah.

AMERICAN LEGATION,
Teheran, July 13, 1904.

YOUR EXCELLENCY: On the 30th ultimo I had the honor to present to you a copy and translation of a telegram, which I had received from the Secretary of

State, repeating that it was most important that the accomplices of Mir Ghaffar should be arrested and punished.

I have this moment received a dispatch, a translation of which is inclosed, wherein I am instructed to press this matter with all urgency upon your attention, until full justice be meted out to the perpetrators of this crime.

I have on several occasions, both verbally and in writing, reminded you of the very grave nature of this crime in the eyes of the United States Government and people; and although it may be, by the authorities in Urumia, for their private interests lightly considered, yet this is not the view taken of it by this legation.

I am being continually informed by our own and other people that the condition of affairs in Urumia is serious in the extreme, that the lives of neither native nor foreign Christians are secure, and that outrages are of frequent occurrence. Under these circumstances I must hold His Majesty's Government responsible for the safety of our citizens.

During the interview, mentioned above, with your excellency you declared that the Government had demanded these criminals from the Crown Prince, but I regret to remark that no effects of this order have become apparent, and I am very strongly of opinion that the authorities in Urumia have totally misguided the Prince regarding the culpability of these men, and consequently your commands and orders have remained in abeyance.

At this same time I urged your excellency to take the most decisive measures to achieve the ends of justice and remove the stain that tarnishes the name of the Government. I also requested, for the information of the United States Government, replies to certain of my communications, which so far have not reached me.

* * * * *
I have to tell your excellency that these men must be arrested; and I hope you will think that I am most serious in making this demand.

I have, etc.,

JOHN TYLER.

[Inclosure 2.]

The prime minister to the minister for foreign affairs.

MUBAREKABAD, July 20, 1904.

YOUR EXCELLENCY: His Majesty has personally stated that orders have been dispatched to the Crown Prince and the governor of Urumia, so that if Mir Ghaffar had any accomplices they are to be arrested.

You are also well aware that I have sent the most imperative orders; but the names of accomplices, with proofs that they are the men implicated, are required, in order that they may be arrested.

Yours,

EYN-ED-DOWLAH,
Prime Minister.

Mr. Tyler to Mr. Hay.

No. 66.1

AMERICAN LEGATION.

Teheran, July 29, 1904.

SIR: I have the honor to inclose for your information a copy and translation of a letter which I addressed to the minister for foreign affairs yesterday, the 28th instant, regarding the failure of the authorities in the province of Azerbaijan to arrest the accomplices of the murderer of Mr. Labaree. I use this more comprehensive term because Urumia is a subgovernment within this province, and its officers are at the disposal of the Crown Prince, whose jurisdiction extends over the whole, and who consequently is indirectly responsible

for the obstruction, excuses, and delays which have so unjustifiably impeded the execution of justice in this case.

* * * * *

I shall continue to press the matter for full satisfaction with all energy, perseverance, and urgency, but if other representations or demonstration are to be made, I shall await further instructions.

I have, etc.,

JOHN TYLER.

[Inclosure.]

Mr. Tyler to the Mushir-ed-Dowlah.

AMERICAN LEGATION,
Teheran, July 28, 1904.

YOUR EXCELLENCY: At our interview on the 20th of June you asked me to telegraph to the Government of the United States that the Kurds, accomplices of Mir Ghaffar, the murderer of Mr. Labaree, had been demanded of His Imperial Highness the Valialed (crown prince) and that you were confident that they would be arrested and produced.

As I had heard nothing from your excellency on the subject, I wrote on the 13th instant, reminding you of what had passed, and at the same time forwarding for your information a translation of a letter which I had received from the Department of State, in which I was urged to press the case upon your attention.

On the 20th instant Mirza Hussein Guli Khan Navale called to talk over the matter and ask for the names of the accused. I begged of him to tell your excellency that the situation was grave indeed, and that the Government of the United States would not give up their demands until justice was meted out to these criminals.

On the 23d instant I sent to your excellency a list of the fourteen men charged with this crime and their places of abode, so that it should not be said that the governor of Urumia lacks the necessary information to enable him to act effectively.

It is usual in crimes of this kind, and of much less barbarity, for a government to employ all the resources of its criminal administration to discover the perpetrators, and not, as in this case, throw the whole weight of the investigation upon the sufferers.

The first and chiefest duty of a government is to protect the lives and property not only of its own citizens, but of all others who in the pursuit of peaceable objects settle within its dominions, and the punishment of evil doers, to whatever class, nationality, or position they may belong.

When the governor of Urumia is asked what steps he has taken to satisfy himself of the culpability of these men, he replies "None;" and without instituting any independent inquiry or accepting the testimony of others, for the sake of a bribe, he pronounces the Kurds not guilty. A man who, as governor, demands and receives large sums of money to protect the guilty parties in such a barbarous case is utterly unfit for his position and ought to be removed and replaced by some one sensible of the responsibilities devolving upon such an office.

It is with much regret that I have to complain of the intervention to protect these men of Mirza Hussein Aga, the chief ecclesiastical authority of Urumia, whose religious position should incline him to purge the city and district of crime and transgressions of the law, but who is openly accused of shielding and protecting criminals instead of punishing them.

It is in the midst of such conditions and circumstances that I have to inform your excellency that so long as this governor and mudjtabad (judge) retain their places these men will never be arrested; and this grave situation will become more serious still.

I therefore beg to ask, in order to bring this unhappy case to a conclusion, that these men may be removed from their positions, that new men be appointed, and stronger measures be enforced for the arrest of the culprits.

I take, etc.,

JOHN TYLER.

Mr. Tyler to Mr. Hay.

No. 72.]

AMERICAN LEGATION,
Teheran, August 20, 1904.

SIR: I have the honor to inclose for your information copy of a letter addressed to the prime minister with reference to the removal from their positions of the governor and the high priest of Urumia and the arrest of the accomplices. These official personages have been closely associated with the murder of the late Mr. Labaree and his servant and the subsequent hesitation and delays which have taken place in the arrest of the murderers and their accomplices.

* * * * *

In my interview with the foreign minister, on the 17th, I was assured that the Government was not neglecting any measures that would be likely to attain the object in view.

He told me that every one of my communications had been laid before the Shah, and he showed to me His Majesty's autograph remarks on the last, in which he said that repeated orders had been sent and that he was then giving further and more imperative commands to have the accomplices arrested.

I told his excellency that there must be an end to these promises without results and excuses devoid of reason or justification, for the United States Government would not understand why, with all the information which had been supplied and the indication of methods which, if adopted, would have insured the arrests, nothing had so far been seriously attempted.

* * * * *

I have, etc.,

JOHN TYLER.

[Inclosure.]

*Mr. Tyler to the Eyn-ed-Dowlah.*AMERICAN LEGATION,
Teheran, August 7, 1904.

YOUR HIGHNESS: I have the honor to inform you that I have just received from his excellency the Secretary of State a dispatch inclosing certain extracts from letters written from Urumia with reference to the incriminating behavior of Mirza Hussein Aga, the chief ecclesiastic in that city, and instructing me to bring these charges to the notice of His Majesty's Government.

These letters produce most serious proofs of the complicity of Mirza Hussein Aga in the murder of Mr. Labaree and his servant, and subsequently to the crime giving Mir Ghaffar asylum and protection. He is furthermore accused of speaking and writing with much virulence against foreigners, saying that they must be taught a lesson, especially Doctor Cochran, who gives effective protection to all Christians. He complains that "a great many foreigners have come here and are holding their heads too high."

Your highness knows as well as I do that the greatest crime that a man can commit against law and society is the taking the life of a fellow-creature, and the instigator to such a deed is equally culpable with the active agent, and deserving of the same punishment.

Mirza Hussein Aga, by inciting to the murder of a person who was neither a brawler nor a preacher of sedition, nor had in any way caused him the least

trouble or annoyance, has brought himself into a position with the lowest and most debased of mankind. And it must be admitted that such an act can not, either by the laws of humanity, of religion, or of the state be justified or disregarded. The superiority in social or official position gives no special privilege for the commission of crime, but, on the contrary, rather serves to accentuate a deeper degree of guilt.

The Secretary of State, in transmitting these convincing evidences of the culpability of this personage, has given instructions that I shall, in bringing them to the notice of the Persian Government, ask for a reply to be transmitted as soon as possible for his information.

On the 2d of August, on the occasion of my interview, in company with the English minister, with your highness, the influence exerted by Mirza Hussein Aga, in preventing the arrest of the accomplices of Mir Ghaffar was pressed upon your attention, and the necessity for his removal was urgently and strongly insisted upon. In reply you stated that he had not committed any fault, and was therefore free from blame.

It is, however, the opinion of every reasonable person that the inciting to murder and the provoking to acts of aggression against peaceable people under the protection of the Government are among offenses the greatest known to the law.

I have, therefore, to request that you will take immediate measures to have this person removed before he commit crimes greater than these.

I have, etc.,

JOHN TYLER.

Mr. Adee to Mr. Tyler.

No. 35.]

DEPARTMENT OF STATE,
Washington, August 31, 1904.

SIR: I have to acknowledge the receipt of your dispatch No. 63, of the 23d ultimo, reporting further action taken by you to secure the apprehension and punishment of the murderers of Doctor Labaree.

The Department commends your course in the matter, and enjoins your continued discreet energy in pressing the matter.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Tyler to Mr. Hay.

No. 80.]

AMERICAN LEGATION,
Teheran, September 21, 1904.

SIR: I have the honor to report for your information that, in view of the delay, hesitation, and ambiguous statements of the Persian Government with reference to the failure to arrest the murderers of the late Mr. Labaree, I paid a visit yesterday to the minister for foreign affairs at his residence in the country.

In addressing his excellency I remarked that the American Government was still anticipating and expecting the arrest of these men, and was astonished, considering the information that had been received from the legation, their own officials, and other sources, that no serious attempt had been made to arrest and bring these criminals to trial. It might, I added, be possible from local observation and personal acquaintance with the condition of the province, and the

absence of any efficient administrative control over frontier tribes to present an explanation that would satisfy His Majesty's Government. but could, under no circumstances, be considered an excuse sufficient to commend itself either to the American Government or people. Seven months of protesting, urging, insisting, and demanding on one side, or promising, assuring, ordering, and ignoring on the other, had elapsed since this deplorable murder took place, and that so far as I could see we were in the same position, if not worse, than at the beginning. I admonished his excellency against a continuation of these methods, and insisted that these demands would not be relinquished until justice had been fully vindicated.

The minister, with much emphasis, assured me that a telegram had been received only three days before from the governor of Urumia declaring that he was putting measures into execution which would obtain the desired result, and that he had every hope to be able in a short time to report the capture of the culprits. He gave orders in my presence to the chief secretary to prepare a telegram reporting my interview, and urging in the strongest terms the necessity for having this matter settled.

His excellency desired me to telegraph this statement to the Government affirming that the authorities were doing whatever was possible, but that the state of the frontier and the conditions of the tribes were much more difficult to grapple with than was generally supposed.

* * * * *

I have, etc.,

JOHN TYLER.

Mr. Tyler to Mr. Hay.

[Telegram.—Paraphrase.]

TEHERAN, *October 11, 1904.*

(Mr. Tyler states that it is absolutely necessary that the Labaree murder case be settled at once, and requests instructions.)

Mr. Hay to Mr. Tyler.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,

Washington, October 12, 1904.

(Mr. Hay states that the President is very much disturbed over the failure of the Persian Government to punish the murderers of Mr. Labaree. If no immediate satisfaction is given, he will be constrained to lay the matter before Congress and recommend such actions as may lead to a compliance with our demand for effective justice.)

Mr. Tyler to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Teheran, October 18, 1904.

(Mr. Tyler reports that he has been requested to inform the Department that the Shah of Persia telegraphed to the Crown Prince at Tabriz to arrest the murderers of Mr. Labaree immediately.)

Mr. Tyler to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Teheran, October 26, 1904.

(Mr. Tyler reports that according to a telegram from the Crown Prince a detachment of fifty mounted men have been dispatched to arrest the murderers.)

Mr. Pearson to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Teheran, November 1, 1904.

(Mr. Pearson reports that the Crown Prince has informed the minister for foreign affairs that six accomplices, endeavoring to escape, were killed by the Persian forces, and that the remainder of the band is being pursued.)

Mr. Pearson to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Teheran, November 21, 1904.

(Mr. Pearson reports that information has reached him from a reliable source that none of the accomplices in the murder of Mr. Labaree were killed as reported on the 1st instant, and that he has lodged indignant remonstrance against the trifling and temporizing, and requests further instructions.)

Mr. Hay to Mr. Pearson.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 25, 1904.

(Mr. Hay states that the reported failure of the Persian Government to punish the murderers of Mr. Labaree is a source of gravest

concern to the President, and that he can not permit our just demands to be trifled with or evaded any longer. If no satisfactory action is taken before Congress meets, in less than two weeks, the President will be constrained to lay the matter before that body and recommend such action as he shall deem necessary.)

Mr. Pearson to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Teheran, November 28, 1904.

(Mr. Pearson reports prospect of a settlement, and asks instructions concerning an indemnity.)

Mr. Hay to Mr. Pearson.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, November 28, 1904.

(Mr. Hay instructs Mr. Pearson to demand an indemnity of \$50,000, and to obtain sufficient assurance that engagements will be carried out. The President will not brook delay, and prompt settlement must be insisted upon.)

Mr. Pearson to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Teheran, December 12, 1904.

(Mr. Pearson reports that the Persian minister for foreign affairs informs him that the Persian Government will immediately pay the indemnity of \$50,000 gold, but begs the President to reduce the amount of the indemnity.)

Mr. Pearson to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Teheran, December 28, 1904.

(Mr. Pearson reports that, after consultation with the widow of Labaree, he proposed and the Persian Government accepted the following settlement:

1. Thirty thousand dollars cash gold.
2. Effective and swift punishment of all guilty persons.
3. No special tax on province or Christians to recover indemnity.)

Mr. Hay to Mr. Pearson.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 29, 1904.

(Mr. Hay approves the conditions of settlement if carried out immediately.)

Mr. Pearson to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Teheran, January 3, 1905.

(Mr. Pearson reports the payment of the equivalent of \$30,000 gold indemnity for the murder of Mr. Labaree.)

Mr. Loomis to Mr. Pearson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 4, 1905.

The indemnity should be remitted to the Department. An administrator must be appointed in the locality and State where Mr. Labaree was domiciled. Probate court there will make distribution and will appoint guardian of infant children, with bond and approved security to protect estate of children.

LOOMIS.

Mr. Loomis to Mr. Pearson.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 6, 1905.

(Mr. Loomis instructs Mr. Pearson to forward the Labaree indemnity to the Department, and informs him that the President cordially commends his energetic and efficient action in this case.)

PERU.

SETTLEMENT OF THE CLAIM OF W. R. GRACE & CO. AGAINST PERU.

Mr. Neill to Mr. Hay.

No. 817.]

AMERICAN LEGATION,
Lima, Peru, November 19, 1903.

SIR: In accordance with a request from L. H. Shearman, esq., manager of the New York commercial house of Messrs. W. R. Grace & Co., having a branch in this city, I again called the attention of this Government to their long-pending claim in a note addressed to Dr. José Pardo, the minister for foreign relations of Peru, a copy of which I herewith inclose for your consideration, calling his attention to the facts as presented to this legation.

It appears the Government included in the budget this account, but it was objected to in the Chamber of Deputies. The minister of finance said that the Government had only placed this item in the budget in view of the possibility of the claim being supported diplomatically, otherwise it was altogether a matter of indifference to the Government whether the Chamber eliminated this account or not. After some discussion, in accordance with the request of Deputy Gazzain, the claim of Messrs. W. R. Grace & Co. was left out, so as to be discussed at some later date.

This claim, which has been pending for the past seventeen years, will be still further delayed, to the serious detriment of the claimants, notwithstanding the fact that the balance due them is in accordance with the decision of the supreme court of Peru, and adjustment of account as made by the "*tribunal mayor de cuentas*" in conformity therewith.

In view of what had been already written in relation to this subject, I begged to call his excellency's attention to the last communication emanating from this legation to the foreign office here, No. 76, March 3, 1899, in which the minister of the United States, acting under instructions from his Government, expressed himself as follows:

A continuance of the conditions which have so long blocked progress in this case would be deemed by my Government to afford foundation for its diplomatic intervention based upon a denial of justice.

All of which I submitted to Doctor Pardo, stating that further delay in taking action looking to the immediate settlement can only have the appearance of a postponement of its adjustment.

Trusting my action will meet with your approval, I have, etc.,

RICHARD R. NEILL.

[Inclosure.]

*Mr. Neill to Doctor Pardo.*AMERICAN LEGATION,
Lima, Peru, November 19, 1903.

MR. MINISTER: I have the honor to most respectfully call the attention of your excellency's Government to the various notes from this legation, viz: No. 52, of October 3, 1898; No. 58, of November 11, 1898, and No. 76, of March 3, 1899, to the Peruvian foreign office, all relative to the long-pending claim of Messrs. W. R. Grace & Co., of New York City.

It appears by the late action of the Peruvian Congress, now in extraordinary session, as noticed in *El Comercio*, of this city, in its morning edition of the 18th instant, that the settlement of this just account, which has been pending for the past seventeen years, will be still further delayed, to the serious detriment of the claimants, notwithstanding the fact that the balance due them is in accordance with the decision of the supreme court of Peru, and adjustment of account as made by the "tribunal mayor de cuentas," in conformity therewith.

I beg to call your excellency's attention to the note emanating from this legation, directed to the ministry for foreign relations, No. 76, March 3, 1899, in which the minister of the United States, acting under the instructions from his Government, expresses himself as follows:

"A continuance of the conditions which have so long blocked progress in this case would be deemed by my Government to afford foundation for its diplomatic intervention based on a denial of justice."

All of which I would respectfully submit to your excellency's kind consideration, as it seems to me further delay in taking action looking to the immediate settlement can only have the appearance of a postponement of its adjustment.

I have, etc.,

RICHARD R. NEILL.

Mr. Neill to Mr. Hay.

No. 831.]

AMERICAN LEGATION,
Lima, Peru, December 19, 1903.

SIR: I have the honor * * * to attach herewith a copy and translation of a note from Doctor Pardo, in which he states that according to an agreement between the minister of finance and the head of the house of Messrs. W. R. Grace & Co., an amount had been placed in the projected general budget of the Republic for 1904 in order to pay the sum claimed by the said house, and that diplomatic action was unnecessary.

* I have, etc.,

RICHARD R. NEILL.

[Inclosure.—Translation.]

*Doctor Pardo to Mr. Neill.*MINISTRY OF FOREIGN RELATIONS,
Lima, December 14, 1903.

MR. CHARGÉ D'AFFAIRES: Referring to the esteemed communications from your legation, dated November 19 last and the 12th instant, it affords me great pleasure to inform your honor that according to the agreement between the minister of finance and the head of the house of Grace & Co. an amount has been placed in the project for the general budget of the Republic for 1904 for a payment on account of the sum claimed by the aforesaid house.

This matter being therefore satisfactorily arranged by the acceptance of the interested party, the diplomatic action of your legation becomes unnecessary.

It is with pleasure, etc.,

JOSÉ PARDO.

Mr. Dudley to Mr. Hay.

No. 856.]

AMERICAN LEGATION,
Lima, Peru, February 3, 1904.

SIR: Referring to Mr. Neill's No. 831, of December 19, 1903, I have the honor to inclose herewith a copy and translation of a law promulgated on the 30th ultimo, which makes provision for the payment, in annual installments of £4,200, of the claim of Messrs. W. R. Grace & Co. The adjustment thus effected is understood to be satisfactory to the claimants.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure 1.—Translation.]

PAYMENT OF AN ACCOUNT.

LIMA, *January 20, 1904.*

YOUR EXCELLENCY: Congress has resolved that in the general budget of the Republic, from the present year of 1904 until the total extinction of the debt, there be set aside the sum of £4,200 Peruvian, intended for the payment of the house of Messrs. W. R. Grace & Co., of New York, the amount of \$99,726.86 American gold, or £19,945 3 sols 72 cents, for capital and interest owing by the State to that firm up to the 31st of August, 1901, in accordance with the sentence of the supreme court of justice, and in conformity with the liquidation made by the upper court of accounts, the Executive being hereby authorized to make payment of the interest subsequent to the above-mentioned date, but to render account thereof to the next legislature.

Which we communicate to your Excellency for your knowledge and other purposes.

God preserve your Excellency.

ANTERO ASPILLAGA,

President of the Senate.

NICANOR ALVAREZ CALDERÓN,

President of the Chamber of Deputies.

SEVERIANO BEZADA,

Secretary of the Senate.

SANTIAGO MONTESINOS,

*Secretary of the Chamber of Deputies.*LIMA, *January 30, 1904.*

Let it be complied with, communicated, and published.

[The rubric of His Excellency.]

LEGUÍA.

ARBITRATION OF THE BOUNDARY DISPUTE BETWEEN ECUADOR AND PERU.

Mr. Dudley to Mr. Hay.

No. 849.]

AMERICAN LEGATION,
Lima, Peru, January 28, 1904.

SIR:

* * * * *

Upon my return recently to this post, after two months' absence, I found the relations of the two countries (Peru and Ecuador) much improved.

The immediate occasion of the recent outburst of national indignation against Peru on the part of Ecuador was the killing of two

Ecuadorans in June of last year at Angotera, a point in the region of the Napo River. The valley of that river and of its tributary, the Aguarico, have been occupied, though with but handfuls of their citizens, by both Peru and Ecuador, under conflicting claims of right, since the two Republics came into existence. Peruvian military forces, I am informed, have several times ascended the Napo as far as Santa Rosa de Napo, a frontier post in the possession of Ecuador.

* * * * *

On the 21st instant, by a protocol (a copy and translation of which are hereby inclosed) signed at Lima by the Peruvian foreign minister and the Ecuadoran chargé d'affaires, the two Governments agreed to submit to the arbitration of a diplomatic agent accredited at both capitals the decision of the responsibility of Peru for the occurrences at Angotera. The Peruvian foreign minister informs me that the Spanish minister, Señor Uribarri, who is accredited both here and at Quito, will act as arbitrator. The decision of the permanent boundary between Peru and Ecuador will, of course, not be involved in this arbitration, but simply the right of the Peruvians, under existing conditions, to repel as they did the advance of the Ecuadorans in the vicinity of Angotera.

* * * * *

I have, etc.,

IRVING B. DUDLEY.

[Inclosure.—Translation.]

[From El Comercio, January 22, 1904.]

ARBITRATION PROJECT.

Yesterday, at the last moment, was signed the protocol which we insert below, by which is sought a convenient solution of the claims of the Ecuadorian Government arising from the occupation of Angotera by the Peruvian forces. It is believed that the arbitrator named will be Señor Uribarri, the Spanish minister accredited to the Governments of Peru and Ecuador.

[Translation.]

His excellency Dr. José Pardo, minister for foreign relations of Peru, and Señor Augusto Aguirre Aparicio, chargé d'affaires of Ecuador, specially authorized by his Government for this purpose, having met in the department for foreign relations, they agreed to the following protocol:

The Governments of Peru and Ecuador, animated by a sincere intention to maintain between them the most perfect cordiality and harmony in their relations, as well as to propend to the quickest and easiest settlement of the differences arisen in consequence of the lamentable conflict which occurred in Angotera on the 26th of June, of last year, agree, through the undersigned, to submit the claim presented by the Government of Ecuador on account of that occurrence and its consequences to the definite and unappealable decision of the diplomatic agent of a friendly power accredited to the Governments of Peru and of Ecuador, or to any other nation friendly to both of these.

By a special protocol both parties will agree upon the diplomatic agent who will serve as arbitrator, and within the term of six months from the date at which the aforesaid agent advises them of his acceptance both Governments will present separately a documentary statement of the facts submitted to arbitration.

If, for the better knowledge of the facts, the arbitrator should consider it necessary to investigate the same in a special manner at the place in which they occurred, he shall have the power to name a mixed commission, to be composed of a delegate of each one of the two Governments, assisted by such a staff of subalterns as he may think convenient; it being understood that none of those parties who have in anyway taken part in the facts to be investigated can be members of the commission in any form whatever.

Both Governments compromise themselves to afford all the requisite facilities for the better issue of the functions of the commission.

In witness whereof they sign in duplicate the present protocol, in Lima, on the 21st day of January, 1904.

JOSÉ PARDO.

AGUIRRE APARICIO.

Mr. Dudley to Mr. Hay.

No. 977.]

AMERICAN LEGATION,
Lima, Peru, August 21, 1904.

SIR: A repetition of the Angotera incident, of which I wrote the Department in my No. 849, of January 28, 1904, appears from telegrams received here yesterday to have occurred on the 28th ultimo, on the Aguarico, in the northeastern border land between Peru and Ecuador.

The decision of the general question of the proper boundary between the two countries is expected soon to be undertaken by the Crown of Spain, envoys having been already sent to Madrid by the litigant Governments to request its consent to act as arbitrator under the treaty of 1887, recently revived under circumstances already reported to the Department. (See p. 681.) In the absence of a modus vivendi border conflicts were to be apprehended pending the decision.

In this instance, as in the Angotera episode, Peru accuses Ecuador of wantonly invading Peruvian territory. The following official version of the facts as understood at Lima has been given out by the foreign office:

By telegram received from Iquitos by way of Manaos, it is learned that on the 28th ultimo the Ecuadorian departmental chief of Aguarico, Señor Rivadeneira, proposed officially to the head of the Peruvian garrison established at Torres Causano, composed of 40 soldiers, that he evacuate the territory as far as the mouth of the Curaray. The Peruvian chief refused, and in view of the instructions and powers possessed by the Ecuadorian commissary, Commander Bravo, entered into an agreement with him that neither the Peruvian nor the Ecuadorian forces should advance until the arrival of the prefect of Loreto. Notwithstanding this, at 2 p. m. on this same 28th day of the month, Rivadeneira, with 80 men and artillery, unexpectedly attacked the Peruvian garrison at Torres Causano, which they reached by trail, being guided by an Ecuadorian named Peñafiel and placing the artillery on the opposite shore.

* * * * *

The encounter was hard fought and lasted three hours, at the end of which the Ecuadorians retired with some losses.

Of the Peruvian garrison there were 2 dead and 4 wounded.

This official telegram, which is referred to as received from Iquitos via Manaos, must have been sent by ship to the latter place, a journey usually of nine days, and thence transmitted by telegraph to Lima. The absence of telegraphic connection between Manaos and Iquitos

and between Iquitos and the Aguarico explain why the earliest intimation of the attack upon the Peruvian garrison to reach the capital was received twenty-three days after the occurrence, though the most rapid means of communication available were doubtless employed.

I have, etc.,

IRVING B. DUDLEY.

Mr. Adee to Mr. Neill.

No. 341.]

DEPARTMENT OF STATE,
Washington, September 17, 1904.

SIR: * * * In relation to a hostile encounter near Aguarico between Peruvian and Ecuadoran armed forces, you will inquire as to the facts and express, unofficially, the earnest desire of the President that peace may be preserved.

I am, etc.

ALVEY A. ADEE,
Acting Secretary.

Mr. Neill to Mr. Hay.

No. 995.]

AMERICAN LEGATION,
Lima, Peru, October 12, 1904.

SIR:

* - * * * * *

It is now thought that the Government of Ecuador is disposed to act in a liberal spirit, and that a comprehensive adjustment of the difficulty will be secured.

I took occasion to present, unofficially, the earnest desire of the President of the United States for the preservation of friendly relations between the two countries, as instructed, which seemed to be received with equal pleasure and satisfaction by the Peruvian Government, and at the same time I was informed that, in view of the sanction given by the Congress of Ecuador to the Cornejo-Valverde protocol, dated February 19 of the present year, for the continuance of the Madrid arbitration regarding the limits with Peru, the Ecuadoran Government has remitted to its minister in Spain the thousand pounds sterling which it has to contribute as its share of the expenses connected with the coming out of the Spanish commissioner, who, in accordance with the aforesaid protocol, is to examine the archives of Lima and Quito, as well as all the documents pertaining to the question in discussion, and that under the above circumstances the Peruvian Government has likewise complied with the same obligation, and that the thousand pounds sterling for Peru's share in the expenses were remitted by cable to Señor Osma, this Government's representative in Madrid, on the 6th instant. The substance of this communication has been made public.

I have, etc.,

RICHARD R. NEILL.

TREATY RELATING TO THE DEMARCATION OF FRONTIERS BETWEEN BOLIVIA AND PERU, AND TREATY OF ARBITRATION RESPECTING THE LIMITS OF BOLIVIA AND PERU.

Mr. Dudley to Mr. Hay.

No. 852.]

AMERICAN LEGATION,
Lima, Peru, January 30, 1904.

SIR: I have the honor to transmit herewith translation of each of the two recent boundary treaties between Peru and Bolivia, with an additional translation, "Modifications made by the Congress of Bolivia to the treaties of September 23 and December 30, 1902."

I have, etc.,

IRVING B. DUDLEY.

[Inclosure 1.—Translation.]

TREATY RELATING TO THE DEMARCATION OF FRONTIERS.

The Government of the Republic of Peru and of the Republic of Bolivia, having in view the solution by peaceful and friendly means of the controversy as to limits now pending between both countries, have agreed to define and fix the divisionary line, and have appointed for this purpose their plenipotentiary, viz:

His excellency the President of Peru has appointed Dr. Felipe de Osma its envoy extraordinary and minister plenipotentiary to the Government of Bolivia.

His excellency the President of the Republic of Bolivia has appointed Dr. Eliodoro Villazou, the minister of foreign affairs.

These parties, after exhibiting their full powers and finding them to be in due form, have agreed to the following articles:

ARTICLE 1. The two high contracting parties agree to proceed to the demarcation of the frontier, from the point of intersection between this and the boundary of the territories occupied by Chile, in accordance with the third clause of the treaty of peace of 1883, on the west, and as far as the snow fields of Palomani on the east, it being understood that in this region the terminating point of the divisionary line is to be fixed in accordance with the surveys and indications of the commission of limits. The settlement of the question as to the remainder of the frontier is reserved for another special convention.

ARTICLE 2. The high contracting parties likewise agree to proceed, in accordance with the conditions of the present treaty, to the demarcation of the line which separates the Peruvian provinces of Tacua and Arica from the Bolivian province of Carangas, immediately after the said provinces are once more under the sovereignty of Peru.

ARTICLE 3. The frontier pointed out in the first article shall be surveyed by a mixed demarcation commission, composed, on each side, of a national commission capable of examining and appreciating the titles relating to the limits, a chief geographical engineer, an assistant engineer, a secretary, and the necessary auxiliary staff. These commissions shall be duly constituted, and shall commence their labors as soon as the interchange of ratifications has taken place.

ARTICLE 4. The surveys shall comprise at least a league in extent on each side of the limit now recognized, and as regards the points about which there exists dispute they shall include the whole of the disputed territory, with its irregularities and topographical details.

ARTICLE 5. The mixed commission shall make plans, dividing them into numbered sections, and shall set down in them the irregularities of the grounds, the limits more or less recognized at the present time, and the advances or limits claimed by the commissioners of each nation. Having come to an agreement, it shall proceed to the demarcation and placing of landmarks on the divisionary line, and while ordering them to be placed in their proper position, shall draw up a document setting forth the facts and also the number of landmarks. Should there be any disagreement, each commission will mark on a plan the limit which ought to be fixed, according to its judgment, and will accompany

the same with a concise memorandum, stating what are the titles and which are the reasons.

ARTICLE 6. The plans or maps shall be submitted to the examination and approval of the respective governments, and by means of a general protocol, or other partial ones, the definite divisionary line of both nations shall be fixed, and on the said line shall be set up the landmarks, their respective localities being duly set forth in as many minutes of the proceedings as may be necessary.

ARTICLE 7. If the high contracting parties should be unable to resolve between themselves the cases which may arise of disagreement between the respective commissions, they shall submit the same to arbitration.

ARTICLE 8. The detailed instructions for the commissions to commence their labors shall be agreed upon in due time, by means of a special protocol, and they shall be handed to the respective commissions, which, for this purpose, shall have assembled in the city of La Paz or in that of Puno.

In witness whereof the undersigned have set their hand and seal to the present treaty, drawn up in duplicate, in the city of La Paz, on the 23d day of September, 1902.

FELIPE DE OSMA
ELIODORO VILLAZOU.

[Inclosure 2.—Translation.]

TREATY OF ARBITRATION RESPECTING LIMITS.

The President of the Republic of Peru and the President of the Republic of Bolivia, being desirous of settling the question of limits now pending between the two States, have for this purpose appointed as their plenipotentiaries:

His excellency the President of Peru has appointed Dr. Felipe de Osma its envoy extraordinary and minister plenipotentiary to the Government of Bolivia.

And his excellency the President of the Republic of Bolivia has appointed Dr. Eliodoro Villazou, the minister of foreign affairs.

These parties, after exhibiting their full powers and finding them to be in due form, have agreed, in accordance with the second clause of the general arbitration treaty of November 21 of last year, to the following:

ARTICLE 1. The high contracting parties submit to the judgment and decision of the Government of the Argentine Republic, as arbitrator and judge of rights, the question of limits now pending between both republics, so as to obtain a definite and unappealable sentence, in virtue of which all the territory which in 1810 belonged to the jurisdiction or district of the Ancient Audience of Charcas, within the limits of the viceroyalty of Buenos Ayres, by acts of the ancient sovereign, may belong to the Republic of Bolivia; and all the territory which at the same date and by acts of equal origin belonged to the viceroyalty of Peru may belong to the Republic of Peru.

ARTICLE 2. The demarcation and placing of landmarks on the frontier which commences between the Peruvian provinces of Tacua and Arica and the Bolivian province of Carangas on the west, as far as the snow fields of Palomani, having been arranged, that section does not form part of the present treaty.

ARTICLE 3. The arbitrator, in announcing his decision, shall do so in accordance with the laws of the recompilation of the Indies, royal schedules and orders, the decrees of intendentes, the diplomatic documents relating to the demarcation of frontiers, official maps and descriptions, and in general with all the documents which may have been dictated with official character, so as to give the true and correct meaning and effect to the said royal dispositions.

ARTICLE 4. Whenever the royal acts and dispositions do not define the dominion of a territory in clear terms, the arbitrator shall decide the question according to equity, keeping as near as possible to the meaning of those documents and to the spirit which inspired them.

ARTICLE 5. The possession of a territory, although held by one of the high contracting parties, can not have effect nor prevail against the titles or royal dispositions setting forth the contrary.

ARTICLE 6. The high contracting parties shall, as soon as the ratifications of this treaty have been interchanged, request the Government of the Argentine Republic, simultaneously, and by means of their respective envoys extraordinary and ministers plenipotentiary, to accept the post of arbitrator, assume jurisdiction for the cognizance, substantiation, and decision of the controversy and to establish the mode of procedure to be followed.

ARTICLE 7. Within one year after advice of acceptance by the Argentine Government, the aforesaid diplomatic representatives shall present their statement expressing clearly the rights of their respective States, and the documents which uphold them or upon which they are founded.

ARTICLE 8. The aforesaid diplomatic agents shall represent their Governments in the case with all the necessary authority to receive and reply to statements, offer proofs, present and amplify briefs, provide data to enlighten the discussion of the respective rights, and, in short, to carry on the case to its conclusion.

ARTICLE 9. As soon as the decision is given, it shall be definitely recorded by the mere fact of it being communicated to the aforesaid envoys extraordinary and ministers plenipotentiary of the high contracting parties. From that moment the territorial delimitation shall be considered definitely and compulsorily established by right between both republics.

ARTICLE 10. For all that is not specially settled by this treaty, that of November 21, 1901, shall be in force.

ARTICLE 11. The ratifications of this treaty, after it has been duly approved and ratified by the governments and legislatures of both States, shall be interchanged at La Paz or in Lima, without the slightest delay.

In witness whereof the undersigned have set their hand and seal to the present treaty, drawn up in duplicate, in the city of La Paz, on the 30th day of December, 1902.

FELIPE DE OSMÁ.
ELIODORO VILLAZOU.

[Inclosure 3.—Translation.]

MODIFICATIONS MADE BY THE CONGRESS OF BOLIVIA TO THE TREATIES OF SEPTEMBER 23 AND DECEMBER 30, 1902.

BOLIVIAN LEGATION IN PERU,
Lima, November 2, 1903.

MR. MINISTER: Under date of October 22 last, and under No. 28, his excellency Dr. Eliodoro Villazou, minister for foreign relations of Bolivia, writes me as follows:

"MR. MINISTER: Confirming the telegram which I addressed to you, I have the pleasure to hand you a copy of the laws of the honorable National Congress, by which were approved the treaties of September 23 and December 30, 1902, celebrated with the Republic of Peru: José Manuel Paudo, constitutional President of the Republic. Whereas the National Congress has sanctioned the following law, the National Congress decrees: The treaty celebrated between the Republic of Bolivia and Peru on September 23, 1902, through Messrs. Eliodoro Villazou, minister of foreign affairs, and Felipe de Osma, envoy extraordinary and minister plenipotentiary of Peru, is hereby approved with the modification, which at the time of the interchange of ratifications must be set forth in the following terms: In the first article, instead of saying * * * "As far as the snow fields of Palomani," it must say, "As far as the point in which the present frontier line coincides with the River Suchez," Let it be communicated to the executive for the constitutional purposes. Hall of the honorable National Congress, in session, La Paz, October 19, 1903. Aníbal Capriles, Venancio Jiménez, Demetrio F. Córdova, Faustino A. Quiroga, D. S., César Salinas, D. S. I therefore promulgate it, that it may be considered as a law of the Republic and obeyed as such. La Paz, October 22, 1903.

"José Manuel Paudo, constitutional President of the Republic. Whereas the National Congress has sanctioned the following law the National Congress decrees: Sole article. The arbitration treaty between Bolivia and Peru, respecting the demarcation of boundaries, celebrated in this city on December 30, 1902, between the minister for foreign relations of Bolivia, Dr. Eliodoro Villazou, and his excellency the envoy extraordinary and minister plenipotentiary of Peru in Bolivia, Dr. Felipe de Osma, is hereby approved with the alteration introduced in the approval of the treaty of September 23 of the same year, as regards the first clause. Let it be communicated to the executive for the constitutional purposes. Hall of the honorable National Congress, in session, La Paz, October 19, 1903. Aníbal Capriles, Venancio Jiménez, Demetrio F. de Córdoba, Faustino

A. Quiroga, D. S., Cesar Salinas, D. S. I therefore promulgate it, that it may be considered as a law of the Republic and obeyed as such. La Paz, October 22, 1903. José Manuel Pardo. Eliodoro Villazou. I repeat to you the assurances of my highest consideration.

"To Señor Don José Manuel Braun, envoy extraordinary and minister plenipotentiary of Bolivia in Lima."

I have the greatest pleasure in communicating to your excellency the foregoing note, and beg to repeat the assurances, etc.,

J. M. BRAUN.

To His Excellency Señor Dr. JOSÉ PARDO,
Minister for Foreign Relations of Peru.

MARRIAGES OF FOREIGNERS IN PERU.

Mr. Dudley to Mr. Hay.

No. 879.]

AMERICAN LEGATION,
Lima, Peru, March 5, 1904.

SIR: I have the honor to transmit herewith a copy and translation of a note from the Peruvian foreign office, together with a copy of the supreme resolution which accompanied it. The object of the resolution is to lessen the number of bigamous marriages, in which, it is to be therefrom inferred, foreigners of unknown antecedents have been concerned in this country. It accordingly requires as a condition to the performance of the marriage ceremony between foreigners, or between a foreigner and a Peruvian, that the civil and the ecclesiastical authorities shall exact, in addition to the evidence of two witnesses, a certificate of celibacy issued by the legation or the consulate of the country to which the foreigner may belong.

Upon receipt of this note I called upon the foreign minister and explained, as touching representatives of the United States, what I believed to be the inherent impossibility of complying with the requirement. I may add that diplomatic and consular representatives of other governments residing in Peru, including to my knowledge, without having canvassed the situation, those of Great Britain and Belgium, would feel constrained to refuse to certify to the unmarried status of their respective subjects. I also called the attention of the Peruvian foreign minister to section 422 of the consular regulations of the United States, which explicitly affirms that our consular officers are not competent to certify officially as to the status and ability to marry of persons domiciled in the United States and proposing to marry abroad; and I advised him that the reason of this rule was equally applicable, in my opinion, to diplomatic agents of the United States.

The foreign minister stated that it would be necessary for him to consult with the minister of justice concerning the modification or repeal of the resolution, and requested me not to acknowledge receipt of his note until he communicated with me further. I told him I would forward the resolution to the Department of State in the usual course, and that my observations in the premises were made subject to your approval.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure 1.—Translation.]

*Doctor Pardo to Mr. Dudley.*FOREIGN OFFICE,
Lima, February 12, 1904.

MR. MINISTER: Some of the diplomatic agents of friendly nations accredited to this Republic have for some time been calling the attention of this department, either verbally or by written communications, to the serious inconveniences which arise from the want of facilities to prove the true civil condition of the foreigners of both sexes who may decide to contract matrimony in national territory.

In order to avoid the abuses arising from the insufficiency of the proofs required hitherto in Peru, for the purpose of showing the condition of single men or women on the part of those contracting marriage, the French legation, in its note of September 22, 1902, asked that every foreigner who desired to contract marriage in this country should be obliged to present a certificate from the respective legation in proof of his or her civil condition.

A copy of that communication and of other subsequent ones on the same subject having been sent to the bureau of justice, recommending the same to the preferential attention of that office, under date of January 23 last, that bureau has issued the supreme decree, of which I have the pleasure to hand your excellency herewith a copy.

As the bases of this resolution are amply set forth in the considerative part of the supreme decree giving motive to the present circular, I judge it convenient simply to limit myself to the assertion that the said bases are identical with those which justify and explain the similar arrangements forming part of the legislation of some of the principal States of Europe.

JOSÉ PARDO.

[Subinclosure.—Translation.]

MINISTRY OF JUSTICE, INSTRUCTION, AND WORSHIP,
Lima, January 23, 1904.

At a meeting of the supreme government, on this day's date, the following resolution has been issued by this bureau:

In view of these proceedings, organized on the initiative of the ministry for foreign relation in order that a suitable resolution should be dictated by the bureau of justice so as to avoid the abuses committed by some foreigners who contract matrimony in the Republic, and conceal their real civil state of married persons, or else change their names; and considering that it is indispensable that some measures be taken to prevent the committing of the abuses originating in the want of correct information regarding the foreigners who wish to contract matrimony.

That in accordance with the fifth clause of article 142, of the civil code, the married person is absolutely forbidden to contract matrimony while the other party to the marriage is alive.

That this regulation is applicable not only in the case of matrimony between Catholics, in accordance with the dispositions of the Council of Trent, but also in that between non-Catholics, in accordance with the prescriptions of the law of December 23, 1897.

That in order to prove the state of being unmarried there must be presented, besides the declaration of two witnesses, a certificate issued by the legation or consulate of the country to which the foreigner contracting matrimony may belong, as an effective means of leaving evidence of his or her true civil condition.

In the use of the faculty granted to the executive by the fifth clause of article 94 of the constitution of State, and in accordance with the report of the supreme court of justice, it is hereby declared:

First. That for the celebration of matrimony between foreigners or between a Peruvian and foreigner, in the Republic, the civil and ecclesiastical authorities shall exact, in each case, besides the declaration of two witnesses, that there be presented a certificate of his or her being unmarried, issued by the legation

or consulate of the country to which the foreigner may belong who desires to contract the aforesaid matrimony.

Second. In case of there not existing in Peru a legation or consulate of the country of which the said foreigner is a subject, he or she shall present a certificate of being unmarried, issued by a competent authority of the respective nation and duly legalized by the minister or consul of Peru, in the territory of that nation, and in defect of these in the ministry for foreign relations.

Of which I have the honor to send your excellency a copy, that you may take note of the same and for any other purpose.

God guard your excellency.

F. I. EGUIGUREN.

Correct.

POLO, *Chief Clerk of the Foreign Office.*

Mr. Dudley to Mr. Hay.

No. 885.]

AMERICAN LEGATION,
Lima, Peru, March 28, 1904.

SIR: Referring to my No. 879, of the 5th instant, I have the honor to inclose herewith a copy of my note to the Peruvian foreign office, acknowledging, with the addition of certain observations, the receipt of the governmental resolution that requires certificates of celibacy to be presented by foreigners before they may be married in Peru. It has become clear to the Government that the resolution was ill advised, and it is altogether probable that it will be repealed as soon as the answers of the legations have been received and referred to the ministry of justice, for which purpose the foreign minister requested us to no longer delay our acknowledgments, as he had previously desired.

Trusting that the tenor of my note may meet your approval, I have, etc.,

IRVING B. DUDLEY.

[Inclosure.]

Mr. Dudley to Doctor Pardo.

AMERICAN LEGATION,
Lima, Peru, March 26, 1904.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's note, No. 8, of February 12, 1904, and the supreme resolution that accompanied it. The object of the resolution, as understood at this legation, is to lessen the number of bigamous marriages, in which, it is to be inferred therefrom, foreigners of unknown antecedents have been concerned in this country; it being accordingly required, with a view to their prevention, that as a condition to the performance of the marriage ceremony between foreigners, or between a foreigner and a Peruvian, the civil and ecclesiastical authorities shall exact a certificate of celibacy (*certificado de soltería*) issued by the legation or consulate of the country to which the foreigner may belong.

In view of the salutary end sought to be attained by the resolution, I regret not to be able to assure your excellency of the readiness of this legation and of the United States consular officers in Peru to comply with its requirements. While I assume it is true that the legation which has manifested the most active interest in the issuance of the resolution would have no difficulty in furnishing the required certificates in proper cases to its citizens, I perceive that this legation would be constrained to refuse them upon the application of American citizens because of the inherent impossibility of their producing satisfactory proof upon which to base the certificate. Touching the authority of our con-

sular officers in the premises, the United States Consular Regulations contain the following: "Consular officers are not competent to certify officially as to the status and ability to marry of persons domiciled in the United States and proposing to be married abroad." The reason of this rule is equally applicable, in my opinion, to diplomatic agents of the United States.

From the foregoing, it is obvious that the resolution in its operation would discriminate as between foreigners of different nationalities.

I also respectfully submit that it would debar all foreign widowers and widows from marrying in Peru, since no legation or consulate can correctly certify that a widower is a bachelor or a widow a spinster.

I have forwarded a copy of the resolution to the Department of State. My views are, of course, subject to its approval. I expressed them to your excellency orally at once because I desired to avert the possible inconvenience and hardship my fellow-citizens might suffer from my delay.

Be pleased, etc.,

IRVING B. DUDLEY.

Mr. Hay to Mr. Dudley.

No. 325.]

DEPARTMENT OF STATE,

Washington, April 11, 1904.

SIR: I have to acknowledge the receipt of your No. 879, of the 5th ultimo, reporting that you had pointed out to the Peruvian minister of foreign relations the inability of the United States legation and consulates to give the certificate required by a recent supreme decree, providing that foreigners desiring to marry in Peru must furnish a certificate of celibacy from their legation or consulate.

The views expressed by you are correct and are approved by the Department.

I am, etc.,

JOHN HAY.

Mr. Dudley to Mr. Hay.

No. 894.]

AMERICAN LEGATION,

Lima, Peru, April 11, 1904.

SIR: Referring to my No. 885, of the 28th ultimo, and as a corollary of the legation's note to the Peruvian foreign office, of which a copy was therewith inclosed, I have the honor to submit herewith to the Department a copy of a communication from this legation to the American consul at Callao, in which I have directed him to refrain from issuing certificates of celibacy to citizens of the United States and to warn the American consular agents in Peru against doing so.

The resolution, or decree, requiring these certificates will undoubtedly be repealed.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure.]

Mr. Dudley to Mr. Gottschalk.

AMERICAN LEGATION,

Lima, Peru, April 11, 1904.

SIR: The ministry of foreign relations of Peru has communicated to this legation a copy of an executive resolution of this Government which requires as a condition precedent to solemnizing marriage between foreigners, or

between a foreigner and a Peruvian, in this country, that the civil and ecclesiastical authorities shall exact of any such foreigner a certificate of celibacy issued by the legation or consulate of the country to which he may belong.

In my reply to the foreign minister, dated the 26th ultimo, I have taken the position, subject to the approval of the honorable Secretary of State, that representatives of the United States, diplomatic and consular, are not in position to comply with the requirement in view both of its impracticability and the inhibition of paragraph 422 of the United States Consular Regulations.

In case of application to your consulate for such certificates, you will, therefore, refrain from issuing them; and you will please warn the consular agents of the United States within your jurisdiction likewise to refuse to issue them.

A copy of the resolution is herewith inclosed.

I am, etc.,

IRVING B. DUDLEY.

Mr. Loomis to Mr. Dudley.

No. 329.]

DEPARTMENT OF STATE,
Washington, May 19, 1904.

SIR: In reply to your No. 894, of the 11th ultimo, I have to say that your instruction to the American consul at Callao, directing him and his subordinate officers to refrain from issuing certificates of celibacy to American citizens, is approved.

I am, etc.,

FRANCIS B. LOOMIS,
Acting Secretary.

Mr. Dudley to Mr. Hay.

No. 958.]

AMERICAN LEGATION,
Lima, Peru, July 23, 1904.

SIR: Referring to my No. 894, of April 11, 1904, I have the honor to inclose herewith a copy and translation of a note from the Peruvian foreign office furnishing this legation a copy of an executive resolution indefinitely suspending the operation of the decree which required certificates of celibacy, issued by legations or consulates, as a condition precedent to the celebration of the matrimony of foreigners within this country.

A copy of my acknowledgment of the foreign minister's note is also herewith inclosed.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure 1.—Translation.]

FOREIGN OFFICE,
Lima, July 16, 1904.

MR. MINISTER: With reference to the circular note from this ministry dated February 12 last, I have the honor to transmit to your excellency a printed copy of the supreme decree, issued by the ministry of justice, worship, and instruction, under date of the 9th of the present month, suspending the effects of the supreme resolution of the 22d of January of the present year, which laid down new rules for the celebration of matrimony between foreigners, or between Peruvians and foreigners contracting marriage in this Republic.

I renew, etc.,

ALBERTO ELMORE.

[Subinclosure.—Translation.]

CELEBRATION OF MARRIAGES.

LIMA, July 9, 1904.

In view of the notes of the minister for foreign relations, accompanying copies of those addressed to his department by his excellency the apostolic delegate, the minister of the United States of America, and the minister resident of His Britannic Majesty, demonstrating the difficulties which arise in complying with the supreme resolutions of January 23 last, relative to the celebration of marriages between foreigners, or between Peruvians and foreigners, in the Republic.

Considering that the aforesaid difficulties can be remedied by arrangements which can be made with the above-mentioned diplomats, as well as with the representatives of France, at whose request the said resolution was taken; in order that the rights of Peruvians who contract marriage with foreigners may be duly protected, for which purpose alone the said resolution was dictated. In accordance with part of the opinion expressed by the attorney-general of the supreme court of justice

It is resolved:

First. To suspend the effects of the aforesaid resolution of January 23 last; and

Second. To pass on this matter to the department for foreign relations, for the purpose already expressed.

Let it be registered and communicated.

[Rubric of his excellency.]

EQUIGUIREN.

[Inclosure 2.]

Mr. Dudley to Doctor Elmore.

AMERICAN LEGATION,

Lima, Peru, July 23, 1904.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's esteemed note of July 16, 1904, inclosing a copy of the supreme resolution of the 9th instant, which suspends the operation of that of January 23 last respecting the issuance of certificates of celibacy by legations and consulates in Peru.

It affords me pleasure to acknowledge with thanks the attention courteously given to the representation I had the honor (coincidentally with some of my colleagues) to make of the obstacles in the way of compliance therewith by this legation and the consular officers of the United States in this country, while recognizing the beneficent purpose the resolution was aimed to subserve.

Be pleased, etc.,

IRVING B. DUDLEY.

VISIT OF THE UNITED STATES PACIFIC SQUADRON TO PERU.*Mr. Dudley to Mr. Hay.*

No. 883.]

AMERICAN LEGATION,

Lima, Peru, March 25, 1904.

SIR: The efficiency of our Navy in the promotion of good international relations has been very happily illustrated in a visit to Peru, which ended to-day, of a portion of the Pacific Squadron under Rear Admiral Henry Glass. He arrived at Callao on the 9th instant, bringing with him, beside the flagship *New York*, the *Boston*, the *Bennington*, and the *Concord*. During their fortnight's stay the Admiral and his officers were treated with the highest distinction by all classes of Peruvians, and with an added cordiality so manifestly genuine as to leave no doubt in their minds of the especial friendli-

ness of Peru toward the United States. * * * Given the existence of this excellent good feeling, the squadron came in a very real sense, as the Peruvian foreign minister expressed it in offering a banquet in honor of the visitors, to vivify the friendship and sympathy felt in Peru for the Government and people of the United States.

I abstain from the quite superfluous task of specifying any of the numerous functions and many interchanges of social amenities, concluding with a reception on the *New York* yesterday afternoon, which followed in the train of this naval visit, and leave it to continue as a pleasant memory at Lima and Callao for a considerable time to come. I take especial satisfaction, however, in mentioning the call of Admiral Glass, with the captains and staff of the squadron, upon President Candamo on the 15th instant, and the visit which the President, accompanied by his cabinet and military household, made to the flagship in the afternoon of the 19th instant. Upon the former occasion I, of course, presented our officers; and on the second I was abstracted upon the President's motion from my perhaps more proper place in the Admiral's launch, as a passenger to the *New York*, to become a member of the Presidential party. The President was charmed with his reception. He did not omit to express his high appreciation of the United States, and referred to the fact that he has one son at Cornell and another in one of our preparatory schools.

In conclusion, I respectfully suggest the desirability, if practicable, of sending American men-of-war more frequently to the west coast of South America.

I have, etc.,

IRVING B. DUDLEY.

DEATH OF PRESIDENT CANDAMO OF PERU.

Mr. Dudley to Mr. Hay.

[Telegram.]

AMERICAN LEGATION,
Lima, May 7, 1904.

President Candamo died this morning at Arequipa.

DUDLEY.

Mr. Hay to Mr. Dudley.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 7, 1904.

Convey to the Government the assurances of the sincere sympathy with which the President and the people of the United States have heard of the death of President Candamo.

HAY.

Mr. Calderon to Mr. Hay.

No. 14.]

PERUVIAN LEGATION,
Washington, D. C., May 9, 1904.

SIR: I have the honor to express to your excellency, in the name of my Government, the gratefulness of the Peruvian people and Gov-

ernment for the message of sympathy delivered by Minister Irving Dudley, in the name of the American people and of His Excellency President Roosevelt, on the occasion of the sorrowful bereavement suffered by Peru.

Adding my own thanks, it affords me pleasure to renew, etc.,
 MANUEL ALVAREZ CALDERON.

Mr. Dudley to Mr. Hay.

No. 920.]

AMERICAN LEGATION,
Lima, Peru, May 16, 1904.

SIR: * * * Respecting the sending of flowers in the name of the President upon the occasion of the funeral of the late President Candamo, of Peru, * * * I beg to add that I sent what seemed to me a very satisfactory and appropriate floral piece on the day of the funeral, attaching to it a black-bordered card inscribed: "From the President of the United States in token of deep sympathy." I may assure you that the courtesy, in view of the source, is appreciated most sincerely, both by the family of the late President and by the Peruvian people.

* * * * *

I have, etc.,

IRVING B. DUDLEY.

ARBITRATION OF THE BOUNDARY DISPUTE BETWEEN COLOMBIA AND PERU.

Mr. Dudley to Mr. Hay.

No. 912.]

AMERICAN LEGATION,
Lima, Peru, May 10, 1904.

SIR: A convention for the arbitration of the boundary question between Peru and Colombia was signed yesterday afternoon at Lima. The submission is to the King of Spain, and it is stipulated, as in the tripartite convention of 1894, annulled three months ago, that his award shall be based not alone upon the strict legal rights of the high contracting parties, but upon considerations of reciprocal convenience weighed in a spirit of equity.

A *modus vivendi* was established for the maintenance of the existing possession and jurisdiction which Peru has in the basin of the Napo, and Colombia in the basin of the Yapurá, or Caquetá, and for the withdrawal of the authorities of both countries from the basin of the Putumayo, until the award is made. Should the exigencies of commerce or other emergency render it advisable to place authorities or customs officers in the Putumayo basin, it is stipulated that the steps to be taken shall be authorized by an agreement hereafter to be entered into.

I will forward a copy of the treaty as soon as it can be obtained.

I have, etc.,

IRVING B. DUDLEY.

Mr. Dudley to Mr. Hay.

No. 923.]

AMERICAN LEGATION,
Lima, Peru, May 17, 1904.

SIR: Referring to my No. 912 of the 10th instant, I have the honor to forward herewith two copies each of the treaty of boundary arbitration and of the protocol establishing a modus vivendi in the region of the Putumayo River, which were concluded at Lima on the 6th instant between Peru and Colombia. The copies were furnished me by the Peruvian foreign office.

Treaties of like character have been negotiated with Ecuador and Bolivia, so that the boundary controversies of this country with three of its neighbors seem to be in course of settlement. Its relations with Brazil continue extremely unsatisfactory.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure 1.—Translation.]

The governments of Peru and Colombia, animated by a sincere desire of bringing to a fraternal and honorable conclusion the question pending between them respecting their territorial limits, and with the intention of removing any cause or motive of disagreement which might disturb the friendship which happily exists, have judged it convenient to come to an arrangement between themselves, and have appointed, for that purpose, their respective plenipotentiaries, viz:

His Excellency the Second Vice-President of the Republic of Peru, in charge of the executive power, has appointed Dr. José Pardo, minister of state in the bureau for foreign relations, and

His Excellency the President of the Republic of Colombia has appointed Don Luis Tanco Argáez, envoy extraordinary and minister plenipotentiary of Colombia in Peru.

Who, after exhibiting their full powers, which were found to be in due and correct form, have agreed to the following:

TREATY OF ARBITRATION RESPECTING LIMITS.

ARTICLE 1. The governments of Peru and of Colombia submit to the unappealable decision of His Majesty the King of Spain the question of limits pending between them, and this must be settled, taking into consideration not only the titles and legal arguments which have been already and may be hereafter presented, but also the convenience of the contracting parties, reconciling them all in such a way that the frontier line shall be based on right and equity.

ARTICLE 2. Both governments will request, simultaneously through their plenipotentiaries, the consent of His Catholic Majesty within eight months, dating from the exchange of ratifications of this treaty.

ARTICLE 3. Within the six months following upon the acceptance by the august arbitrator, the plenipotentiaries shall present to His Catholic Majesty, or to the minister that His Majesty may designate, a statement setting forth the pretensions of their respective governments, together with the documents on which the same are founded, and in which they will bring forward the legal arguments in their favor.

ARTICLE 4. From the date on which the said statements or briefs are presented, the plenipotentiaries will be authorized to receive and give reply, within a fair time fixed beforehand, to the copies of the proceedings which the august arbitrator may think fit to hand to them, and also for compliance with the provisional judgments which he may pronounce for the purpose of illustrating the rights of both parties.

ARTICLE 5. As soon as the arbitrator's decision has been given and officially published by His Majesty's Government, it shall become executory, and its decisions obligatory as regards both parties.

ARTICLE 6. Although both of the contracting parties feel perfectly convinced that His Catholic Majesty will graciously accept the post of arbitrator which is offered to him, they nevertheless from this moment appoint as arbitrators in case of refusal His Excellency the President of the French Republic, or His Majesty the King of the Belgians, or the Swiss Federal Council, in the order in which they are named, so that they may perform the duty in accordance with what is laid down in the preceding articles.

ARTICLE 7. The expenses incurred by the arbitrator in the pursuance of the proceedings shall be paid by the contracting governments, each one paying the half of the sum to which the said expenses amount.

ARTICLE 8. The present treaty shall be ratified by the Congress of Peru, and by that of Colombia, and the ratifications shall be exchanged in the shortest possible time.

In witness whereof the plenipotentiaries of the high contracting parties have signed the present treaty in duplicate, and have sealed it with their private seals, in Lima, on the 6th day of the month of May of the year 1904.

[L. S.]

JOSÉ PARDO.

[L. S.]

LUIS TANCO ARGÁEZ.

[Inclosure 2.—Translation.]

The governments of Peru and of Colombia, with a view to carry out in practice the intentions of the fraternal arrangement which brought about the celebration of the treaty of arbitration relative to the boundaries, signed under this day's date, and to insure harmony between the two countries bound together by so many friendly ties, have decided to submit the possession of the rivers claimed by Peru and by Colombia to an equitable arrangement, and for this purpose have appointed as plenipotentiaries:

His Excellency the Second Vice-President of the Republic of Peru, in charge of the executive power, has appointed Dr. José Pardo minister for foreign relations, and

His Excellency the President of Colombia has appointed Don Luis Tanco Argáez envoy extraordinary and minister plenipotentiary of Colombia in Peru;

Who, after exhibiting their full powers, which were found to be in due and correct form, have agreed to the following:

First. The governments of Peru and of Colombia will maintain the same authorities that they have at the present moment installed on the rivers Napo, and Yapurá, or Caquetá, respectively, and will retire all the others that they may have in the remainder of the territory in dispute.

Second. If later circumstances should require the establishment on the River Putumayo, or in any part of the aforesaid territories in dispute, of a fiscal or police system, this shall be done by mutual consent between the governments of Peru and of Colombia either by fixing the zones to be occupied provisionally by either party or by the establishment of joint authorities.

Third. In consequence of the amicable and equitable features of this arrangement it is understood that the conditions for commercial traffic shall be identical both for Peruvians and for Colombians.

Fourth. The boundaries fixed for the zone which remains outside of the exclusive authority of Peru and of Colombia, and, generally speaking, the terms of this agreement, can not be invoked against the rights which each country claims in the arbitration already agreed upon.

Fifth. The governments of Peru and Colombia bind themselves not to innovate in any way the régime established by this agreement for the zone in dispute.

In witness whereof they sign the present in duplicate and seal it with their private seals, in Lima, on the 6th day of the month of May of the year 1904.

[L. S.]

JOSÉ PARDO.

[L. S.]

LUIS TANCO ARGÁEZ

DISPLAY OF THE PERUVIAN FLAG ON ANNIVERSARIES OF OTHER NATIONS AND AS A SIGN OF CONDOLENCE UPON THE DEATH OF CHIEFS OF OTHER STATES.

Mr. Dudley to Mr. Hay.

No. 950.]

AMERICAN LEGATION,
Lima, Peru, July 8, 1904.

SIR: I have the honor to forward herewith a copy and translation of a note from the Peruvian foreign office, inclosing a certified copy of a supreme decree of the 28th ultimo, also herewith inclosed in copy, providing upon the basis of reciprocity for the raising of this nation's flag on the Palace of Government upon the anniversaries of other nations, and the half-masting of the flag in sign of condolence upon the death of the chiefs of other States, and the attendance in such case of public functionaries at the memorial services in this country, under whatever rites held.

It has heretofore happened that the President of Peru has felt obliged by the constitutional provision and the law respecting the protection of the established church and the prohibition of any other public worship to refrain from attending memorial services held in a non-Roman Catholic church. The law remains the same; the decree merely evidences a more liberal-minded construction and is in the direction encouraged by the Department in its instructions to this legation.

I have, etc.,

IRVING B. DUDLEY.

[Inclosure.—Translation.]

FOREIGN OFFICE,
Lima, July 7, 1904.

The minister for foreign affairs presents his compliments to his excellency the envoy extraordinary and minister plenipotentiary of the United States of America, and has the pleasure to inclose herewith an original copy of the supreme decree issued on June 28 last, which establishes reciprocity in the official ceremonies of congratulation or condolence, in view of the manifestations of mourning shown in some countries of America in consequence of the death of his excellency the late President Candamo.

Mr. Alberto Elmore avails himself of the opportunity to reiterate to Mr. Irving B. Dudley the assurances of his high and distinguished consideration.

[Subinclosure.—Translation.]

FOREIGN OFFICE,
ROOM OF THE CHIEF CLERK,
Lima, June 28, 1904.

The supreme decree, No. 64, of February 19, 1891, being founded upon the convenience of adopting a system of reciprocity similar to that laid down in other countries of America as regards the official ceremonies for congratulation or condolence, and as it is necessary to modify the said resolution on behalf of that same reciprocity, in view of the special mourning ceremonies decreed in some countries of America by reason of the death of the first magistrate of the Republic, it is resolved:

First. That on the national anniversaries of the countries which observe toward Peru the same courtesy, the national ensign shall be hoisted at the Government Palace and at the public offices connected with it.

Second. That in cases of mourning for the heads of the Government of the said countries the national ensign shall be hoisted at half-mast at the Government Palace and at the above-mentioned offices, and the Government officers or functionaries of state may attend the funeral services, which, in accordance with their respective rites, may be performed for the aforesaid reason.

Let it be registered, published, circulated among the members of the diplomatic corps resident in Peru.

[The rubric of his excellency.]

ELMORE.

Correct:

Folo, *Chief Clerk of the Foreign Office.*

Mr. Adee to Mr. Dudley.

No. 337.]

DEPARTMENT OF STATE,

Washington, August 3, 1904.

SIR: I have to acknowledge the receipt of your No. 950 of the 8th ultimo, inclosing a certified copy of a supreme decree providing, upon the basis of reciprocity, for the raising of the Peruvian flag on the Government Palace upon the anniversaries of other nations, and the half-masting of the flag in sign of condolence upon the death of the chiefs of other States, and the attendance in such case of public functionaries at the memorial services held in Peru under whatever rites held.

In reply I have to say that if literal and technical reciprocity is contemplated the fact could not be evidenced in the absence of any statute of the United States of the nature of that adopted by Peru. The tributes shown by this Government on occasion of the death of the chief of a friendly State are within the discretion of the Executive. As a matter of fact the President has often attended the memorial services held in the national capital on the death of a foreign sovereign or president, and, indeed, the President has frequently attended at the funeral services of foreign diplomatic agents who have died in the United States.

There have been instances when the flag on the White House has been half-masted as a sign of condolence; but there is no prescribed rule for such action. It has not been the custom here to make display of the national flag on the White House upon the State anniversaries of other nations, and any rule to that effect would be without significance, inasmuch as the Executive flag is flown every day while the President is in the capital, as it is also displayed daily on all Government buildings.

The sentiment of international friendliness which finds expression in the Peruvian law is appreciated to the full.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Dudley to Mr. Hay.

No. 978.]

AMERICAN LEGATION,

Lima, Peru, August 29, 1904.

SIR: Referring to the Department's 337 of the 3d instant, I have the honor to say that while the raising of the Peruvian flag for other

nations under the supreme decree of June 28, 1904, is nominally upon the basis of reciprocity, the Peruvian foreign minister mentioned to me last month, at this legation's Fourth of July celebration, that it was not the purpose ordinarily to inquire into the fact of reciprocity.

* I have, etc., * * * * * IRVING B. DUDLEY.

CONVENTION FOR THE ARBITRATION OF ALTO JURUÁ AND ALTO PURÚS CLAIMS.^a

Mr. Neill to Mr. Hay.

No. 1004.]

AMERICAN LEGATION,
Lima, Peru, October 29, 1904.

SIR: With reference to previous correspondence upon the subject of the State of Peru's relations with the neighboring States, I have the honor to report Congress approved, in a secret session held on the 28th instant, a treaty entered into with Brazil for the settlement, by means of arbitration, of the Peruvian and Brazilian claims arising out of the different encounters between one and the other on the eastern frontier of the Republic since the year 1902.

I have, etc.,

RICHARD R. NEILL.

^a See also under Brazil, p. 109.

PORTUGAL.

NEUTRALITY OF CHINA IN THE WAR BETWEEN RUSSIA AND JAPAN.

Mr. Hay to Mr. Bryan.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 10, 1904.

(Mr. Hay instructs Mr. Bryan to consult the Portuguese Government in regard to the possibility and desirability of an arrangement between the neutral powers to use their good offices with Russia and Japan for the purpose of inducing them to respect China's neutrality and administrative entity as far as possible, limiting and localizing the area of hostile operations, to minimize the disturbance and excitement of the Chinese people and the injury to commerce and to the peaceful intercourse of the world. If no opposition to this proposition is offered he is instructed to suggest that the representatives of Portugal at St. Petersburg, Tokyo, and Peking be instructed in this sense.)

Mr. Bryan to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Lisbon, February 16, 1904.

(Mr. Bryan reports that the Portuguese Government most cordially concurs in the proposals of the United States Government, contained in telegram of the 10th instant.)

Mr. Bryan to Mr. Hay.

No. 60.]

AMERICAN LEGATION,
Lisbon, February 17, 1904.

SIR: I have the honor to report that immediately on receipt of your cable instructions directing me to consult the minister for foreign affairs with the view of securing the good offices of Portugal with Russia and Japan, in order that the neutrality of China may be respected by them, I hurried to the foreign office. Informed that the minister had gone to northern Portugal for several days' sojourn, I followed him there, and secured his approval of your proposals, subject to the King's acquiescence. To obtain this royal consent the

minister returned here yesterday, and last evening handed me the memorandum, which I send herewith, with translation. The minister assured me that it gave this Government sincere pleasure to adhere to the propositions made in your telegram, and he hoped that I would cable this hearty concurrence. * * *

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure.—Translation.]

MEMORANDUM.

The Portuguese Government concurs with satisfaction in the proposition of the Government of the United States of North America that the neutral powers unite in employing their good offices with both Russia and Japan in order that the neutrality of China may be respected, and that as much as possible the area of hostilities may be localized and limited so as to prevent inconvenience, undue excitement and disturbance of the people of China, and that the commercial and pacific relations of the world may be as little prejudiced as possible.

(NOTE.—On this subject see circular of February 20, 1904, printed on page 2.)

ARBITRATION TREATY BETWEEN PORTUGAL AND SPAIN.

Mr. Bryan to Mr. Hay.

No. 85.]

AMERICAN LEGATION,
Lisbon, June 18, 1904.

SIR: I have the honor to send inclosed the Portuguese version, with translation, of the arbitration treaty between this country and Spain.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure.—Translation.]

[From the Liberal, of June 2, 1904.]

The Government of His Most Faithful Majesty and the Government of His Catholic Majesty, subscribers to the agreement for the pacific solution of international disputes, as arranged at The Hague on the 29th of July, 1899, considering:

Whereas by article 19 of that covenant, the high contracting parties reserved to themselves the privilege of arbitrating in the beginning all questions or matters of dispute of a character to admit of arbitration; and

Whereas the cordiality of the sentiments and intentions that animate the two Peninsular nations, more particularly in respect of contributing effectively to straightening and strengthening of the bonds of intimate friendship, and to confirming and extending the good relations, political and economic, existing between them; and

Whereas it is desirable to secure by mutual and sound concurrence every available and judicious counsel in the common interest of the coast regions in the settlement of local discords and conflicts arising from immediate proximity of the contending parties;

Therefore it is hereby agreed by the undersigned as follows:

ARTICLE 1. All questions of a judicial character relative to the interpretation of treaties or conventions existing, or hereafter to exist, between Portugal and Spain, bordering and friendly nations, and which questions can not be amicably solved by diplomacy, shall be submitted to a commission, constituted expressly for that purpose, by previous agreement; and in the event of the parties failing to agree upon the constitution of such commission within a term not to exceed one month from the time such commission is proposed by one of the high con-

tracting parties, then the submission shall be to the permanent arbitration tribunal or court instituted at The Hague by virtue of the convention there held on the 29th of June, 1899, provided that the questions so referred and submitted shall not involve matters of vital effect upon the independence or honor of the contracting nations or the interests of other States.

ARTICLE 2. If it is necessary to appoint an umpire, owing to the failure of the members of the commission provided for in the foregoing article to agree, he shall be chosen by the Governments interested from among the members of the permanent tribunal of The Hague.

ARTICLE 3. In any special case, before resort to the commission named in the preceding articles, or to the permanent tribunal of arbitration, the high contracting parties can enter into a special compromise clearly determining the points at issue, the extent of the submission to arbitration and the conditions to be observed relating to the constitution of the tribunal and the various phases of the process of arbitration.

ARTICLE 4. This present agreement shall be valid for the term of five years, dating from the day of its ratification, and shall not be declared inoperative short of one year advance notice of such termination, and it shall continue in force for five years successively.

Done at Lisbon, in duplicate, this 31st of May, A. D. 1904.

WENCESLAU DE SOUZA PEREIRA LIMA.
LUIZ POLO DE BERNABÉ.

VISIT OF THE UNITED STATES BATTLE-SHIP SQUADRON TO LISBON.

Mr. Hay to Mr. Bryan.

No. 33.]

DEPARTMENT OF STATE,
Washington, February 26, 1904.

SIR: As long ago as last June it was planned by the Navy Department that after the winter and spring maneuvers of the United States battle-ship squadron in the Caribbean Sea, that squadron should make a voyage to European waters accompanied by the European squadron.

It was proposed that the vessels should visit Lisbon, Trieste, and possibly one of the French Mediterranean ports, remaining in each port about three weeks, after which they would proceed together to Gibraltar, the battle-ship squadron then returning to the United States and the European squadron, of course, remaining on its station.

The object of this visit being simply to afford the vessels and their crews the opportunities for practice incident to an extended trans-Atlantic voyage, and as the visit is without significance of any kind, this Government would be gratified if the courtesies and attentions to the squadrons were limited to the simple, ordinary formalities of such occasions on entering the port visited.

The date of the proposed visit is not yet fixed, but it will be shortly after the conclusion of the maneuvers in the Caribbean Sea now about to take place. You will be advised further so soon as the time shall be set.

I am, etc.,

JOHN HAY.

Mr. Bryan to Mr. Hay.

No. 70.]

AMERICAN LEGATION,
Lisbon, March 22, 1904.

SIR: I have the honor to report that on receipt of your No. 33, of February 26, 1904, announcing the approaching visit to Lisbon of a

large American squadron, I communicated the information contained therein to the foreign office.

The minister for foreign affairs verbally expressed to me the satisfaction that this Government experiences in the prospect of having so many of our finest war ships in Portuguese waters.

Yesterday, during a function at the Royal Palace, King Carlos heartily announced to me that a cordial welcome awaited our squadron. By many questions he manifested much interest concerning the warships expected and the officers in command of them.

I have, etc.,

CHARLES PAGE BRYAN.

The King of Portugal to President Roosevelt.

[Telegram.]

LISBON, June 11, 1904.

Had to-day the great pleasure of proposing your health at luncheon on board the *Kearsarge*. American men-of-war are always welcome in Portuguese waters.

KING OF PORTUGAL.

President Roosevelt to the King of Portugal.

[Telegram.]

WHITE HOUSE,
Washington, June 13, 1904.

I thank Your Majesty most sincerely for all your courtesies to me and generous hospitality to our fleet, and beg to express my best wishes and those of the American people for the health and happiness of Your Majesty, and the prosperity of the people of Portugal.

THEODORE ROOSEVELT.

Mr. Bryan to Mr. Hay.

No. 84.]

AMERICAN LEGATION,
Lisbon, June 21, 1904.

SIR: Regarding the visit of the North Atlantic battle-ship fleet to Lisbon, I have the honor to report the very favorable impression on the whole community here created by the war ships and their officers. The King and other authorities have extended to the visitors a most cordial welcome.

The advent of the *Kearsarge*, *Maine*, and *Alabama* on June 1, was very timely, not only in affording an opportunity for the admiral and other officers to participate in the ceremonies of the initiation of the Duke of Beja, second son of the King, as a naval apprentice, but also enabling me to present on that occasion our officers to the King, Queen, and other attending members of the royal family.

Rear-Admiral Barker, Captain Rodgers, and Flag Lieutenant Eberle accompanied me to a dinner given in compliment to them by the Portuguese sovereigns.

The King, Queen, Queen Mother, and Infante Don Alfonso made an exception in order to honor our country by attending the ball, given by me for the visiting officers at this legation, and repeatedly expressed their satisfaction at that entertainment.

The King lunched with Admiral Barker aboard the flagship, which he examined most minutely, with a vowal of much admiration for all he saw. On that occasion, and on that of another handsome entertainment on the *Kearsarge*, everything was admirably arranged by Admiral Barker and his staff. This experienced commander in chief has here confirmed his reputation as a thorough disciplinarian, and as a worthy representative abroad of our great Navy, while his captains and staff have shown themselves throughout possessed of ability and savoir faire.

On the eve of their departure they were entertained at an elaborate and elegant banquet, given by the ministers of marine and foreign affairs, at which heartiest expressions of good will were exchanged.

Altogether the presentation made by our war ships and their commanders in Lisbon has added greatly to the prestige of our country in Portugal. This is evidenced by many favorable editorial comments, several of which, together with translations, I herewith inclose.

The receipt of the telegram from President Roosevelt to King Carlos was duly appreciated and complimented in the warm expressions to me of the royal recipient.

I have, etc.,

CHARLES PAGE BRYAN.

[Inclosure.—Translation.]

[From the Novidades of June 14, 1904.]

PORTUGAL AND THE UNITED STATES.

On the occasion of the King's visit to the American squadron, now in the Tagus, toasts were offered respectively by the Portuguese Sovereign and the commander in chief of that squadron, the warm expressions in which they were couched being significant of the cordial relations existing between the two nations, and to which the distinguished representative of the United States at this court has so sympathetically and effectively contributed.

As already mentioned in the *Seculo* the King accepted the invitation to the interchange of civilities on board of the flagship *Kearsarge*.

At the serving of champagne, Admiral Barker, in command of the squadron, proposed drinking to the health of His Majesty, not only as the sovereign of this nation, but also as the mariner who maintains the traditional maritime glory to which Portugal is indisputably entitled. To the person of the monarch, and to the illustrious Portuguese navy, the toast presented ardent expression of sympathy, as well as fervent wishes for the prosperity of the kingdom, with grateful acknowledgments for the hospitality and manifestations of appreciation received by the squadron in this capital. His Majesty, Don Carlos, responded in toasting Admiral Barker, also the American Navy and President Roosevelt of the United States, adding that there was full justification of the sympathy and gratification with which Portugal welcomed the squadron of the North American Republic.

The American minister, Mr. Charles Page Bryan, then toasted their Majesties, the Queen D. Amelia and the Queen Dowager, Maria Pia, with expression of best wishes for the utmost happiness of all the august royal family.

A careful examination of the vessel by the King, under the intelligent guidance of Capt. Raymond P. Rodgers, then followed, the detailed explanations by that distinguished officer, eliciting from His Majesty a vowal of thorough

appreciation of the perfection with which the great battle ship had been constructed.

The King descended into the engine rooms and observed the operations connected with the artillery, including some not generally made known. His Majesty was profoundly impressed with the attentions thus shown him by the officers. In fact was so much pleased with the captivating manner of his reception, and by the attentions on board of the vessel, that he dispatched a cable message to President Roosevelt, expressing the satisfaction with which he had visited the vessels of the squadron, and his pleasure at the presence here of a division of the Navy of the United States with its brilliant officers. This message was promptly responded to by President Roosevelt.

* * * * *

Without doubt in this interchange of compliments there is that bond of personal sympathy which the Portuguese sovereign creates and preserves in his relations to other chiefs of state, including President Roosevelt. We should not, and can not, deny that our country may in some measure, at least, be benefited by these relations. In the present instance the cordial expressions of President Roosevelt have accentuated that amicable relation, and the people of Portugal accept with gratitude the message received by their august sovereign and reciprocate warmly like wishes for the prosperity of the people of that grand American nation, as expressed for us by their noble President. In many ways the visit to Lisbon of the American squadron may strengthen the bonds of friendship between the great Republic and this smallest power of Western Europe.

ROUMANIA.

JEWES IN ROUMANIA.^a

Mr. Wilson to Mr. Hay.

No. 93. Roumanian series.]

AMERICAN LEGATION,
Athens, May 5, 1904.

SIR: I have the honor to report that under the title of "New attitude of the London Israelites," the semiofficial "Indépendance Roumaine," publishes extracts in French from certain Jewish newspapers of London, which speak of the better relations now existing in Roumania between the Jews and Christians; the increase in the number of Jews naturalized; the more humane manner of enforcing the anti-Jewish laws, as well as the fact that no further laws of this nature have been proposed; and also the almost complete cessation of the expulsion of Jews from the rural communes.

The report of Major Evans-Gordon to the Alien Immigration Commission^b is referred to, and in view of the improved condition of things the Jewish newspapers advise against any measures from outside in behalf of the Roumanian Jews.

I have, etc.,

CHARLES S. WILSON.

REGULATION OF THE PETROLEUM INDUSTRY IN ROUMANIA.

Mr. Jackson to Mr. Hay.

No. 97. Roumanian series.]

AMERICAN LEGATION,
Athens, May 27, 1904.

SIR: I have the honor to report that shortly before its adjournment, the Roumanian Parliament passed an act "For the regulation and consolidation of the right to exploit private petroleum lands, etc." The original bill had been introduced by Mr. Stoicesco, the minister of domain, about the middle of last March. Its object appears to be the controlling of the granting of concessions by private persons to other persons or to corporations, native or foreign, and under it a commission is created to decide as to the admissibility of any proposed concessions. The text of the new law has just been published in the official "Monitorul," No. 31, of the 9th (22d) instant, in Roumanian. * * *

I have, etc.,

JOHN B. JACKSON.

^a See Foreign Relations 1903, p. 702 et seq.

^b See dispatch No. 63, November 15, 1903, printed in Foreign Relations, 1903, p. 706.

Mr. Jackson to Mr. Hay.

No. 105. Roumanian series.]

AMERICAN LEGATION,
Athens, June 25, 1904.

SIR:

* * * * *

In regard to the development of the petroleum industry in Roumania, the Government appears to be constantly on its guard in order to prevent anything of the nature of a trust. The recently enacted measure regarding concessions to exploit private petroleum lands (dispatch No. 97, of the 27th ultimo) will, it is said, more or less guarantee the holdings, and will help put an end to the practice of leasing these lands several times over, which has prevailed to a certain extent. No objection seems to have been raised to it as yet. New rules have been made in regard to the petroleum reservoirs at Constantza, which are under government control and which have just begun to be used. All petroleum exported from Constantza must pass through these reservoirs, and, in order to prevent the squeezing out of small producers, a regulation has been made prescribing the reservation of at least one reservoir for the common use of producers whose business is not sufficient to warrant their having a reservoir for their sole use.

I have, etc.,

JOHN B. JACKSON.

RUSSIA.

DIFFICULTY BETWEEN RUSSIA AND JAPAN.

[NOTE.—Continuation of correspondence in Foreign Relations, 1903, p. 708 et seq.]

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, January 2, 1904.

(Mr. McCormick reports that he has been informed by the Japanese minister that he had a satisfactory interview with the minister for foreign affairs, and that the latter gave the assurance that the Russian reply to the Japanese counter proposals would be sent to Tokyo in a few days and that it would be of a conciliatory nature.)

Mr. Loomis to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 6, 1904.

(Mr. Loomis informs Mr. McCormick that, according to a telegram from the American minister at Tokyo, it seems that the Japanese Government has decided that it has waited longer for an answer from the Russian Government than is reasonable. Asks whether he has any knowledge of the reply of the Russian Government to the Japanese counter proposals.)

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, February 7, 1904.

(Mr. McCormick reports that the Japanese minister informed him that, although he had no positive knowledge of the Russian reply, the Russian minister for foreign affairs had informed him that a

reply had been sent, and had stated to him, as his own view, that the following conditions should be accepted by Japan:

1. Guaranty of Korean integrity.
2. Free and unfortified passage through the straits between Korea and Japan.
3. The neutral zone in Korea as already defined.
4. No stipulations concerning Manchuria.

He was further informed that the reply had been sent to Admiral Alexieff and the latter had been given authority to modify it as the exigencies of the situation might demand.

Mr. McCormick states that the Japanese minister has asked for his passports and will probably leave to-night.)

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, February 8, 1904.

(Mr. McCormick reports that he has been informed by the minister for foreign affairs that the Russian minister at Tokyo had the Russian reply when the Japanese minister asked for his passports.)

RUSSIAN EMBASSY,
Washington, February 10, 1904.

Translation of a telegram from Count Lamsdorff of the 9th of February, 1904, left at the Department by the Russian ambassador.

In the night 27th January [9th February], a detachment of Japanese torpedo boats unexpectedly attacked the Russian squadron lying at anchor in the outer roadstead of the fortress of Port Arthur. This attack being a beginning of military operations it obliges the Imperial Government to take immediate measures to reply by armed force to the challenge thrown at Russia.

Please inform the Government to which you are accredited.

Mr. McCormick to Mr. Hay.

AMERICAN EMBASSY,
St. Petersburg, February 10, 1904.

No. 84.]

SIR: I have the honor to transmit to you herewith a translation of a communication published in yesterday's Official Messenger, relating to the situation in the Far East.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.—Translation.]

[From the Official Messenger, St. Petersburg, January 27/February 9, 1904.]

A GOVERNMENT COMMUNICATION.

During the past year the Tokyo cabinet, under the pretense of establishing equality (equilibrium) and a better order of things on the shores of the Pacific Ocean, applied to the Imperial Government with the proposal of revising the existing treaties upon Korean affairs, to which Russia expressed consent.

With imperial sanction, in view of the establishment at the time of a viceroyalty in the Far East, the formation of a project of a new treaty with Japan was placed under the management of Lieutenant-General Alexieff with the collaboration of the Russian minister in Tokyo, whose duty it was to conduct negotiations with the Japanese Government.

Notwithstanding the fact that in August last friendly views were exchanged on the subject between the two Governments, as is known, Japanese social circles and local, as well as the foreign press of every sort (beirreku), tried to arouse warlike feeling among the Japanese and to instill the Government to an armed struggle with Russia.

Under the influence of these circumstances the Tokyo cabinet became more and more exacting in its negotiations, taking at the same time the most extreme measures to prepare the country for war.

Of course these circumstances combined could not disturb the peace of Russia, but obliged her on her part to make corresponding military-naval preparations. Nevertheless, animated with the earnest desire to maintain peace in the Far East as far as her unquestionable rights and interests permitted, Russia with careful consideration accepted the declarations of the Tokyo Government and expressed her readiness to recognize the preponderant commercial-economic situation of Japan on the Korean peninsula, including the resort to armed forces in case of trouble in the country.

At the same time, however, strictly keeping to the basis of her original policy with regard to Korea, namely, Korea's independence and territorial integrity, which were guaranteed by preceding treaties with Japan, as well as in the treaties with other powers, Russia could but demand—

1. The mutual and absolute guaranty of the first-named stipulation;
2. The obligation not to make use of any point on Korean territory for strategical purposes, as any infringement of this clause on the part of any power whatsoever would be contrary to the principal of the independence of Korea, and, finally,
3. The maintenance of full freedom to navigate through the Gulf of Korea.

The project elaborated in this sense did not, however, receive the assent of the Japanese Government, which in its last proposals not only declined to accept such conditions, which appeared as a guaranty of the independence of Korea, but at the same time began to demand the inclusion in the said project of questions pertaining to Manchuria.

Such interference on the part of Japan could not, of course, be permitted.

The question of the situation of Russia in Manchuria belongs first of all to China itself, and secondly to all the powers having commercial interests with the Celestial Empire; in consequence of this the Imperial Government most decidedly did not see fit to include in a separate treaty with Japan on Korean affairs any stipulation whatever referring to the districts occupied by Russian forces.

The Imperial Government at the same time does not refuse to recognize, during the time of the military occupation of Manchuria, the Chinese authorities as supreme power in these districts, as well as the privileges which the powers have obtained through treaties concluded by them with China, with regard to which proper declarations were made to the foreign cabinets.

In view of this the Imperial Government, in instructing its representative in Tokyo to transmit its reply to the last Japanese proposal, had a right to expect that the Tokyo cabinet would take into consideration the importance of the above formulated views and would value the desire of Russia to arrive at a peaceful understanding with Japan.

The Japanese Government nevertheless, without waiting for any reply, has decided to break off negotiations and to discontinue diplomatic relations with Russia.

Putting upon Japan all the responsibility for the consequences which may ensue from such a manner of action, the Imperial Government will await the development of events, and upon the first necessity it will take decisive measures for the defense of its rights and interests in the Far East.

Mr. McCormick to Mr. Hay.

AMERICAN EMBASSY,
St. Petersburg, August 19, 1904.

SIR: I have the honor to inclose herewith, for the information of the Department, the French text of temporary regulations for the protection of certain Russian ports in time of war.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.]

Protection of certain Russian ports in war time.

[From the St. Petersburg Gazette of July 28 [August 9], 1904—Translation.]

The committee of ministers, having examined on March 16 [28], 1904, the proposition of the director-general of navigation and commercial ports, of the ministers of foreign affairs and war, and of the director of the naval ministry, dated March 12 [24], 1904, No. 1640, treating of the measures to be taken for the protection of Russian ports in time of war, has given the following opinion:

"I. The temporary regulations for the protection in time of war of Russian military and commercial ports, so long as martial law shall not have been proclaimed therein, shall be submitted for the sanction of His Majesty the Emperor; they shall be applied, on a given date, after a preliminary understanding between the director-general of navigation and commercial ports, the ministers of foreign affairs and war, and the director of the naval ministry; they shall be applicable only during the present war.

"II. The minister of foreign affairs shall be charged (1) with informing immediately the governments of foreign powers of the existence of said regulations, and (2) with entering into conference with the governments in question in order that, until the end of the present war, the Imperial Government of Russia may be opportunely informed of the arrival in Russian ports of war vessels belonging to these powers."

His Majesty the Emperor has approved the opinion of the committee of ministers and has deigned to inscribe with his own hand on the draft of the temporary regulations, "Let it be thus," St. Petersburg, March 25 [April 6], 1904.

In communicating to the governing Senate the text of the "temporary regulations for the protection in time of war of certain Russian ports, so long as martial law shall not have been proclaimed therein," the director-general of navigation and commercial ports notified it that, according to the terms of section I of the opinion of the committee of ministers, approved by His Majesty the Emperor, the director-general of navigation and commercial ports, the ministers of foreign affairs and war, and the director of the naval ministry reached an understanding and fixed a period of twenty days for the application of said temporary regulations. The director-general of navigation and commercial ports, the minister of war, and the director of the naval ministry likewise agreed to fix the limits of the radii of protection of the ports to which the present regulations are to be applied. These limits are as follows:

For Sveaborg. Starting from the right flank of the fortress, from the island of Lovo (to the north of the island of Drumso) along the west shore of Counts Island (Drumso) to the southwest extremity of Peredovoi (Miolko) Island to Khramtsoff Reef (meeting point of the pilots), following the southeast shore of the island of Stoura-Miolo to the island of Matalacara, the eastern extremity of the island of Willingo, and the islands of Lovholm, Sandholm, and Droningholm.

For the port of Cronstadt. To the east of the meridian of the London light-ship.

For the port of Libau. At a distance of 5 miles seaward from the shore, 9 miles northward and 5 miles southward along the shore from the port of Libau.

For Sevastopol. The line of intersection of the Inkermann light-houses NW.-SE. 85° 20', the straight line from the Kherson light-house NE.-SW. 56°, and the line of intersection of the church of the cemetery with the house of the watchman on Mount Rudolphe NW.-SE. 17°.

For the port of Otchakoff. The line from Berezane Island to the tongue of land of Kinbourne.

For the port of Batum. The straight line from the extremity of the pier in the direction of Bouronne-Table NE.-SW. 64° (as far as Sibiriakoff villa) for steamers of over 500 tons net. As, owing to local conditions, other vessels can not stop on the aforementioned line, sailing vessels of over 500 tons net will be authorized to enter within the radius of the outer roadstead, and those of less than 500 tons within the radius of the inner roadstead. Large vessels will not be permitted to approach the entrance of Cape Green (latitude 41° 42') nearer than 500 sagues (3,500 feet) and small vessels nearer than 250 sagues (1,750 feet).

Temporary regulations for the protection in time of war of certain Russian ports so long as martial law shall not have been proclaimed therein.

[Sanctioned by His Majesty the Emperor, March 25 [April 6], 1904.]

As long as martial law shall not have been proclaimed in the ports of Cronstadt, Sveaborg, Libau, Sevastopol, and Batum, and the fortress of Otchakoff, the special measures hereinafter mentioned shall be taken there for the purpose of securing unity of action among the organs of government instituted to insure public safety (articles 2 and 3) with regard to the formalities to be observed by commercial vessels in entering the protected area.

2. The general control of the measures for the maintenance of security in the harbors, roadsteads, and, generally speaking, all the space occupied by the above-mentioned ports (article 1), as well as by their establishments and buildings, is intrusted at Cronstadt to the commander in chief of the port at Cronstadt; at Sevastopol, to the commander in chief of the Black Sea fleet, and at Sveaborg, Libau, Otchakoff, and Batum, to the commandants of these places.

3. The officer in charge of the defense of the port is intrusted with directing and supervising the execution of all the measures of order and security emanating, according to the laws in force, from the military and naval authorities, from the administrative authorities of the port, and from other administrative authorities established in the port.

4. Vessels bound for one of the above-mentioned ports (article 1) are obliged not to approach it nearer than the radius fixed for each port without having provided themselves in each case with a special permit emanating from the authorities of the port. The latter do not grant this permit until they have examined the proper persons and, in case of necessity, visited the vessel.

5. The areas mentioned in article 4, as well as their limits, are fixed by common accord by the director-general of navigation and commercial ports, the minister of war, and the director of the naval ministry, and are made public at the same time as the present regulations. These high officials are also obliged to formulate by common accord the instructions defining the method of making the examination (of persons) and the preliminary visitation (of the vessel), to authorize the approach of the vessel to the port, to designate the administrative officers of the port who are to be delegated for this purpose, and to indicate the coercive measures to be taken by the port authorities.

NOTE.—As regards the port of Sveaborg, the measures enumerated in the present article are taken by common accord by the minister of war and the director of the naval ministry. Complaints of private parties (article 15) against the dispositions made by the officer in charge of the defense of this port (article 2) must be presented within one month to the minister of war, who decides on them after an understanding with the director of the naval ministry.

6. Access to the port within a distance less than the radii indicated in article 4 is allowed vessels only from sunrise to sunset. The officer in charge of the defense of the port may, in exceptional cases, prolong this period and authorize certain vessels to enter the port during the night.

7. An administrative officer of the port must be sent out to vessels which are

approaching the radius of the port. Upon the arrival of this officer on board the vessel, the captain or the person taking his place, after having received a copy of these regulations, is obliged to deliver to the said officer all the ship's papers and documents relating to the cargo, and, if the officer demands it, to give all the explanations required, to allow the visitation of the vessel in all its parts, and to have opened for this purpose all the holds, coal bunkers, and other parts of the vessel.

8. All communication between the vessel and the coast is prohibited until the preliminary examination, and, if necessary, the visitation of the vessel have been carried out.

9. If, after the examination, and, if necessary, the visitation, the authorities of the port deem it possible to admit the vessel into port, these authorities cause a special flag to be hoisted on the foremast.

10. Every vessel which has been refused access to the port must withdraw therefrom as soon as the order to that effect has been given it.

11. In case the authorities of the port do not deem it possible to allow the unloading of the vessel on the mooring line, this operation must be performed by means of lighters while the vessel is at anchor or moored to a buoy. If the captain or the consignee of the vessel does not consent to submit to this regulation, the vessel is obliged to quit the port.

12. In case vessels do not comply with the provisions of articles 4, 10, and 11, it is the duty of the officer in charge of the defense of the port to compel the vessels in question to submit to these provisions, and even to employ armed force for this purpose if necessary. The captain of the vessel or his substitute is responsible for the consequences which these measures may involve.

13. If there should be in the ports designated by the present regulations any commercial houses or private persons who are the owners or consignees of vessels, such commercial houses or private persons, as soon as they have been informed that a vessel consigned to them has left a Russian port or any foreign port, must communicate to the port authorities information concerning the port of departure of the said vessel, indicating the date of its departure, the approximate time of its arrival, its name, and its nationality.

NOTE.—The commercial houses and private persons mentioned in the preceding article may, in order to expedite the free passage into port of a vessel consigned to them, communicate to the authorities of the port, besides the information required by article 13, also data concerning the merchandise with which such vessel is laden, the quantity thereof, its place of shipment, its destination, and the nationality of the captain of the said vessel.

14. If the information mentioned in article 13 and the note thereto appended is communicated within the proper time to the administrative authorities of the port, the vessels should be admitted, if possible, into port after a preliminary examination and without being subjected to the visitation mentioned in article 4.

If, however, it is discovered, with regard to any vessel, that the information indicated in article 13, although received in due time by the owners or consignees of the vessel, has not been communicated to the administrative authorities of the port before the arrival of the vessel, the persons who have, without plausible reason, refrained from communicating this information to the proper authority, may be punished by order of the officer in charge of the defense of the port by a fine not exceeding 500 rubles [\$250].

15. Complaints of private parties against the measures taken by the officer in charge of the defense of the port, according to articles 4 to 14 of the present regulations, must be presented within one month to the director-general of navigation and commercial ports (except in the cases contemplated by article 5). This high official decides on these complaints after having submitted them to the examination of the committee on fort matters, assisted by a representative of the naval ministry.

In case, within the committee, the delegates of the ministries of war and navy are not in accord with the decisions reached by a majority of the members of the committee, the matters in question are transmitted to the proper person according to articles 52 and 53 of the organic statutes of the office of director-general of navigation and commercial ports, approved by His Majesty the Emperor on June 10 [22], 1903.

“The committee of ministers, having taken cognizance on May 26 [June 7], 1904, of the communication of the minister of war dated May 19 [31], 1904, No. 383, regarding the application to the port of Viborg of the temporary regulations ratified by His Majesty the Emperor March 25 [April 6], 1904, concerning the protection in time of war of certain Russian ports so long as martial

law shall not have been proclaimed therein, the said committee was of opinion that there is reason for applying these regulations also to the port of Viborg, provided (1) that, conformably to article 2 of the said regulations, the commandant of the fortress of Viborg be charged with taking all the measures required in order to maintain the integrity and safety of the whole space occupied by the port of Viborg and the dependencies of the port, and (2) that the minister of war and the director of the naval ministry shall receive the same full powers with regard to the port of Viborg as those which they enjoy with regard to the port of Sveaborg (note appended to article 5 of the said regulations). His Majesty the Emperor approved this opinion of the committee of ministers on June 6 [18], 1904.

"The director-general of navigation and commercial ports adds to the foregoing that, according to section 1 of the temporary regulations ratified by His Majesty the Emperor on March 25 [April 6], 1904, it has been decided by common accord by the director-general of navigation and commercial ports, the ministers of foreign affairs and war, and the director of the naval ministry that the said temporary regulations shall be applied within a period of twenty-one days after the publication of the opinion to the effect that they shall be applied likewise to the port of Viborg, and that, conformably to article 5 of the said regulations, the director-general of navigation and commercial ports, the minister of war, and the director of the naval ministry have defined the limits to the radius within which the said regulations shall be applied as follows: From Cape Poulliniemi to the northeastern extremity of the island of Teykarsaari, on the southwest shore of this latter island as far as the island of Kiousskerine-Saari and Cape Pitkeniemi."

PROTECTION OF JAPANESE INTERESTS IN RUSSIA.

Mr. Hay to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 7, 1904.

(Mr. Hay instructs Mr. McCormick to ascertain, in accordance with the request of the Japanese Government, whether it will be agreeable to the Russian Government if the American representatives in Russia look after the interests of Japan upon the withdrawal of her diplomatic and consular officers.)

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, February 9, 1904.

(Mr. McCormick reports that the Russian Government has no objection to the American representatives looking after the interests of Japan upon the withdrawal of the Japanese diplomatic and consular representatives.)

Mr. Loomis to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 9, 1904.

(Mr. Loomis instructs Mr. McCormick to give immediate information to the American consular officers in Russia that the Russian

Government has assented to the request of Japan that the American diplomatic and consular representatives in Russia look after Japanese interests after the withdrawal of those of Japan; to instruct them that they may, when requested to do so, take charge of Japanese consulates and archives, but that they have no Japanese consular functions or authority, that they can use their good offices only for the protection of Japanese subjects and their interests.)

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, March 19, 1904.

(Mr. McCormick reports that several destitute Japanese arrived at St. Petersburg from Irkutsk, and that he is arranging to send them to Berlin, where their legation will look after them.)

Mr. Loomis to Mr. McCormick.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 19, 1904.

Your telegram 19th reporting arrival from Irkutsk of 12 destitute Japanese received. Japanese minister has requested our protection for these refugees. Your action approved by Department.
LOOMIS, *Acting.*

Mr. Loomis to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 24, 1904.

(Mr. Loomis informs Mr. McCormick that the Japanese minister reports that 48 destitute Japanese at Chita desire to reach Berlin, and that the Japanese Government desires that all destitute Japanese in Siberia be notified that they may be assisted to Berlin if they desire.)

Mr. Loomis to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 24, 1904.

(Mr. Loomis informs Mr. McCormick that the Japanese Government desires to send a neutral ship to Korsakov, Saghalien Island,

for the Japanese consular staff and 600 refugees detained there by ice and reported in need of food. Instructs him to ask for Russia's consent and to notify the Japanese consulate at Korsakov to prepare for embarkation, and to advise the Japanese Government, through the American commercial agent at Vladivostok, when the relief vessel should be dispatched.)

Mr. Hay to Mr. McCormick.

No. 92.]

DEPARTMENT OF STATE,
Washington, April 1, 1904.

SIR: I inclose copy of a note from the Japanese minister at this capital indicating the course which, he states, the Russian Government has agreed to follow in the matter of communicating information to you concerning such Japanese prisoners of war as may fall into their hands.

You will bring the matter to the attention of the Russian foreign office, and ask that the regular communication agreed upon may be made to you without your making request therefor in each case.

You will communicate the information received to the Japanese minister at Berlin.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Takakira to Mr. Hay.

No. 19.]

LEGATION OF JAPAN,
Washington, March 31, 1904.

SIR: I have the honor to inform you, under instructions from His Imperial Majesty's minister for foreign affairs, that the French minister at Tokio addressed him a note on the 16th instant requesting the Imperial Government to send him regularly a list of the Russian prisoners of war who may fall into the hands of the Japanese army, and in case of the death of such prisoners to inform the French legation or consulate of the fact, together with their names in full, rank and age, as well as the body of troops to which they may be found to belong. Baron Komura further desires me to say that he replied to the French minister expressing the willingness of the Imperial Government to furnish him the desired information every ten days, so far as practicable, provided the Russian Government would give to the United States embassy or consulate in Russia the similar information concerning Japanese prisoners, and that the French minister thereupon informed the Baron that the Russian Government had declared their willingness to give the United States embassy every useful information concerning Japanese prisoners as requested.

In view of the above fact, I am also instructed to request that the United States Government will be good enough to instruct their ambassador at St. Petersburg to approach the Russian Government in order to obtain their promise to furnish him the required information every ten days without awaiting his request each time, and also to forward the information thus obtained to the Japanese minister at Berlin, to the end that the same may be transmitted to Japan by the latter.

I avail, etc.,

K. TAKAHIRA.

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, April 6, 1904.

(Mr. McCormick reports that the foreign office is awaiting a reply from the viceroy before granting formal permission for a neutral vessel to be sent to Korsakov to remove Japanese subjects.)

Mr. Hay to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 7, 1904.

(Mr. Hay informs Mr. McCormick that the American minister in China reports that the Russian authorities at Niuchwang refuse to release the two Japanese servants of Washburn and Little, American correspondents, who were taken from the press boat *Fuhwan* near Niuchwang, and instructs him to use good offices to effect their release or lenient treatment, as they were employed in good faith and are believed to be blameless.)

Mr. Hay to Mr. McCormick.

No. 96.]

DEPARTMENT OF STATE,
Washington, April 11, 1904.

SIR: I inclose copy of a note of the 9th instant from the Japanese minister at this capital,^a expressing the hope of his Government that this Government will use its good offices with Russia to obtain the release of the Japanese on board the press boat *Hanyei Maru*, chartered by a correspondent of the Asahi Shinbun.

The men in question are said to have been noncombatants and not engaged in the commission of any act hostile to Russia.

The minister points out that his Government has released all of the passengers on board of the Russian merchant vessels captured, also their officers and crew, except those whose evidence was needed in the admiralty courts.

You will endeavor to carry out the desire of the Japanese Government.

I am, etc.,

JOHN HAY.

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, April 11, 1904.

(Mr. McCormick reports that the minister for foreign affairs has submitted the case of the press boat *Hanyei Maru* to the viceroy by wire, and has asked again for reply to the request for permission for a neutral vessel to take Japanese subjects from Korsakov.)

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, April 15, 1904.

(Mr. McCormick reports that he has been informed by the minister for foreign affairs that under the rules of war of February 14 last the departure of the Japanese from Korsakov will be permitted; that arrangements may be made for a neutral vessel to proceed there when navigation opens, which will take place about May 1, and that facilities have been promised for direct communication with all Japanese subjects in Siberia as soon as information concerning their whereabouts can be obtained. It is stated that some of them desire to remain there.)

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, April 21, 1904.

(Mr. McCormick reports that through the cooperation of the Russian Government the Japanese consul at Korsakov has been informed of the permission of the Russian Government for a neutral ship to proceed to that place, and requests to be informed of the name of the vessel and the date of its departure.)

Mr. Hay to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 22, 1904.

(Mr. Hay informs Mr. McCormick that the British steamer *Ettrick Dale* will be dispatched to Korsakov by the Japanese Government to withdraw their subjects, and that the same will leave Hakodate about April 28. Instructs him to request the Russian

Government to telegraph this information to the Russian authorities at Korsakov; to inform the Japanese consulate at Korsakov, through the commercial agent at Vladivostok, that, as far as possible, the Japanese residents in Saghalien should be gathered before the arrival of the *Ettrick Dale*, which, in addition to the passengers, will be able to take away a large amount of freight.)

Mr. McCormick to Mr. Hay.

No. 127.]

AMERICAN EMBASSY,
St. Petersburg, April 30, 1904.

SIR: Referring to the Department's instructions No. 96, of the 11th instant, I have the honor to include a translation of a note from the ministry for foreign affairs on the subject of the Japanese press boat *Hanyei Maru* and further stating that the Japanese servants of Messrs. Washburn and Little have been set free.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.—Translation.]

Mr. Obolensky to Mr. McCormick.

MINISTRY FOR FOREIGN AFFAIRS,
First Department, April 15/28, 1904.

Mr. AMBASSADOR: In reply to the note which your excellency addressed to me on the 11th instant, relating to the arrest of the Japanese who were on board the press boat *Hanyei Maru*, I have the honor to state that, according to information furnished me by the imperial lieutenant of the Far East, the said boat was seized at the islands of Miaodao, and not at Port Arthur, on account of evident proof of hostile intentions toward the Russian authorities. The Japanese subjects who were on board the said vessel, some of whom were dressed as Chinese, were taken to Port Arthur and placed in the hands of the judicial authorities for examination.

I may add that the Japanese servants in the employ of Messrs. Little and Washburn were set free at the beginning of April.

Please accept, etc.,

OBOLENSKY.

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, May 1, 1904.

(Mr. McCormick reports that he has been advised that the viceroy replies that the *Hanyei Maru* was seized at Miaodao because there was evident proof of hostile intentions toward Russia; that the subjects on board of the vessel were taken to Port Arthur and turned over to the judicial authorities. Further particulars will be transmitted as soon as received.)

The viceroy has accepted the proposal for the exchange of information relating to prisoners of war and will transmit such data as often as practicable, perhaps at longer intervals than ten days, on account of local conditions.)

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, May 6, 1904.

(Mr. McCormick reports that the American commercial agent at Vladivostok has informed him that on request, and in order to better protect the Japanese consular buildings, he has given charge of them to the port admiral, the president of the local Red Cross association; that after removal and storage of the furniture the association has improved the grounds and has renovated the houses for the use of patients and Red Cross nurses. Mr. McCormick informed him that he should have notified the embassy before taking this step, so that consent and approval of the Japanese Government could have been obtained, and added that it is believed that the same would have been cheerfully given.)

Mr. McCormick to Mr. Hay.

[Telegram.]

AMERICAN EMBASSY,
St. Petersburg, May 8, 1904.

Ettrick Dale arrived Vladivostok 4th. Leaves to-day with 326 Japanese from Korsakovk. Admiral Alexieff was advised 5th April and the ministry marine, Red Cross, and Grand Duke Alexander Michaelovitch, minister of commercial marine on 6th, of the equipment of the Japanese hospital ships.

McCORMICK.

Mr. Hay to Mr. McCormick.

No. 110.]

DEPARTMENT OF STATE,
Washington, May 9, 1904.

SIR: I have to acknowledge the receipt of your telegram of the 6th instant.

Your reply to Mr. Greener is approved. I inclose for your information a copy of the personal note that I addressed to the Japanese minister on the subject.^a

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 11, 1904.

(Mr. Hay informs Mr. McCormick that the Japanese Government have no objection to the use of the Japanese consular buildings at Vladivostok for Red Cross purposes by the Russian authorities.)

Mr. McCormick to Mr. Hay.

No. 134.]

AMERICAN EMBASSY,
St. Petersburg, May 14, 1904.

SIR: With reference to the Department's cable instruction of yesterday requesting that I telegraph the full names of certain Japanese officers and men captured May 2 and 3, while taking part in the Port Arthur blockading party, and also of those taken prisoners when the *Kinshu Maru* was sunk, I have the honor to state that I had already asked the ministry for foreign affairs to furnish me with the full names of these officers and all of their fellow-prisoners, and that His Excellency Count Lamsdorff had already caused a telegram to be sent to Admiral Alexieff requesting that these names be telegraphed as soon as possible, and I hope to receive them within a day or two.

* * * * *

I have, etc.,

ROBERT S. McCORMICK.

Mr. Hay to Mr. McCormick.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 11, 1904.

On behalf Japanese Government, ascertain whether about 280 Japanese, detained at Nikolaiivsk by ice, are still there, and if so, obtain consent for Japanese Government to send neutral ship to Caparison Djaore, about 70 versts distant, to bring them back to Japan.

HAY.

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, June 22, 1904.

(Mr. McCormick reports that the viceroy, for considerations pertaining to the war, declines to grant the request for the return to Japan of the crew of the *Hagino Ura Maru*.)

Mr. McCormick to Mr. Hay.

No. 164.]

AMERICAN EMBASSY,
St. Petersburg, June 30, 1904.

SIR: In compliance with your instruction No. 92, of April 1, 1904, I have the honor to inform you that I have forwarded to the Japanese minister at Berlin a list of Japanese prisoners of war transmitted to me by the imperial ministry for foreign affairs.

I have, etc.,

ROBERT S. McCORMICK.

Mr. Loomis to Mr. Eddy.

No. 131.]

DEPARTMENT OF STATE,
Washington, July 20, 1904.

SIR: Referring to the Department's telegram of June 11 last, I inclose copy of a note from the Japanese minister at this capital, stating that, in view of information received by his Government that the Japanese subjects at Caparison Djaore had been transferred to the interior, his Government no longer deems it necessary to send a neutral vessel for the withdrawal of the people in question.

I am, etc.,

F. B. LOOMIS,
Acting Secretary.

[Inclosure.]

Mr. Takahira to Mr. Hay.

LEGATION OF JAPAN,
Washington, July 15, 1904.

SIR: Referring to my note of the 10th ultimo, in which I had the honor to request that the necessary steps should be taken to secure the permission of the Russian Government for the dispatch of a neutral vessel to Caparison Djaore, I beg to inform you that I am in receipt of telegraphic instructions from his excellency the minister for foreign affairs, in which he informs me that it has been learned from the Russian Government Gazette that the Japanese subjects who were at that place have been transferred to the interior. Under these circumstances the Imperial Government no longer consider it necessary to send a neutral vessel for the withdrawal of these people, and I am therefore instructed to inform you of this decision, and at the same time to express to you the cordial thanks of the Imperial Government for the trouble which you have already taken in the premises.

Accept, etc.,

K. TAKAHIRA.

Mr. Hay to Mr. Eddy.

No. 156.]

DEPARTMENT OF STATE,
Washington, October 14, 1904.

SIR: I inclose herewith a copy of a note from the Japanese minister at this capital conveying the thanks of his Government to Mr. McCormick for his good offices in bringing about the return to Japan of some 800 Japanese subjects, who have, until lately, been remaining in Russia, and who are to leave Bremen for home about the 20th instant.

I am, etc.,

JOHN HAY.

(Note.—See No. 75, October 11, 1904, from the Japanese Legation, p. 436.)

NEUTRALITY OF CHINA IN THE WAR BETWEEN RUSSIA AND JAPAN.

Mr. Hay to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 10, 1904.

(Mr. Hay instructs Mr. McCormick to express to the minister for foreign affairs that it is the earnest desire of the Government of the

United States that the neutrality of China and her administrative entity be respected by both parties in the course of the military operations which have begun between Russia and Japan, and that the area of hostilities be localized and limited, so that undue excitement and disturbance of the Chinese people may be prevented and the least possible loss may be occasioned to the commerce and peaceful intercourse of the world.)

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, February 11, 1904.

(Mr. McCormick reports that he personally presented to the minister for foreign affairs the proposal of the United States, as expressed in Department's telegram of the 10th instant, who stated that he could give no answer thereto before consultation with the Emperor and the military authorities.)

Count Cassini to Mr. Hay.

[Translation.]

WASHINGTON, *February 15, 1904.*

MR. SECRETARY OF STATE: By order of my Government, I have the honor to advise your excellency that, in consequence of the laying of torpedoes in the waters of the Kwantung, all vessels which desire to approach the coast or enter Port Arthur shall observe the following rules: After heading for the entrance of the port on a strictly northern course, all vessels shall stop at a distance of at least 5 miles, hoist their national flag and call by signal for a pilot, who will be at once sent to them to steer them to their assigned berth.

Be pleased, etc.,

COUNT CASSINI.

Mr. Hay to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 15, 1904.

(Mr. Hay transmits to Mr. McCormick the reply of the Japanese Government to the proposal of the United States relating to the neutrality of China.)

(NOTE.—See inclosure 2 to dispatch No. 45, February 15, 1904, from Japan, printed on page 420.)

Mr. McCormick to Mr. Hay.

[Translation.]

No. 89.]

AMERICAN EMBASSY,
St. Petersburg, February 17, 1904.

SIR: I have the honor to inform you that in accordance with your telegraphic instruction of the 15th instant, I called upon Count Lamsdorff and personally communicated to him the reply of the Japanese Government to your note, on the subject of the neutrality of China during the existing war, transmitted therein, and in further keeping with that instruction and at his request I handed him a copy of that reply. * * *

Count Lamsdorff said immediately after glancing at the copy that the Japanese response accorded with his ideas, but that a formal response to the desire already expressed by the Government of the United States with reference to this question could not be made at once, as it was necessary to define the territory which fell within the limit of the Chinese Eastern Railway concession or agreement, which gave Russia the right to maintain such body of troops as were necessary for the defense of the property of the railway and the rights acquired under the agreement, which territory would naturally be excepted in any declaration made by the Russian Government. Count Lamsdorff said further that he would shortly give formal response to the desire already expressed by me in accordance with your telegraphic instruction of February 10.

His manner indicated to me both the wish and purpose on his part to meet that desire, with the exception above noted, and with as little delay as the consideration of the limit within which this exception shall fall would permit.

I have, etc.,

ROBERT S. McCORMICK.

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, February 19, 1904.

(Mr. McCormick transmits the reply of the Russian Government to the proposal of the United States relating to the neutrality of China, which states that the Russian Government shares completely the desire to insure tranquillity of China; is ready to adhere to an understanding with other powers for the purpose of safeguarding the neutrality of that Empire on the following conditions:

Firstly. China must herself strictly observe all the clauses of neutrality.

Secondly. The Japanese Government must loyally observe the engagements entered into with the powers, as well as the principles generally recognized by the law of nations.

Thirdly. That it is well understood that neutralization in no case can be extended to Manchuria, the territory of which by the force of events will serve as the field of military operations.)

Mr. Hay to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 19, 1904.

(Mr. Hay informs Mr. McCormick that the United States Government considers the reply of the Russian Government as responsive to the proposal of this Government and will at once communicate it to the Governments of China and Japan, which have already signified their adherence to the principles of the proposal.)

Memorandum of the Russian embassy left at the Department of State.

[Translation.]

WASHINGTON, *February 29, 1904.*

With the object of preventing misunderstandings arising, the Imperial Government considers it its duty to define more definitely the limits of the border regions in Manchuria which may be used as the field of military operations, and to which, consequently, the neutrality of China is not applicable.

Besides the portion of Manchuria actually occupied by the Russian forces, the following will be outside of the neutral territory: A portion of the region situated on the right bank of the Liao Ho, the boundaries of which are formed by the Liao Ho, by the railway line Ying-Kau—Gou-tau-tze, afterwards by the railway line to a point where this line crosses an affluent of the Liao Ho, the Liou Ho (a little south of Sin-min-thun) and finally by the said affluent, the Liou Ho, as far as the frontier of Mongolia.

The occupation of this region is solely indispensable for the object of protecting the railway line built by Russia against the attacks of the numerous bands of Hunhuses, the presence of which to the west of the Liao Ho is acknowledged by the Chinese Government itself.

The portion of the province of Mukden outside of the above-defined region and extending as far as the great wall might be recognized as inviolable by both belligerents.

It appears from the above that, in anticipation of the fundamental idea which inspired the powers in their efforts to localize the war, the Imperial Government is ready to considerably restrict the theater of military operations in Manchuria if China observes strictly her neutrality. The Imperial Government would on its side consider itself released from all obligation taken in case the Chinese Government should allow the Japanese to violate the inviolability of the neutral territory within the above-mentioned limits.

Count Cassini to Mr. Hay.

[Translation.]

WASHINGTON, *March 26, 1904.*

MR. SECRETARY OF STATE: By order of my Government I have the honor to bring to the knowledge of your excellency that, owing to

existing circumstances, the lieutenant of His Majesty the Emperor in the Far East finds himself under the necessity of causing mines to be laid at the mouth of the Liao Ho River, near Inkow. Neutral merchant vessels may still be freely admitted into the above-named port on condition that they shall comply with the regulations issued for the purpose.

Be pleased, etc.,

COUNT CASSINI.

Count Cassini to Mr. Hay.

[Translation.]

WASHINGTON, *March 30, 1904.*

MR. SECRETARY OF STATE: By order of my Government, I have the honor to inform your excellency that the following announcement has just been made by the commander in chief of the Russian fleet in the Pacific Ocean:

“Any public or merchant vessel navigating waters in which military operations are carried on and detected at night without ship lights on board or by day without a flag, and which, after warning by the firing of a gun, will not show its colors, will be considered to be an enemy, and sunk.”

Be pleased, etc.,

COUNT CASSINI.

PROTECTION OF AMERICAN INTERESTS IN KOREA.

Mr. Hay to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 2, 1904.

(Mr. Hay informs Mr. McCormick that according to press reports the mining districts in Korea near the frontier have been occupied by Russian troops, and although it is believed that all possible consideration and security will be given to neutral Americans and their interests, an assurance in this respect would be acceptable to the United States Government.)

Mr. McCormick to Mr. Hay.

No. 95.]

AMERICAN EMBASSY,
St. Petersburg, March 5, 1904.

SIR: With reference to the interests of American citizens in any part of Korea now occupied or hereafter to be occupied by Russian troops, I lost no time in laying before the minister for foreign affairs the contents of your cable of March 2, and to-day spoke with him personally on the subject of extending every possible consideration and security to those interests. He assured me, as he had already written, that in the case of occupation of any part of Korea the

interests of Americans and all foreign neutrals in Korea would be safeguarded by the military authorities in so far as possible, that limitation in no sense to be taken to indicate that any effort would be spared in the desired direction.

I have, etc.,

ROBERT S. McCORMICK.

Translation of a memorandum left with the Secretary of State by the Russian ambassador March 28, 1904.

Japan having openly violated the neutrality of Korea and usurped the power in that country, which has from this fact become the theater of the hostilities, Russia, for her part, finds herself constrained to adopt such measures as the circumstances demand, and deems it her duty to warn all neutral powers of the danger in which vessels calling at Korean ports may be involved through the present development of the war.

CONTRABAND OF WAR.

SEIZURES OF AMERICAN-CHARTERED VESSELS AND AMERICAN CARGOES BY RUSSIAN NAVAL AUTHORITIES.

Mr. McCormick to Mr. Hay.

No. 98.]

AMERICAN EMBASSY,
St. Petersburg, March 9, 1904.

SIR: I have the honor to transmit to you herewith the Russian text and translation of the order of His Majesty the Emperor of Russia, communicated to the Senate by the minister of justice, sanctioning the rules to be observed by the Russian Government during the war with Japan.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.—Translation.]

Ordered of His Majesty the Emperor, February 14, 1904, communicated to the Senate by the minister of justice, sanctioning the rules to be observed by the Imperial Government during the war with Japan.

His Majesty the Emperor added at the foot of the original the words "Let it be so."

RULES WHICH THE IMPERIAL GOVERNMENT WILL APPLY DURING THE WAR WITH JAPAN.

I. Japanese subjects are allowed to continue, under the protection of the Russian laws, their sojourn and the exercise of peaceful occupations in the Russian Empire excepting in the territories which are under the control of the imperial viceroy in the Far East.

II. Japanese trading vessels which were in Russian ports or havens at the time of the declaration of the war are authorized to remain at such ports before putting out to sea with goods which do not constitute articles of contraband during the delay required in proportion to the cargo of the vessel

but which in any case must not exceed forty-eight hours from the time of the publication of the present declaration by the local authorities.

III. Subjects of neutral powers may continue without obstacle their commercial relations with Russian ports and towns on condition that they shall conform to the laws of the Empire and to the principles of the rights of nations.

IV. The military authorities must take all necessary measures to insure the freedom of legitimate trade of neutrals, in so far as they are compatible with the operations of war.

V. The following rules must be observed in regard to the commerce of neutrals:

(1) The neutral flag protects the enemy's goods, with the exception of contraband of war.

(2) Neutral goods, with the exception of contraband of war, can not be seized under the enemy's flag.

(3) A blockade, in order to be obligatory, must be effective—that is to say, maintained by a force sufficiently strong to really prevent access to the enemy's shores.

VI. The following articles are considered as contraband of war:

(1) Small arms of all kind, both portable and of artillery, whether mounted or in parts, as well as armor plate.

(2) Ammunition for firearms, such as shells, bomb fuses, bullets, caps, cartridges, cartridge tubes, powder, sulphur, saltpeter.

(3) Material and all kind of substances for making explosions, such as torpedoes, dynamite, pyroxilin, various fulminary substances, conductors, and all articles used for exploding mines and torpedoes.

(4) All material for the artillery, the engineer corps, and troop trains, such as gun carriages, limbers, cartridge and ammunition boxes, campaign forges, field kitchens, instrument wagons, pontoons, bridge trestles, barbed wire, harness for transport service, etc.

(5) Material for the equipment and clothing of troops, such as bandoliers, knapsacks, sword hilts, cuirasses, intrenching tools, harness, uniforms, tents, etc.

(6) Ships which are bound to an enemy's port, even if sailing under a neutral commercial flag, if their construction or internal arrangements or any other indication would show that they are built for warlike purposes or for sale or destined to be handed to the enemy upon arriving at their destination.

(7) All kinds of ships' machinery or boilers, whether mounted or in parts.

(8) All kinds of fuel, such as coal, naphtha, alcohol, and such like.

(9) Telegraph, telephone, and railway material.

(10) In general, everything intended for warfare on land or sea, also rice, foodstuffs, horses, beasts of burden, and others available for warlike purposes if they are transported for account of or intended for the enemy.

VII. The following actions, prohibited to neutrals, are considered as violating neutrality: The transport of the enemy's troops, its telegrams or correspondence, the supplying it of transport boats or war vessels. Vessels of neutrals found to be breaking any of these rules may be, according to circumstances, captured and confiscated.

VIII. The Imperial Government reserves the right to depart from the above decisions with regard to a neutral or hostile power which on its part does not observe them, as well as to take measures necessary to fit the circumstances of each individual case.

IX. The detailed rules which the military authorities are bound to observe during the war at sea are prescribed in the prize regulations sanctioned by His Majesty the Emperor on March 27, 1895, as well as in special instructions approved by the council of the admiralty on September 20, 1900, relative to the detention, visitation, capture, the conveyance, and the delivery of ships and captured goods.

X. The military authorities are furthermore bound to conform to the following international acts signed by Russia:

1. The Geneva convention of the 10th [22d] August, 1864, relative to the improvement of the condition of the wounded in time of war.

2. The St. Petersburg conference on November 29 [December 11], 1868, relating to the prohibition to employ explosive bullets.

3. The acts signed at the International Peace Conference at the Hague on the 17th [29th] of July, 1899, and ratified by His Majesty the Emperor on May 6, 1900.

(a) The convention relating to the laws and customs of war on land.

(b) The convention for the application to war on sea of the principles of the Geneva convention of the 10th [22d] August, 1864.

(c) The declaration concerning the prohibition for a period of five years to throw shells or explosives from balloons or by other means of that kind newly invented.

(d) The declaration concerning the prohibition to employ shells the sole object of which is to emit injurious gases.

(e) The declaration concerning the prohibition to employ bullets which collapse or flatten out easily on striking the human body, such as bullets with hard envelopes which do not entirely cover the body of the bullet or which bear incisions.

Count Cassini to Mr. Hay.

[Translation.]

WASHINGTON, *April 15, 1904.*

MR. SECRETARY OF STATE: I am instructed by my Government, in order to avoid every possible misunderstanding, to inform your excellency that the lieutenant of His Imperial Majesty in the Far East has just made the following declaration:

In case neutral vessels, having on board correspondents who may communicate war news to the enemy by means of improved apparatus not yet provided for by existing conventions, should be arrested off the coast of Kwantung or within the zone of operations of the Russian fleet, such correspondents shall be regarded as spies and the vessels provided with wireless telegraph apparatus shall be seized as lawful prize.

Please accept, etc.,

CASSINI.

Mr. Hay to Count Cassini.

No. 239.]

DEPARTMENT OF STATE,

Washington, April 20, 1904.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 15th instant advising this Department, under instructions from your Government, that correspondents communicating war news by wireless telegraphy, who shall be arrested off the coast of Kwantung or within the zone of operations of the Russian fleet, will be regarded as spies, and that vessels provided with wireless telegraph apparatus shall be seized as lawful prize.

In taking note of this declaration the Government of the United States does not waive any right it may have in international law in the case of any American citizen who may be arrested or any American vessel that may be seized under it.

Accept, etc.,

JOHN HAY.

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,

St. Petersburg, May 17, 1904.

(Mr. McCormick reports that under the decree of April 23 raw and not manufactured cotton is contraband of war.)

Mr. McCormick to Mr. Hay.

No. 141.]

AMERICAN EMBASSY,
St. Petersburg, May 21, 1904.

SIR: I have the honor to inclose to you herewith a copy of Law Bulletin No. 65, of April 23, 1904, containing, under the No. 744, the ukase of His Majesty the Emperor placing cotton among the articles imperially declared on February 14/27 to be contraband of war.

As I have already cabled, the customs authorities informed me, in answer to inquiry made of them, that this decree applied to raw cotton. I have asked through the foreign office that this information be transmitted to me officially, and I have no reason to believe that such official information will be other than that furnished to me in response to the inquiry above alluded to.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.—Translation.]

EXTRACT FROM LAW BULLETIN NO. 65, APRIL 23, 1904.

* * * * *

No. 744. Cotton recognized as contraband of war.

His Majesty the Emperor, on the 8/21 of April, 1904, has imperially sanctioned cotton to be placed among the articles imperially declared on February 14/27, 1904, to be contraband of war.

Mr. McCormick to Mr. Hay.

No. 144.]

AMERICAN EMBASSY,
St. Petersburg, May 25, 1904.

SIR: With reference to my No. 141 of May 21, transmitting a copy of the Law Bulletin No. 65, in which was published the ukase of His Majesty the Emperor making cotton contraband of war, I now have the honor to inform you that, in response to an inquiry from me, the additional information has been furnished that the ukase applies to raw cotton and cotton waste.

I have, etc.,

ROBERT S. McCORMICK.

[Circular.]

Neutral commerce in articles conditionally contraband of war.

DEPARTMENT OF STATE,
Washington, June 10, 1904.

To the Ambassadors of the United States in Europe.

GENTLEMEN: It appears from public documents that coal, naphtha, alcohol, and other fuel have been declared contraband of war by the Russian Government.

These articles enter into general consumption in the arts of peace, to which they are vitally necessary. They are usually treated not as "absolutely contraband of war," like articles that are intended pri-

marily for military purposes in time of war, such as ordnance, arms, ammunition, etc., but rather as "conditionally contraband"—that is to say, articles that may be used for or converted to the purposes of war or peace, according to circumstances. They may rather be classed with provisions and food stuffs of ordinarily innocent use, but which may become absolutely contraband of war when actually and especially destined for the military or naval forces of the enemy.

In the war between the United States and Spain the Navy Department, General Orders, No. 492, issued June 20, 1898, declared, in article 19, as follows: "The term 'contraband of war' comprehends only articles having a belligerent destination." Among articles absolutely contraband it declared ordnance, machine guns, and other articles of military or naval warfare. It declared as conditionally contraband "coal, when destined for a naval station, a port of call, or a ship or ships of the enemy." It likewise declared provisions to be conditionally contraband "when destined for the enemy's ship or ships, or for a place that is besieged."

The above rules as to articles absolutely or conditionally contraband of war were adopted in the Naval War Code, promulgated by the Navy Department, June 27, 1900.

While it appears from the documents mentioned that rice, food stuffs, horses, beasts of burden, and other animals which may be used in time of war are declared to be contraband of war only when they are transported for account of or in destination to the enemy, yet all kinds of fuel, such as coal, naphtha, alcohol, are classified along with arms, ammunition, and other articles intended for warfare on land or sea.

The test in determining whether articles ancipitis usus are contraband of war is their destination for the military uses of a belligerent. Mr. Dana, in his Notes to Wheaton's International Law, says: "The chief circumstance of inquiry would naturally be the port of destination. If that is a naval arsenal, or a port in which vessels of war are usually fitted out, or in which a fleet is lying, or a garrison town, or a place from which a military expedition is fitting out, the presumption of military use would be raised, more or less strongly according to the circumstances."

In the wars of 1859 and 1870 coal was declared by France not to be contraband. During the latter war Great Britain held that the character of coal depended upon its destination, and refused to permit vessels to sail with it to the French fleet in the North Sea. Where coal or other fuel is shipped to a port of a belligerent, with no presumption against its pacific use, to condemn it as absolutely contraband would seem to be an extreme measure.

Mr. Hall, International Law, says: "During the West African Conference, in 1884, Russia took occasion to dissent vigorously from the inclusion of coal amongst articles contraband of war, and declared that she would categorically refuse her consent to any articles in any treaty, convention, or instrument whatever which would imply its recognition as such."

We are also informed that it is intended to treat raw cotton as contraband of war. While it is true that raw cotton could be made up into clothing for the military uses of a belligerent, a military use for the supply of an army or garrison might possibly be made of food stuffs of every description which might be shipped from neutral

ports to the nonblockaded ports of a belligerent. The principle under consideration might, therefore, be extended so as to apply to every article of human use which might be declared contraband of war simply because it might ultimately become in any degree useful to a belligerent for military purposes.

Coal and other fuel and cotton are employed for a great many innocent purposes. Many nations are dependent on them for the conduct of inoffensive industries, and no sufficient presumption of an intended warlike use seems to be afforded by the mere fact of their destination to a belligerent port. The recognition, in principle, of the treatment of coal and other fuel and raw cotton as absolutely contraband of war might ultimately lead to a total inhibition of the sale, by neutrals to the people of belligerent States, of all articles which could be finally converted to military uses. Such an extension of the principle by treating coal and all other fuel and raw cotton as absolutely contraband of war, simply because they are shipped by a neutral to a nonblockaded port of a belligerent, would not appear to be in accord with the reasonable and lawful rights of a neutral commerce.

I am, gentlemen, your obedient servant,

JOHN HAY.

Mr. Adee to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 27, 1904.

(Mr. Adee informs Mr. Eddy that it is represented that the Russian naval authorities have seized, off the coast of Japan, the steamship *Arabia*, sailing under the German flag, chartered by the Portland and Asiatic Steamship Company, an American corporation, and laden with an American cargo of which nothing could be considered contraband of war; that the cargo consisted principally of flour, largely consigned to Hongkong; that the entire cargo was shipped by Americans and regularly consigned to commercial houses in Japan and Hongkong, and that the facts appear to be faithfully represented to the Department. Instructs him to inform the Russian Government of the above facts and that the United States Government respectfully requests and confidently expects that the vessel and her cargo be promptly released.)

Mr. Adee to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 27, 1904.

(Mr. Adee instructs Mr. Eddy to ascertain whether the steamship *Ardova*, which was recently captured by the Russian naval authorities in the Red Sea, has been released, and to advise the Russian

Government that the Government of the United States owns part of the cargo, and that the explosives are consigned to the insular government of the Philippine Islands.)

Mr. Eddy to Mr. Hay.

[Telegram.]

AMERICAN EMBASSY,
St. Petersburg, July 28, 1904.

Steamship *Ardova* was released two days ago.

EDDY.

Mr. Loomis to Mr. McCormick.

No. 134.]

DEPARTMENT OF STATE,
Washington, July 29, 1904.

SIR: Referring to the Department's telegram of the 27th instant, relative to the seizure of the *Ardova*, confirmed separately, I inclose for your information copies of letters from the Acting Secretary of War and Henry W. Peabody & Co.,^a relative to the military stores for the Philippine government carried in that vessel.

I have, etc.,

FRANCIS B. LOOMIS,
Acting Secretary.

[Inclosure.]

Mr. Oliver to Mr. Hay.

WAR DEPARTMENT,
Washington, July 25, 1904.

SIR: I have the honor to quote the following telegram received to-day:

"NEW YORK, July 25, 1904.

"UNITED STATES, WAR DEPARTMENT, *Washington D. C.*

"Steamship *Ardova* reported seized. We have on board 3,200 kegs powder, 1,600 cases dynamite, 4 cases detonators, 20 cases fuses marked H. W. P. Co., Manila, shipped in execution order given us by United States Government insular purchasing agent, Manila. Please protect our interests; note shipment is for account United States Government, Manila, making final destination unquestionable.

"12.40 p. m.

"HENRY W. PEABODY & COMPANY."

There is no documentary evidence on file in this Department that the shipment in question is the property of the government of the Philippine Islands, as set forth in the above telegram. It might well, however, be the property of such government, as it is the practice of the insular purchasing agent to make purchases of supplies and material required for the Philippine government from

firms located in Manila, where the same can be done to advantage. Otherwise purchases are made by this Department on behalf of such government. It is known that the firm of Henry W. Peabody & Co. maintain the closest relations with local firms in the Philippines, if, in fact, it does not maintain a branch agency. Furthermore, it is known as a reliable firm, long established, and doing a heavy oriental business.

There is also on board this steamer merchandise of a varied character, purchased by this Department on behalf of the government of the Philippine Islands, on which insurance has been placed to the value of \$15,000. The steamship *Ardova* is of the Barber Line, and it has been held that the provisions of act No. 198, approved April 28, 1904, requiring the employment of vessels of the United States in the transportation by sea of supplies for the use of the Army or the Navy, did not apply to supplies purchased by the government of the Philippine Islands or by the War Department in behalf of such government.

Very respectfully,

ROBERT SHAW OLIVER,
Acting Secretary of War.

Mr. Loomis to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 30, 1904.

(Mr. Loomis instructs Mr. Eddy to call the attention of the minister for foreign affairs to the treaty of 1854, and that, as legitimate commerce is carried on by American ships with Japanese ports and the Far East, the United States Government, considering the above treaty and section 1, article 5, of the Russian proclamation of rules of conduct in the war between Russia and Japan, expects and, should the contingency arise, shall claim rights under that treaty or international law.

As it is represented that the *Knight Commander* was under American charter and was carrying American property, instructs him to inquire whether that vessel was sunk by the commander who made the seizure, and to inform the Russian Government that if such is the case the Government of the United States would view with the gravest concern the application of similar treatment to American vessels and cargoes, and that this Government reserves all rights of security, regular treatment, and reparation for American cargo on the *Knight Commander* and in any seizure of American vessels.)

Mr. Adee to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 1, 1904.

(Mr. Adee instructs Mr. Eddy to ascertain whether the *Arabia* has been taken to Vladivostok, whether a prize court has been established there, and whether that vessel is charged with carrying contraband of war, and if this be the case, to report particulars.)

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, August 2, 1904.

(Mr. McCormick reports that the minister for foreign affairs has advised him that on July 22 the *Arabia* was seized by Russian naval authorities and was taken to Vladivostok and that the prize court there will have to decide whether she is to be treated as a prize or not.)

Mr. Adee to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 3, 1904.

(Mr. Adee transmits the manifest of the *Arabia* which shows the following consignments to Japan, viz:

To Yokohama: 2,905 sacks of flour, 66 pieces of machinery, 1 package cleansing fluid, 71 car bodies, 166 trucks and fittings.

To Kobe: 15,600 sacks of flour, 4 pieces structural iron, 4 packages blinds.

To Nagasaki: 200 sacks of flour.

None of these consignments were on account of the Japanese Government, and none were contraband even under the Russian proclamation and were all intended for private use only. The balance of the cargo was consigned to neutral ports in China. Instructs him to request the release of the vessel and cargo, and to state to the Russian Government that speedy release of the ship and all noncontraband cargo would be appreciated by this Government.)

Mr. McCormick to Mr. Hay.

No. 172.]

AMERICAN LEGATION,
St. Petersburg, August 3, 1904.

SIR: In compliance with the Department's telegram of yesterday's date, I send to you herewith a copy in the Russian language of the Russian Prize Regulations, approved by the Emperor on March 27, 1895; also "special instructions" approved by the council of admiralty on September 20, 1900, relative to the visitation and capture of ships.

I have been unable to find any translation of these regulations either in the English or French languages.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure—Translation.]

REGULATIONS ON MARITIME PRIZES.

GENERAL PROVISIONS.

1. The provisions of the present regulations are applicable to all cases for which, in matters relating to maritime prizes, special rules are not established by conventions between Russia and other nations.

NOTE.—Regarding the capture of enemy's property on shore or from shore special rules are observed.

2. On the precise basis of the Paris declaration of April 4 (16), 1856, the following rules are observed in the application of these regulations: (1) Letters of marque are not issued in the name of private persons; (2) a neutral flag covers a hostile cargo, with the exception of contraband of war; (3) neutral goods, with the exception of contraband of war, are not subject to confiscation under a hostile flag; and (4) a blockade, in order to be considered obligatory, must be effective—that is, it must be maintained with sufficient military forces to actually prevent access to the hostile shore.

3. In order to capture a prize either open force or permitted military stratagem must be used, but breach of faith must by no means be resorted to.

4. In determining the application of those rules of these regulations which limit the right of stopping, examining, detaining, and confiscating the vessels of a hostile or neutral power and its subjects, on the principle of reciprocity, the Imperial Government reserves to itself the right to admit a departure from the rules mentioned, in the case of a hostile or neutral power from which it is impossible to expect their observance, and to conform the steps which it takes in the matter to the special circumstances of a given case.

5. The following are acknowledged as prizes: (1) Detained (captured) hostile vessels and cargoes, as well as vessels and cargoes of neutral nationality, and (2) Russian and neutral vessels and cargoes and the vessels and cargoes of an allied power captured back from an enemy who has seized them (recaptures), if the detention or recapture has been effected under the conditions indicated in these regulations.

PART I.—THE STOPPAGE, VISITATION (EXAMINATION), AND DETENTION (CAPTURE) OF VESSELS AND CARGOES, AND THEIR CONFISCATION AS PRIZES.

CHAPTER I.—VESSELS AND CARGOES SUBJECT TO STOPPAGE, EXAMINATION, DETENTION, AND CONFISCATION.

6. In time of war at sea merchant vessels (acknowledged to be which are all vessels not belonging to the "war" navy) may be subjected to stoppage and examination for the purpose of ascertaining their nationality and whether they are observing neutrality. Merchant vessels sailing under military convoy of an allied or neutral power are not subjected to examination, provided the commander of the convoy furnishes a certificate as to the number of vessels being convoyed, their nationality, and the destination of the cargoes, and also as to the fact that there is no contraband of war on the vessels. The stoppage and examination of these vessels is permitted only in the following cases: (1) When the commander of the convoy refuses to give the certificate mentioned; (2) when he declares that one or another vessel does not belong to the number of those sailing under his convoy, and (3) when it becomes evident that a vessel being convoyed is preparing to commit an act constituting a breach of neutrality.

7. The nationality of a vessel is determined according to the laws of the nation under whose flag it sails or to whose navy it claims to belong. Merchant vessels acquired from a hostile power or its subjects by persons of neutral nationality are acknowledged to be hostile vessels unless it is proven that the acquisition must be considered, according to the laws of the nation to whom the purchasers belong, as having actually taken place before the purchasers received news of the declaration of war, or that the vessels acquired in the manner mentioned, although after the receipt of such news, were acquired quite conscientiously, and not for the purpose of covering hostile property.

8. Neutrality is considered violated when the symptoms mentioned in articles 11 and 12 are present.

9. Subject to detention are vessels and cargoes which may, according to the provisions of these regulations, be subjected to confiscation as prizes.

10. Subject to confiscation as prizes are hostile war and merchant vessels and all objects on board of them, except (1) those intended for the use of the crew or passengers and (2) those belonging to the government of a neutral power or its subjects and not constituting contraband of war. Independently of this the Imperial Government reserves the right to admit, on a basis of reciprocity, the exemption from confiscation of all or certain kinds of hostile vessels and cargoes, except the cases in which these vessels or cargoes are subject to confiscation according to the rules indicated in articles 11 and 12 for neutral vessels.

NOTE.—All goods found on an enemy's vessel are considered as enemy's property unless the contrary is proven.

11. Merchant vessels of neutral nationality are subject to confiscation as prizes in the following cases: (1) When the vessels are caught conveying to the enemy or to an enemy's port: (a) Ammunition, as well as objects and accessories for making explosions, independently of their quantity; (b) other objects contraband of war, in quantities exceeding, by volume or weight, half of the entire cargo; (c) hostile military detachments, unless it be proven in all these cases that the declaration of war remained unknown to the masters of these vessels; (2) when the vessels are caught violating a blockade and it is not proven that the establishment of the blockade remained unknown to the masters; (3) when the vessels have resisted by armed force their stoppage, examination, or detention; and (4) when they have taken part in the hostile operations of the enemy.

12. The cargo of merchant vessels of neutral nationality is subject to confiscation as prizes: (1) When such cargo consists of contraband of war being conveyed to the enemy or to an enemy's port and it is not proven that the declaration of war was unknown to the masters of the vessels; (2) when the cargo is found on board a vessel subject to confiscation by virtue of points 2-4 of article 11, and it is not proven that it belongs to Russian owners or to neutral owners not guilty of violations involving confiscation.

13. Objects acknowledged as contraband of war are announced for general information in a special declaration. Exempt from confiscation are those of these objects which constitute, properly speaking, the armament and provisioning of vessels of neutral nationality.

14. If only the contraband of war is subject to confiscation, without the vessel on which it is loaded (art. 11, point 1; art. 12, point 1), the vessel itself is detained only until the contraband is surrendered. This surrender may take place, in the discretion of the detainer (captor), either at the place of detention or after the detained vessel has been conducted into port.

CHAPTER II.—CONDITIONS AND CONSEQUENCES OF STOPPAGE, EXAMINATION, AND DETENTION OF VESSELS AND CARGOES.

15. The right of stopping, examining, and detaining hostile or suspicious vessels and cargoes belongs to the vessels of the imperial "war" navy. The vessels of the merchant marine are allowed this right only in the following cases: (1) When attacked by hostile or suspicious vessels and (2) when rendering assistance to Russian or allied vessels which have been attacked. Vessels and cargoes detained according to this provision by merchant vessels must be delivered by the latter into the custody of the authorities indicated in articles 23 and 24, with the right, in the case of confiscation of the vessels and cargoes in question as prizes, to demand the reward established for their detention.

NOTE.—The limitations indicated in this article for merchant vessels do not extend to cases for which special rules may be established according to article 4 of the present regulations.

16. The stoppage, examination, and detention of hostile or suspicious vessels and cargoes is permitted throughout the extent of the ocean and other waters, with the exception of those under the dominion of a neutral power or those excluded from military operations by special international agreements.

17. Upon the declaration of war, military operations at sea begin from the time designated by the Imperial Government. In case of a truce these operations are limited according to the conditions of the truce, and upon the con-

clusion of peace they cease from the time the vessels of the fleet receive the proper notification of the conclusion of a truce or peace.

18. Upon detaining a merchant vessel and cargo, the commander of the vessel which has made the detention is obliged to draw up a protocol concerning the reasons and circumstances of the detention, as well as to take the necessary measures for taking care of the detained vessel or cargo. Moreover, upon detaining the vessel itself (1) there are detained, together with the vessel, temporarily, regardless of whether they are acknowledged to be prisoners of war or not, the master, supercargo, and other persons of the crew whose statements may, in the opinion of the commander of the detaining vessel, be indispensable in deciding matters during the investigation prescribed for prize cases, and (2) all documents found on the vessel are inventoried and sealed.

19. The master of a detained merchant vessel, as well as the owners of the vessel or cargo and the agents (trustees) of these owners, provided they are on the spot, are entitled to be present during the acts mentioned in the first part of article 18 and in point 2 of the same article (18), to make their observations and suggestions with regard thereto, and to affix their seals to the articles and rooms being sealed.

20. Upon the detention of a war ship the commander of the vessel which has captured such ship proceeds in accordance with article 351 of the Navy Regulations (1899 edition).

21. In extraordinary cases, when the preservation of a detained vessel proves impossible in consequence of its bad condition or extremely small value (sic), the danger of its recapture by the enemy, or the considerable distance or blockade of the ports, as well as of danger threatening the detaining vessel or the success of its operations, the naval commander is permitted, on his personal responsibility, to burn or sink the detained vessel after having first taken all the people off it, and, as far as possible, the cargo on board, and also after having taken measures for preserving the documents and other objects found on board, and which might prove essential in elucidating matters when the case is examined according to the method prescribed for prize cases.

Concerning the circumstances which led to the destruction of the detained vessel, the naval commander prepares a memorandum according to article 353 of the Naval Regulations (1899 edition).

22. Detained vessels and cargoes are conducted by the detaining vessel into Russian ports, and if there are none such in the vicinity, then into the ports of an allied power or to the active Russian fleet (the fleet engaged in operations). In case of storm or other extreme necessity the detaining vessel may, together with the detained vessel, seek shelter in the port of a neutral power. Regarding the period and conditions of remaining in port, the commander of the detaining vessel is obliged to submit to the rules established on this subject by the local government.

23. Upon conducting a detained vessel or cargo into a Russian port or to the active fleet, it is surrendered to the naval authorities, the proper documents being turned over to the latter (arts. 18 and 21). The naval authorities, upon opening the documents which have been placed under seal, take measures as to the reception, inventorying, and preservation of the property turned over to them, and also in case of undelayable necessity, arrange for the sale by public auction of those articles constituting such property which, by their nature or condition, do not permit of being kept. Not only the commander of the detaining vessel or his empowered agent, but also the persons mentioned in article 19, are entitled to be present during these acts, as well as to make their observations and suggestions regarding them.

24. The rights and duties of the naval authorities indicated in article 23 become incumbent, in the absence of such authorities, as follows: (1) In Russian ports, on the local port, customs, or police authorities; and (2) in the ports of an allied power, upon agreement of the director of the naval ministry and the minister of foreign affairs with the proper foreign authorities, on the local Russian naval agency, or Russian consulate, or other establishment.

25. Concerning the conducting of a detained vessel or its cargo into port, the proper authority (arts. 23 and 24) immediately notifies the nearest prize court, and, after the measures indicated in article 23 have been taken, he turns over to the disposal of the court the master, supercargo, and other persons from among the crew of the detained vessel who have been detained for the purpose of explaining matters, as well as all documents relating to the case.

26. Detailed rules concerning the method of stopping, examining, and detain-

ing vessels, as well as concerning the conducting of detained vessels and cargoes into port and their surrender, are contained in instructions approved by the admiralty board.

CHAPTER III.—CONDITIONS AND CONSEQUENCES OF CONFISCATION OF DETAINED VESSELS AND CARGOES.

27. The confiscation of detained war vessels and cargoes takes place by order of the proper naval authority. The confiscation of other vessels and cargoes subject to detention does not take place otherwise than by virtue of a decision of a prize court.

28. Detained property is subjected to confiscation only in case it belongs to the class of articles which may be confiscated as prizes (arts. 10–12) and provided it has been detained in observance of the conditions laid down (arts. 2, 3, and 15–17). In a contrary case the property is released and returned to the original owner.

29. If the property subject to return to the original owner is found to be sold, or released on deposit made, the owner is given the full amount obtained by the sale or received as a deposit. If, however, the property subject to return has been destroyed by order of the naval authorities or has perished through the fault or negligence of the officials to whom its custody was intrusted, the owner is indemnified in the amount of the value of the destroyed or perished property, estimated on the basis of information furnished.

30. Independently of the delivery of the property subject to return or of the indemnification to the amount of its value (arts. 28 and 29) a special indemnity may be awarded the original owner of the property for damages caused by the detention of the property when it is acknowledged that the property was detained without sufficient reason or in violation of the conditions prescribed (arts. 16 and 17). In case the property is returned in a damaged state the owner may be awarded an indemnification for his losses, provided it is proven that the damage was caused through the fault or negligence of the officials who were responsible for its custody.

31. To the original owner of property detained on waters situated within the dominions of a neutral power or excluded from military operations by special international agreements this property is returned, and damages caused by its detention or injury are only made good on the demand of the proper neutral power or the power which participated in the agreement mentioned, and provided that such demand be made within the course of a year from the day the property was detained. If, however, such demand is not made within the course of the period mentioned the detained property is confiscated for the benefit of the Government, without any reward being given to the person who detained it.

32. Sums intended for disbursement, in accordance with articles 29–31, as indemnity for destroyed property or losses occasioned by its detention or injury are paid from the funds of the national treasury, and the expenditures thus made by the treasury are recovered in appropriate cases from the guilty parties in the manner established by law.

33. Objects confiscated as prizes constitute Government property. An appraisal is made of these objects, and then those of them which the navy department does not consider necessary to keep are sold at public auction. In both cases prize money is awarded for the detention of the property in question.

NOTE.—The appraisal and sale of prizes takes place according to rules issued by the director of the naval ministry with the consent of the minister of finance.

34. Regarding Russian and foreign vessels and cargoes recaptured from the enemy, as well as the conducting into port and surrender of these vessels and cargoes, the general rules concerning detention, conducting into port, and surrender of hostile and suspicious vessels are observed, together with the following special rules:

(1) Property recaptured from the enemy, although it may have been already confiscated by the enemy as a prize, is returned by direction of the prize court to the original owner, who is obliged to pay the prize money for the recapture and the expenses incurred in the recapture, and in case property is found on board the recaptured vessels which belongs to the enemy this property is considered as a prize and is subjected to confiscation according to the general rule.

(2) Russian Government vessels and cargoes recaptured from the enemy are returned to the Government without the intermediation of the court, by order of the proper naval authority.

(3) Property recaptured from the enemy and belonging to a foreign owner is returned to him without payment by him of prize money or the expenses of the recapture, provided it is proven that this property could not have been considered as lawful prize by the enemy, but would have been subject to release; in this case no reward is paid for recapture.

PART II.—PRIZE MONEY.

CHAPTER I.—THE RIGHT TO PRIZE MONEY.

35. Prize money is awarded to those parts of the fleet (squadron, detachment, or vessels) by which the detention or recapture of the prize was effected, or which, during the detention or recapture, participated in the military operations with which these parts of the fleet were connected, or contributed to their success by their presence.

36. The commanders of squadrons and detachments receive a share of all prize money awarded to sections of the fleet under their command. Other employees of the navy department, including volunteer employees, acquire a right to a share in the prize money awarded to the sections of the fleet only when such employees were actually present in these sections of the fleet at the time of the detention or recapture of the prize, or, being assigned to duty in said sections, were not present in person by reason of wounds or injuries received during the war in question or because of being detailed for military purposes.

37. Land troops who are present on war vessels acquire a right to a share in the prize money only when they took a direct part in the detention or recapture of the prize or in the military operations participated in by the naval detachments at the time of such detention or recapture.

38. Independently of the persons indicated in articles 35 to 37, a right to a share in the prize money is conferred upon persons who have revealed the prize by furnishing information and indications concerning it to the naval authorities, although such persons did not participate in the detention or recapture of the prize.

39. Shares in the prize money are allotted to the persons indicated in articles 35-37 according to the ranks, occupations, or duties which such persons were holding or performing at the time of the detention or recapture of the prize.

40. A person who has revealed a prize (art. 38) receives 4 per cent of the amount of the prize money awarded after the prescribed deductions have been made (art. 46).

41. Shares allotted to persons who have died after the performance of the operations for which the prize money has been awarded, as well as shares allotted to persons who have been killed before the conclusion of such operations, in the same battle in which these operations were carried out, are distributed among the widows and relatives in a direct descending line, according to the general rules of inheritance prescribed by law; if the persons who have died leave no relatives in a direct descending line, but have left widows, the shares are paid in full to the latter; if, however, the persons killed have left neither relatives in a direct descending line nor widows, the shares are applied to the invalid fund, and in the cases provided for in article 19 of the regulations on the mutual pension fund of the navy department they accrue to the benefit of this fund.

CHAPTER II.—AMOUNT OF PRIZE MONEY AND ITS DISTRIBUTION.

42. For the detention by vessels of the war fleet of property which is eventually confiscated as a prize, prize money is awarded, after the prescribed deductions (art. 46), in the following proportions:

(1) For vessels of the enemy's war fleet, their appurtenances and cargoes, when they have been seized in battle, in the proportion of three-fourths of the value of the prize; and in case they have been seized without a battle, in the proportion of one-half this value.

(2) For merchant vessels and cargoes, in case they are seized in battle, in the proportion of the whole value of the prize; and in case they have been taken without battle, in the proportion of three-fourths of such value.

(3) For enemy's property which has been found on board Russian or foreign vessels recaptured from the enemy, in the proportion of the whole value of the prize.

43. For the detention of enemy's vessels and cargoes by merchant vessels, prize money is awarded to the amount of the value of the prize.

44. For the detention of property (1) destroyed by order of the naval commander and afterwards acknowledged by due process to have been subject to confiscation, (2) released by decision of the prize court which has subsequently been reversed, and (3) returned to where it belongs, according to the conditions of a truce or peace, the reward is determined in each separate case, according to the attendant circumstances, by the admiralty board, in proportions not exceeding those established by articles 42 and 43.

45. For the recapture of Russian or foreign vessels and cargoes detained by the enemy, prize money is awarded in the proportion of one-eighth the value of the recaptured property; and when the recapture has been effected under especially difficult and dangerous circumstances, to the extent of as high as one-fourth of the said value.

46. The value of detained or recaptured property is determined by the amount of money obtained from its sale, and if it has not been sold, then by the amount calculated from the appraisal of the property after the following deductions have been made from the said sums: (1) The customs duties to which the merchant vessels and cargoes are liable according to the customs regulations, and (2) the expenses connected with the bringing into port, unloading, storage, appraisal, and custody of the property, as well as with its sale, provided it has been sold. From the amounts determined on this basis there are withheld 10 per cent, to be applied to the invalid fund.

NOTE.—In returning property captured from the enemy or the money obtained from its sale to the original owners of such property the indemnification for the expenses mentioned in point 2 of this article is incumbent on the owners.

47. The amount of prize money for the detention of prizes by the vessels of the war fleet is divided among the persons entitled to a share of it according to special tables. In these tables the persons who may be entitled to prize money are divided into classes corresponding to the degree of responsibility and significance in the service, of their ranks, occupations, and duties, as well as to the measure of their participation in the detention of the prize, and for every person constituting part of a particular class there is allotted a certain number of shares. These tables, after being examined by the admiralty board, are submitted for imperial approval.

48. In the case of the detention of a prize by merchant vessels the owners of the detaining vessels are awarded, according to the injuries sustained by these vessels in the detention of the prize, from one-fourth to one-half of the amount of the prize money. The amount allotted to each owner is proportioned to the share he has in the ownership of the vessel. The remaining portion of the prize money is distributed among the crews of the detaining vessels according to the rules for the distribution of prize money for the capture of prizes by vessels of the war fleet, with such departures therefrom as may be necessitated by the peculiarities of the service on merchant vessels.

49. The determination of the amount of prize money for the detention of a prize by merchant vessels, and the distribution of the amount of prize money for the recapture from the enemy of Russian vessels and cargoes not belonging to the Imperial Government, as well as of foreign vessels and cargoes, is incumbent on the prize courts. In all other cases the determination of the amount of prize money and its distribution is done by special commissions and the admiralty board in the manner established by the director of the naval ministry in agreement with the ministers of finance and war.

PART III.—ORGANIZATION OF PRIZE COURTS AND PROCEDURE IN PRIZE CASES.

CHAPTER I.—ORGANIZATION OF PRIZE COURTS.

50. The adjudication of prize cases is incumbent (1) on port and flag officers' prize courts and (2) on the admiralty board acting as a superior prize court.

51. Port prize courts are established by the director of the naval ministry in Russian ports and, in case of necessity and after an agreement has been reached with the proper foreign government, in the ports of an allied power. Flag officers' prize courts are established by flag officers separately commanding.

52. A port prize court consists of a president and five members. The president of a port prize court is appointed by imperial order from among officers serving in the military-naval judicial department with a rank not under that of colonel. The composition of the prize court is as follows: Two members to be designated by the director of the naval ministry from among the line officers of the navy department, and two members to be designated by the minister of

justice from among the officers of the judicial department who have become acquainted by practice with commercial law and procedure, and one member to be appointed by the minister of foreign affairs from among the officials of his ministry. In case of absence of the president of the prize court his duties are performed by the ranking member of the court from the navy department. In a port prize court there are a judge-advocate, secretary (who is also treasurer), and a translator, as well as clerks and minor employees according to necessity. The judge-advocate of a prize court is appointed by the director of the naval ministry from among persons who have completed a course in law or demonstrated in service their knowledge of judicial matters and who have been engaged in court practice. The appointment of the secretary of the court is incumbent upon the director of the naval ministry, and the appointment of a translator, clerks, and minor employees is made by the president of the prize court. The translator, in case he has not been appointed from among persons employed in the Government service, is placed under oath before being admitted to perform his duties in the court.

53. The president, members, judge-advocate, and secretary of a port prize court who receive a salary for other duties performed by them not less than that assigned to the corresponding officers of a military-naval court do not receive any special compensation for the performance of the duties in the prize court, and the president, members, judge-advocate, and secretary of a prize court who receive a salary less than that indicated above, or who receive no salary at all, are paid as follows: In the former case an addition to their salary bringing the latter up to the amount they usually receive, and in the second case a salary equal to that assigned to corresponding officers of the military-naval court.

54. The sessions of a prize court are considered legal if participated in by the following persons besides the president or his substitute, the judge-advocate, and the secretary: (1) In the determination of the matters mentioned in points 1 to 3 of article 58, not less than three members, among them being one each from the naval ministry, the ministry of justice, and the ministry of foreign affairs; and (2) in the adjudication of all other matters laid before the prize court, not less than two members, among them being one from the ministry of justice.

55. The composition of prize courts established in the ports of an allied power is determined in accordance with the provisions of the present regulations, upon agreement of the director of the naval ministry and the minister of foreign affairs with the proper foreign authorities.

56. A flag officer's prize court is formed by the flag officer, under the presidency of one of the senior commanders of one of the vessels of the squadron or detachment, of four line officers of the navy department, the performance of the duties of judge-advocate devolving upon an official of the judicial branch of the service, while the duties of secretary and translator are performed by other officials of the squadron or detachment. The sessions of a flag officer's prize court are considered legal if attended by the presiding officer and not less than three members, as well as the persons performing the duties of judge-advocate and secretary.

57. The higher prize court is formed by adding, according to directions from the supreme authority, to the composition of the admiralty board two senators of the fourth or of the civil cassation departments of the governing senate and a member of the ministry of foreign affairs. The duties of judge-advocate in the higher prize court are discharged by a jurisconsult of the naval ministry, and the duties of secretary by one of the secretaries of chancellery of this ministry. The sessions of the higher prize court are considered legal if attended by the persons acting as judge-advocate and secretary, respectively, and not less than three members of the admiralty board and one senator: and in the matters mentioned in points 1 to 3 of article 58, also by a member of the ministry of foreign affairs.

CHAPTER II.—PROCEDURE IN PRIZE CASES.

58. The following matters come under the jurisdiction of prize courts according to the provisions of articles 59 to 93: (1) The confiscation and release of detained merchant vessels and cargoes, or of the amount accruing from the sale of these vessels and cargoes, or of the amount placed on deposit for the release thereof; (2) the indemnification for losses resulting from the detention, destruction, perishing, or injury of merchant vessels and cargoes; (3) the return of merchant vessels and cargoes recaptured from the enemy to the private

owners and the determination of the proper payment by these owners of prize money and money to cover the expenses incurred, and (4) the determination of the amount of prize money for the detention of enemy's vessels and cargoes by merchant vessels and the distribution of this sum.

NOTE.—The course of procedure in prize courts established in the ports of an allied power is determined in accordance with the provisions of the present regulations, after an agreement has been reached by the director of the naval ministry and the minister of foreign affairs with the proper foreign authorities.

59. Cases in which any difficulty is encountered in the course of proceedings in prize cases are decided by taking into account the provisions contained in the present regulations, together with the rules contained in the codes of civil and criminal court procedure.

SECTION I.—*Course of procedure in the confiscation and release of detained vessels and cargoes, or of the amounts accruing from the sales of such vessels or cargoes or deposited to secure their release.*

60. In cases regarding the confiscation and release of detained vessels and cargoes, or of the sums accruing from the sales of such vessels and cargoes or deposited to secure their release, the following persons are recognized on each side: A judge-advocate, who represents the interests of the Government, and the original owners of the detained property or their agents, and, in the absence of the owners and their agents, the master of the detained vessel. In all matters upon which depends the recognition of the right to prize money and its amount the commander of the detaining vessel or his agent enjoys the rights of a party to the case.

61. The parties are allowed (1) to be present during all the acts of the prize court and to make declarations with regard to all such acts; (2) to present proofs in substantiation of their declarations, and, with the permission of the president of the court, to interrogate the witnesses; (3) to make petitions and statements, either oral or written, with regard to the case; and (4) to examine the original minutes of the proceedings and receive thereof a copy, as well as a copy of the papers and documents.

62. The time and place of the sessions of the prize court are fixed by the president of the court in accordance with the conditions set forth in articles 64 and 73. Notification of the time and place of the sessions of the court is given to the judge-advocate of the court and to those of the parties connected with the case who have informed the court of the place of residence selected by them in the place where the court is held.

63. The declarations of those witnesses in a prize court who do not know the Russian language are permitted to be taken in writing. Such declarations, as well as all documents written in a foreign language, are translated into the Russian language.

64. Upon receiving notice of the bringing into port of detained property, a prize court, in a session appointed for the earliest date possible, proceeds to examine those persons constituting the crews of the detaining and of the detained vessels, as well as those persons who appear voluntarily and whose statements the court considers necessary to be taken into account. In those cases in which the detained property is brought into a port situated elsewhere than at the place of holding the court, the latter, for the purpose of taking depositions, proceeds to the place in a full body or details thither one of its members, and if it is impossible to do this before the day fixed for the departure of the vessels, it intrusts the taking of depositions to the local naval or other authority.

65. In case of necessity, independently of the examination of witnesses (art. 64), the court, either at its own discretion or at the instance of parties concerned in the case, makes an inspection of the detained property either in a full body or through one or more of its members, and has it examined by experts.

66. A prize court is permitted to release detained goods before the case has been decided when a money deposit equal to the value of said goods has been made. The value of the goods is determined by appraisal made under the supervision of a member of the court by sworn appraisers, and, in the absence of such, by experts to the number of no less than two.

67. Detained property may be sold at public auction before the case is decided, at the instance of the parties or in the discretion of the court itself, provided such property, owing to its nature or bad condition, does not permit of being

kept, and also when the value of the property, in the opinion of experts, does not warrant the expense of keeping it. Moreover, the court is permitted to sell detained property before the decision of a case, provided a further keeping of such property does not appear necessary for the determination of the case and the parties have agreed to its sale.

68. In case of the bringing of detained property into the port of an allied power in which no prize court is established, the performance of the acts indicated in articles 64 and 65 is incumbent, after an agreement has been reached by the director of the naval ministry and the minister of foreign affairs with the proper foreign authorities, on the local Russian naval attaché or consul or on a specially designated person, in the presence of witnesses to the number of no less than two, to be taken, if possible, from among the Russian subjects residing at the locality in question. After the steps indicated have been taken, the case, with regard to the detained property, together with all documents relating thereto, is turned over to the nearest prize court. Moreover, the said naval attaché, consul, or specially designated person is required to take the measures provided for in articles 66 and 67 (No. 1) regarding the detained property, whenever it appears unsuitable to await the taking of these measures by the prize court.

69. Upon the formalities indicated in articles 64 and 65 having been fulfilled the prize court proceeds to an examination of the case and, before all else, reaches the decision for the release for those parts of the detained property a further detention of which, owing to the circumstances of the case, is not considered necessary.

70. In cases when it is found to be necessary for the elucidation of the matter the court orders additional evidence to be gathered on the subject, and also directs that an interchange of documents take place between the parties and that they present additional evidence, a period being fixed for such interchange of documents and presentation of evidence. The examination of witnesses indicated by the parties in compliance with these instructions is either carried out by the court itself, or, under instructions from the latter, by a naval authority who did not participate in the detention of the property constituting the object of the trial, or by one of the persons indicated in article 68.

71. In cases involving merchant vessels of neutral nationality or merchant vessels whose nationality is in dispute, or the cargoes of such vessels, provided such cargoes contain objects other than contraband of war, a port prize court, in case of the absence of the original owners of the detained property, summons these owners by public advertisement. A flag officer's prize court turns over matters of this nature without delay to the nearest port prize court for further action, preserving the right to take the measures indicated in articles 66 and 67 (No. 1) with regard to the detained property which has not been released by the flag officer's court in accordance with article 69 whenever it appears unsuitable to await the taking of these measures by the port prize court.

72. By the advertisement mentioned in article 71, the original owners of detained property or their agents are invited to appear in the port prize court the present to it the evidence which they possess within a period indicated in the advertisement. This period is fixed by the court according to the place where it is held, and other circumstances, but can not be less than one month nor more than four months from the date of the last advertisement. The advertisement is printed three times in three consecutive numbers of the Official Gazette and of two newspapers published in Russia in foreign languages, to be selected by the director of the naval ministry. In case of necessity the text of the advertisement may be communicated to the newspaper offices by telegraph. The expenses incurred in making such summons by advertisement are defrayed from the amount accruing from the sale of the prize, and if the prize has not been sold, then from the funds of the national treasury, in which latter case the expenditure made is either deducted from the value of the prize (art. 46) or is made good by the original owner (art. 46, note) or is charged up to the Government (art. 82).

73. The session for the adjudication of the matter regarding which the original owners of the detained property have been invited to appear by advertisement is not held until these owners appear, or their agents, or until the expiration of the period fixed for such appearance in the advertisements.

74. The examination in a prize court begins by a report from one of the members of the court setting forth the circumstances of the case. After this recitation of the facts of the case the court listens to the argument of the judge-advocate and of those persons taking part in the trial who have

appeared at the session. Having reached an intimate conviction as to the significance and relative force of the evidence presented in the case, the court renders a decision as to the essence of the case or determines special questions arising therein. A decision as to whether the detained property is subject to release or confiscation is rendered by the court even in case this property has been destroyed by order of the naval commander. If the property was detained on waters of a neutral power or on waters excluded from military operations by special international agreements, the court renders a decision involving confiscation of the property, provided no demand is made for the return of this property within the course of a year after its detention (art. 31).

75. The decision of the prize court is rendered by a majority of votes. In case of a tie the opinion of the presiding officer decides.

76. The decision reached in the case by the court is announced by the president in the same session in which it was reached. While announcing the decision, the president appoints a day on which the parties may appear in order to read over the written decision of the court, and he also announces to the parties the manner in which they can complain against this decision and the period in which such complaint can be made. The decision and finding of the court must be prepared not later than two weeks from the day on which the decision was announced, and must contain a statement of the grounds on which the judgment was based. The decisions and findings of the court are considered as having been announced on the day appointed for their perusal.

77. The parties, including the commander of the detaining vessel or his agent, have the right to make an appeal. The appeal, accompanied by the proper number of copies thereof (according to the number of parties to the case), is lodged with the court which has rendered the decision within a month from the announcement of the latter. (Art. 76.) In case the period for making appeal has elapsed, owing to causes specially worthy of consideration, it lies with the court against whose decision the complaint is made as to whether the said period shall be renewed. Requests for a restoration of the right to appeal are presented within the course of two weeks from the time of announcement of the determination by the court that the period for bringing such appeal has been declared elapsed. Against the determination of the court to refuse a renewal of the period of appeal, private complaints are permitted to be made within two weeks from the time such determination was announced.

78. After the receipt of the petition for appeal the prize court sends a copy thereof to the judge-advocate, as well as to the other parties in the case whose interests are affected, provided such persons have announced their place of residence in the place where the court is held. Otherwise the copies of the appeal intended for these persons remain in the court. The original appeals are presented, together with a record of the proceedings, to the superior prize court, to which are also transmitted the private complaints mentioned in article 77 against the refusal of the prize court to renew the period for appeal. The statements of the parties to the case with regard to the appeals which have been communicated to them are transmitted by them to the superior prize court immediately and before the day designated for the hearing of the case therein.

79. A decision to confiscate detained property when no appeal has been made within the period specified is carried into effect immediately upon the expiration of said period. The execution of a decision as to confiscation against which appeal has been made is suspended until the appeal has been acted upon.

80. A decision involving the release of detained property, if it be rendered in conformity with the opinion of the judge-advocate and the argument of the commander of the detaining vessel or his empowered agent, is carried into effect immediately after the decision is announced. A decision which has been rendered not in accord with the said opinion and statement is not carried into effect until the expiration of the period fixed for bringing an appeal. In case such appeal is brought the detained property undergoes an appraisal in the manner prescribed in article 66. It lies with the court to permit the release of such property before the appeal has been decided, either on condition of a money deposit being made equal to the value of the property as determined from the appraisal or without such deposit. In case there arise any disputes concerning the ownership of the property to be released the return of such property to its original owner is delayed until these disputes are settled according to the regulations or until a money deposit equal to the value of the property is made by one of the persons laying claim thereto.

81. From the time the person or establishment in whose custody the detained property is being kept receives instructions to release the property without a deposit being made, the expenses for its further custody will devolve upon its original owners.

82. Detained property acknowledged to be subject to release, but not called for within six months from the date upon which the decision regarding its release went into force, may be sold at public auction. If within the course of ten years from the date in which the decision went into legal effect no one appears with proofs as to his rights to the property subject to release, the said property or the proceeds of its sale reverts to the Government, which bears all the expenses connected with the custody of such property or sum of money.

83. With regard to the method of procedure in the higher prize court in passing upon complaints against the decisions of prize courts, as well as concerning the method of announcing the decisions of the higher prize courts, the rules established for prize courts in articles 62 and 73-76 are applicable.

84. The higher prize court enters upon an examination only of those parts of the decision of the prize court against which complaint has been made by parties to the case. The reversal of a decision involving release of detained property and its return to the original owner without demanding a deposit, in spite of the fact that an appeal has been brought (art. 80), involves the awarding, in the manner established (arts. 44 and 49), of prize money corresponding to the value of the part of the released property which is acknowledged by the decision of the higher prize court as being subject to confiscation as prize.

85. The decisions of the higher prize court are not subject to appeal, and, immediately upon being rendered, a copy thereof is sent to the proper naval authority for execution.

86. Petitions, statements, complaints, and other papers relating to matters transacted in prize courts and in the higher prize court, as well as the proceedings themselves, are exempt from the payment of stamp and other duties. For the issue of copies of papers and documents all persons, except a judge-advocate, to whom such papers are issued are charged at the rate of 40 kopecks a sheet. No compensation is allowed for the conduct of cases in prize courts or in the higher prize court.

SECTION II.—Procedure in matters regarding indemnity for losses arising in consequence of the detention, destruction, perishing, or injury of merchant vessels and cargoes; regarding the return of merchant vessels recaptured from the enemy to their original owners and the determination of the payment to be made by said owners as prize money and to cover expenses incurred; and regarding the amount of prize money for the detention of hostile vessels and cargoes by merchant vessels and the distribution of this amount.

87. Matters concerning (1) indemnification for losses arising in consequence of the detention, destruction, perishing, or injury of merchant vessels or cargoes; (2) the return of merchant vessels and cargoes recaptured from the enemy to their original owners and the determination of the payment to be made by these owners as prize money and to cover expenses incurred; and (3) the determination of the amount of prize money for the detention of hostile vessels and cargoes by merchant vessels and the distribution of this amount are transacted in accordance with the rules established in articles 60-86, with the exceptions and additions indicated below (arts. 88-93).

88. Matters concerning indemnification for losses arising as a result of the detention, destruction, perishing, or injury of merchant vessels and cargoes are transacted in port prize courts, and are begun only at the instance of parties who have sustained losses, or their agents. The rights of parties in the matters mentioned are enjoyed by the persons who have suffered loss, or their agents, and by the judge-advocate as representative of the interests of the Government.

89. The matters indicated in article 88 are attended to in the same session with those relating to the confiscation or release of detained property, and are decided on the basis of evidence presented or pointed to by the parties. The decisions in matters relating to losses are rendered simultaneously with the decision regarding confiscation or release of detained property, or else apart from this decision. Against the decisions in matters concerning losses an appeal is allowed within one month, such an appeal suspending the execution of the decision complained against.

90. Matters regarding the return of merchant vessels and cargoes recaptured

from the enemy to the original owners and the determination of the amount of payment to be made by these owners as prize money and for expenses are adjudicated in port prize courts. Such matters are passed upon in flag officers' prize courts only in case the original owners of the recaptured property or their agents are present, but in their absence the flag officers' courts turn the cases over to the port prize court for further action.

91. The original owners of recaptured property and the commander of the recapturing vessel, or the agents of the owners and of the commander, as well as the judge-advocate, are admitted to participate as parties in the cases mentioned in article 90. In the determination of these, port prize courts, in case of necessity, summon absent owners by advertisement, and upon the appearance of the owners or of their agents, or upon the expiration of the period fixed for such appearance, they render a decision on the facts in the case. An appeal may be brought against the decision of prize courts in the matters mentioned within a month.

92. The return of recaptured property to the original owners is permitted (1) before the rendering of the decision and its going into legal effect, only on condition of the owners making a money deposit equal to the amount of prize money and expenses which may be charged against them (arts. 45, 46, note, and 66), and (2) after the decision has gone into legal effect, on condition of the payment by the owners of the amount of reward and expenses charged against them. The sale of recaptured property is permitted not only in the cases contemplated in articles 67 (No. 1) and 82, but also in case a request is made to this effect by the original owners. Upon the reversion to the Government of property which was subject to return, all expenses are charged up to the Government, as well as the payment of the prize money.

93. Matters concerning the determination of the amount of prize money for the detention of enemy's vessels and cargoes by merchant vessels and the distribution of this amount are transacted in port prize courts. Such cases are begun at the instance of persons belonging to the crew of the detaining vessel and are passed upon in the presence of these persons and of the judge-advocate as parties to the case. Petitions for appeal may be presented against the decisions of prize courts in the matters mentioned within one month.

MICHAEL,

President of the Imperial Council.

Approved by the admiralty board September 20, 1900.

**INSTRUCTIONS CONCERNING THE STOPPING, EXAMINING, AND
DETAINING OF VESSELS, AND CONCERNING THE CONDUCTING
INTO PORT AND SURRENDER OF DETAINED VESSELS AND CAR-
GOES.**

1. Vessels of the imperial war fleet, acting in accordance with the regulations on maritime prizes, are guided, with regard to the method of stopping, examining, and detaining merchant vessels, as well as the conducting into port and surrender of detained vessels and cargoes, by the following rules, besides the declarations and other instructions issued by the Government in case of war.

NOTE.—The determination of the neutral territorial sea and other waters excluded from military operations by special international agreements, where, according to article 16 of the Regulations on Maritime Prizes, it is not permitted to stop, examine, and detain vessels and cargoes, also forms the subject of additional instructions.

STOPPAGE.

METHOD OF STOPPING.

2. In order to stop a vessel encountered it is necessary to approach her, to hoist one's flag, and to fire a blank cannon shot in the direction of the vessel encountered. Besides, a signal may be raised according to the international code. In order to stop a vessel at night, upon firing a blank shot it is necessary to have the gaff lights and the distinctive (regulation) lights open.

RESISTANCE TO STOPPAGE.

3. If a vessel does not stop in spite of the shot fired, a projectile is fired across the bows of the escaping vessel. In case of further resistance to stoppage, it is permissible to fire upon and pursue the fleeing vessel in order to compel her by force to stop.

Upon beginning fire it is recommended to fire the first shot across the vessel among the masts. However, such indulgence is not obligatory, especially if the steamer be superior in point of speed, so that there is a possibility of her eluding pursuit.

Every vessel which has shown an evident intention to escape from the cruiser, in consequence whereof the latter has been obliged to give chase and use force in order to stop her, is subject to detention; however, it lies with the commander, if he deem it expedient, to subject the temporarily detained vessel to an examination and to shape his further course in accordance with the results of such examination.

VISITATION.

PRELIMINARY ACTS.

4. For the purpose of making an examination there are appointed an adequately experienced officer and several men of the crew, among whom it is useful to include the mate, etc. If the personnel present enable it to be done, two officers are designated who are more or less acquainted with foreign languages.

5. It is desirable that several relays of officers and men be designated beforehand for the task of making examinations. The officers and men sent to make the examinations should be armed with revolvers. It is useful to agree beforehand upon several simple conventional signals (with an oar, handkerchief, flag, etc.).

From the moment the chase is begun the officers designated for the examination prepare their men and ascertain the latitude and longitude of the imperial vessel.

6. The imperial cruiser approaches the halted vessel as closely as possible; caution, however, should be observed.

NOTE.—The undesirable consequences of a collision should be borne in mind. The vessel may prove to be an enemy's vessel, and hostile acts and a desire to injure the cruiser by collision are to be expected.

7. Having lowered a boat with the officers and men, the imperial cruiser remains in such a position during the continuance of the examination as to be able to see its boat at all times and to observe everything going on in the vessel undergoing examination. The guns must be loaded and the gun captains at their quarters.

OFFICERS ON BOARD THE VESSEL.

8. While proceeding on board the halted vessel, the name of the vessel and the port for which it is bound are observed while on the cruiser's boat. An officer accompanied by two enlisted men boards the vessel. If two officers are designated for the examination they go on board with one enlisted man.

NOTE.—The remaining enlisted personnel proceeds on board only after examination of the documents has been completed and that of the whole vessel is begun. The number of sailors going on board depends upon the size of the vessel and the discretion of the officer (for instance, four, six, and more sailors).

9. The junior officer remains on the upper deck during the whole time and is not allowed to descend below. He is obliged to observe everything going on on the deck of the vessel under examination, and to watch the cruiser's boat and the signals from his ship. He is assisted by an enlisted man who has come on board. The examination of the documents and of the vessel is performed by the senior of the officers detailed. In case of visitation by one officer the duties of junior officer are performed by the senior of the two enlisted men who have gone on board simultaneously with the officer.

10. The dealings of the officers and men with the master, crew, and passengers should be marked by courtesy and fully in accordance with the dignity of the military profession.

In case resistance is shown by the halted vessel to the carrying out of the examination, it is subject to capture.

EXAMINATION OF DOCUMENTS.

11. The examination is begun by asking the master :

(a) To give the name and nationality of his vessel.

(b) To name the port of destination and whence the vessel departed.

(c) To exhibit the log book and all documents regarding the vessel and cargo.

A list of the principal ship's papers carried on board the merchant vessels of various nations is appended hereto. (Appendix I.)

12. In proceeding to the examination of the papers the officer pays especial attention to the log book, endeavoring to ascertain all circumstances of sailing, the place according to the chart where the master considers himself to be, and the last entries made in the log book.

13. In examining the documents regarding the nationality of the vessel the officer observes the port of registry, the registry number, the names and nationality of the owners, the place and time of construction of the vessel, and also as to whether it was not bought from subjects of the enemy after the declaration of war for the purpose of covering enemy's property.

14. In examining the documents relating to the cargo, the officer determines the kind and quantity of the goods, the places whence and whither they are being sent, the names and nationality of the shippers and consignees of the cargo. In this connection it is important to ascertain whether there are not articles contraband of war among the goods,^a and to whom the cargo belongs—whether to hostile or neutral subjects.

15. In examining the documents regarding the composition of the crew and the passengers the officer should ascertain the nationality and occupation of these persons, endeavoring to determine whether there are not hostile military persons among the passengers, and who among the crew may be detained in accordance with article 18 of the Regulations on Maritime Prizes.

16. After having examined the ship's papers, the officer asks the master to present what mail he has, searches for correspondence of the hostile government and, generally speaking, all packages addressed to the enemy's ports.

17. The officer takes note of all documents presented to him and makes a record of everything which is most essential. In examining the documents he may ask questions of the master, steersman, and other members of the crew at his option.

RESULTS OF EXAMINATION OF DOCUMENTS.

18. The officer ceases the examination and the vessel is subject to detention in the following cases :

(a) If the vessel proves to be an enemy's.

(b) If no ship's papers are found, especially those from which the nationality of the vessel might be determined and the circumstances of its sailing verified; and if the ship's papers are thrown overboard or otherwise destroyed.

(c) If there be among the papers such as give rise to the suspicion that the vessel is a hostile one.

(d) If the officer becomes convinced that the documents are false.

(e) If it is evident from the documents that the vessel was bought by a neutral purchaser from hostile subjects and there is reason to suppose that a fictitious sale was consummated for the purpose of covering enemy's property.

19. Having become convinced that the documents are all right, that the vessel is actually a neutral one, that there is no possibility of there being among the goods any articles contraband of war destined for the enemy, and that, generally speaking, the vessel is in no manner subject to detention, the officer immediately leaves the vessel, observing the rules set forth below in sections 28, 29, and 30 (conclusion of the examination).

20. In case of doubt as to the authenticity of the information received in the examination of the documents, and especially in those cases when the vessel is proceeding to a hostile port, or when, from the general character of the courses, navigation, and situation of the detained vessel, it may be supposed that a hostile port is the ultimate destination of the vessel or of the cargo conveyed thereon, the officer proceeds to an examination or search of the whole vessel in order to satisfy himself that there are no articles contraband of war among the cargo.

^a Concerning articles contraband of war see Appendix II, p. 754.

EXAMINATION OF VESSEL (SEARCH).

21. The examination (or search) of every vessel is performed by an officer with the assistance of several members of the crew, who go on board from the cruiser's boat at the command of the officer.

22. The number of sailors going on board may be four, six, or eight, or more, according to the size of the vessel to be examined, and in the discretion of the officer. If it is found that the number of men on the cruiser's boat is insufficient, the cruiser may be signaled to send more assistance. The men who go on board to make an examination should, as far as possible, be the most intelligent, active, and experienced.

23. The examination of the interior apartments presents many difficulties, and may call forth protests from neutral parties who innocently suffer. For this reason the officer should first judge what part of the cargo appears the most suspicious owing to the insufficient clearness of the ship's papers, and to this part of the cargo he should direct his first attention. The conduct of the officer and of the men should be courteous, but without any deviations from the requirements of duty and service.

24. During the examination of the interior apartments the officer must positively demand the presence of the master during all acts, and only in extreme cases that of his assistants.

25. The master who is present during the search is obliged, upon the request of the officer making the search, to open all locks and rooms which the officer may desire to inspect, and indicate what objects should be handled with special care, and how certain packages (trunks, casks) should be opened or unbunged which are selected for more minute inspection. In case the master refuses to open a room upon the demand of the examining officer the vessel is subject to detention.

26. During the time of the examination or search, the officer, in order to render more easy his task, may ask various questions of individuals of the crew and passengers in order to obtain necessary information concerning the vessel and cargo. It is also advisable to pay attention to certain exterior signs; for instance, to the marks which exist on the smokestacks of steamers of various companies and which may be painted over.

27. The officer desists from further examination of the vessel when he becomes convinced that there is no contraband of war in the cargo, and that the vessel contains nothing suspicious. Every object which has been displaced should, as quickly and carefully as possible, be returned to its place according to the directions of the master.

CONCLUSION OF THE EXAMINATION.

28. Upon concluding the examination the officer records in the log book, in the Russian language, the time and place of the examination (latitude and longitude), the name of his ship, the name of the commander, and the result of the examination. The entry may be made in accordance with the form appended hereto. (Appendix III.)

29. Before leaving the vessel the officer proposes to the master to give a written certificate (if possible in his native tongue) that he has no cause for complaint; or, if the master have any complaint, to state the same in writing.

30. Upon descending from the vessel the officer informs the master that permission to continue his voyage will not be given until the officer arrives on the imperial ship and reports to the commander. The officer prepares a detailed account of everything which he has examined and seen.

31. If the vessel is to be detained the officer makes known this fact by a signal, and, taking with him the documents, the master, and other persons whose testimony may be necessary, he proceeds to his ship.

DETENTION.

32. The detention of vessels and cargoes lies exclusively in the power of the commander of the imperial vessel. In this event the following order of procedure is observed:

COMMISSION.

33. On board the imperial vessel a commission is formed of three officers (including the officer who has made the examination), which prepares a de-

tailed report concerning everything that has taken place and been discovered during the examination, and submits it for the approval of the commander.

PREPARATION OF THE REPORT.

34. The report is written in the Russian language. The following points must be accurately indicated therein: Nationality, kind, and name of the vessel; the names of the masters and owners; the number of the crew and their nationality; all circumstances accompanying the stoppage of the vessel; all documents presented by the master, and their contents; all circumstances attending the examination of the documents and of the vessel; all information concerning the cargo and concerning everything that was found on the vessel; all statements of the master, supercargo, boatswain, and other persons questioned.

PROTEST OF THE MASTER.

35. The contents of the report are translated orally to the master, and he is asked to sign the report. However, the signature of the master is not obligatory. A note should be made on the report that it was read and translated to the master.

The protest of the master (in writing) should be added to the report and the points on which he disagrees should be explained therein.

NOTE.—In view of the fact that the preparation of the report and the interrogation of the master and other persons of the crew may occupy considerable time, the cruiser has the right to compel the merchant vessel to move along a given course, and to follow after her and perform the acts mentioned while under way.

DECISION OF THE COMMANDER.

36. When the report is prepared and signed by the members of the commission it is submitted to the commander, who writes his decision on the report and settles the question as to the detention of the vessel or cargo on the basis of the following considerations:

37. Vessels subject to detention are the following:

(1) All hostile war and merchant vessels. (See arts. 9 and 10 of the Regulations on Maritime Prizes.)

NOTE.—If, by virtue of special international agreements concluded by the Imperial Government, some of the foreign vessels are considered as not subject to seizure, they are nevertheless subjected to detention (see second half of art. 10 of the Regulations on Maritime Prizes) provided they commit the acts indicated in the second part of the present paragraph (*a, b, c, d, e*).

(2) Neutral merchant vessels:

(a) If they are carrying to the enemy any quantity whatever of ammunition, objects or appurtenances for making explosives, or detachments of hostile troops. (See point 1, art. 11, Regulations on Maritime Prizes.)

(b) If they are carrying to the enemy other articles contraband of war in a quantity exceeding by volume or weight half of the whole cargo. (See point 1, item *b*, art. 11, Regulations on Maritime Prizes.)

NOTE.—If the quantity of such contraband of war is less than half of the whole cargo, the vessel is detained only until the contraband is surrendered, and it is left to the discretion of the commander as to whether such surrender may be made at the place of detention or after the vessel has been conducted into port. (See art. 14, Regulations on Maritime Prizes.)

(c) If they are caught violating an actual and declared blockade. (See art. 2 and point 2, art. 11, Regulations on Maritime Prizes.)

(d) If they have shown armed resistance to stoppage or examination. (See point 3, art. 11, Regulations on Maritime Prizes.)

(e) If they have taken part in hostile operations of the enemy. (See point 4, art. 11, Regulations on Maritime Prizes.)

(3) All suspicious vessels, although sailing under a neutral flag. (See art. 16, Regulations on Maritime Prizes.) The following and other similar acts furnish grounds for considering a merchant vessel as suspicious:

(a) If the vessel does not stop its engines or lie to upon the demand of the cruiser, in consequence whereof the latter is compelled to give chase and use force in order to stop her. (See sec. 3 of the Instructions.)

(b) If the vessel has no papers, or has counterfeit or suspicious papers. (See sec. 18 of Instructions, points *b, c, and d*.)

(c) If there are grounds for supposing that the vessel was fictitiously sold to a neutral subject after the declaration of war. (See sec. 18, Instructions, point *d*.)

(d) If the halted vessel has shown resistance to the examination, and likewise if the master refuse to open the apartments on the demand of the examining officer. (See secs. 10 and 25 of the Instructions.)

CARGOES.

38. Cargoes subject to detention are the following:

(1) Enemies' cargoes being conveyed on hostile vessels. (See art. 10, Regulations on Maritime Prizes.)

(2) Hostile and neutral cargoes found on neutral vessels which have violated their neutrality, that is (art. 12, Regulations on Maritime Prizes):

(a) On neutral vessels which have taken part in hostile operations of the enemy;

(b) Which have shown armed resistance to stoppage, examination, or detention; and

(c) Caught violating a blockade.

(3) All cargoes which constitute contraband of war, with the exception of articles constituting the armament and provisioning of the neutral vessel itself. (Art. 12, point 1, and art. 13, Regulations on Maritime Prizes.)

In detaining vessels and cargoes the rule is observed that personal effects intended for the personal use of the crew and passengers is not subject to detention. (Art. 10, point 1, Regulations on Maritime Prizes.)

Except in the above-mentioned cases the following rules are observed:

(1) A neutral flag covers an enemy's cargo with the exception of contraband of war. (Art. 2, point 2, Regulations on Maritime Prizes.)

(2) Neutral goods, with the exception of contraband of war, are not subject to detention under a hostile flag. (Art. 2, point 3, and art. 10, point 2, Regulations on Maritime Prizes.)

CONDUCTING INTO PORT.

METHOD OF CONDUCTING INTO PORT.

39. Detained vessels and cargoes are, in the discretion of the imperial cruiser, conducted into port or to the active fleet either by the cruiser itself or they proceed independently into port under the direction of a Russian officer and crew, commanders being governed in these cases by the rules set forth in articles 351-353 of the Navy Regulations, edition of 1899. In case the detained vessel is sent off separately, its original ship's papers and the documents concerning the detention are kept with the commander of the cruiser, while the officer conducting the vessel is given copies of these papers and documents.

DESTRUCTION OF DETAINED VESSEL.

40. In the following and other similar extraordinary cases the commander of the imperial cruiser has the right to burn or sink a detained vessel after having previously taken therefrom the crew, and, as far as possible, all or part of the cargo thereon, as well as all documents and objects that may be essential in elucidating the matter in the prize court:

(1) When it is impossible to preserve the detained vessel on account of its bad condition.

(2) When the danger is imminent that the vessel will be recaptured by the enemy.

(3) When the detained vessel is of extremely little value, and its conduct into port requires too much waste of time and coal.

(4) When the conducting of the vessel into port appears difficult owing to the remoteness of the port or a blockade thereof.

(5) When the conducting of the detained vessel might interfere with the success of the naval war operations of the imperial cruiser or threaten it with danger.

The officer prepares a memorandum under his signature and that of all the officers concerning the circumstances which have led him to destroy the detained vessel, which memorandum he transmits to the authorities at the earliest possible moment.

NOTE.—Although article 21 of the Regulations on Maritime Prizes of 1895

permits a detained vessel to be burned or sunk "on the personal responsibility of the commander," nevertheless the latter by no means assumes such responsibility when the detained vessel is actually subject to confiscation as a prize, and the extraordinary circumstances in which the imperial vessel finds itself absolutely demand the destruction of the detained vessel.

EXCHANGE OF VESSELS.

41. If the detained vessel subject to destruction on the basis of the foregoing article is found to be better than the imperial vessel, owing to its condition or its seagoing qualities, the commander has the right to substitute the prize for his own vessel and burn or sink the latter.

ENTRANCE INTO NEUTRAL PORTS.

42. An imperial vessel, while conducting away detained vessels, may enter the ports of a neutral power which has not forbidden in its declaration of neutrality (or other official document) the visitation of its ports by war vessels of the belligerent parties with prizes.

Similarly an imperial cruiser may seek refuge in a port of a neutral power, together with captured vessels, in the case of a storm or other extreme necessity (for instance, a breakdown in the engines, insufficiency of supplies, or in case of pursuit by an enemy of superior strength), in which case the commander of the imperial vessel must submit to the rules established by the local government with regard to the period and other conditions of the sojourn in the neutral port.

SURRENDER.

IN RUSSIAN PORTS AND TO THE ACTIVE FLEET.

43. Upon the bringing of a detained vessel or cargo into a Russian port it is delivered to the local naval authority (and in the absence of the latter to the port, customs, or police authority), to whom are presented all documents and surrendered all persons detained on the vessel in question for the purpose of elucidating the case.

In case the detained vessel or cargo is brought to the active fleet, it is turned over to the commander of the squadron.

The proper naval or other authority opens the sealed documents and takes measures for the reception, inventory, and preservation of the surrendered property, as well as for the sale at public auction of those articles which can not be kept, owing to their nature or condition.

The following have a right to be present during the performance of the acts in question: Firstly, the commander or one of the officers of the imperial vessel which has made the capture; and, secondly, the master of the detained vessel, as well as the owners of the vessel and cargo or their agents, provided these owners or agents are present at the place in question. All persons present are entitled to make suggestions and observations in regard to the acts of the local authority receiving the property.

IN FOREIGN PORTS.

44. In the case of a detained vessel or cargo being brought into the port of an allied power, it is surrendered to the local Russian naval agency, Russian consulate, or other establishment, upon which, after agreement of the Russian Government with the proper foreign authorities, will devolve the duty of receiving the prizes.

NOTIFICATION OF THE AUTHORITIES.

45. The commander of the imperial vessel is obliged to notify the director of the naval ministry by telegraph, at the earliest possible moment, of all vessels and cargoes detained, as well as of their conduction into port and proper delivery.

VICE-ADMIRAL AVELAN,
Chief of the Central Naval Staff,
 and
 SECRETARY KUZNETZOFF 2.

APPENDIX I.

List of the principal ship's papers carried on board merchant vessels of several nationalities.

(See original, p. 57 et seq.)

APPENDIX II.

According to article 13 of the "Regulations on Maritime Prizes," articles considered as contraband of war are announced for general information in a special declaration. The following have been declared such in declarations: *a* (a) All kinds of arms, both hand (portable) and artillery (ordnance), whether assembled or in parts; (b) ammunition, such as projectiles for cannon, fuses, bullets, capsules, cartridges, cartridge cases, powder, saltpeter, sulphur; (c) objects or accessories for making explosions, such as mines, dynamite, pyroxylene, and other explosive compositions; (d) artillery appliances, engineer and army vehicles, such as gun carriages and mounts, cartridge boxes or packs (small arms and ordnance), field forges, field kitchens, tool wagons, pontoons, bridge trestles, draft harness, etc.; (e) articles of troop equipment and dress, such as cartridge boxes and bags, knapsacks, bandoleers, breastplates, intrenching tools, drums, kettles, saddles, horse trappings, ready-made uniforms, tents, etc.; (f) naval vessels sailing to an enemy's port, even though under a neutral commercial flag, if by the construction of their hull, their interior arrangement, and other signs they are evidently built for war purposes and are going to the enemy's port for the purpose of being sold or turned over to the enemy; (g) generally speaking, all other objects directly intended for war, whether land or naval, if they are being transported at the cost of or with destination to the enemy. By the designation "to the enemy" is meant transportation to his fleet, to one of his ports, or even to a neutral port if the latter, according to obvious and indisputable proofs, merely serves as an intermediate station to the enemy and as the final goal of all transportation.

The following acts are considered on a par with military contraband and involve the same consequences for a neutral vessel and cargo: (1) Conveyance of hostile troops, military detachments, and individual military persons, and (2) conveyance of enemy's dispatches—that is, business correspondence between hostile commanders and their agents stationed on a vessel or on territory belonging to or occupied by the enemy.

True:

LIEUTENANT KUZNETZOFF 2, *Secretary*.

APPENDIX III.

MODEL OF MEMORANDUM OF VISITATION.

1901 (month, date), in (such and such) latitude and longitude, the Imperial Russian first-class cruiser *Rurik*, first-class Captain ———, commanding, stopped the steamer ——— (or sailing vessel, bark, schooner, etc.), under a neutral Dutch flag. The steamer immediately shut off its engine (or the sailing vessel lay to). Upon examination it was found that the steamer bore the name of ———, the ship's papers (to be named) were found in good order, and there was no contraband of war on board the steamer. The examination lasted two hours (from ——— to ———).

LIEUTENANT ——— ———.

True:

LIEUTENANT KUZNETZOFF 2, *Secretary*.

^a The enumeration here used as a basis for a list of contraband articles is that given in the enumeration of the ukase of the governing senate of May 12, 1877, on the occasion of the war between Russia and Turkey, printed on p. 477, Foreign Relations, 1877.

Mr. Hay to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 9, 1904.

(Mr. Hay informs Mr. McCormick that according to press reports the Russian prize court has confiscated all the cargo of the *Arabia* consigned to Japanese ports. Instructs him to ascertain and report to the Department substance of the decision.)

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, August 10, 1904.

(Mr. McCormick reports the decision of the prize court confiscating all the cargo of the *Arabia* consigned to Japan and the release of the vessel and the balance of the cargo, and that the attention of the minister for foreign affairs has been called to the discrepancy in the decision confiscating the cargo while not mentioning it as contraband.)

Mr. McCormick to Mr. Hay.

AMERICAN EMBASSY,
St. Petersburg, August 10, 1904.

No. 176.]

SIR: Immediately after my arrival here, as already indicated in my dispatch of August 2, I expressed to Count Lamsdorff the great desirability of furnishing me with official information as to the decision of the prize court in the matter of the cargo of the *Arabia*; acquainting him as well with the contents of the Department's cable of August 3, transmitting the manifest of that ship with the information concerning the destination and consignees of that cargo.

As late as yesterday afternoon I was informed through Count Lamsdorff's private secretary that the foreign office had no information as to the decision of the court, but a few hours later, in the course of the evening, received a note conveying the information as cabled to you to-day.

Briefly, as you will observe, this note stated that considering that the steamship *Arabia* was seized regularly, that the cargo, composed of railway material and flour, destined for Japanese ports and addressed to different commercial houses in said ports, constituted contraband of war, no mention was made of the 66 pieces of machinery or four packages of cleansing powder, or of the four pieces of structural iron or four packages of blinds, although the tribunal decided that the freight, apparently including these, must be confiscated as being proper prize.

I addressed a note to Count Lamsdorff, stating that I would like to

be informed whether these articles were actually confiscated, although not specifically mentioned, as were the flour and railway material.

It is possible that the telegraphic report of the court's decision is incomplete, and that its full tenor will not be known here until all the papers have been received at the admiralty.

I will advise you of Count Lamsdorff's reply to my inquiry for fuller information as soon as received.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.—Translation.]

Count Lamsdorff to Mr. McCormick.

MINISTRY OF FOREIGN AFFAIRS,
First Division, July 27, 1904.

MR. AMBASSADOR: By a note under date of July 19 last I had the honor to inform Mr. Spencer Eddy that the question of the release of the steamer *Arabia*, stopped by the Russian naval forces, could only be decided through judicial channels on the basis of a decision of the prize court instituted by virtue of the existing regulations, which were made known to the public at the proper time.

In a further communication, dated July 22 (August 4), your excellency deemed it necessary to revert to this question by insisting on the release of the *Arabia*, in view of the fact that the greater part of its cargo was not contraband of war. I take it as my duty to inform you, therefore, that the prize court at Vladivostok, after an examination of the case, rendered the following sentence on July 20 last:

Considering that the steamer *Arabia* was regularly stopped; that the cargo, composed of railway material and flour weighing about 2,360,000 pounds, bound for Japanese ports and addressed to various commercial houses in said ports, constitutes contraband of war; that the remainder of the cargo of flour and a small part of the cargo composed of various objects, weighing about 5,700,000 pounds, bound for neutral ports, does not constitute contraband of war; that the steamer *Arabia*, transporting contraband of war representing less than one-third of the whole cargo, is not subject to confiscation. The court decides that the cargo bound for Japanese ports should be confiscated as being lawful prize, and that the vessel itself and the remainder of the cargo, not being subject to confiscation, should be set at liberty.

The above decision of the prize court at Vladivostok completely answers all the questions asked by your excellency in your note of July 22 (August 4). However, if this decision should in any respect not be considered satisfactory, appeal may be made in the form prescribed by law before the admiralty board, which shall then have to decide the question finally. In the latter event the interested party could present to the said board all the data referred to in the above-mentioned note of your excellency.

Mr. Hay to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 11, 1904.

(Mr. Hay states that it appears from the decision relating to the *Arabia* that flour consigned to commercial houses in Japan is considered as absolutely contraband. Under the Russian rules of last February rice and food stuffs "which may be used in time of war when they are transported for account of or in destination of the enemy"

are declared to be contraband of war. It was believed that this definition conditionally qualified in this manner was in harmony with international law, and this Government has been confident that it would be so interpreted. Department's circular of June 10 (printed ante) clearly stated the views of this Government as to what constituted conditional contraband of war in the normal course of trade to open ports of the enemy's country. No other interpretation can be regarded as in harmony with international law. Instructs him to earnestly impress the views of the United States Government upon the Russian Government, to state that the *Arabia* carried consignments of flour under an American charter to private commercial houses in open Japanese ports in the ordinary course of commerce, and to protest against the condemnation of the same without proof of *transportation for account of, or in destination of the enemy*, to ask for its release, and to reserve all rights of American citizens or of the Government of the United States acting for them.)

Mr. Hay to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 13, 1904.

(Mr. Hay instructs Mr. McCormick to ascertain upon what principle the 66 cases of machinery and 4 girders, part of the cargo of the *Arabia*, were condemned, if at all.)

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, August 13, 1904.

(Mr. McCormick reports that he has communicated the contents of Department's telegram of the 11th instant to the minister for foreign affairs, and has protested against the condemnation of the cargo of flour carried by the *Arabia*; that the minister stated that he would have to consult with the minister of marine and with a commission which is considering the matter. States that the minister for foreign affairs stated in one of his notes that if this decision should be found unsatisfactory the case could be appealed to the council of the admiralty, which would have final jurisdiction.)

Mr. Hay to Mr. McCormick.

No. 138.]

DEPARTMENT OF STATE,
Washington, August 15, 1904.

SIR: Referring to the Department's telegram of July 27 last, and its No. 134 of July 29 last, relative to the United States military

stores on the *Ardova*, I inclose copy of a telegram from the United States consular agency at Alexandria, Egypt, reporting that the captain of the vessel had stated that the letter in his charge, addressed to the United States quartermaster-general at Manila, had been taken from him along with the ship's papers.

I am, etc.,

JOHN HAY.

[Inclosure.—Telegram.]

Mr. Morgan to Mr. Hay.

AMERICAN CONSULAR AGENCY,
Alexandria, August 1, 1904.

Consular agent, Suez, reports Captain Smith, of *Ardova*, informs him letter in Smith's charge for quartermaster-general United States stores, Manila, taken from him, together with all ship's papers, by commander of *Smolensk*.

MORGAN.

Mr. Hay to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 16, 1904.

(Mr. Hay informs Mr. McCormick that it is reported that the British steamer *Calchas* was seized by the Russian naval authorities and taken to Vladivostok with her cargo, which included consignments of raw cotton to the order of Americans in the ordinary course of trade with Japan, and instructs him to request the release of the cotton and other noncontraband American goods.)

Mr. McCormick to Mr. Hay.

No. 178.]

AMERICAN EMBASSY,
St. Petersburg, August 20, 1904.

SIR: With reference to my No. 176 of August 10, on the subject of flour seized on board the steamer *Arabia* and declared contraband of war by the prize court of Vladivostock, and my protest against this action in accordance with your cabled instructions, I now have the honor to inform you that his excellency the British ambassador received instructions shortly after my lodging of this protest with the minister for foreign affairs to enter protest on similar lines with mine.

* * * * *

His interview with the minister for foreign affairs, when he lodged his protest some five days after my own, had no further result than the statement made to me by Count Lamsdorff that the matter was under consideration by a special commission of the ministry of marine.

Sir Charles Hardinge, however, received the impression that the action of the Russian Government would be favorable. * * *

This is the opinion of Sir Charles Hardinge, based upon Count Lamsdorff having "unofficially" alluded to the possible misinterpretation of the Russian declaration as to contraband, instead of confin-

ing himself to the statement which he made to me that in the matter of the decision "it was a matter of interpretation."

I have, etc.,

ROBERT S. McCORMICK.

Mr. Adee to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 23, 1904.

(Mr. Adee instructs Mr. McCormick to ascertain whether the interested parties will be permitted to present evidence before the council of admiralty on the hearing of the appeal in case of the condemned portion of the cargo of the *Arabia*.)

Mr. McCormick to Mr. Hay.

[Telegram.]

AMERICAN EMBASSY,
St. Petersburg, August 24, 1904.

The following telegram just received from consul, Vladivostok:

Sixty-six packages machinery confiscated. Deemed intended railway pumping purposes, probably same decision girders. Cargo discharged. Steamer sails to-day Shanghai. American shippers to represent interests must promptly telegraph powers attorney in all cases, singly or collectively attested by Russian consul.

McCORMICK.

Mr. Adee to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 26, 1904.

(Mr. Adee instructs Mr. McCormick to request that ample time be given to the interested parties to take an appeal from adverse decisions of the prize court, as it is impossible to have their interests properly presented and protected before the prize court without such indulgence. The suddenness of the seizures, the great distance from Vladivostok, the uncertainty as to the method of procedure, and the employment of competent counsel makes this imperative.)

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, August 30, 1904.

(Mr. McCormick reports that he has been informed that interested parties in seizure cases will be allowed to present evidence before the council of admiralty.)

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY.

St. Petersburg, August 30, 1904.

(Mr. McCormick reports that the minister for foreign affairs has informed him that under article 77 of the Russian regulations the prize court may extend the time for an appeal by the interested parties, that request for such extension must be made to the prize court at Vladivostok, with power of attorney, by telegraph, in the Russian language, and authenticated by Russian diplomatic or consular officers. The counsel of the embassy advises that, if it be impossible to furnish a full declaration, a short declaration would serve for the time being.)

Mr. Hay to Mr. McCormick.

No. 143.]

DEPARTMENT OF STATE,
Washington, August 30, 1904.

SIR: I have the honor to acknowledge the receipt of your dispatch, No. 176, of the 10th instant.

The Department has carefully considered the note of the Russian minister of foreign affairs dated July 27, last, a copy of which is inclosed with your dispatch, with reference to the decision of the prize court in the case of the steamship *Arabia*, containing American cargo, seized by the Russian naval forces and sent to Vladivostok for adjudication.

As communicated to you by the minister, the decision of the court was—

that the steamer *Arabia* was lawfully seized; that the cargo, composed of railway material and flour, weighing about 2,360,000 livres, destined to Japanese ports and addressed to different commercial houses in said ports, constitutes contraband of war; * * * that the cargo bound for Japanese ports should be confiscated as being lawful prize.

In communicating the said decision the minister observed, in response to the request of this Government for the release of the non-contraband portion of the cargo, that the question could only be decided through judicial channels as the basis of a decision of the prize court.

This is the first authentic information which the Department has received of the precise grounds on which the prize court decided to confiscate the railway material and flour in question. The judgment of confiscation appears to be founded on the mere fact that the goods in question were bound for Japanese ports and addressed to various commercial houses in said ports. In view of its well-known attitude, it should hardly seem necessary to say that the Government of the United States is unable to admit the validity of the judgment, which appears to have been rendered in disregard of the settled law of nations in respect to what constitutes contraband of war. If the judgment and the communication accompanying its transmission are to be taken as an expression of the attitude of His Imperial Majesty's Government and as an interpretation of the Russian im-

perial order of February 29, last, it raises a question of momentous import in its bearing on the rights of neutral commerce.

The Russian imperial order denounces as absolutely contraband of war telegraph, telephone, and railway materials, and fuel of all kinds, without regard to the question whether destined for military or for purely pacific and industrial uses.

Clause 5, article 10, of the imperial order, denounces as contraband of war—

all articles destined for war on land or sea, as well as rice, foodstuffs, and horses, beasts of burden and others (autres), capable of serving a warlike purpose, and if they are transported on account of or to the destination of the enemy.

The ambiguity of meaning which characterizes the language of this clause, lending itself to a double interpretation, left its real intent doubtful. The vagueness of the language, used in so important a matter, where a just regard for the rights of neutral commerce required that it should be clear and explicit, could not fail to excite inquiry among American shippers who, left in doubt as to the significance attributed by His Imperial Majesty's Government to the word "enemy"—uncertain as to whether it meant "enemy government or forces," or "enemy ports or territory"—have been compelled to refuse the shipment of goods of any character to Japanese ports. The very obscurity of the terms used seemed to contain a destructive menace, even to legitimate American commerce.

In the interpretation of clause 10 of article 6, and having regard to the traditional attitude of His Imperial Majesty's Government, as well as to the established rule of international law, with respect to goods which a belligerent may or may not treat as contraband of war, it seemed to the Government of the United States incredible that the word "autres" or the word "l'ennemi" could be intended to include as contraband of war food stuffs, fuel, cotton, and all "other" articles destined to Japanese ports, irrespective of the question whether they were intended for the support of a noncombatant population or for the use of the military or naval forces. In its circular of June 10 last, communicated by you to the Russian Government, the Department interpreted the word "enemy" in a mitigated sense, as well as in accordance with the enlightened and humane principles of international law, and therefore it treated the word "enemy," as used in the context, as meaning "enemy government or forces," and not the "enemy ports or territory."

But if a benign interpretation was placed on the language used, it is because such an interpretation was due to the Russian Government, between whom and the United States a most valued and unbroken friendship has always existed, and it was no less due to the commerce of the latter, inasmuch as the broad interpretation of the language used would imply a total inhibition of legitimate commerce between Japan and the United States, which it would be impossible for the latter to acquiesce in.

What doubt could exist as to the meaning of the imperial order has been apparently removed by the inclosure in your dispatch of the note from Count Lansdorff, stating tersely and simply the sentence of the prize court. The communication of the decision was made in unqualified terms, and the Department is therefore constrained to take notice of the principle on which the condemnation is based, and

which it is impossible for the United States to accept, as indicating either a principle of law, or a policy which a belligerent State may lawfully enforce or pursue toward the United States as a neutral.

With respect to articles and material for telegraphic and telephonic installations, unnecessary hardship is imposed by treating them all as contraband of war—even those articles which are evidently and unquestionably intended for merely domestic or industrial uses. With respect to railway materials, the judgment of the court appears to proceed in plain violation of the terms of the Imperial order, according to which they are to be deemed to be contraband of war only if intended for the construction of railways. The United States Government regrets that it could not concede that telegraphic, telephonic, and railway materials are confiscable simply because destined to the open commercial ports of a belligerent.

When war exists between powerful States it is vital to the legitimate maritime commerce of neutral States that there be no relaxation of the rule—no deviation from the criterion for determining what constitutes contraband of war, lawfully subject to belligerent capture, namely, warlike nature, use, and destination. Articles which, like arms and ammunition, are by their nature of self-evident warlike use, are contraband of war if destined to enemy territory; but articles which, like coal, cotton, and provisions, though of ordinarily innocent are capable of warlike use, are not subject to capture and confiscation unless shown by evidence to be actually destined for the military or naval forces of a belligerent.

This substantive principle of the law of nations can not be overridden by technical rule of the prize court that the owners of the captured cargo must prove that no part of it may eventually come to the hands of the enemy forces. The proof is of an impossible nature; and it can not be admitted that the absence of proof, in its nature impossible to make, can justify the seizure and condemnation. If it were otherwise, all neutral commerce with the people of a belligerent State would be impossible; the innocent would suffer inevitable condemnation with the guilty.

The established principle of discrimination between contraband and noncontraband goods admits of no relaxation or refinement. It must be either inflexibly adhered to or abandoned by all nations. There is and can be no middle ground. The criterion of warlike usefulness and destination has been adopted by the common consent of civilized nations, after centuries of struggle in which each belligerent made indiscriminate warfare upon all commerce of all neutral states with the people of the other belligerent, and which led to reprisals as the mildest available remedy.

If the principle which appears to have been declared by the Vladivostok prize court and which has not so far been disavowed or explained by His Imperial Majesty's Government is acquiesced in, it means, if carried into full execution, the complete destruction of all neutral commerce with the noncombatant population of Japan; it obviates the necessity of blockades; it renders meaningless the principle of the declaration of Paris set forth in the imperial order of February 29 last that a blockade in order to be obligatory must be effective; it obliterates all distinction between commerce in contraband and noncontraband goods; and is in effect a declaration of

war against commerce of every description between the people of a neutral and those of a belligerent State.

You will express to Count Lamsdorff the deep regret and grave concern with which the Government of the United States has received his unqualified communication of the decision of the prize court; you will make earnest protest against it and say that the Government of the United States regrets its complete inability to recognize the principle of that decision and still less to acquiesce in it as a policy.

I have, etc.

JOHN HAY.

Mr. Adee to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, September 1, 1904.

(Mr. Adee informs Mr. McCormick that it is represented to the Department that the British steamship *Calchas*, sailing from Tacoma to Liverpool via Suez Canal, and largely, if not entirely, laden with an American cargo, the property of American citizens, was not, from the nature of her cargo and destination, subject to capture and confiscation. The cargo consisted in part of flour, machinery, raw cotton, rough lumber, varnish, and leaf tobacco, and was partly consigned to Japanese ports, partly to neutral ports. Instructs him to advise the minister for foreign affairs that the principle of the decision of the Vladivostok prize court in the case of the *Arabia* can not be admitted as a principle nor recognized as a policy by the United States Government. The ground of the decision, as stated by the minister for foreign affairs, was that the goods in question were consigned to various commercial houses in Japanese ports. Further instructs him to request that the American cargo consigned to such ports, if the seizure is based on such destination to private commercial houses in those ports, be released.)

Mr. Adee to Mr. McCormick.

No. 144.]

DEPARTMENT OF STATE,
Washington, September 1, 1904.

SIR: I have the honor to acknowledge receipt of your dispatch No. 178, of the 20th ultimo, in further reference to the case of the steamship *Arabia*.

Your dispatch referring to the confiscation of the portion of the cargo of the *Arabia* destined for Japanese ports mentions an unofficial allusion made by Count Lamsdorff to the possible misinterpretation of the Russian declaration as to contraband. You add that he had made the statement to you, referring to the decision of the prize court, that "it was a matter of interpretation." If this statement was intended to convey the idea that as between the Russian Government and its prize court the decision of the court confiscating the portion of the cargo destined for Japanese ports was a matter of interpretation, the Department would not feel it necessary to take notice of

the statement. But if the statement was intended to imply that the decision "was a matter of interpretation" as between the Government of the United States and the Russian Government, it could not be allowed to pass without particular observation. It is impossible to belittle the importance of the question involved by reducing it merely to a question of interpretation of the Russian imperial order of February 29, last. Underlying that order is involved an important principle of the law of nations. When this law is disregarded, as now appears to have been done, it raises a question which can only properly be settled between government and government, and in such a case the United States Government could not admit that a belligerent State may, merely of its own will, set up a novel principle in conflict with the settled law of nations. The United States Government, as you have already been instructed, is unable to admit the validity of the judgment of the prize court, considering the reason on which it is founded, and it hopes that the error of the court may be rectified by the decision of the council of the admiralty, to which an appeal will be taken by the interested American claimants as soon as can be done, considering the great distance from the scene of action and the difficulty of obtaining the details of information necessary to enable the parties to prosecute their appeal. The statement made to you by the Russian minister has been sufficiently disposed of in principle by the Department's instruction of August 30, 1904, to which this instruction is added by reason of the communication of the statement mentioned.

You will take proper occasion to communicate the substance of this instruction, together with that of August 30, to Count Lamsdorff.

I have, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. McCormick to Mr. Hay.

No. 181.]

AMERICAN EMBASSY,
St. Petersburg, September 3, 1904.

SIR: In accordance with the Department's instruction of August 30, I made known to His Excellency Count Lamsdorff, Russian minister for foreign affairs, the contents thereof, transmitting them in writing and personally laying them before him, at the same time, in accordance with the instruction, advising him that the United States Government could not admit in principle nor recognize as a policy the principle of the decision of the Vladivostok prize court, and requesting the release of the American cargoes destined to Japanese ports and addressed to the various commercial houses in said ports.

In reply, Count Lamsdorff said that these matters were now in the hands of the admiralty court and not in his; that Professor Martens was considering the principle involved in the seizure and decision of the prize court at Vladivostok, and the final decision on appeal to the admiralty court in St. Petersburg would probably not be reached, even in the first case to come before the court, before the end of September, owing to the delay in obtaining the necessary documents, with the evidence which will have to be considered in each case.

Count Lamsdorff declined to express any opinion, considering all questions at issue as being before the court, and therefore, from his standpoint, beyond the realm of discussion.

I have, etc.,

ROBERT S. McCORMICK.

Mr. McCormick to Mr. Hay.

No. 183.]

AMERICAN EMBASSY,
St. Petersburg, September 10, 1904.

SIR: I have the honor to inclose herewith the translation of a note from his excellency the minister for foreign affairs, stating that the special commission charged with the examination of the cargo of the steamship *Calchas*, at Vladivostok, has not yet finished its work and that the matter must be left to follow the ordinary course prescribed by law, and that he, the minister for foreign affairs, can take no further part in the matter, his participation in the prize cases being limited to the nomination of a representative of the ministry on the supreme prize tribunal at St. Petersburg.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.—Translation.]

Count Lamsdorff to Mr. McCormick.

MINISTRY FOR FOREIGN AFFAIRS,
St. Petersburg, August 27 (September 9), 1904.

MR. AMBASSADOR: In reply to the note of August 20, last, relating to the matter of the steamship *Calchas*, I have the honor to announce to your excellency, for your information, that, according to a telegram received from His Majesty the Emperor's lieutenant in the Far East, the special commission whose duty it is to examine the cargo of that vessel at Vladivostok has not yet finished its work. It is well understood that the further development of this case must follow the course prescribed by law and that the imperial ministry for foreign affairs does not find itself in a position to take any further part in it, either in Vladivostok or in St. Petersburg, its participation in the prize cases being limited exclusively to the nomination of a representative of the ministry to the supreme prize tribunal at St. Petersburg.

I avail, etc.,

LAMSDORFF.

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

ST. PETERSBURG, *September 14, 1904.*

(Mr. McCormick reports that the American commercial agent at Vladivostok has informed him that under the decision of the prize court the *Calchas* was legally arrested; that the cargo for neutral ports has been released; that flour and cotton have been confiscated; that protest has been entered by the attorney for the Vladivostok fleet against the release of the vessel and the Japanese mail; that machinery and lumber has been released, and that the return of the ship's papers depends upon the decision of the higher court. Claims must be proved at Vladivostok by October 22 either in person by the claimants or by attorney.)

Mr. Adee to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, September 16, 1904.

(Mr. Adee requests Mr. McCormick to send to the Department without delay the answer of the minister for foreign affairs to Mr. McCormick's notes communicating Department's Nos. 143 and 144.)

Mr. McCormick to Mr. Hay.

No. 184.]

AMERICAN EMBASSY,
St. Petersburg, September 17, 1904.

SIR: With reference to the Department's instructions Nos. 143 and 144 and to the cablegraphic instruction of yesterday, I have to say that I lost no time in communicating to Count Lamsdorff the contents of the first-named instruction by note, urging that he give me an early reply for reasons contained in that note.

I had already explained to his excellency that the ordinary commercial intercourse between the United States and Japan had been greatly disarranged by the decision of the prize court at Vladivostok in the case of the *Arabia*, and that any delay in removing all doubts as to the Russian Government's position with regard to the decision and the interpretation to be placed upon its own prize rules was of vital importance, as well as the character of the decision when it should be rendered.

The statement made on yesterday by Count Lamsdorff to the British ambassador, seems to remove all doubt as to what Count Lamsdorff meant in referring to the decision of the prize court that "it was a matter of interpretation." It would seem clear from this statement that Count Lamsdorff intended to convey the idea that, as between the Russian Government and its prize court, the decision of the court confiscating the portion of the cargo destined for Japanese ports was "a matter of interpretation," and not as between the Government of the United States and the Russian Government. Thus far the statement made to Sir Charles Hardinge seems entirely satisfactory, but the statement made to Sir Charles Hardinge that "the conditional contraband character of articles used for peaceful as well as warlike purposes is admitted in the new instructions, but articles of dual use addressed to private individuals in the enemy's country are not necessarily exempted from seizure and confiscation, as such persons might be employed as agents or contractors of the naval or military authorities," seems to me to leave much to be desired, as only after seizure and the usual course in the prize court can it be absolutely decided that any of the articles referred to are not contraband.

The decision rendered by the Vladivostok prize court with reference to the *Calchas* cargo, while the special commission was still sitting, that the very articles referred to in the instructions sent to that prize court were contraband, does not, to my mind, point to the entirely satisfactory interpretation of the rules for which some have hoped as a result of the decision of the commission.

It may be, however, as I have intimated in a former dispatch, that the decision of the court of first instance will be reversed by the admiralty court.

I endeavored to see Count Lamsdorff to-day, but found that he had gone to Peterhof, although I would have preferred to have addressed him a note and asked for a reply in writing to the several notes which I have addressed him on this subject, as a verbal answer in a matter of so great importance can not but be far from satisfactory to you.

* * * * *

I have, etc.,

ROBERT S. McCORMICK.

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, September 19, 1904.

(Mr. McCormick reports that the minister for foreign affairs stated in an interview that he accepted the principle as set forth in Department's instructions, reserving, however, that all goods consigned to commercial houses in open Japanese ports should be accepted as noncontraband, but conditionally so, which means that the burden of the proof of noncontraband character of any merchandise seized would be on the merchants.)

Mr. Loomis to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, September 19, 1904.

(Mr. Loomis instructs Mr. McCormick to forward to the Department Count Lamsdorff's note and his supplemental instructions to the prize court and naval commanders. The Department will then send further instructions.)

Mr. McCormick to Mr. Hay.

No. 186.]

AMERICAN EMBASSY,
St. Petersburg, September 21, 1904.

SIR: I have the honor to confirm my cablegram of the 19th with reference to the attitude of the Russian Government on the subject of contraband of war, and to transmit to you a copy of a memorandum handed me by Count Lamsdorff, practically reiterating what he had said to me on former occasions with reference to any discussion of the facts or of the principle involved in the seizure and condemnation by the prize court at Vladivostok, of that part of the cargoes of these two ships which were consigned to merchants in open Japanese ports.

Count Lamsdorff was not prepared to take any issue with me on the declarations and principles contained in your circular note (circular of June 10, 1904, printed ante) and your instructions No. 143 of August 30 (printed ante), a copy of the former having been handed

to him and the contents of the latter having been transmitted to him practically in extenso as well as the contents of your instruction on the subject of the seizure of the cargo of the *Arabia*.

Count Lamsdorff said, in addition to what I have already transmitted to you by cable, that to unconditionally accept as noncontraband all merchandise not universally accepted or described in their own rules as such would open the door to contractors in Japan to import food stuffs and other merchandise without limit for account of the Japanese Government; that is, on account of or in destination of the enemy. That the Russian Government could not but consider as contraband a cargo of flour consigned to a port at which was quartered a large body of troops, and that extending this principle the ultimate destination of the cargo had to be taken into consideration, although its direct consignment might be to a merchant in an open port.

This statement, with a copy of the aide-memoire which is herewith inclosed, will enable you to understand the position of the Russian Government at this time.

My only reply was that it meant, practically, abrogation of the principle "that the blockade, in order to be obligatory, must be effective," and relieved Russia of the necessity of maintaining one. To this he replied that nobody would be so naïve as to consign merchandise not prima facie contraband, although intended for the enemy, to the destination of the enemy, substituting therefor a middleman in the shape of a merchant in the open port. He added here, as he repeated several times, that we would see that in the future there would be less ground for complaint, and that it was far from the desire of the Russian Government to place any obstacles in the way of legitimate commerce with Japan; but that they would be compelled to take such steps as would be necessary to prevent supplies of any character ultimately intended for the use of the enemy from reaching their destination. He added that the several notes I had written on the subject, as well as your circular note of June 10, had been handed to Professor Martens, who would consider the representations made therein when the cases of the *Arabia* and *Calchas* came before the admiralty court of St. Petersburg.

I also asked him whether or not the special commission considered their work closed and whether there would be any further modification of the Russian rules to meet the representations of the United States and others interested in the matter of contraband. He replied that Professor Martens, whose fairness is known to everybody, would represent the foreign office and international interests and that he would consider and bring forward all the representations which had been made, giving me to understand that this would be done not in the interests of the Russian Government, but in the interest and support of the principles of international law.

In a subsequent conversation which I had with Count Lamsdorff to-day I again raised the question of the Russian Government's attitude as to the character of coal, and he repeated what he said on the 19th, that coal and cotton were held to be absolutely contraband, adding that the only exceptions to this rule were covered by section 10 of Article VI, as communicated in my cable of that date.

* * * * *

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.—Translation.]

Memorandum.

The American notes relating to the seizures of the steamers *Calchas* and *Arabia*, dated September 2 and 14, respectively, treat simultaneously of both questions of *principle* and of *fact*.

The questions of *fact* raised in these two cases relate to the decisions of the Vladivostok prize court. They belong, therefore, to the jurisdiction of the judicial institutions established to take cognizance of cases of this character. The sentences pronounced at Vladivostok may, according to article 77 of the prize regulations of 1895, be appealed from within the periods provided by law. The final decision, according to article 85 of the same regulations, belongs only to the supreme prize court constituted by the admiralty board. The ministry of foreign affairs is represented in this court by a special delegate, who takes cognizance of all the considerations which the neutral governments interested have deemed it their duty to communicate to the Imperial Government with regard to the prizes in process of adjudication.

Consequently, until the decisions of the Vladivostok court are reviewed by the supreme court, reclamations regarding *questions of fact* are beyond the jurisdiction of the imperial ministry of foreign affairs.

In view of this the imperial ministry, in its replies concerning the *Arabia* and *Calchas* cases, numbered 14 and 30, and dated August 12 and 27, respectively, confined itself to communicating to the United States embassy a summary of the decisions of the Vladivostok court, without entering into any extensive discussion or forming any reservations on these decisions.

It is therefore important for the parties concerned to file their appeals without delay in the forms prescribed.

As far as questions of *principle* are concerned, his excellency the ambassador of the United States was opportunely notified that a special board, convoked by supreme order in the imperial ministry of foreign affairs, and presided over by Monsieur de Martens, had subjected the question as to the interpretation of section 10 of article 6 of the regulations of February 14 on contraband of war to a thorough examination. The conclusions of this board have been made known to Russian cruisers and prize courts in order to be taken into due consideration by them in future.

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, September 21, 1904.

(Mr. McCormick reports that the time limit of appeal in the *Calchas* case for the master and shippers has been extended to October 22 and December 12, respectively.)

Mr. Loomis to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, September 23, 1904.

(Mr. Loomis instructs Mr. McCormick to ascertain whether a consignment of lumber on the steamer *Calchas* has been confiscated or discharged by the Vladivostok prize court.)

Mr. McCormick to Mr. Hay.

No. 189.]

AMERICAN EMBASSY,
St. Petersburg, 23 September, 1904.

SIR: I have the honor to inclose herewith a list of the members of the admiralty court which will hear the appeal in the cases of the *Knight Commander, Arabia, and Calchas*. * * *

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.]

Admiralty council.

President, G. D. Alexei; vice-president, Admiral Avelan.

Members: Admiral Pilkin, Admiral Smidt, General Kaznakoff, Vice-Admiral Kupreanoff, Vice-Admiral Verchovsky, General Kolokoltsoff, (retired naval officer) Sulief.

The "generals" are retired naval officers.

The other members of the supreme prize court are: Two members of court of cassation, one representative of ministry for foreign affairs.

The procureur and secretary of the court are officials of the ministry of marine.

There is no appeal.

In England the "high court of admiralty" is a civil court which is also the court of divorce and probate. It has a president and judge, both in the ordinary judicial service. Appeals are made to the judicial committee of the privy council and the four law lords or any other privy counselor who has held high judicial office.

Mr. McCormick to Mr. Hay.

No. 191.]

AMERICAN EMBASSY,
St. Petersburg, September 29, 1904.

SIR: With reference to the Department's several cablegrams and instructions concerning the rights of owners to present evidence before the court of admiralty on the hearing of appeal in their respective cases, I have the honor to inform you that British owners, with the cooperation of their embassy, have already placed their cases in the hands of counsel here in order that the latter may acquaint themselves with the details in the respective cases and prepare a proper presentation and arguments well in advance of the time when the admiralty court will sit.

In the British cases the attorney will be the counsel of the British embassy, assisted by Mr. Passover, whose position as an authority on international law is well known in St. Petersburg.

I have no personal knowledge of Mr. Passover's qualifications, but he has been highly spoken of to me by Sir Charles Hardinge, the British ambassador, and his retention would be an advantage to those who may require legal services, especially as Mr. Passover has a thorough knowledge of English. It seems to me that arrangements should be made in advance for a proper and strong presentation of the cases of our citizens as has been done in the case of British subjects, as such presentations can not be without effect, notwithstanding the fact that the character of the judgment to be rendered will be in some sense a foregone conclusion.

It appears now that the special commission appointed to consider the decisions of the Vladivostok prize court, and the rules under

which these decisions were rendered, gave no attention to other than section 10 of article 6 of these rules, leaving out of consideration therefore all articles not specifically enumerated therein, such as coal, alcohol, naphtha, and other fuel, as well as cotton and materials for the installation of telegraph and telephone lines and for the construction of railways.

* * * * *

I have represented to Count Lamsdorff that the telephone is to-day an article of household use so generally availed of as to be classed among ordinary necessities, and as the same character of supplies are required to a certain extent for the construction of telegraph lines, these supplies should also fall under the classification of conditional contraband of war. I have also represented to his excellency that cotton, being one of our chief products ranking with breadstuffs in its importance, to place it on the absolutely contraband list, works a hardship which would not be lightly endured by the agricultural class who raise it any more than by the merchants through whose hands it passes to the cotton mills of Japan, there to be converted into clothing as necessary to the people as the food into which is converted American flour.

* * * * *

I shall lose no opportunity to further impress upon Count Lamsdorff, as I have done in accordance with your instruction, "how vital to the legitimate commerce of the United States, how vital to the legitimate commerce of all neutral states at this time that there be no relaxation of the rule—no deviation from the criterion—for determining what constitutes contraband of war lawfully subject to belligerent capture, namely, warlike nature, use, and destination, by their nature of self-evident warlike use," and how vital it is that the decision of the appeal court be governed by this rule.

I have, etc.,

ROBERT S. McCORMICK.

Mr. Adee to Mr. McCormick.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 4, 1904.

Transmit following telegram to Greener, Vladivostok:

Ascertain and report what disposition was made of consignment of 26 pieces machinery consigned to order Post & Co., A. Weston, Yokohama, shipped on S. S. *Calchas*.

ADEE.

Mr. McCormick to Mr. Hay.

[Telegram.]

AMERICAN EMBASSY,
St. Petersburg, October 6, 1904.

Greener telegraphs appraisal committee fixes bond for *Calchas* 674,830 rubles for release of steamer; neutral cargo still on board.

McCORMICK.

Mr. Eddy to Mr. Hay.

[Telegram.]

AMERICAN EMBASSY,
St. Petersburg, October 8, 1904.

Just received from consul, Vladivostok, following telegram:

Post & Co.'s 26 pieces machinery await decision highest prize court. Frankel's consignment Shanghai free; goes on steamer when released. Lessar Goldman Company's 18 bales cotton confiscated. Appeals of procuror, attorney, and master now filed.

EDDY.

Mr. Hay to Mr. Eddy.

No. 155.]

DEPARTMENT OF STATE,
Washington, October 13, 1904.

SIR: I inclose copies of papers received from the Postmaster-General,^a concerning the confiscation or detention by the Russian Vladivostok squadron of mail matter from the United States on board the British steamer *Calchas*, seized off the Japan coast about July 26 last.

You will bring this instance of what appears to be a violation of the provisions of the Universal Postal Convention to the attention of the Russian Government, and to request of it an investigation and appropriate action.

Any interruption of regular postal communication entails such serious inconvenience to various interests that, apart from the provisions of treaty, a usage has in recent years grown up to exempt neutral mails from search or seizure. In presenting this matter to the Russian Government you will refer to this fact and express the confidence of this Government that, in its treatment of the subject, the Russian Government will recognize the liberal tendency of recent international usage to exempt neutral mails from molestation.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Eddy.

No. 157.]

DEPARTMENT OF STATE,
Washington, October 17, 1904.

SIR: In connection with the Department's instruction No. 155, of the 13th instant, I inclose a bulletin of verification issued under date of the 9th ultimo by the Japanese office at Nagasaki, addressed to the office of San Francisco,^a reporting the opening and resealing by the Russian post-office at Vladivostok of a sack made up at the office of San Francisco, addressed to the U. S. S. *Cincinnati* and dispatched per the steamer *Calchas*.

I am, etc.,

JOHN HAY.

^a Not printed.

Mr. Loomis to Mr. Eddy.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 20, 1904.

Transmit following to Greener, Vladivostok:

Ascertain and report disposition made of 100 hhds. of leaf tobacco, shipped by F. J. Muhling, order notify Mitsui Bussan Kaisha, Yokohama. Also what decision rendered in case of 250 cases petroleum shipped on *Knight Commander* by Columbia Oil Company, order Wasserman & Co., Yokohama.

LOOMIS.

Mr. Adee to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, October 24, 1904.

(Mr. Adee instructs Mr. Eddy to advise and assist American claimants concerning claims arising from the seizure and confiscation of goods by Russian authorities.)

Mr. Eddy to Mr. Hay.

No. 197.]

AMERICAN EMBASSY,
St. Petersburg, October 26, 1904.

SIR: I have the honor to acknowledge the receipt of your instruction No. 155, dated October 13, 1904, whereby I am instructed to bring to the attention of the Russian Government an instance of what appears to be a violation of the provisions of the Universal Postal Convention, in the confiscation or detention by the Russian Vladivostok Squadron of mail matter from the United States on board the British steamer *Calchas*, which was seized off the Japanese coast on or about July 26 last.

I have requested an interview with Count Lamsdorff in order that I may present the matter to him in person, and I shall probably be enabled to see him during the afternoon of to-morrow, the 27th of October.

I have also the honor to inclose herewith the copy of the note which I shall send to him at this time.

I have, etc.,

SPENCER EDDY.

[Inclosure.]

Mr. Eddy to Count Lamsdorff.

AMERICAN EMBASSY,
St. Petersburg, October 13/26, 1904.

YOUR EXCELLENCY: I have the honor to inform your excellency that I have this day received instructions from the Department of State directing me to call the attention of the Russian Government to the confiscation or detention by the Russian Vladivostok Squadron of mail matter from the United States

on board the British steamship *Calchas*, siezed off the Japan coast about July 26 last.

This would appear to be a violation of the provisions of the Universal Postal Convention, and I am instructed to request that the Imperial Government cause an investigation to be made and appropriate action taken as soon as possible.

Any interruption of regular postal communication entails such serious inconvenience to various interests that, apart from the provisions of treaty, a usage has in recent years grown up to exempt neutral mails from search or seizure. In presenting this matter to your excellency I desire to express the firm confidence of my Government that in their treatment of this subject the Imperial Government will recognize the tendency of recent international usage to exempt neutral mails from molestation.

I avail, etc.,

SPENCER EDDY.

Mr. Eddy to Mr. Hay.

No. 198.]

AMERICAN EMBASSY,
St. Petersburg, November 2, 1904.

SIR: Referring to the Department's Nos. 155 and 157, of October 13 and 17, respectively, I have the honor to inform you that I had an interview this afternoon with the minister for foreign affairs, Count Lamsdorff, and that in this interview I discussed with him the subjects mentioned in the instructions above referred to. * * *

In regard to the tampering with the United States mail on the steamship *Calchas* I expressed to the minister the belief of my Government that the justice of our protest would be properly appreciated, and that we might have an assurance that in future the mails of the United States, inasmuch as they were of a neutral power, would be safe from all interference. He replied that he would prefer sending a written communication on the subject, and that he would reply to my note on this subject at as early a date as possible.

A copy of this note I had the honor of transmitting to the Department in the embassy's No. 197, of October 26.

I have, etc.,

SPENCER EDDY.

Mr. Hay to Mr. McCormick.

No. 169.]

DEPARTMENT OF STATE,
Washington, December 6, 1904.

SIR: The Department desires to consider the subject of contraband of war with the utmost care, and it would therefore be glad if you could kindly communicate copies of all written communications made by you to Count Lamsdorff on the subject and the substance of all oral communications which have passed between you.

Your dispatches have reported the substance of your communications, but in view of the critical consideration of the question by the Department it is desirable that verbatim copies of the correspondence be furnished as above indicated.

The public press has announced that the supreme court at St. Petersburg has rendered decisions on the appeals in the cases of the steamships *Arabia* and *Thea*. You will obtain copies of these decisions and forward the same to the Department, with exact translations thereof in French or English.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 10, 1904.

(Mr. Hay instructs Mr. Eddy to request that the Russian Government extend the time limit to American claimants to be heard on appeal before the admiralty court in the *Arabia* case.)

Mr. Eddy to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, December 13, 1904.

(Mr. Eddy reports that instructions have been issued by which the Vladivostok prize court ceases to have jurisdiction in appeals, and that all appeals must be filed in St. Petersburg. Suggests that interested parties telegraph through the Russian consul-general powers of attorney made to Anatole M. Berline, counsel of the embassy.)

Mr. Hay to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 15, 1904.

(Mr. Hay requests to be informed of the time limit within which appeals to the admiralty court must be taken by American claimants in seizure cases.)

Mr. Eddy to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, December 16, 1904.

(Mr. Eddy reports that the captains of the *Calchas* and *Knight Commander* have entered appeals en bloc, covering American goods, and that the cases will be heard in January.)

Mr. Loomis to Mr. Eddy.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 17, 1904.

American claimants Russian prize cases unable to get from Russian consuls legalization and transmission of powers of attorney in form

suggested by you. Consuls say they lack authority. Have foreign office give them full authority to certify and transmit by cable in Russian or English powers of attorney necessary to take appeal. Claimants complain that instructions received from Russian Government through you lack definiteness as to whether powers of attorney must be in Russian or whether English will do, or whether they must be legalized and transmitted by Russian consul-general, or may be, after legalization, transmitted by Department to embassy or Berline. Telegraph most explicit and brief instructions as to exact steps claimants must take. They are anxious to appeal, but have been hampered by difficulty of communication and by alleged want of authority of Russian consuls and consuls-general.

LOOMIS.

Mr. Eddy to Mr. Hay.

[Telegram.]

AMERICAN EMBASSY,
St. Petersburg, December 18, 1904.

Hearing on *Knight Commander* and *Calchas* cases has been set back to the 15th January. If powers of attorney are mailed immediately they will be in time. The earlier they arrive the better.

EDDY.

Mr. Eddy to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, December 20, 1904.

(Mr. Eddy reports that he has requested the foreign office to instruct Russian consuls to give every assistance in telegraphing powers of attorney. All powers of attorney should be telegraphed immediately. It is practically impossible to get anything done in the different ministries during the Christmas holidays up to January 7.)

Mr. Eddy to Mr. Hay.

[Telegram.]

AMERICAN EMBASSY,
St. Petersburg, December 22, 1904.

Russian Government officially notifies me instructions sent to important Russian consulates throughout the United States to telegraph all powers of attorney in all contraband cases.

EDDY.

Mr. Hay to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 23, 1904.

(Mr. Hay instructs Mr. Eddy to inform the Russian Government that the United States Government is deeply interested in the seizures of American-owned goods as contraband of war by the Russian naval authorities; that all possible assistance in taking their appeals from the decisions of the Vladivostok prize court to the council of admiralty has been rendered to the claimants by this Government; that on account of the great distance and the difficulty of communication by reason of warlike operations and the unfamiliarity of Americans with Russian judicial procedure, claimants desiring to take such appeals have found it impossible to do so within the prescribed time limits, and that the United States Government requests that the Russian Government extend the time limits in order that all American claimants may be enabled to take effective appeals and have a decision of each case on its merits. It is expected that the importance of the questions at issue and the interest of the United States Government in a just and satisfactory solution of them will lend all possible weight to this request.)

Mr. Eddy to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, December 24, 1904.

(Mr. Eddy reports that a note practically embodying all the points contained in Department's telegram of the 23d instant, but referring to the *Arabia* only, had already been presented to the minister of foreign affairs, and that he will send another note to the foreign office including all the vessels. Urges that all powers of attorney be telegraphed without delay.)

**ARREST OF AMERICAN NEWSPAPER CORRESPONDENTS BY
RUSSIAN AUTHORITIES.**

Mr. Hay to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, April 4, 1904.

(Mr. Hay informs Mr. McCormick that Messrs. Washburn and Little, American newspaper correspondents, have been arrested by Russian authorities and their chartered British boat has been seized at the entrance to the harbor of Niuchwang, and instructs him to ask for their release and protection.)

Mr. McCormick to Mr. Hay.

No. 119.]

AMERICAN EMBASSY,
St. Petersburg, April 12, 1904.

SIR: With reference to Department's telegraphic instruction of April 4, I have the honor to inform you that I am this day officially informed of the release of Messrs. Washburn and Little, correspondents of the Chicago Daily News. I have also to inform you that the Russian Government takes the position that it would have been fully justified in retaining these correspondents as prisoners of war in their capacity as correspondents attached to the army of the enemy.

I have, etc.,

ROBERT S. McCORMICK.

PASSPORT APPLICATION OF MICHAEL SILBERKASTEN.

Mr. McCormick to Mr. Hay.

[Telegram.]

AMERICAN EMBASSY,
St. Petersburg, May 9, 1904.

Was passport issued last March Michael Silberkasten?

McCORMICK.

Mr. Hay to Mr. McCormick.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 10, 1904.

No record found of passport issued to Michael Silberkasten in last eighteen months.

HAY.

Mr. McCormick to Mr. Hay.

No. 146.]

AMERICAN EMBASSY,
St. Petersburg, May 27, 1904.

SIR: I have the honor to call the Department's attention to the inclosed application for a passport of one Michael Silberkasten, whose inability to give the name of the ship on which he sailed on March 25, 1904, led me to suspect the truth of his statement that he had lost his passport, which he claimed to have received in March in Boston, and either disposed of it to some Russian wishing to leave the country or had perhaps come by the certificate of naturalization on which his application was based through some fraudulent channel. On the strength of my suspicion I telegraphed the Department on May 9 and received reply which convinced me that Silberkasten had never had a passport and led me to write to Mr. Slocum instructing him to closely cross-question the applicant as to his residence in the United States and his naturalization as sworn to in his application. This cross-questioning resulted in Silberkasten's breaking down and confessing that he had never had a passport and that he had purchased

the certificate of naturalization, which I also inclose herewith, for the sum of \$2, it having been offered to him originally for \$7. He further stated that this transaction took place in the Boston City Hall. I also inclose a copy of Mr. Slocum's letter giving details about Silberkasten, according to which he left Warsaw, the place of his birth, on October 10, 1900, without giving his new address and, according to the statement of the care taker of the house where Silberkasten lodged, it was at this time that the latter left for the United States, as the care taker had been told that Silberkasten had spent three years there. The investigation further developed the fact that on August 8, 1903, Silberkasten returned to Warsaw registering himself as a permanent resident and producing, to accomplish this registration, the usual local Russian passport, which is presumably now in his possession.

I inclose the certificate of naturalization with the above statement in order that the Department may cause an investigation to be made as to the issue of the certificate and whether or not it is genuine.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.]

Mr. Slocum to Mr. McCormick.

AMERICAN CONSULATE,
Warsaw, Russia, May 10/23, 1904.

SIR: I have to acknowledge receipt of the embassy's communications in the matter of Michael Silberkasten, dated May 11 and 14, respectively.

In this matter I have to report as follows, and incidentally to thank the embassy for preventing what would, it now appears, have been a clear case of fraud.

Upon advice from the embassy that no passport had been issued in the name of Michael Silberkasten within the last eighteen months, after some delay Mr. Silberkasten's presence at the consulate was obtained.

After a good deal of bluster, he finally broke down and confessed that he had never had a passport.

It is superfluous to mention the various excuses the man gave for making the misstatement.

Urging upon him the necessity of at last speaking the truth in regard to the naturalization certificate, he proceeded to maintain that it is his property and was issued to him as stated, with, however, the additional information that it had first been offered to him for \$7 but finally obtained for \$2. This transaction took place in the Boston City Hall, so he alleges.

Being, of course, dissatisfied with this state of affairs, I had recourse to the books of the lodging at Twarda 12, where he resides with his father. The record stands as follows:

"Michael, son of Hersh Silberkasten, Twarda 12, apartment 42, living with his father, born 1878 at Warsaw, permanent residence. October 10, 1900, was reported to the police as having left Twarda 12 without giving his new address."

The caretaker of the property (Uprawliajusxcozij) told me that it was at this time that he left for America, as he had been told that Silberkasten had spent three years there.

The book bears witness again to the fact that on August 8, 1903, Silberkasten again became registered as a permanent resident of Warsaw, offering for such purpose his usual local passport (Russian), which is presumably now in his possession. * * *

May I ask, is it the intention of the embassy to return the certificate to Mr. Silberkasten?

It seems to me this would only give him an opportunity to repeat the operation elsewhere, under perhaps more favorable conditions.

I have, etc.,

CLARENCE RICE SLOCUM.

Mr. Hay to Mr. Eddy.

No. 164.]

DEPARTMENT OF STATE,
Washington, October 28, 1904.

SIR: In reply to your dispatch No. 146 of May 27 last, in relation to the apparently fraudulent naturalization of Michael Silberkasten, I inclose for your information a copy of a letter from the Attorney-General, to whom the matter was referred.

Silberkasten's application for a passport and his certificate of naturalization, transmitted to the Department with your said dispatch, are returned herewith.

I am, etc.,

JOHN HAY.

[Inclosure.]

Mr. Moody to Mr. Hay.

DEPARTMENT OF JUSTICE,
Washington, September 27, 1904.

SIR: Referring to previous correspondence, relative to the alleged fraudulent naturalization of one Michael Silberkasten in the United States circuit court for the district of Massachusetts, I have the honor to say that the Department is advised by the United States attorney for that district, that after investigation he finds that the certificate taken from the Russian applicant for passport is a valid instrument. He further states, however, that the signature of the applicant for passport does not appear to be in the same handwriting as the signature to the application for citizenship, and that the statements contained in the application for passport regarding the date of birth and the date of arrival in the United States are not the same as those in the application for admission to citizenship. The action of the consul, therefore, in taking up the certificate was perfectly proper.

The application for passport and the certificate of citizenship are herewith returned.

Respectfully,

W. H. MOODY.

**NEUTRALITY OF THE UNITED STATES IN THE WAR BETWEEN
RUSSIA AND JAPAN.**

Mr. McCormick to Mr. Hay.

No. 132.]

AMERICAN EMBASSY,
St. Petersburg, May 11, 1904.

SIR: I have the honor to inclose herewith some extracts from the report of the Russian minister to Korea, Mr. Pavloff, with reference to the naval action off the Bay of Chemulpo and the action of Captain Marshall of the *Vicksburg*, which I am sure will be of interest both to the Department of State and the Navy Department.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.—Translation.]

Extracts from the report of the Russian minister to Korea, M. Pavloff.

SHANGHAI, *February 16/29, 1904.*

* * * At 7.30 a. m. (of 27/9th. Feb.) the commanders of the foreign men-of-war at anchor in the harbor, of the English cruiser *Talbot*, the French cruiser *Pascal*, and the Italian cruiser *Elba*, and of the American

gunboat *Vicksburg*, received from the commander of the Japanese squadron, Rear-Admiral Uriu, an official communication, which contained information to the effect that hostilities between Russia and Japan had already commenced and that the Russian men-of-war had already been invited to leave the harbor not later than 12 o'clock noon, under the threat that if they did not they would be attacked in the harbor itself, and it was proposed to the foreign men-of-war, in case the Russian ships did not comply with the demand made upon them that they, in their turn, should leave the harbor not later than 4 p. m.

On receiving this communication the commanders of the foreign vessels gathered on board the cruiser *Pascal* for consultation, to which was also invited Captain of the First Rank Rudneff. It was only when the latter was already on board the French cruiser that he was handed, in a sealed envelope, the summons from the Japanese admiral mentioned in the communication to the foreign commanders, through the mediation of the Japanese consul and the Imperial vice-consul in Chemulpo.

At the consultation all the foreign commanders, with the exception of the American, decided to send the Japanese admiral a protest against his breaking the neutrality of a Korean port, but at the same time they warned Captain Rudneff that if the *Varyag* and *Koriets* did not go out of the harbor by 12 o'clock noon they, with a view to their own safety, would be compelled to leave.

In view of such declaration the commander of the cruiser *Varyag* decided to accept a fight outside the harbor.

At 1 o'clock in the afternoon the *Varyag* and *Koriets* returned to the harbor and cast anchor.

Convincing himself that to renew the fight was quite impossible, and, on the other hand, not wishing that the two ships intrusted to his command should become the prize of the Japanese, Captain Rudneff decided to take advantage of the agreement made with him by the commanders of the French, English, and Italian cruisers to transport our crews on board the said foreign vessels in order to then destroy the *Varyag* and *Koriets* by blowing them up. This plan was executed exactly in regard to the gunboat *Koriets*, which precisely at 4 o'clock in the afternoon was blown up and sank, breaking into three parts. As to the cruiser *Varyag*, in consequence of the insistent persuasion of the above-mentioned foreign commanders that she should not be blown up, in view of the danger to the cruisers *Talbot* and *Pascal*, anchored quite near the *Varyag*, it was decided to simply render the ship completely useless by setting her on fire and sinking her. The necessary instructions were given in due time by the commander of the *Koriets* to the captain of the Eastern Chinese Company steamer *Sungari*, which had arrived in Chemulpo the evening before, and whose officers and crew were first transition, saluted the *Varyag* and *Koriets* with loud cheers, while on the Italian oped in flames, finally went down after sunset.

From the very moment when the commander of the cruiser *Varyag* left the cruiser *Pascal* with the intention of accepting the challenge and accepting a fight with the enemy, the commanders of the French, English, and Italian ships of war expressed to our men the unconcealed sympathy and enthusiastic surprise (admiration) at the heroic exploit undertaken by them. When our ships, weighing anchor and going to meet the enemy, passed alongside the above-mentioned foreign cruisers, the crew of the last one, standing at attention, saluted the *Varyag* and *Koriets* with loud cheers, while on the Italian cruiser *Elba* the military band played our national anthem. On the return of our ships after the fight to the harbor, from all three foreign vessels were at once sent boats with officers to render aid to the wounded and to take the other sailors off, at which time the commander of the cruiser *Pascal*, captain of the second rank Senes, came personally on board the *Varyag* and warmly greeted Captain Rudneff and his crew. The commander of the American gunboat *Vicksburg* sent, in his turn, one boat with a physician, who offered medical assistance, but at the same time declared, in the name of his commander, the impossibility of taking any of our people on board the American ship on account of not having the necessary permission.

The commander of the *Varyag*, in view of this, declined any services of the American seamen, and our sailors were distributed on board the three foreign cruisers.

During the time of my presence on the cruiser *Pascal*, after the departure of the mission from Seoul, I was a personal witness of the sympathy and atten-

tion shown our sailors by the commanders, officers, and men of all the three above-mentioned foreign men-of-war, endeavoring to surround them with all possible comforts.

The American minister, wishing to express to us his sympathy (the Russian minister having been informed confidentially by representatives of other foreign countries that the Japanese would probably demand the removal of the Russian legation), expressed his readiness to agree with the American admiral to the effort that, in case the departure of the legation should be decided upon, the two American war transports lying at Chemulpo would be placed at my disposal for the transportation of myself and the members of the legation as well as the wounded officers and sailors of our ships. * * *

As regards the offer of Mr. Allen to place at my disposal the American transports, I declined it, stating that I did not doubt that in case I really had to leave Korea the French Government would allow me to use the cruiser *Pascal*, on board of which were already both our crews and the greater part of the wounded.

Gangrene broke out among the wounded sailors, and the commander of the *Pascal*, fearing contagion, decided to at once have a portion of the wounded taken from his ship. For the determination of this question the commanders of all the other vessels in Chemulpo were invited, and the French, English, and Italian commanders unanimously expressed the opinion that the best way would be to place the said wounded in the two absolutely free (in use for no other purpose) American war transports, as the transfer of those wounded who were suffering with gangrene to the English or Italian cruisers, in view of there being other wounded on board as well as a great many of our sailors, would have been just as dangerous. But this time also the commander of the American boat *Vicksburg* decidedly declined, and said that he had no right under any circumstances to permit the placing of our sailors on the American transports under him. Thus the only way left was to send the 24 most dangerously sick men ashore.

In conclusion I can not refrain from again dwelling upon the warm and cordial attention and eager cooperation, which in these difficult times were shown our sailors, the members of the Imperial legation and all the Russians leaving with me, as well as their families, by the French chargé d'affaires, Viscount de Fontenez, the French consul, M. Berteau, M. Bradier, of the French legation, the commander, officers and men of the cruiser *Pascal*, who all were of inestimable service to us. In the same measure are worthy of attention the services rendered us by the commander of the English cruiser *Talbot*, Captain Bayly, and of the Italian cruiser *Elba*, Captain Marquis Borea, as well as by all the officers and crew of both of these foreign war vessels.

Mr. Loomis to Mr. McCormick.

No. 148.]

DEPARTMENT OF STATE,
Washington, September 22, 1904.

SIR: Referring to your No. 132, of May 11 last, inclosing copy of a report made by the Russian minister to Korea, reflecting in some respects upon the action of Captain Marshall, of the U. S. S. *Vicksburg*, while at Chemulpo, I inclose for your information a copy of a report made by that officer to the Secretary of the Navy, detailing events preceding and following the naval battle between the Japanese and Russians.

I am, etc.,

F. B. LOOMIS,
Acting Secretary.

[Inclosure.]

Commander Marshall to the Secretary of the Navy.

UNITED STATES ASIATIC FLEET,
CRUISER SQUADRON, U. S. S. RALEIGH,
Chemulpo, Korea, August 7, 1904.

SIR: I herewith acknowledge the receipt this day of an unsigned communication from the Navy Department, dated June 4, 1904, addressed to the command-

ing officer U. S. S. *Vicksburg*, inclosing a copy of extracts from the report of the Russian minister to Korea, Mr. Pavloff.

(2) In reply thereto, I have to state that at 7 o'clock on the morning of February 9, 1904, a steam launch flying the Japanese merchant flag, came alongside with a communication from Rear-Admiral Uriu, commanding the Japanese forces in these waters.

"HIS IMPERIAL JAPANESE MAJESTY'S SHIP, NANIWA,
"Chemulpo Roadstead, February 8, 1904.

"SIR: I have the honor to notify you that as hostilities exist between the Empire of Japan and the Empire of Russia at present I shall attack the men-of-war of the Government of Russia, stationed at present in the port of Chemulpo, with the force under my command, in case of the refusal of the Russian senior naval officer present at Chemulpo to my demand to leave the port of Chemulpo before the noon of the 9th of February, 1904, and I respectfully request you to keep away from the scene of action in the port so that no danger from the action would come to the ship under your command. The above-mentioned attack will not take place before 4 o'clock p. m. of the 9th of February, 1904, to give time to put into practice the above-mentioned request.

"If there are any transports or merchant vessels of your nationality in the port of Chemulpo at present, I request you to communicate to them the above notification.

"I have the honor to be, sir, your most obedient servant,

"S. URIU,

"Rear-Admiral, Commanding a Squadron of the Imperial Japanese Navy.

"P. S.—This notification will be delivered to you before or at 7 o'clock a. m. of the 9th of February, 1904."

At the time of the receipt of Admiral Uriu's communication, the *Vicksburg* was coaling from the collier *Pompey* alongside. Preparations were made to have the *Pompey* tow the *Vicksburg* clear of the vicinity of the Russian vessels should the *Vicksburg's* engines at the expiration of the time limit set by Admiral Uriu not be ready, and for the *Zafiro* to proceed a mile or so up the river, where an English merchant steamer, as well as the whole of the Korean navy, had shifted berth so as to be clear of the probable line of fire.

(3) Between 8 and 10 o'clock, from seeing the frequent passing to and fro of the gigs of the Russian cruiser *Varyag*, the French cruiser *Pascal*, and the Italian cruiser *Elba* between their respective vessels and the English cruiser *Talbot*, I surmised that a consultation or conference on some subject bearing on the Japanese admiral's communication was taking place on board the *Talbot*, and, as I subsequently learned, the conference was for the purpose of drawing up a communication, to be sent to the Japanese admiral, protesting against any violation of Korean neutrality by him. I was not invited to be present at this conference, nor did any communication, written, verbal, or by signal, pass between the *Vicksburg* and the other three neutral vessels, or the Russian vessels, in regard to my being present at or taking part in any conference whatever. I am unable to state why it was not considered necessary to have me, as the United States naval representative, present at the conference, unless it was due to the knowledge some of the conferees must have had of my position in regard to the question of a violation of Korean neutrality. At various times previous to the date in question, in calls exchanged with the captains of the *Pascal* and *Elba*, and others, I had, in a friendly way, discussed with them the possible conditions likely to arise in these waters in the event of war breaking out between Russia and Japan. Among the various situations talked about was that of an engagement taking place in this port between the naval vessels of the two powers, and what ought to be the attitude of the representatives of the neutral powers present in such an event. I had very clearly stated the stand I would take in behalf of my Government, and that would be, in addition to protecting American interests, to observe strict neutrality; that the question of the violation of Korean territory would be a matter entirely between Korea and the belligerents involved, and with which I had nothing to do.

(4) In reference to that part of Mr. Pavloff's report in which he animadverts, by inference, upon the failure of the *Vicksburg* to show "unconcealed sympathy and enthusiastic surprise (admiration)," I have to state that the anchorage place of the Russians with reference to those of all the neutral men-of-war was such that in standing out of harbor they had to pass close by the English, French, and Italian cruisers, but nowhere near the *Vicksburg*.

(5) On the return of the Russian vessels from their engagement with the

Japanese, and before the *Varyag* even had anchored (which was at 12.50 p. m.), I had the whaleboat manned by men broken off from the coaling ships and sent the medical officer and a hospital apprentice to the *Varyag* with offers of medical assistance. At that time I knew nothing of the condition of affairs on board the *Varyag*, nor of the understanding or agreement arrived at between the Russians and the other neutrals. My instructions to the medical officer were to go on board the *Varyag* and render such surgical help as might be needed, at the same time cautioning him to be prepared to leave should the Japanese force enter the harbor with the intention of renewing the engagement, and for this purpose the whaleboat was to be kept under oars near at hand, with our ensign and the Red Cross flag displayed. In a short while the doctor returned to get bandages and surgical appliances, he reporting the supply on the *Varyag* as being very limited, then going back and assisting in the care of the wounded until all had been removed to the other neutral vessels. Shortly afterwards the cockswain of our whaleboat wig-wagged "Abandoning *Varyag*—shall we help?" and I, interpreting the message as meaning an emergency—that the *Varyag* was, through stress of battle, rapidly sinking—answered in the affirmative, and also at once sent the sailing launch and the second cutter to assist in taking off the Russians.

My instructions to the officers in charge of the sailing launch and second cutter were to assist in taking the Russians and putting them on board any vessel other than those under my control, and my reason for giving such an order was that I considered the Russian mail steamer *Sungari*, anchored quite near, should be used for housing the Russians. The last persons taken off the *Varyag* were two engineer officers by our whaleboat. They were brought on board the *Vicksburg* and received every attention from the officers' mess. After being on board for an hour or more, they expressed a wish to go to the *Elba* to interview with their captain, and on being taken there, and after talking with their commanding officer, sent word to me that they would prefer remaining on the *Elba* with their messmates, at the same time expressing thanks for the attentions shown them.

(6) In reference to the alleged agreement between the "American minister" and the "American admiral," as stated by Mr. Pavloff, to place our vessels at the disposal of himself and legation, our minister, Mr. Allen, was induced to suggest that a possible solution of the very grave situation which had arisen might be found by using the collier *Pompey* and the storeship *Zafiro* to take all the Russians (including those on the three neutral men-of-war) to Shanghai, or some other port agreeable to the Japanese Government. When this was brought to my notice I at once sent word to Mr. Allen that the vessels under my command could not be used for any such purpose except by direct order from the commander in chief of the Asiatic fleet, or from the Department; that such an agreement would mean nothing less than shifting the responsibility for the settlement of the acute question (the then present and the future status of the Russians) upon our Government. Mr. Allen very kindly acknowledged the correctness of the stand I took and there the matter ended.

(7) In regard to that part of Mr. Pavloff's report referring to the condition of the wounded on the *Pascal*: Three days after the battle, in the afternoon of February 12, receiving a request from the captain of the *Pascal* to consult with him on "some matter of grave importance," I at once went on board that vessel. There Captain Senes of the *Pascal*, as well as Captain Borea of the *Elba*, who was present, urged upon me to take charge of all the Russian wounded, suggesting that I temporarily commission the storeship *Zafiro* and use her for this purpose. The reason given for this request was the overcrowded condition of the three neutral vessels, making the presence of the wounded Russians a serious menace to the health of their crews. I at once asked, "Why do you not send the wounded ashore to the Red Cross hospitals?" receiving the reply, "We have been refused permission to use the hospital." My next question, "Why do you not leave Chemulpo and land the wounded Russians at some Chinese port?" was met with the answer, "Even if a safe conduct were given by the Japanese minister, the danger of being fired into or torpedoed by the Japanese blockading squadron" (outside of Chemulpo harbor) "is too great to run the risk." I regretted not being able to take charge of the wounded, stating, however, that I would at once appeal to the Japanese myself for the necessary authority to land the wounded Russians; that in case I failed, then I would cable my commander in chief and abide by his instructions. At this stage of the consultation Captain Senes was handed a communication, which, on opening it, proved to be a permit to send the wounded Russians ashore

to the hospital. I heard afterwards that the use of the hospital had been offered twelve hours after the battle, but had been declined. Aside from any question of involving my country in the controversy, which, by taking charge of the wounded Russians would necessarily have followed, my reason for the refusal was that the same grave risks menacing the health of the crews—urged as a reason why we should relieve the other neutrals of the care of the wounded—would at once be transferred to the crew of the *Vicksburg*. The storeship *Zafiro* was totally unprovided with any sort of accommodations for forty odd severely wounded men to be quartered on board of her, and in the severe winter weather then prevailing it would have been inhuman to have sent them there—which meant that the *Vicksburg* would have to be used instead.

Respectfully,

W. A. MARSHALL,
Commander U. S. Navy, Commanding.

Count Cassini to Mr. Adee.

[Telegram.—Translation.]

RUSSIAN EMBASSY,
Bar Harbor, Me., September 13, 1904.

Our consul at San Francisco informs me that the Russian transport *Lena* has entered that port, the condition of her boilers and other damages not permitting her to continue her voyage. Under these circumstances I doubt not that the *Lena* will receive from the authorities of San Francisco, and in conformity with the prescriptions of international law to which a vessel in her condition is entitled, all aid compatible with the neutrality proclaimed by the Federal Government.

I am sending Mr. Hansen to Washington to see you and come to an understanding with you.

CASSINI.

Mr. Adee to Count Cassini.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 13, 1904.

The matter of the *Lena* at San Francisco is having the instant attention of this Department. Precise information is being sought as to the condition of the boilers, machinery, and hull of the ship and the extent and duration of the repairs needed to enable her to put to sea. It appears so far that very extensive repairs are asked, amounting to virtual renovation.

ALVEY A. ADEE,
Acting Secretary.

Mr. Adee to Count Cassini.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 14, 1904.

Referring to my telegram of yesterday, I have the honor to advise you that the President feels constrained to reach an immediate solu-

tion of the question whether the *Lena* shall be repaired immediately so as to put to sea or be disarmed and laid up until the close of the war. If repaired, only such bare repairs can be allowed as may be necessary for seaworthiness and for taking her back to nearest home port, and even such repairs can be permitted only on condition that they do not prove to be too extensive. If disarmed she will be laid up at the Mare Island Navy-Yard. Inspection made by United States officers at San Francisco discloses that the repairs asked for include complete outfit of new boilers and reconstruction of engines, consuming at least four or five months, or according to the captain's estimate, eight months, and amounting to renovation of the vessel. This can not be allowed with due regard to neutrality. An immediate answer is desired, as the matter is urgent. A decision between the two alternatives should be made so that this Government may close the incident not later than to-morrow.

ALVEY A. ADEE,
Acting Secretary of State.

Count Cassini to Mr. Adee.

[Telegram.—Translation.]

RUSSIAN EMBASSY,
Bar Harbor, Me., September 15, 1904.

I receive this very moment your telegram of the 14th. It is materially impossible to receive an answer from St. Petersburg to-day. I beg the President to allow a delay of forty-eight hours to permit me to receive instructions from my Government.

CASSINI.

Mr. Adee to Count Cassini.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 15, 1904.

The admiral at San Francisco advises me this morning that the captain of the *Lena* writes him that the ship being unseaworthy must disarm, and asks to be allowed to make needed repairs. When the President shall have approved the conditions necessary to insure the neutralization of the *Lena* and her officers and crew until the end of the war, and to permit necessary repairs, the admiral will be instructed to cause the disarmament to be effected, whereupon I shall have pleasure in advising you further.

ALVEY A. ADEE,
Acting Secretary of State.

Mr. Adee to Count Cassini.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 15, 1904.

Referring to my telegram of this morning, I have the honor to advise you that the President has this afternoon issued an order directing that the Russian armed transport *Lena*, now at San Francisco, be taken in custody by the naval authorities of the United States and disarmed, under the following conditions:

First. Vessel to be taken to Mare Island Navy-Yard and there disarmed by removal of small guns, breechblocks of large guns, small arms, ammunition and ordnance stores, and such other dismantlement as may be prescribed by the commandant of the navy-yard.

Second. Written guarantee that *Lena* shall not leave San Francisco until peace shall have been concluded. Officers and crew to be paroled, not to leave San Francisco until some other understanding as to their disposal may be reached between this Government and both belligerents.

Third. After disarmament, vessel may be removed to private dock for such reasonable repairs as will make her seaworthy and preserve her in good condition during detention, or be so repaired at the navy-yard, should the Russian commander so elect. While at private dock the commandant of the navy-yard at Mare Island shall have custody of the ship, and the repairs shall be overseen by an engineer officer to be detailed by commandant of navy-yard.

Fourth. The cost of repairs, of private docking, and of maintenance of the ship and her officers and crew while in custody to be borne by the Russian Government, but the berthing at Mare Island and the custody and surveillance of the vessel to be borne by the United States.

Fifth. When repaired, if peace shall not then have been concluded, the vessel to be taken back to Mare Island and there held in custody until the end of the war.

ALVEY A. ADEE,
Acting Secretary of State.

Mr. Adee to Count Cassini.

[Telegram.]

DEPARTMENT OF STATE,
Washington, September 16, 1904.

DEAR MR. AMBASSADOR: YOUR telegram of yesterday reached me in the evening. As I explained to Mr. Hansen, the request of my telegram of the 14th for a decision between the alternatives in the *Lena* case was superseded by the formal application of Captain Berlinsky and by my telegram to you of yesterday morning apprising you of the decision to disarm. I am glad the incident has been so satisfactorily closed.

ALVEY A. ADEE.

Count Cassini to Mr. Adee.

[Translation.]

BAR HARBOR, *September 20, 1904.*

MR. ASSISTANT SECRETARY OF STATE: The Imperial Government has just advised me, and charges me to acquaint the Federal Government with the fact that it adheres to the provisions taken by the President concerning the disarmament and the other measures and provisions of the transport *Lena*, which entered the port of San Francisco on the 11th instant, and whose boilers and other machinery demand urgent repairs.

There remains to settle the question of the repatriation of the crew of the transport *Lena*. The Imperial Government expresses the firm assurance that the Federal authorities will facilitate the passage of the officers and seamen of the *Lena* across the territory of the United States, according them all the assistance compatible with the duties of neutrality and the amicable relations existing between the two countries. Captain Berlinsky, commander of the *Lena*, has expressed to me a desire that five officers and 100 seamen shall remain in San Francisco for necessary (intérieur) service on the transport. I do not doubt, Mr. Assistant Secretary of State, that these requests, which I have the honor to communicate to you, will be received by the Federal Government in the spirit of justice and impartiality which distinguishes it.

Be pleased to accept, Mr. Assistant Secretary of State, etc.,

CASSINI.

*Mr. Loomis to Count Cassini.*DEPARTMENT OF STATE,
Washington, September 24, 1904.

MY DEAR MR. AMBASSADOR: Your note of the 20th instant, addressed to Mr. Adee, has been received, and as I have returned to my post, the agreeable duty of replying to it devolves upon me.

I have shown it to the President, who is glad that the Imperial Government appreciates the course which, in the exercise of his executive prerogative and in consonance with international law, he found it incumbent upon him to pursue in respect to the disarmament of the *Lena* in execution of the policy of strict neutrality adopted by this Government.

The President, however, directs me to say that he would not find it consistent with the neutral course it behooves him to follow to act upon a request for the repatriation of any of the officers or crew of the *Lena* unless he were advised that the two belligerent powers were in accord as to doing so. Without their agreement to that end he regards the position of these men as being identical in principle with that of a military force entering neutral territory and there necessarily to be held by the neutral. He could not take upon himself the function of repatriating the men under parole to return to Russia, for that would be the prerogative of the belligerent and not of the neutral.

If it should be the wish of your Government to have the request brought to the attention of the Japanese Government it may be timely for me to say that we have an intimation to the effect that if overtures in this sense were made by us the consent of Japan would not be given.

I have pleasure in assuring you, however, that every effort will be made to render the detention of the officers and crew of the *Lena*, as well as of Captain Günther, who is stated to have been a passenger, as little irksome as is consistent with the President's determination to carry out to the full the neutrality he has proclaimed.

I am, etc.,

FRANCIS B. LOOMIS.

Count Cassini to Mr. Hay.

[Translation.]

IMPERIAL EMBASSY OF RUSSIA,
Washington, December 10, 1904.

MR. SECRETARY OF STATE: Russia and all the Russians residing abroad will on the 6th/19th December celebrate the name day of His Majesty the Emperor, my august master.

Captain Berlinsky, commanding officer of the transport ship *Lena*, which, as your excellency knows, lies disarmed at San Francisco until the end of the present war, would like to celebrate that day, which all Russians hold so dear, by hoisting on that solemn occasion, and for that day only, the national flag, dressing his ship, and firing the imperial salute. I cherish the hope, Mr. Secretary of State, that the Federal Government will see no objection to yielding to Captain Berlinsky's request and will thus afford him the opportunity of paying the homage of his respect and veneration to his august sovereign.

While transmitting this request of Captain Berlinsky's, and most especially commending it to your customary courtesy, I beg your excellency, etc.,

CASSINI.

Mr. Hay to Count Cassini.

No. 252.]

DEPARTMENT OF STATE,
Washington, December 14, 1904.

EXCELLENCY: I have received your valued note of the 10th of December, in which you inform me that Captain Berlinsky, commanding officer of the transport ship *Lena*, which lies disarmed at San Francisco until the end of the present war, would like to celebrate the name day of His Majesty the Emperor, which all Russians hold so dear, by hoisting on that solemn occasion, and for that day only, the national flag, dressing his ship, and firing the imperial salute.

I have considered the matter with care and with the earnest desire to meet in all things your excellency's wishes. It seems, however, that the *Lena*, not being at this time a ship in active commission, lying in a friendly open port, but being held in the Mare Island Navy-Yard

completely disarmed, in the custody of the United States until the end of the existing war, her character as a war ship, including the function of saluting and the right to receive salutes, is in abeyance.

Under these circumstances the anomaly and inconvenience of firing the suggested salute in an American navy-yard without being competent to salute the American flag and without being entitled to a salute in return, lead me to the conclusion that it is not practicable to acquiesce in that feature of Captain Berlinsky's programme. While regretting this decision touching the salute, it affords me much pleasure to say that as to the display of the national standard and dressing the ship no inconvenience is seen in the appropriate commemoration of the name day of his Imperial Majesty on board the *Lena* in all suitable ways consistent with the present status of the vessel. We have so informed the American admiral on that station.

I beg, etc.,

JOHN HAY.

**DISCRIMINATORY TREATMENT OF JEWS, AMERICAN CITIZENS,
IN RUSSIA.**

Mr. Hay to Mr. McCormick.

No. 127.]

DEPARTMENT OF STATE,
Washington, July 1, 1904.

SIR: On the 21st of April last the House of Representatives of the United States adopted a resolution in the following words:

Resolved, That the President be requested to renew negotiations with the governments of countries where discrimination is made between American citizens on the ground of religious faith or belief to secure by treaty or otherwise uniformity of treatment and protection to American citizens holding passports duly issued by the authorities of the United States, in order that all American citizens shall have equal freedom of travel and sojourn in those countries, without regard to race, creed, or religious faith.

The subject to which this resolution relates has heretofore been the occasion of friendly but sincerely earnest representations to the Russian Government on the part of that of the United States. The instructions on file in your office, and the correspondence had by your predecessors with the Imperial foreign office leave no doubt as to the feeling of the Government of the United States in regard to what it has constantly believed to be a needlessly repressive treatment of many of the most reputable and honored citizens of the United States. Similar views have been expressed, by my predecessors as well as by myself, in conferences with the representatives of Russia at this capital. That these friendly representations have not hitherto produced the results so befitting the close intimacy of the relations of the two countries for more than a century and so much in harmony with their traditional amity and mutual regard is not, in the President's judgment, ground for relaxing endeavors to bring about a better understanding, if only on the score of expediency and reciprocal convenience.

I have therefore to instruct you to inform Count Lamsdorff that the text of the foregoing resolution has been sent to you for your

information and for your guidance in interpreting this expression of the feeling of the people of this country, through their direct representatives, as to the treatment of the citizens in question. You will make known to his excellency the views of this Government as to the expediency of putting an end to such discriminations between different classes of American citizens on account of their religious faith when seeking to avail themselves of the common privilege of civilized peoples to visit other friendly countries for business or travel.

That such discriminatory treatment is naturally a matter of much concern to this Government is a proposition which his excellency will readily comprehend without dissent. In no other country in the world is a class discrimination applied to our visiting citizens. That the benefits accruing to Russia are sufficient to counterbalance the inconveniences involved is open to question from the practical standpoint. In the view of the President it is not easy to discern the compensating advantage to the Russian Government in the exclusion of a class of tourists and men of business, whose character and position in life are such as to afford in most cases a guarantee against any abuse of the hospitality of Russia and whose intelligence and sterling moral qualities fit them to be typical representatives of our people and entitle them to win for themselves abroad no less degree of esteem than they enjoy in their own land.

I have, etc.,

JOHN HAY.

Mr. McCormick to Count Lamsdorff.

AMERICAN EMBASSY,
St. Petersburg, August 22, 1904.

YOUR EXCELLENCY: Under instructions from my Government, which I found awaiting me on my return from Carlsbad, I have the honor to bring before you for consideration at this time a subject which has been the occasion from time to time of friendly but sincerely earnest representations to the Russian Government on the part of that of the United States.

The feeling of the people of the United States, which is deep and widespread with reference to this subject, found expression in a resolution adopted on the 21st of April last by the House of Representatives. I assume that your excellency's attention was called to this resolution at the time of its adoption, by His Excellency Count Cassini, His Imperial Majesty's ambassador in Washington, and that a copy of the resolution was transmitted to you for your information.

As your excellency doubtless noted at the time, this resolution is conceived in a temperate spirit and expressed in moderate terms, such as to recommend its reception in a similar spirit as well as the consideration of the subject which it brings forward.

The text of this resolution was sent to me for my information in interpreting this expression of the feeling of the American people as to the treatment of the citizens in question, and I here beg to insert the resolution as placing that expression on record, although, as

above indicated, a copy of the resolution has already been transmitted to you by Count Cassini :

[Fifty-Eighth Congress, second session.]

CONGRESS OF THE UNITED STATES,
In the House of Representatives, April 21, 1904.

Resolved, That the President be requested to renew negotiations with the Governments of countries where discrimination is made between American citizens on the ground of religious faith or belief to secure by treaty or otherwise uniformity of treatment and protection to American citizens holding passports duly issued by the authorities of the United States in order that all American citizens shall have equal freedom of travel and sojourn in those countries, without regard to race, creed, or religious faith.

This resolution voices not only the feelings of the people, but also a principle which lies at the foundation of our Government. It is for this reason that the question has been, is, and always will be a live question with us and liable to become acute and be brought forward at some time in such a way as to seriously disturb the friendly relations which have always existed between Russia and the United States.

Aside from the belief that the treatment accorded by Russia to many of our most reputable and honored citizens is needlessly repressive, public opinion, as your excellency knows, plays a large part in the foreign relations as well as domestic affairs with us, and when underneath this public opinion there lies an important principle, as is the case in the United States, it can not be left out of account by those who have maintained the close relations which it is desired by my Government to see maintained with this great Empire and her august ruler.

"That friendly representations," as is set forth in my instructions, "have not hitherto produced results befitting the close intimacy of the relations of the two countries for more than a century, and so much in harmony with their traditional amity and mutual regard, is not, in the President's judgment, ground for relaxing endeavors to bring about a better understanding, if only on the score of its expediency and reciprocal convenience."

Moreover, in no other country in the world is class discrimination applied to our visiting citizens, nor can it be seen, from the practical standpoint, that the benefits accruing to Russia are sufficient to counterbalance the inconvenience involved. In the view of the President, "it is not easy to discern the compensating advantage to the Russian Government in the exclusion of a class of tourists and men of business whose character and position in life are such as to offer in most cases a guarantee against any abuse of the hospitality of Russia, and whose intelligence and sterling moral qualities fit them to be typical representatives of our people and to win for themselves abroad a no less degree of esteem than they enjoy in their own land."

It seems to me that there are higher grounds to which to appeal, and to which it is opportune to appeal at this time, than those of expediency and reciprocal convenience, evidences of the influence of which have manifested themselves in steps already taken toward the alleviation of the condition of the representatives of the race referred to within the Empire.

At this time, too, when the world is extending its congratulations

to His Majesty on an event which has brought happiness to himself and gratification to his friends; when he is extending the Imperial clemency to some, justly under the ban of the law, it would seem fitting to take under consideration this larger question, a solution of which would not only tend to draw closer the relations between this great Empire and the United States, but also to arouse a responsive feeling of good will throughout the world.

The railway and the telegraph are breaking down the barriers of distance which have until now kept apart the peoples of the various nations of the earth; Russia has made a notable contribution to this object in the great system of railways constructed within the Empire, which are operated in close connection and harmony with those of the outside world. To throw this great railway system open more fully to those who would avail themselves of it for legitimate purposes, is but to dedicate it to a use which would be of the greatest good to the Empire and the world at large.

Events have proven that no artificial barrier can keep out those who come with hostile intent or who, from without, seek to circulate ideas of hostile character. Is there any reason, therefore, why at least serious consideration should not now be given to the views of my Government as to the expediency of putting an end to such discriminations as now exist in Russia between different classes of American citizens on account of their religious faith when seeking to avail themselves of the common privilege of civilized peoples to visit other friendly countries for business or for travel.

In transmitting the views of my Government at this length, and personally adding some reasons for favorable action which seem to me to be cogent, I have been actuated by the desire, as your excellency will appreciate, to contribute something toward those friendly relations which have marked the past and which I value. For this reason I lend myself most earnestly to the work of carrying out my Government's instructions, in the hope that the result will be such as to contribute to the removal of one question of disturbing character from the realm of discussion by a mutually satisfactory understanding concerning it.

I take this occasion to renew to your excellency the assurance of my high consideration.

ROBERT S. McCORMICK.

Mr. McCormick to Mr. Hay.

No. 193.]

AMERICAN EMBASSY,
St. Petersburg, October 7, 1904.

SIR: I have the honor to transmit to you herewith a copy and translation of a note received from Count Lamsdorff, imperial minister for foreign affairs, in reply to mine of August 22 last, relating to the resolution adopted by the House of Representatives of the United States on April 21 last, concerning "the freedom of travel and sojourn in Russia, without regard to race, creed, or religious faith," of all American citizens, which was transmitted to me in your dispatch No. 127, of July 1 last.

I have, etc.,

ROBERT S. McCORMICK.

[Inclosure.—Translation.]

Count Lamsdorff to Mr. McCormick.

MINISTRY FOR FOREIGN AFFAIRS,
St. Petersburg, October 4, 1904.

MR. AMBASSADOR: It is with special interest that I have become acquainted with the consideration expressed by your excellency in your note of the 9/22d of August, relative to certain facilities to be granted to American citizens of Hebrew faith with regard to their entry into Russia. In this connection I have the honor to inform you that a special commission has been instituted by supreme order on December 17, 1903, with the ministry of the interior, in view of generally revising the passport regulations actually in force.

The Imperial ministry of foreign affairs having appointed a representative with this commission, I shall not fail to bring, through his intermediary, to the knowledge of that commission your views on the subject and the desire of the Federal Government, of which your excellency has been the interpreter.

I avail, etc.,

LAMSDORFF.

PROTECTION OF SEALS IN THE NORTH PACIFIC OCEAN.^a

Mr. Loomis to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 18, 1904.

(Mr. Loomis informs Mr. Eddy that the Department has been advised by the British Government that an understanding is about to be concluded with the Russian and Japanese Governments for the protection of seals near the Commander Islands, under which British poachers are to be arrested and Japanese poachers are to be reported to the Japanese Government by the British vessel to be sent there for patrol duty; that it is expected that the British vessel will be enabled so to operate in Russian territorial waters of the Commander Islands, and that the British Government has offered to report any American poachers found there to the United States Government. This Government believes that it would be more desirable to detail a vessel to patrol the high seas near the Commander Islands, and, if agreeable to the Russian Government, the territorial waters near those islands also, for the purpose of seizing any American vessels found poaching there. Instructs him to ascertain whether it would be agreeable to the Russian Government to have the operations of the American patrol vessels extend to the territorial waters of the Commander Islands. An early response is desired in order to make the proposed detail promptly and to prevent encroachments upon the rights of the Russian Government in the fur seals of the Commander Islands by American vessels.)

Mr. Eddy to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, July 20, 1904.

(Mr. Eddy reports that he has communicated Department's telegram of the 18th instant to the minister for foreign affairs, and that three days will be required for a formal answer.)

^a See also under Great Britain, p. 339.

Mr. Eddy to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, July 31, 1904.

(Mr. Eddy reports the acceptance by the Russian Government of the proposal concerning the protection of seals in Russian territorial waters about the Commander Islands in the following terms:

The Imperial Government accepts with great satisfaction the above-mentioned proposal of the Government of the United States, which proposal shall be put in application during the war and in the absence of Russian war vessels, provided the British Government consents to this. It only remains, therefore, for the London and Washington cabinets to come to an agreement in regard to this, after which the question should be considered as definitely arranged. At the same time, the Imperial Government must bring up the fact that the expression "Russian territorial waters" applies in this case not only to the ordinary zone of three maritime miles about the coast of the Commander Islands and Copper Island, but in the full meaning of the prohibited zone established by the Russian-American arrangement of 1894. The Imperial Government desires, moreover, that the Government of the United States will immediately inform them of any case of marauding on the part of American ships.)

Mr. Adee to Mr. McCormick.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 4, 1904.

(Mr. Adee informs Mr. McCormick that the Government of the United States is in full accord with the British Government concerning concurrent patrol by British and American vessels of the prohibited pelagic zone about the Commander and Copper islands as well as the territorial waters of the islands for the repression of seal poaching. It is understood that the action of the American patrol vessels apply only to American vessels found poaching there, and although the United States Government is willing that information shall be given to the British patrol vessel of any British poachers found there, and vice versa, it deems it inexpedient to report any marauding by American vessels to the Russian Government. If this understanding is satisfactory to the Russian Government an American gunboat will be at once dispatched to the above-mentioned waters.)

Mr. McCormick to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, August 10, 1904.

(Mr. McCormick reports that the Russian Government consents to the protection of seals in the Pacific on the conditions indicated in Department's telegram of the 4th instant.)

Mr. Adee to Mr. McCormick.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 25, 1904.

American cruiser *Buffalo* ordered patrol waters Commander Islands.

ADEE.

**FIRING ON BRITISH FISHING VESSELS BY RUSSIAN WAR
VESSELS IN THE NORTH SEA.^a**

Mr. Eddy to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, October 27, 1904.

(Mr. Eddy states that the report of the Russian admiral advises that an attempt was made by two Japanese torpedo boats, under cover of the fishing vessels, to attack the Russian war vessels, but the Japanese boats were driven off. The admiral offered no assistance, because he thought the other ships might belong to the enemy, and expressed regret at the damage to the British fishermen.)

Mr. Eddy to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, October 28, 1904.

(Mr. Eddy reports that the statement of the Russian admiral has been refused as a reply to the British protest. The British embassy has presented a demand for an impartial inquiry at Vigo, with representatives of both powers and a neutral umpire, while at the same time offering a similar inquiry at Hull.)

Mr. Eddy to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
St. Petersburg, October 28, 1904.

(Mr. Eddy reports that the Russian Government formally agrees to the submission of the circumstances of the North Sea incident to a special tribunal as provided by articles 9 and 14 of The Hague convention; that the preliminary inquiry is to be conducted at Vigo, where the fleet is to remain at present.)

^a See also under Great Britain, p. 342.

Mr. Eddy to Mr. Hay.

AMERICAN EMBASSY,
St. Petersburg, November 5, 1904.

SIR: I am now transmitting to you the translation of an article from the *Novoe Vremya* of this morning, which article is written by an eyewitness of the North Sea incident, a Russian correspondent, who was with the Russian ships. I send this in order that you may have the point of view of a Russian who was with the Russian forces at the time.

Believe, etc.

SPENCER EDDY.

[Inclosure.—Translation.]

Novoe Vremya, 23/5 November, 1904—Story of an eyewitness of the incident in the North Sea.

VIGO, 15/28 October, 1904.

I hasten to give the details of the incident with the Hull fishermen, which has been given in the most distorted manner in the foreign press.

While in Russia we had the most detailed information with regard to the preparations of the Japanese to do everything in their power to prevent our squadron from reaching its destination. Reports had been received that Japanese torpedo boats had sought shelter in Norwegian fiords. Then the Japanese hired fishing boats at Hamburg, Hull, Southampton, Christiania. The Russians also had a whole system of agents, both for our protection and to watch the Japanese. The Russian agents also hired a great many small steamers and fishing boats. We reported these Japanese intentions to the Governments of those countries, but only the Governments of Denmark and Germany evinced a willingness to prevent the Japanese machinations.

The Danes were especially courteous. While we were passing through their waters, which are very narrow and dangerous for large ships and convenient for attacking us, we were accompanied the whole time by small Danish ships and steamers, which patrolled the shore, drove away fishermen, anchored in shallow places, and served as special light-ships, etc. In this manner we safely reached Cape Skagen, where we had before us the North Sea, filled with fishermen of all nations. To our right we had, at no great distance, a long series of Norwegian fiords. Before entering the North Sea we received a great many warnings from our agents. All the news received pointed to the fact that in one of the fiords, one much closed in by land, four torpedo boats of unknown nationality had been seen, accompanied by a steamer, and which were loading coal. Then these torpedo boats were noticed not far to the south of Cape Skagen.

We left Skagen in the morning, so that of course the Japanese had to follow us and await the night.

We started in groups. All the torpedo boats started ahead, in two separate groups, going to Cherbourg. Then, separately, came Admiral Felkerzam with four of the older battle ships, with Tangier as his destination. These need be no longer kept a secret, because when you receive this letter they will already have arrived there and everybody will know about it.

The smaller cruisers under the command of Captain Shein went to Aroso (a bay 40 miles north of Vigo), where they were awaited by German coal steamers, and the large cruisers with the transport *Kamchatka* (repair transport), with Admiral Enkwist, also intended to go to Tangier. We were the last of all, and started, with four of the best battle ships: *Suvoroff*, *Alexander III*, *Borodino*, and *Orel*, and one collier, the *Anadir*. We were to call at Brest and there complete our coaling. So you will observe that with us there was not one small ship and not one torpedo boat. They were all far ahead of us.

The first night, still not far from the Danish shore, passed quietly.

The following day, the 8th (21st) October, at 8 o'clock in the evening, when it was already quite dark, we received by wireless telegraph the information that behind us at a distance of 30 miles was the transport *Kamchatka*, which, owing to some trouble with her machines, had fallen behind her detachment

(the cruisers *Dmitri Donskoi* and *Aurora*), and that she was being followed by several torpedo boats, which were not, however, attacking.

The order was at once given by wireless to Admiral Enkwist, who was ahead with the two cruisers *Donskoi* and *Aurora*, to slow down and await the *Kamchatka* or to steam ahead and not show themselves to the torpedo boats, which, of course, were also reading our telegrams, but did not know whence they came. But the Japanese all the same made an attempt to find out our whereabouts. While we were exchanging messages with the *Kamchatka*, we suddenly began to receive a series of telegrams: "Where is the squadron?" "Indicate your width and length," "which place is the *Sovoroff* in," in pure Russian and with the signature *Kamchatka*. These telegrams appeared suspicious to us, and to make sure that it was really the *Kamchatka* who was sending them, instead of replying we ordered them to give us the Christian name and patronymic of one of the officers of the *Kamchatka*. This was received with complete silence. The questions ceased, but the conversation with the *Kamchatka* continued regarding the cause of her falling back, etc., but in cipher, so that the Japanese were unable to understand anything. It was evident that the questions which were telegraphed were made by Japanese, taking advantage of our telegraphing the *Kamchatka*, and that they wanted to find out where we were, that is, the battle ships, which they were trying to get at.

They evidently decided not to touch the *Kamchatka*, in order not to waste their torpedo on a transport and not force us, by their attack on the *Kamchatka*, of which the latter would at once have informed us, to fire on every small ship.

Probably they decided, all the same, that we were in advance and increased their speed in order to catch up with us. We even calculated the approximate time necessary for them to reach us if they went at 15 knots (we were going 9), and if they left the *Kamchatka* at that time. We figured out that it might be between 12 and 1 o'clock in the night. At 12.55 we saw ahead of us, appearing and disappearing in the rather heavy sea which was running, two long dark shapes throwing out thick smoke, which showed that they were going very fast. At this moment we saw a green and red rocket, which is usually sent up by ships in distress. In another second we were lit up by the ray of an electric light ahead of us.

It was clear to us that the signal of distress was to lure us to a certain point and that it was hoped we would stop. The rays of the electric light, probably from a steamer accompanying the torpedo boats, or from one of them to one side, were intended to show our whereabouts to the attacking torpedo boats and blind the eyes of our gunners.

The plan was a very clever one.

We at once turned our searchlights on the torpedo boats and opened fire on them. As soon as they saw that they were discovered they swerved aside, but came under the fire of the *Alexander III*, *Borodino*, and *Orel*, which were following us.

Already, at this time, small steamers, evidently fishing boats, began from time to time to show themselves in the rays of our searchlights. But they also acted very suspiciously; there were no lights on them; not a man was to be seen on their decks, no flags, no signals; and they persisted in coming under the bows of our ships, intercepting their course. In this way they might have thrown out floating mines.

In spite of this, the admiral, on seeing them ordered the rays of the electric searchlights to be thrown upward, which is a signal that the firing should cease.

To have remained on the spot after the torpedo boats disappeared and assist the fishermen would have been extremely incautious. We would have risked the very strongest part of our squadron, and as there were several fishing boats they could assist one another.

As far as it was possible to observe, one of the enemy's torpedo boats sank. In this attack one of two things was certain: Either these fishing steamers were in an agreement, or the Japanese torpedo boats sought cover near them without their knowledge. The former supposition is also quite probable. Probably the Japanese had several such groups of fishing steamers at various places on the route and near which they could seek shelter. They had hoped for a lack of attention on our part, and in the case of failure that public opinion in Europe might be raised against us for firing upon peaceful steamers, and especially English. They have but one object—not to allow the squadron to reach its destination, and they are not scrupulous as to their means. They well understand that this squadron is their most formidable opponent—far more

formidable than all our land army. The question arises, Why were the English fishermen from Hull so far from England, almost on the Danish coast? The incident took place 55° 18' north latitude and 5° 42' west longitude from Greenwich.

If the fishermen were not in accord with the Japanese, then not we, but the Japanese, are to blame for their having been fired upon, the latter having abused their helplessness and sought cover under the lee of the first group of fishing steamers they came upon. The latter might not have seen them at all, since they have no electric lights, and when the firing began they hid themselves in fright.

When we arrived in Vigo we learned that English public opinion and the press were not so much excited about our firing on the fishing vessels as by the statements of the fishermen that when the dawn came a *Russian* torpedo boat was seen on the spot, which quickly disappeared, not wishing to give help to the unfortunate fishermen.

However, there was *not one* torpedo boat with us, and not even one small cruiser which might have been taken by the fishermen for a torpedo boat, and this declaration of the fishermen only confirms the presence of Japanese torpedo boats. Evidently we sank one of the torpedo boats or it got away, while the other was damaged in some way, which was repaired by morning, and it went away. This declaration of the fishermen is our best justification, for all of our torpedo boats were already far in advance, since they left Skagen several hours before us and steamed at a high speed. This is all that it is necessary to state in the press.

You now ask why we went to Vigo instead of to Brest. The thing is simple. After the night above described the weather became perfect, but without a moon, and we steamed faster than we had expected and used up less coal. Finally, when we were nearing Brest, a thick fog came up, while the sea was calm. We could not have entered anyhow and would have had to wait, while fine weather at this place is rare and the stormy Bay of Biscay lay before us. So we took advantage of the fine weather and left the Bay of Biscay behind us. * * *

Mr. Hay to Mr. Eddy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 1, 1904.

(Mr. Hay informs Mr. Eddy that Rear-Admiral Charles Henry Davis has been appointed by the President as a member of the North Sea Commission, and asks to be informed as to the date his presence will be required in Paris.)

SERVIA.

RENEWAL OF DIPLOMATIC RELATIONS WITH SERVIA BY EUROPEAN POWERS AND PRESENTATION OF CREDENTIALS BY THE AMERICAN MINISTER TO THE KING OF SERVIA.

Mr. Wilson to Mr. Hay.

No. 35, Servian series.]

AMERICAN LEGATION,
Athens, April 7, 1904.

SIR: I have the honor to report that the official journal of April 1 announces the transfer of several of the officers concerned in the murder of the late King and Queen. Colonel Maschin, brother-in-law of Queen Draga, and one of the leaders of the conspiracy, has been appointed chief of the general staff; Colonel Popovitch, who was also prominent in the events of last June, has been removed from the post of aide-de-camp general of the King and has been given command of the Belgrade army division. Many other officers who were given posts about the King by the revolutionary government have been appointed to various regiments and their places filled by persons who were not implicated in the conspiracy.

The result of this measure has been that the chief objection of the powers against renewing diplomatic relations with Servia has been removed, and Russia immediately announced the appointment of M. Goubastoff, at present minister to the Vatican, to succeed M. Tcharykoff as minister at Belgrade. Italy has also informed King Peter that the Italian minister will immediately ask for an official reception, and it is expected that the other countries will soon follow the example of Italy and Russia.

I have, etc.,

CHARLES S. WILSON.

Mr. Wilson to Mr. Hay.

No. 37, Servian series.]

AMERICAN LEGATION,
Athens, April 19, 1904.

SIR: Referring to my dispatch No. 35 of the 7th instant, I have the honor to report that * * * several countries have renewed diplomatic relations with Servia.

Doctor Von Dumba, the Austrian minister, was expected to return to his post at Belgrade on the 11th instant, and the new Russian minister, M. Goubastoff, has been instructed to proceed to Belgrade immediately after presenting his letters of recall at the Vatican, and a telegram to the Greek papers announces that the Italian minister returned to his post on the 18th instant.

I have, etc.,

CHARLES S. WILSON.

Mr. Jackson to Mr. Hay.

No. 40, Servian series.]

AMERICAN LEGATION,
Athens, May 14, 1904.

SIR: I have the honor to report that upon my arrival in Belgrade on the 6th instant I put myself in communication with the Servian foreign office, calling upon Mr. N. Pachitch, the minister of foreign affairs, getting acquainted with him and various other officials, and leaving with him a written request for an audience with the King for the presentation of my credentials. Within twenty-four hours my calls were returned, and on the afternoon of May 7 I received a communication in which it was stated that King Peter would receive me on Monday, the 9th.

* * * * *

A short time before the hour set for the audience I was called for at my hotel by the acting marshal of the court, and was taken by him to the palace in a gala court carriage, with outriders and accompanied by a cavalry escort. In the courtyard of the palace the guard presented arms and a band played "Hail Columbia," soldiers lined the palace stairs, and about a dozen adjutants and court officials awaited me in the anteroom. As I entered the reception room from one end the King entered at the other, and His Majesty walked forward to meet me. After the formal speeches in French, translations of which are appended hereto, the King took the President's letter from me,^a gave me his hand; and asked me to accompany him to another room, where we sat down and where the conversation was of an informal character. In this room we were followed by the minister of foreign affairs, the acting marshal of the court, and the King's private secretary (his cousin), and refreshments were served according to the national Servian custom. His Majesty subsequently took me to still another room, where I was presented to the crown prince, the princess, and the several other younger members of the royal family who happened to be in Belgrade at the time. After a few minutes' informal conversation the King rose and I took my departure. Before leaving the palace the adjutants and other officials were presented to me, and on passing through the courtyard the guard again presented arms, and the American air was played a second time. I was brought back to my hotel with the same escort which had accompanied me to the palace—an officer, 24 men, and several noncommissioned officers.

* * * * *

I have, etc.,

JOHN B. JACKSON.

[Inclosure 1.]

Text of Mr. Jackson's speech on presenting his credentials to King Peter of Servia, May 9, 1904.

SIRE: I have the honor to hand to Your Majesty the President's letter accrediting me as envoy extraordinary and minister plenipotentiary of the United States of America. I have been charged to convey to Your Majesty the best

^a Not printed.

wishes of the President and the American Government for the prosperity of Servia under Your Majesty's reign. My instructions are to endeavor to advance the interests and prosperity of the American and Servian governments, and to render myself acceptable to Your Majesty. I shall endeavor to carry out these instructions to the best of my ability.

[Inclosure 2.—Translation.]

Text of King Peter's reply.

MR. MINISTER: In receiving from your hands the letter of His Excellency the President of the United States of America, by which you are accredited near my person as envoy extraordinary and minister plenipotentiary, I beg you to assure the President, as well as the Government of the Republic, that I am deeply touched by the good wishes which they have expressed for me and for Servia, and that, sharing the sentiments which animate them, and of which you are the interpreter, I shall neglect nothing which may realize and facilitate a closer rapprochement between our two countries.

As to you, Mr. Minister, I take pleasure in informing you that the selection of yourself as minister is especially agreeable to me, and that you may also count upon the cooperation of my Government in the accomplishment of your task.

CORONATION OF KING PETER OF SERVIA.

Mr. Jackson to Mr. Hay.

No. 44, Servian series.]

AMERICAN LEGATION,
Athens, June 14, 1904.

SIR: * * * I have the honor to report that the anointing of King Peter of Servia has been postponed, and that it is now semi-officially stated that a ceremony (whether of anointing, coronation, or both) will take place on August 29, 30, and 31. It is possible, however, that the date may again be changed. It is expected that special representatives will be sent from Russia, Italy, and Montenegro, and that possibly Prince Ferdinand of Bulgaria may be present. Other countries, it is said, will be represented by their ministers at Belgrade, and if that should prove to be the case, and no contrary instructions are received from you, I shall arrange to go to Belgrade from Roumania, taking Mr. Wilson with me, and to be present with my colleagues. I have been informed, informally, that a letter will eventually be sent giving notice of the proposed coronation, but not having the character of an invitation.

New German and Italian ministers have been appointed at Belgrade, and the other members of the diplomatic corps are living in that city and carrying on official business in the usual manner. * * *

I have, etc.,

JOHN B. JACKSON.

Mr. Hay to Mr. Jackson.

No. 10, Servian series.]

DEPARTMENT OF STATE,
Washington, July 8, 1904.

SIR: I have to acknowledge the receipt of your No. 44, Servian series, of the 14th ultimo, in regard to the proposed coronation of King Peter of Servia.

In view of your report that it is expected that special representatives will be sent from Russia, Italy, and Montenegro, and that other countries will be represented by their ministers at Belgrade, and that if that should prove to be the case you will arrange to go to Belgrade, taking Mr. Wilson with you, I have to say that your purpose to attend the coronation is approved, if no unforeseen objection appear.

I am, etc.,

JOHN HAY.

Mr. Jackson to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Belgrade, September 21, 1904.

(Mr. Jackson reports that the coronation of the King of Servia took place this day.)

Mr. Jackson to Mr. Hay.

No. 52, Servian series.]

AMERICAN LEGATION,
Sofia, September 26, 1904.

SIR: * * * The coronation took place on the 21st instant, in accordance with previous arrangements. The ceremony, I understand, was strictly according to the rites of the Orthodox Church. It lasted about two hours and a half, and was quite impressive. The King received the crown from the Metropolitan and placed it on his head himself. The diplomatic corps attended the ceremony, and subsequently it was received by the King, when the Italian minister congratulated His Majesty in the name of the sovereigns and chiefs of states represented by it. The Italian, Austrian, French, and German ministers had presented letters to the King prior to his coronation; the Russian, Roumanian, and Greek ministers presented similar letters at the reception which followed, and at the same time verbal congratulations were presented by the Turkish and Belgian ministers and myself. The next evening a dinner was given at the palace, to which the chiefs of mission were invited, and at which the Italian minister spoke again, after King Peter had drunk the health of the sovereigns and chiefs of states who were represented. The hereditary prince and princess of Montenegro and a special Bulgarian mission were present at the fêtes, all other countries, as mentioned above, being represented by their regularly accredited ministers. The fêtes included a gala performance at the National Theater, a military review, a ball at court, races, and a sham battle. Belgrade was filled with visitors, foreign and native; the city was appropriately decorated and quite prettily illuminated on the evening of the coronation itself. There were numerous foreign correspondents present, and detailed reports of the event have no doubt appeared in the American papers before this.

I have, etc.,

JOHN B. JACKSON.

SPAIN.

CITIZENSHIP OF JORGE GRAU Y ORTEGUEIRA, A NATIVE PORTO RICAN.

Mr. Hardy to Mr. Hay.

No. 188.]

AMERICAN LEGATION,
Madrid, February 5, 1904.

SIR: I have the honor to submit the following case to the Department:

Jorge Grau y Ortegueira was born in Guayama, Porto Rico, and is now about 16 years of age. His father, Eugenio Grau, was also born in Porto Rico, and died there in 1888. The son Jorge left Guayama in 1900 with his uncle and guardian, Mr. Antonio Grau, and they have since resided in Cadiz, where the ward is pursuing his studies.

The uncle, Mr. Antonio Grau, was registered in June last in the Cadiz consulate as a native of Porto Rico. In January of this year he applied for a certificate of nationality for his nephew and ward, in order that the latter might be exempted from military service, which he had just been called upon to perform.

Having obtained, as instructed by the legation, affidavits from two credible witnesses as to the birth and residence of Jorge Grau in Porto Rico, as also an affidavit from the latter to the effect that he intended to return within three years to Porto Rico, to reside there, and the said Jorge Grau having taken the oath of allegiance to the United States, the consul, Mr. Bartleman, issued to him a certificate of nationality.

I inclose a copy of a letter received from the consul, from which it appears that some question may arise as to the exemption of Jorge Grau from military duty. It is evident that his father, having died in 1888, before the transfer of sovereignty, could not have been registered as an American citizen. He having been born in Porto Rico and not being therefore a native of the Peninsula, is the minor son, now temporarily in Spain, and intending to return to reside in the country of his origin, having taken the oath of allegiance, entitled to the protection of the United States, and therefore exemption from military service?

I have, etc.,

ARTHUR S. HARDY.

[Inclosure.]

Mr. Bartleman to Mr. Hardy.

AMERICAN CONSULATE,
Cadiz, February 2, 1904.

SIR: Referring to my letter of the 19th ultimo, and to yours of the 21st, I would respectfully state that Mr. Jorge Grau presented to me affidavits from

two credible witnesses, also an affidavit made by himself. I then entered his name in the record book as a citizen of the island of Porto Rico, and noted his cedula, as per the Department's circular of May 2, 1899, and issued a certificate, which I took with a letter to the office of the civil governor. The secretary of the civil governor requested me to authenticate the signature of the acting secretary of Porto Rico, which I did, and the next day received the governor's reply.

On yesterday Mr. Grau called to thank me for what had been done for his nephew and stated that everything was satisfactory.

To-day, much to my astonishment, I receive from the alcalde a note requesting to be informed if the father of Jorge Grau is registered in this consulate as a citizen of the United States.

I take the liberty to again trouble you with this matter, as it now looks as if some impediment was to be placed in the way of Mr. Grau's release, and the matter may have to go to Madrid for final solution before the name of Mr. Grau can be removed from the list of recruits.

Respectfully, yours,

RICHARD M. BARTLEMAN.

Mr. Hay to Mr. Hardy.

No. 112.]

DEPARTMENT OF STATE,
Washington, February 26, 1904.

SIR: I have to acknowledge the receipt of your No. 188, of the 5th instant, in regard to the case of Jorge Grau y Ortegueira.

In reply I have to say that Mr. Grau was a "native inhabitant" of Porto Rico. The Department thinks that he also comes within the definition of "a citizen of Porto Rico" in the act of April 12, 1900. It does not appear at just what time during the year 1900 he left Porto Rico, but he was a "Spanish subject on the 11th day of April, 1899, and then resided in Porto Rico;" and even if he left Porto Rico for Cadiz before April 12, 1900, in view of the fact that his sojourn at the latter place is temporary and he intends to return to Porto Rico to reside, it may well be maintained that in the legal sense of the term he "continued to reside" in Porto Rico. (See case of Marrero, p. 229, Van Dyne on Citizenship of the United States; also Bayot's case, note, p. 225 of the same work.)

The Department is of opinion that he is clearly entitled to protection as a citizen of Porto Rico.

I am, etc.,

JOHN HAY.

Mr. Hardy to Mr. Hay.

No. 205.]

AMERICAN LEGATION,
Madrid, March 8, 1904.

SIR: Referring to my No. 188, of February 5 last, reporting the case of Jorge Grau y Ortegueira, and asking whether, under the circumstances stated, he was entitled to protection as a citizen of Porto Rico, I have the honor to inform you that the certificate of nationality issued to him by the consul at Cadiz having been disregarded by the Spanish authorities at that place and the said Jorge Grau having been cited to appear for military duty, I was obliged to act without waiting for the Department's views. My protest to the under secretary of state was promptly accepted, telegraphic orders to annul the citation and respect the consul's certificate were at once issued, and the incident satisfactorily closed.

I have, etc.,

ARTHUR S. HARDY.

NEUTRALITY OF CHINA IN THE WAR BETWEEN RUSSIA AND JAPAN.

Mr. Hay to Mr. Hardy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 10, 1904.

(Mr. Hay instructs Mr. Hardy to consult the Spanish Government in regard to the possibility and desirability of an arrangement between the neutral powers to use their good offices with Russia and Japan for the purpose of inducing them to respect China's neutrality and administrative entity as far as possible, limiting and localizing the area of hostile operations to minimize the disturbance and excitement of the Chinese people and the injury to commerce and to the peaceful intercourse of the world. If no opposition to this proposition is offered he is instructed to suggest that the representatives of Spain at St. Petersburg, Tokyo, and Peking be instructed in this sense.)

Mr. Hardy to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Madrid, February 13, 1904.

(Mr. Hardy reports that the desirability of localizing hostilities between Russia and Japan is in a general way approved by the Spanish Government, but the suggestion of the United States Government in regard to the neutrality of China is for the present considered incompatible with Spanish neutrality, and action by other powers will be awaited.)

Mr. Hardy to Mr. Hay.

No. 194.]

AMERICAN LEGATION,
Madrid, February 13, 1904.

SIR: I have the honor to acknowledge the receipt of your telegram of the 10th instant.

* * * * *

I immediately called upon the minister for foreign affairs at his house and brought your suggestion to his notice. * * * He promised to bring the subject before the council of ministers and to inform me at once of the result. Three days having passed without information, I called at the ministry to-day, and after some conversation in which it was apparent that the minister's view as above expressed had been confirmed, he requested me to inform you that for the present His Majesty's Government would not take any action beyond its declaration of neutrality; that to suggest the recognition by the belligerents of the neutrality of China might not seem to be in strict

conformity with the duties of Spain as a neutral, and that for the present Spain would await the action of the interested powers.

* * * * *

I have, etc.,

ARTHUR S. HARDY.

Mr. Hay to Mr. Hardy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 15, 1904.

(Concerning the neutrality of China in the war between Russia and Japan, Mr. Hay informs Mr. Hardy that action has already been taken by the Governments of Germany, France, and Great Britain.)

Mr. Hardy to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Madrid, February 16, 1904.

(Mr. Hardy reports that he has been informed by the minister for foreign affairs that before the Government of Spain can follow the example of the Governments of France, Germany, and Great Britain it must first be informed of the text of their adherence to the note of the United States Government.)

Mr. Hay to Mr. Hardy.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 16, 1904.

(Mr. Hay informs Mr. Hardy that no formal text of adherence to the proposal of the United States has been adopted by the powers, but each of them instructs its representatives at St. Petersburg, Tokyo, and Peking in its own phraseology.)

Mr. Hardy to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Madrid, February 17, 1904.

(Mr. Hardy reports that the views of the United States Government, as expressed in Department's telegram of the 10th instant, are adhered to generically by the Government of Spain, but not to any concrete proposition in regard to the neutrality of China.^a)

^a On this subject see circular of February 20, 1904, printed on p. 2.

SETTLEMENT OF THE CLAIM OF THE INTERNATIONAL OCEAN TELEGRAPH COMPANY AGAINST SPAIN.

Mr. Hardy to Mr. Hay.

No. 233.]

AMERICAN LEGATION,
Madrid, June 7, 1904.

SIR: Referring to my previous correspondence in the matter of the International Ocean Telegraph Company, I have the honor to report that on March 25 I wrote the minister of state that, having no explanation of the delay, I should feel obliged to ask for such on behalf of my Government, to obviate which I begged him to use his good offices with the minister of hacienda.

On May 20, having no answer, I made the following verbal representations to the minister: That it was now nearly six years since the debt was contracted; that nearly three years had elapsed since all the formalities exacted had been complied with; that such explanations of nonpayment as had been offered, while they might apply to a brief delay, were wholly inadequate to explain one of three years; that it must be remembered that the account was not a disputed claim but an admitted debt, and that whereas I had no hesitation in enforcing to the best of my ability the views of my Government in cases where differences of opinion existed, it was most unpleasant and embarrassing to be obliged to call his attention repeatedly to the non-discharge of an acknowledged obligation; that having, out of considerations of courtesy to himself, refrained from directly pressing the subject upon the attention of his colleague of the treasury, I felt he should urge upon the latter the necessity of a reply to the frequent inquiries addressed through the foreign office; and that, finally, I desired a settlement before my departure for the United States on leave.

The minister admitted the reasonableness of all I had said. He further said there was to be a council that evening and that he would bring the matter before the ministry at that time, promising to do all in his power to effect a settlement before I left Madrid.

On June 2 I received the note, of which a copy is inclosed, to the effect that by royal order of May 25 the amount due had been ordered paid at the rate of the official exchange of the day of issue of the order and on the basis of 5 pesetas to the dollar. * * *

I inclose herewith a copy of a letter from the Credit Lyonnais, together with first of exchange payable to "International Ocean Telegraph Company." * * *

I have, etc.,

ARTHUR S. HARDY.

[Inclosure.—Translation.]

Señor San Pedro to Mr. Hardy.

MINISTRY OF STATE,
Madrid, May 31, 1904.

EXCELLENCY: In reply to the polite note of the legation relative to the sum of \$10,334.99, gold, owing to the International Ocean Telegraph Company, for official telegrams transmitted during the months of July, September, and October, 1898, in the island of Cuba, I have the honor to inform your excellency that

the minister of hacienda, in a royal order of the 25th instant, has given the necessary instructions to the director of the public debt to the end that the above-named sum, or its equivalent in pesetas, charged to the surplus funds of the special account of the suppressed section of ultramar in that department, be paid to your excellency at the rate of the official exchange of the 25th of the current month at the equivalent of 5 pesetas for each dollar.

I avail myself of this opportunity to reiterate, etc.,

F. R. SAN PEDRO.

[Inclosure 2.]

Mr. Michaud to Mr. Hardy.

Credit Lyonnais.]

MADRID, June 7, 1904.

SIR: In virtue of your verbal order of this morning and exchange having gone lower, we have taken advantage of this opportunity to execute your order we were holding.

In consequence, we beg to remit you herewith first and second of exchange on New York for \$10,003.46, order International Ocean Telegraph Company, making at the rate of 7.17 pesetas 71,724.85, with which we debit you in account.

We remain, etc.,

W. MICHAUD,
Submanager.

Mr. Hay to Mr. Hardy.

DEPARTMENT OF STATE,

Washington, June 24, 1904.

SIR: I have to acknowledge the receipt of your No. 233 of the 7th instant, transmitting the first of exchange on New York to the order of the International Ocean Telegraph Company for \$10,003.46, in payment of its claim against Spain.

I am, etc.,

JOHN HAY.

SWEDEN AND NORWAY.

TESTIMONIAL PRESENTED TO CAPTAIN HANS HOLM, OF THE NORWEGIAN STEAMSHIP BRATTEN, BY THE UNITED STATES.

Mr. Hay to Mr. Thomas.

No. 176.]

DEPARTMENT OF STATE,
Washington, November 13, 1903.

SIR: I transmit, through the dispatch agent at London, a gold watch and chain which the President desires to present to Captain Hans Holm, of the Norwegian steamship *Bratten*, in testimony of the humanity shown by him in picking up at sea the boats containing the master and crew of the shipwrecked American bark *John R. Stanhope*.

You will forward the testimonial to the foreign office, with the inclosed form of receipt. The latter, when signed, should be returned to this Department.

I am, etc.,

JOHN HAY.

Mr. Thomas to Mr. Hay.

No. 343.]

AMERICAN LEGATION,
Stockholm, January 18, 1904.

SIR: Referring to your instruction No. 176, of November 13, 1903, transmitting a gold watch and chain which the President desired to present to Captain Hans Holm, of the Norwegian steamship *Bratten*, in testimony of the humanity shown by him in picking up at sea the boats containing the master and crew of the shipwrecked American bark *John R. Stanhope*, I have the honor to inform you that I lost no time in forwarding this testimonial to the foreign office with a request that it be delivered to Captain Holm, and I now have the honor to return to you his receipt therefor duly signed and witnessed.

I have, etc.,

W. W. THOMAS.

CELEBRATION OF THE SEVENTY-FIFTH BIRTHDAY ANNIVERSARY OF KING OSCAR.

Mr. Thomas to Mr. Hay.

No. 345.]

AMERICAN LEGATION,
Stockholm, January 21, 1904.

SIR: I have the honor to inform you that King Oscar and his people to-day celebrated His Majesty's seventy-fifth birthday.

In many of the cities and towns throughout Sweden and Norway the day has been observed with fitting ceremonies.

In Stockholm flags are flying everywhere—from public and private buildings, from the shipping in the harbor, and from a multitude of flagstuffs raised along the principal quays, bridges, and squares.

All day long deputations, corporations, and processions have trooped to the royal palace to pay their homage to the King.

Among the many tributes I witnessed one of especial interest. In the afternoon a procession of 5,000 school children of Stockholm, each one bearing a Swedish flag, marched to the palace and, marshaled in ranks within the vast courtyard, sang national patriotic songs. The King, clad in admiral's uniform, listened from an open window in an upper story on the west side of the quadrangle, and as the last notes of the singing died away addressed the children in a loud, clear voice, distinctly heard throughout the great court. The King's speech was greeted by four royal cheers, many times repeated, and by the tumultuous waving of the 5,000 flags in the children's hands.

This evening the city is brilliantly illuminated. The square of Gustavus Adolphus, the North Bridge, and the line of grand public and private buildings along the North Stream facing the palace are one blaze of light. Festoons of electric lights hang in graceful curves along the entire length of the North Bridge, leading to the palace, and the King's motto, the royal monogram, and crown are pricked out in flaming dots from many edifices.

The American legation is conspicuously situated, directly opposite the palace, across the stream. The American flag has flown all day from the tall flagstaff over the legation, and this evening the entire façade of America's official residence is tastefully and vividly illumined in honor of King Oscar.

The day's festivities concluded with a grand ball at the palace, which was attended by over 2,000 persons, among them the Crown Prince and Princess of Denmark. Mrs. Thomas and I were present, and I had opportunity to personally convey to the King the congratulations of my country and the President, together with my own.

King Oscar II has sat upon the throne since 1872, a period of nearly thirty-two years—a reign longer than that of any other king on the Scandinavian Peninsula since the great Gustavus Vasa, the founder of the Vasa dynasty.

I am sure it is but the simple truth to say that during every year of his long reign King Oscar has grown in the love and veneration of his people. The homage paid the King to-day is but the outward manifestation of the feelings that fill the hearts of all his subjects.

I have, etc.,

W. W. THOMAS.

**PROTECTION OF THE INTERESTS OF SWEDEN AND NORWAY IN
THE DOMINICAN REPUBLIC BY AMERICAN CONSULAR AND
NAVAL AUTHORITIES.**

Memorandum handed to Mr. Adee March 1, 1904, by Minister Grip.

LEGATION OF SWEDEN AND NORWAY AT WASHINGTON.

Messrs. Kelly & Co., of New York, charterers of the Norwegian steamer *Farmand*, have informed this legation that the steamer has been prohibited by the Santo Domingo authorities from entering the harbor of Macoris and there loading a cargo.

The legation would feel highly gratified if the United States man-of-war stationed near said port might be instructed to assist the Norwegian steamer.

Mr. Hay to Mr. Grip.

DEPARTMENT OF STATE,
Washington, March 5, 1904.

MY DEAR MR. MINISTER: Referring to the memorandum of March 1 which you left with Mr. Adee, in regard to the action of the Santo Domingan authorities in preventing the landing of the Norwegian steamship *Farmand*, chartered by Messrs. Hugh Kelly & Co., of New York, I have the pleasure to inform you that, in reply to my letter communicating your memorandum to the Navy Department, I am to-day in receipt of a letter from the Secretary of the Navy stating that the naval officers in Santo Domingan waters were instructed in the premises by cable on March 3 and directed to use their good offices to enable the vessel to follow its normal course.

I am, etc.,

JOHN HAY.

Mr. Grip to Mr. Hay.

LEGATION OF SWEDEN AND NORWAY,
Washington, March 9, 1904.

MY DEAR MR. SECRETARY: I have had the honor of receiving your kind personal letter of the 5th instant, relating to the generous action taken by the United States Government as to the Norwegian steamship *Farmand* in Santo Domingan waters, and I venture to express my profound thanks for your courtesy.

The New York charterers of the *Farmand*, Hugh Kelly & Co., now inform me that another Norwegian steamer, *Hugin*, which is also chartered by them, will also, on or about the 20th instant, arrive at the port of Macoris, in order to load a cargo of sugar owned by another firm of New York.

I take the great liberty to ask whether it would be possible that the good offices of the United States Government might kindly be extended to the *Hugin* on her arrival at the port of Macoris.

I beg, etc.,

A. GRIP.

Mr. Hay to Mr. Grip.

DEPARTMENT OF STATE,
Washington, March 11, 1904.

MY DEAR MR. MINISTER: I had the honor to receive yesterday afternoon your note of the 9th instant, requesting the good offices of this Government for the Norwegian steamship *Hugin* upon her arrival at the port of Macoris, Santo Domingo.

In reply it gives me pleasure to say that I have already brought this matter to the attention of the Navy Department, having com-

municated to that Department yesterday a request of Messrs. Hugh Kelly & Co. for the protection of the steamship *Hugin*.
I am, etc.,

JOHN HAY.

Mr. Grip to Mr. Hay.

LEGATION OF SWEDEN AND NORWAY,
Washington, April 23, 1904.

MR. SECRETARY OF STATE: The consul of Sweden and Norway at Santo Domingo has reported to the Government of the King that the minister of the United States in that capital has had the kindness during the late interior troubles to place a military guard at the disposal of the consul. In regard to this I have received an order from my Government to forward its warmest thanks to the Government of the United States for this act of kindness.

Please accept, etc.,

A. GRIP.

SWITZERLAND.

REFUSAL OF PASSPORT TO JACOB WERTLI.

Mr. Hill to Mr. Hay.

No. 54.]

AMERICAN LEGATION.

Berne, Switzerland, August 11, 1904.

SIR: I have the honor to present to you herewith the case of Jacob Wertli, who on the 6th instant applied, through the American consulate at Zurich, to this legation for a passport. The legation considers the case to be one of doubtful identity, which should be reported to the Department of State.

* * * * *

As will be seen from inclosure (1), Mr. Jacob Wertli applied on June 23, 1902, for a passport, stating himself to be a naturalized citizen of the United States and presenting as evidence a passport issued by the Department in 1877 to one James M. Vertly. He, however, signed his name Jacob Vertley. Also, from inclosure (1) it will be seen that the passport issued in 1877 was unsigned until signed in 1902 by Wertli in the presence of the consul at St. Gall. Because of this difference in the names, and for other reasons stated in inclosure (2), the legation declined to issue a passport to Wertli.

Now under date of August 6, 1904, Mr. Wertli again applies for a passport, this time through the United States consulate at Zurich, claiming to be a native citizen, and presenting as evidence passport No. 60616, of July 21, 1902, issued by the Department of State.

The legation is unable to satisfy itself that the Jacob Wertli who now applies for a passport as a native citizen of the United States, and who in 1902 applied under the name of Jacob Vertley and as a naturalized citizen, really is the James M. Vertley to whom the Department issued a passport in 1877.

Upon decision of the case the legation would be pleased to have the Department return inclosures (the passport application and expired passport).

I am, etc.,

DAVID J. HILL.

[Inclosure 1.]

Mr. Simon to Mr. Hardy.

AMERICAN CONSULATE-GENERAL,

St. Gall, June 23, 1902.

SIR: I send you herewith inclosed an application for a passport of one Jacob Wertli, together with some other correspondence pertaining to his application.

In view of the fact that the produced long-expired passport was issued for James M. Vertley, and not to Jacob Vertley, as he signs now, I have suggested

to him to send for a copy of his naturalization certificate. He is, however, unwilling to do so, and urges that his application be forwarded to you as it is. Upon my inquiry why the name in the old passport does not correspond with his present one, he replied: "In former days I signed my name that way, believing that James and Jacob meant the same thing." An old schoolmate of his, whom he brought here for the purpose of identification, says that he knows the applicant well, but knows him only by the name "Jacob Wertli."

I feel fully convinced that Mr. Vertley has resided in the United States for a long time, but whether he is the real owner of the inclosed passport is a question, and his unwillingness to send for a copy of his naturalization certificate gives the matter a kind of a doubtful appearance. The old passport (inclosed) was not signed and Mr. Vertley has only put his name to it while here.

Very respectfully,

JOSEPH SIMON.

[Inclosure 2.]

Mr. Hardy to Mr. Simon.

AMERICAN LEGATION,
Berne, Switzerland, June 26, 1902.

SIR: I beg to acknowledge the receipt of your letter of June 23 instant, inclosing the application of Mr. Jacob Vertley, together with other correspondence pertaining to the application, and an old passport, No. 506, issued by the Department of State on April 16, 1877, to Mr. James M. Vertley, which you inform me was unsigned and has only been signed recently in your presence.

The signature Jacob Vertley does not correspond to the name of the person to whom the passport was issued, and under any circumstances the former would have to establish to your complete satisfaction that he is the identical person, James M. Vertley, to whom the passport belongs.

In addition to this irregularity the applicant alleges that his naturalization papers have been destroyed by fire. In this case the regulations require that the applicant should obtain a certified copy of the original certificate of naturalization from the court which issued the same.

His unwillingness to send for a copy, taken in connection with the fact that the signature he affixed in your presence is not the name on the face of the passport, furnishes sufficient reason for questioning whether he is the real owner of the passport in question. The fact that he has resided in the United States is not proof of naturalization.

You will inform Mr. Vertley that in order to secure a passport he must furnish proof of naturalization as indicated above.

Yours, respectfully,

ARTHUR S. HARDY.

[Inclosure 3.]

Mr. Simon to Mr. Hill.

AMERICAN CONSULATE,
Zurich, August 6, 1904.

SIR: I send you herewith inclosed, for your consideration, passport application and expired passport of Jacob Wertli.

If I remember right, about three years ago this man Wertli made application in St. Gall as being a *naturalized* citizen. A passport was refused him at that time, and I believe it was on the ground that his name in his naturalization certificate and that one on an old passport did not read alike—in one it was "Vertley" and in the other "Wertli."

Now he makes the most positive statement that he was born in St. Louis. I think my correspondence on file there on this matter, from St. Gall, in 1900, 1901, or 1902, will bring some light on the subject.

Very respectfully,

JOSEPH SIMON.

Mr. Adee to Mr. Hill.

No. 60.]

DEPARTMENT OF STATE,
Washington, August 31, 1904.

SIR: I have to acknowledge the receipt of your No. 54 of the 11th instant submitting, for the Department's instructions with reference thereto, the application for a passport addressed to the legation by Jacob Wertli, through the American consulate at Zurich.

In reply I have to say that on April 16, 1877, passport No. 506 was issued to James M. Vertley, upon an application showing he was born in the city of Bremgarten, Canton of Aargau, Switzerland, September 17, 1852. He submitted a certificate of naturalization issued by the Monroe County court, New York, September 25, 1876. On the application he signed his name twice as James M. Vertley, and the signature does not resemble in the least the signature of Jacob Wertli on the passport No. 60616, issued July 21, 1902, or upon the application made before the consulate at Zurich July 23, 1904.

The application of Jacob Wertli, upon which passport No. 60616 was issued July 21, 1902, stated he was born in St. Louis, Mo., September 22, 1851, that his father was a naturalized citizen of the United States, his permanent residence at St. Louis, and his occupation that of a civil engineer. Except that he says in his application at Zurich that he was born September 19, his allegations in the two applications agree. James M. Vertley was born September 17, 1852, and his height, when he was 24 years old, was 5 feet 3 inches, whereas Jacob Wertli's height is 5 feet 4 inches. In other respects the descriptions are similar.

The discrepancy in the names and in the places of birth and the dissimilarity in penmanship would seem to indicate that James M. Vertley and Jacob Wertli are not the same person, and that Wertli is falsely impersonating Vertley.

A searching examination of Wertli should be made, supplemented by such independent investigation as may be possible. If a clear and satisfactory explanation of the suspicion of fraud surrounding the case is made, a passport may issue, but not otherwise. And if the suspicion of fraud is confirmed, an effort should be made to find out where the party or parties thereto in the United States are located, in order that the case may be referred to the Department of Justice.

I return, in accordance with your request, the inclosure to your dispatch, namely, Mr. Wertli's passport application and his expired passport.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Boutell to Mr. Hay.

No. 60.]

AMERICAN LEGATION,
Berne, Switzerland, September 24, 1904.

SIR: I have the honor to acknowledge the receipt of your No. 60 of August 31, 1904, relating to the case of Jacob Wertli, who applied to the legation for a passport through the American consulate at

Zurich. In accordance with your instructions, the legation has attempted to investigate the case, and has also instructed the consul at Zurich to do so. The legation wrote to the civil office at Bremgarten for information as to the birth of Jacob Wertli, and received the same information as that given to the consul and embodied in the consul's letter, a copy of which I inclose herewith. Mr. Wertli himself refuses to call at the consulate at Zurich, or to explain any of his conflicting statements. The legation has, therefore, refused to issue the passport, in accordance with your instructions, and has informed by card the various embassies and legations, as well as the consul at Zurich.

I am, etc.,

ROGER S. G. BOUTELL.

[Inclosure.]

Mr. Lieberknecht to Mr. Boutell.

AMERICAN CONSULATE,

Zurich, September 23, 1904.

SIR: Referring to your letter of the 9th instant, with inclosure of a copy of Department's dispatch No. 60, in regard to the passport application of Jacob Wertli, I beg leave to report:

My inquiry addressed to the Civilstandsamt (recorder of vital statistics) at Bremgarten, Canton Aargau, elicited the fact that said Jacob Wertli is well known in Bremgarten, but that his birth is not registered there. The recorder, Mr. Gelvig, then went to Zufikon, the community in which Jacob Wertli is said to be at home, and made personal inspection of the register of births there, but said name was not to be found. Mr. Jacob Wertli has a sister living in Bremgarten by the name of Sidler Wertli, but she is unable to give date or birthplace of her brother, but thinks he was born in the Canton of Berne, but others think he was born in the Canton of Solothurn.

I have addressed a letter to Mr. Wertli requesting him to call at this consulate, but up to this writing he has not yet appeared, and I believe he will not. In a conversation with Mr. Simon, who took his application for passport, he informed me that Mr. Wertli could not produce his marriage certificate, as he has lost it.

Everything seems to indicate that Mr. Wertli has made false statements sometime and somewhere. The Civilstandsamt at Bremgarten promised to give further information about Mr. Wertli if they could at any time find out something, and I shall promptly report to you whatever I may learn in the case.

Your obedient servant,

A. LIEBERKNECHT.

TURKEY.

NEGOTIATIONS WITH THE TURKISH GOVERNMENT WITH REFERENCE TO OFFICIAL RECOGNITION OF AMERICAN EDUCATIONAL, CHARITABLE, AND RELIGIOUS INSTITUTIONS IN TURKEY, AND OTHER PENDING QUESTIONS.

[Continuation of correspondence in Foreign Relations, 1903, p. 735 et seq.]

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, January 17, 1904.

(Mr. Leishman reports that, as reported in previous correspondence, an effort has been made ever since the fleet arrived to resist a settlement of the pending questions as long as the fleet remains in Turkish waters. The situation remains practically unchanged, and constant efforts to induce the minister for foreign affairs to bring the matter to a settlement remain unsuccessful, as he is impotent, despite his friendly disposition. All power is vested in the Sultan, who can not be approached either by Mr. Leishman or the minister for foreign affairs except by permission, and the latter can discuss only such questions as the Sultan desires.)

Mr. Hay to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, January 19, 1904.

(In view of Mr. Leishman's telegram of the 17th instant, Mr. Hay informs him that the continued presence of the American vessels in Turkish waters seems to obstruct the negotiations for the settlement of the pending question, and they will therefore be withdrawn at the end of the month. Instructs him to intimate that the temporary withdrawal of the vessels is directed in order to facilitate prompt disposition of the pending questions.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, January 31, 1904.

(Mr. Leishman reports that a note has just been delivered by the powers in regard to the Macedonian reforms, and that the withdrawal

of the American fleet will be made at an opportune moment and will have a good general effect, but no immediate settlement of the pending questions can be expected, as the above-mentioned note has caused a political crisis and will prevent consideration of other business for the present. The withdrawal of the fleet is accepted by the minister for foreign affairs as a most friendly act on the part of the Government, and he has given assurances that the withdrawal will be greatly appreciated, and that he will use his best endeavors to obtain a settlement of the pending questions at the first opportune moment. Mr. Leishman requests to be informed of the date of departure of the fleet.)

Mr. Loomis to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, February 1, 1904.

(Mr. Loomis informs Mr. Leishman that the American vessels will depart to-day.)

Mr. Leishman to Mr. Hay.

No. 752.]

AMERICAN LEGATION,
Constantinople, April 1, 1904.

SIR: Referring to the voluminous correspondence regarding the vexed question of the schools, etc., I regret to have to advise that the Sublime Porte has finally declined to take favorable action despite its numerous promises to the contrary.

The language employed, although scrupulously avoiding the word "no," leaves no room for doubt of the Porte's determination to withhold from American institutions the rights and privileges that have been granted to similar institutions under the protection of the French and other European nations.

* * * * *

As every ordinary means has been exhausted in my efforts to induce the Imperial Ottoman Government to take favorable action upon our fair and just demands that American religious, educational, and charitable institutions in Turkey be granted the same rights and privileges as have been granted to similar institutions under the protection of other nations, a right guaranteed us by treaty, I can only refer the question to the Department and ask that I be instructed as to what further steps you desire taken and the exact language you wish me to hold.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure.—Translation.]

Memorandum.

In regard to the schools and religious institutions, no difficulty being raised on their behalf, there is no necessity for their confirmations.

Mr. Leishman to Mr. Hay.

No. 763.]

AMERICAN LEGATION,
Constantinople, April 20, 1904.

SIR: Referring further to my dispatch No. 752, of April 1, 1904, regarding the school question, I beg to inclose copy of note which I deemed advisable to address to the Porte in order to place the matter more clearly on record.

* * * * *

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure.—Translation.]

Mr. Leishman to Tewfik Pasha.

AMERICAN LEGATION,
Constantinople, April 20, 1904.

EXCELLENCY: I have delayed acknowledging receipt of the Sublime Porte's communication of April 1, declining to accede to the demand for equality of treatment for American institutions in Turkey, having waited from day to day for the past three weeks for the oft-promised note confirming same.

The facts in the case are as follows: In the beginning of September, 1902, the legation addressed a note to your excellency's Government asking that an imperial irade be issued granting to American religious, educational, and charitable institutions throughout the Ottoman Empire the same rights and privileges accorded to similar institutions under the protection of other nations, and subsequently, at the request of the Sublime Porte, a list was filed giving the names of existing institutions for which Imperial firmans were desired.

This demand was based upon the favored-nation clause in the treaty between the Imperial Ottoman Government and the Government of the United States of America, guaranteeing equality of treatment for American citizens and American institutions, and referred particularly to the concessions granted to French religious, educational, and charitable institutions under what is generally known as the Mytilene agreement, which has since been extended to other European nations, but withheld from the United States.

After patiently waiting for nearly two years for the desired Imperial order authorizing the issue of proper firmans, during which period I was frequently given the most positive assurances that the matter had successively been favorably acted upon by the council of state and council of ministers and sent to the palace with a favorable recommendation, I was finally notified by your excellency that an Imperial irade had been issued, and that if I sent my dragoman to the Porte the contents would be communicated to him.

In accordance with this request, my dragoman called at the Porte and was informed by the general secretary of the Imperial ministry for foreign affairs that although no formal note had yet been drawn up, he would read to him the order received from the grand vizierat regarding the schools, etc.

In order to avoid any misunderstanding, my dragoman made notes from the dictation of the general secretary and submitted same to his excellency for approval, his excellency merely remarking that the memorandum contained a correct translation of the substance of a note from the grand vizierat which he had been instructed to communicate to the legation.

Instead of the promised decree granting to American institutions the same rights and privileges granted to others, what was my surprise to receive a communication refusing the legation's demand on the grounds that " * * * in regard to the schools and religious institutions, no difficulty being raised on their behalf, there is no reason for their confirmation," etc.

As other religious, charitable, and educational institutions were in exactly the same position as American institutions to-day prior to the granting of the above-mentioned concessions, the action of the Sublime Porte can only be regarded as a refusal to accord to American institutions the same treatment

extended to others, and may very properly be viewed by my Government as an evasion of treaty obligations.

In the absence of instructions from my Government, to whom I have referred the entire matter, I am unable at this time to make any reply beyond the mere acknowledgment of the Sublime Porte's communication and a brief statement of the facts.

I take this occasion, etc.,

JOHN G. A. LEISHMAN.

Mr. Hay to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, June 9, 1904.

(Mr. Hay informs Mr. Leishman that the President is unwilling to believe that it is the settled policy of the Turkish Government to deny to the Government of the United States simple justice, which it accords to other powers, and instructs him to ascertain from the minister for foreign affairs whether this decision is final, and to ask, in the name of the President, if no satisfactory result is obtained, for an immediate audience of His Majesty the Sultan, and to lay this question before him.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, June 15, 1904.

(Mr. Leishman reports that he has been informed by the minister for foreign affairs that under imperial orders the school question has been sent to the council of ministers for review, and that sufficient time for its consideration has been requested, that he has granted a delay of two weeks for this purpose with the understanding that a failure to take favorable action within the time granted would be considered by the legation as a definite refusal to accord equal treatment to American institutions, and that the Government of the United States would be so informed. Mr. Leishman adds that he considers the action of the Sultan in ordering a review of the question a warrant that the matter will be favorably acted upon.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, June 17, 1904.

(Mr. Leishman reports that he has been informed by the grand vizier that the school question was reviewed yesterday by the council of ministers and was referred to the minister of public instruction with favorable recommendation, and that he hoped that the matter

could be presented to the Sultan within the next ten days. Mr. Leishman is inclined to believe that the President's demand and Department's previous action have had good effect, and that the school question will soon be settled.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN EMBASSY,
Pera, July 2, 1904.

(Mr. Leishman reports that the usual promises are continued by the Turkish Government, but no definite reply has been given, and unless otherwise instructed he will inform the Porte on the 6th instant that failure to act favorably within the promised period is considered as a definite refusal to accord equal treatment to American institutions, and that he will demand an audience with the Sultan.)

Mr. Leishman to Mr. Hay.

No. 833.]

AMERICAN LEGATION,
Constantinople, July 11, 1904.

SIR: I called upon the minister for foreign affairs late Tuesday afternoon, and finding no visible signs of an immediate settlement I concluded that further delay was useless, notwithstanding his protestations that the matter was being considered and would be brought before the council of ministers the next day.

Consequently I made a request in the name of the President for an audience, which I was in hopes might possibly be granted the following Friday, after Selamnik, the usual time for receiving ambassadors.

Early this morning I received a visit from the chef du cabinet du ministère des affaires étrangères, who informed me that His Imperial Majesty would be unable to receive me, as he was indisposed and very fatigued.

* * * * *

I shall continue to press for an audience in a firm but polite manner, but should to-day's treatment be repeated next Friday I shall feel compelled to ask the Department for further instructions. * * *

Will keep you fully advised by wire of any change in the situation.
I have, etc.,

JOHN G. A. LEISHMAN.

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, July 15, 1904.

(Mr. Leishman reports that, in the absence of any further communication from the palace about the audience, he attended Selamnik

this morning, and that the grand master of ceremonies informed him that on account of important visits in the harem His Majesty could not receive him to-day. In view of the fact that the audience was demanded in the name of the President and that he has been twice put off, it seems to Mr. Leishman to be beneath the dignity of the Government of the United States to have him go again to the palace to seek an audience unless positive assurance be given in advance that he will be received by the Sultan. Requests further instructions.)

Mr. Loomis to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 16, 1904.

(Mr. Loomis instructs Mr. Leishman to ask an Imperial audience at a fixed day and hour in the near future, and to state to the minister for foreign affairs that the Government of the United States fails to understand the delay in according him the treatment due to the friendly relations of the two countries.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Prinkipo, July 23, 1904.

(Mr. Leishman reports that the under secretary of state for foreign affairs informed him by command of His Majesty that the Sultan would receive Mr. Leishman immediately after the Selamnik ceremony next Friday.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, July 29, 1904.

(Mr. Leishman reports that an audience with the Sultan was granted to him to-day and that he had a long interview with His Majesty, who promised to give the pending question immediate consideration and to give a definite reply to Mr. Leishman not later than next Tuesday.)

Mr. Loomis to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 29, 1904.

(Mr. Loomis states that the reported audience with the Sultan is gratifying, and that, pending further report promised for Tuesday,

the squadron under the command of Admiral Barker will be held in readiness subject to orders. The Government of the United States expects that its wishes will be fully complied with. Instructs him to keep the Department adequately advised.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, August 2, 1904.

(Mr. Leishman reports that the minister for foreign affairs communicated to him last night that the Sultan would be unable to give the promised reply before next Thursday, because the council of ministers had not yet concluded its report. Mr. Leishman expects that a definite decision will be reached this week.)

Mr. Leishman to Mr. Hay.

[Telegram.]

AMERICAN LEGATION,
Therapia, August 4, 1904.

Regret to report that the promised reply to the President's message has not been received.

LEISHMAN.

Mr. Hay to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 5, 1904.

(Mr. Hay informs Mr. Leishman that three American naval vessels will visit Smyrna.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, August 8, 1904.

(Mr. Leishman reports that neither explanation nor apology has been offered for the failure to give the promised reply, and that, unless strong measures are adopted, matters may continue to drag along indefinitely. The temporary hope of settlement he entertained, and which were raised by the Sultan's favorable remarks and most positive assurance of a definite reply on all the pending questions, to be delivered not later than last Tuesday, has been dissipated by the inactivity and indifference shown during the last few days.)

Mr. Hay to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 8, 1904.

(Mr. Hay informs Mr. Leishman that the American fleet will arrive at Smyrna in a few days, and instructs him to use his best endeavors to obtain a satisfactory answer from the Turkish Government before its arrival, and, if that Government should continue to refuse or to neglect to grant the moderate and reasonable requests of this Government, to take an indefinite leave and to depart from Turkey in one of the United States naval vessels, leaving the legation in charge of the secretary of legation. Mr. Hay states that he expressed to the Turkish minister at Washington his amazement at the action of his Government and his opinion that the present condition of affairs could not continue.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Therapia, August 8, 1904.

(Mr. Leishman reports that the foreign office is very anxious that the fleet should not come here, giving assurance that the promised reply will be given not later than Thursday. The reports from Washington seem to have induced this Government to realize that it is necessary for it to act; suggests that, if the plans of the Department are not interfered with thereby, the proposed visit of the fleet be delayed until after Thursday.)

Mr. Hay to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington August 9, 1904.

(Mr. Hay informs Mr. Leishman that the fleet can not be communicated with before its arrival at Smyrna on Wednesday or Thursday, and if the Turkish Government has made satisfactory settlement the visit will be limited to the usual exchange of courtesies. If not, Mr. Leishman is to be governed by Department's instructions of the 8th instant.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Therapia, August 9, 1904.

(Mr. Leishman reports that most positive assurance of a satisfactory settlement not later than Thursday has again been sent by the

minister for foreign affairs, with an expression of hope that the visit of the fleet will be deferred. The Sublime Porte seems to be at last thoroughly alive to the situation, and desires most of all to avoid an unfriendly demonstration, and Mr. Leishman believes that the desired result may be attained by the strong position taken by the President and the Department without the visit of the fleet. He will, however, be prepared to follow Department's instructions of the 8th instant, if occasion should arise.)

Mr. Hay to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 10, 1904.

(Mr. Hay states that the character of the visit of the United States fleet must be determined by Mr. Leishman and the Turkish Government, as no communication is possible with it before its arrival at Smyrna. If its presence is no longer required it will be withdrawn immediately upon being notified to that effect by Mr. Leishman.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Therapia, August 12, 1904.

(Mr. Leishman reports that an informal memorandum containing the Sultan's reply has been submitted to him by one of the Sultan's private secretaries, which says, concerning the school question, that there is to be no discrimination between American schools and those of other nationalities, and that resort must be had to legal proceedings in order to secure recognition of such schools, and if the foregoing statement should prove unsatisfactory to the Government of the United States the Imperial Ottoman Government is ready to submit the question to arbitration. Concerning the question of raising the Turkish legation in the United States to an embassy it is stated that the financial conditions of the Government do not permit this action at the present time, and that His Majesty reserves to himself the taking up of this question when the financial situation will permit it.

The demand of Mrs. Lane for £5,000 (Turkish) as a price of the whole property in question will be satisfied by the payment of the amount stated as soon as the transfer is effected. Mr. Leishman states that he has requested a formal note relating to the above through the minister for foreign affairs, and if matters are not definitely settled upon arrival of the fleet he will request the admiral to send one of the ships to take him off, requesting at the same time permission from the Sublime Porte for its passage through the Dardanelles; should this be refused he will file a protest and embark at the Dardanelles.)

Mr. Hay to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 12, 1904.

(Mr. Hay states that the Turkish memorandum is not regarded unfavorably by the Government of the United States, and in view of its receipt Mr. Leishman would not be justified to leave; that the ambassador question may be dropped, leaving it in abeyance; that the Lane settlement is satisfactory. Instructs him to inform the admiral that the presence of the fleet is no longer necessary, and that he can withdraw; to inform the Turkish Government that the fleet has been directed to leave in view of the engagements contained in the Turkish memorandum, but that owing to the repeated delays and failures to do justice to the Government of the United States the President must insist that these engagements be fulfilled immediately or he will be constrained to lay the whole matter before Congress and to recommend such action as he shall deem appropriate. Further instructs him to endeavor to secure satisfactory settlement of the school question on bases not less favorable than the French Mytilene agreement.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, August 13, 1904.

(Mr. Leishman transmits the following note from the minister for foreign affairs.^a

Mr. Leishman states that in his opinion the declaration is as full in principle as obtained by any power except the French, and if the declaration concerning the schools had been made two years ago when the original demand was filed he would have recommended its acceptance.)

Mr. Hay to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, August 13, 1904.

(Mr. Hay instructs Mr. Leishman to accept the note of the minister for foreign affairs of the 12th instant as a compliance with our claims, to insist upon acceptance of the views of the United States Government of its rights in the case, to remain at his post until further advised, and to direct the fleet to withdraw at once.)

^a See inclosure 1 to dispatch No. 870, August 15, 1904, printed on p. 828.

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, August 13, 1904.

(Mr. Leishman reports that he has informed the minister for foreign affairs that, with the understanding that American institutions will be accorded the same treatment in the execution of the agreement as that accorded to French and other foreign institutions and relying on his promise to promptly fulfill the engagements, he would invite the admiral to depart with the fleet after exchange of the usual courtesies.)

Mr. Leishman to Mr. Hay.

No. 870.]

AMERICAN LEGATION,
Constantinople, August 15, 1904.

SIR: I have the honor to inclose herewith copy of correspondence between the Sublime Porte and the legation concerning adjustment of pending questions.

Upon the receipt of the Department's telegram I called again upon the minister for foreign affairs and finding that it would be impossible to secure the desired change in the wording of the Sublime Porte's communication of the 12th * * * to bring matters to a close I accepted the verbal assurance that American institutions would be treated in the same manner as the French and other foreign institutions.

Upon the receipt of the Department's telegram I called again upon the minister for foreign affairs, and finding that it would be impossible to secure the desired change in the wording of the Sublime Porte's communication of the 12th, * * * to bring matters to a close, I accepted the verbal assurance that American institutions would be treated in the same manner as the French and other foreign institutions.

* * * * *
I have, etc., JOHN G. A. LEISHMAN.

[Inclosure 1.—Translation.]

Tewfik Pasha to Mr. Leishman.

SUBLIME PORTE, MINISTRY FOR FOREIGN AFFAIRS,
August 12, 1904.

MR. MINISTER: I have taken cognizance of the several communications which your excellency has done me the honor to address to me concerning American institutions in Turkey, the raising of the respective legations to the rank of embassy, and the property of Mrs. Lane in Smyrna.

In reply, I can assure your excellency that seeing the cordial relations which so happily exist between the two Governments, it has never entered into the intention of the Imperial Government to treat on a different basis the schools, the institutions, and the citizens of the United States in the Empire.

Thus, for those of these establishments of which the legal existence is not recognized, the competent department will, as soon as it is asked to, accomplish

the necessary formalities in conformity with the conditions and provisions of the regulations in force.

As to the elevation of the two legations to the rank of embassies, the amicable desire expressed on this subject by His Excellency the President of the United States corresponds entirely with the feelings of His Imperial Majesty the Sultan, but on account of budgetary considerations it is preferable to postpone this question until a more opportune moment.

As to Mrs. Lane's farm, its price, i. e., 5,000 Turkish pounds will be paid by the Imperial Ottoman Bank as soon as the transfer is made in the name of the Imperial Government.

Please accept, etc.,

TEWFIK.

[Inclosure 2.—Translation.]

Mr. Leishman to Tewfik Pasha.

AMERICAN LEGATION,
Constantinople, August 12, 1904.

EXCELLENCY: I have the honor to acknowledge the receipt of the note which your excellency had the kindness to address to me to-day concerning certain questions that have been the subject of discussion for some time past between the Sublime Porte and this legation.

As regards the question of equality of treatment of American citizens and American institutions in Turkey, am I to understand from your excellency's note that the terms and conditions of the settlement effected by the French Government in November, 1901, apply in their entirety to American institutions? If so, all the American institutions mentioned in the list which was transmitted by this legation to the Imperial Ottoman Government in February, 1903, come naturally under the category of institutions of which the legal existence is recognized, and enjoy the same rights, privileges, and immunities as those embraced in the above-mentioned settlement. I take notice of what your excellency says in regard to the question of embassy and am happy to learn that the amicable desire expressed on the subject by the President of the United States corresponds entirely with the feelings of His Imperial Majesty the Sultan.

With regard to Mrs. Lane's matter it remains for me to express my sincere thanks for the settlement.

With the hope that your excellency will let me have the reply to the above inquiries as soon, as possible, I take occasion, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 3.—Translation.]

Mr. Leishman to Tewfik Pasha.

AMERICAN LEGATION,
Constantinople, August 13, 1904.

YOUR EXCELLENCY: Referring further to my note of last evening, in view of the several assurances given me since then that the agreement regarding equality of treatment for American religious, educational, and charitable institutions in Turkey will be immediately put into effect, and that the treatment accorded will be on a basis not less favorable than that accorded to French and other European nations, I beg to inform your excellency that in order to facilitate matters and to prove my sincere desire to maintain and continue the amicable relations so long and happily existing between our two Governments I have assumed the responsibility of inviting the admiral to leave Smyrna after exchanging usual courtesies. In acting thus I rely upon the good faith of His Imperial Majesty's Government to see that the engagements which it has undertaken are at once fulfilled.

I take, etc.,

JOHN G. A. LEISHMAN.

Mr. Leishman to Mr. Hay.

No. 872.]

AMERICAN LEGATION,
Constantinople, August 16, 1904.

SIR: Referring further to my dispatch of yesterday regarding settlement of school question, etc., I beg to inclose herewith copy of a note from the Sublime Porte which was delivered at the legation at an early hour this morning.

* * * * *

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.—Translation.]

Tewfik Pasha to Mr. Leishman.

THE SUBLIME PORTE, OFFICE OF FOREIGN AFFAIRS,
August 15, 1904.

MR. ENVOY: I have received the note that you have been kind enough to address to me under date of August 13 current.

The decision taken by the Imperial Government on the subject of its contents, and communicated to your excellency by my letter of the 12th of this month, was worded as follows:

"I have looked into the subject of the various communications which your excellency has done me the honor to address to me regarding American institutions in Turkey, the elevation of the respective legations to the rank of embassies, and the property of Madame Lane in Smyrna.

"In reply, I can assure your excellency that in view of the cordial relations which exist so happily between the two States, it has never entered into the intention of the Imperial Government to treat upon a different footing the schools, the institutions, and the citizens of the United States in the Empire.

"Consequently, for those of these establishments whose legal existence is not recognized, the competent department, as soon as the demand shall be made to it, will fulfill the necessary formalities conformably to the conditions and to the prescriptions of the regulations in force.

"As regards the elevation of the two legations to the rank of embassies, the friendly desire expressed on this subject by His Excellency the President of the United States corresponds entirely with the sentiments of his Imperial Majesty the Sultan, but in consequence of budgetary considerations, it is preferable to defer this question to a more opportune moment.

"In regard to the farm of Madame Lane, the price—that is, 5,000 Turkish pounds—will be paid by the Ottoman Bank as soon as the transfer shall be effected in the name of the Imperial Government."

In confirming the contents of my aforesaid letter I have the honor to declare to your excellency that the Imperial Government has no intention of deviating from the decision taken by it in this respect.

Be pleased to accept, etc.,

TEWFIK.

[Inclosure 2.]

Mr. Leishman to Tewfik Pasha.

AMERICAN LEGATION,
Constantinople, August 16, 1904.

YOUR EXCELLENCY: I have the honor to acknowledge the receipt this morning of your excellency's unnumbered note, dated the 15th instant, in regard to the principle of equality of treatment for American institutions in Turkey as compared with those of any other nation. The matter of the respective embassies, and the purchase by the Imperial Ottoman Government of Mrs. Lane's

property. Your excellency's said note embodies in full your note of the 12th instant, to which, in concluding the above matters, I had the honor to reply by my note of the 13th instant.

While thanking your excellency for the renewed assurances which you give me recognizing the principle of equality of treatment as above mentioned, I have to repeat that in these matters I put confidence in the good faith and sincere intentions of His Imperial Majesty's Government with the full expectation that the engagements which it has undertaken will be promptly and faithfully executed.

I take this occasion to renew, etc.,

JOHN G. A. LEISHMAN.

Mr. Leishman to Mr. Hay.

No. 889.]

AMERICAN LEGATION,
Constantinople, September 15, 1904.

SIR: Referring further to my dispatch No. 870 of August 15, 1904, concerning the school question, as the Porte has not attempted to reply to my note of August 16, 1904, it is my intention to assume the position that the institutions mentioned in the list which was filed in February, 1903, must be considered as having been officially recognized.

As the Porte allowed over eighteen months to elapse without taking any exception to the list I consider that the legation is warranted in assuming above-mentioned position as a matter of principle which can be deviated from in individual cases as fairness and policy dictate, and in following the matter up I shall be guided by this policy unless otherwise directed by the Department.

The carrying out of the agreement is sure to be a long and tedious undertaking, outside of any other difficulties that may be encountered, as the French have not as yet succeeded in completing the formalities of one-third of the institutions embraced in their list, which was accepted in its entirety nearly three years ago, notwithstanding the fact that they appointed a special dragoman to look after the matter who has been devoting his entire time to the case.

One of the greatest difficulties encountered is found in the matter of transfer and registration of property in the name of the institution, as heretofore all property according to Turkish law was held in the name of an individual, which necessitated constant transfers involving considerable expense and at times causing a great deal of embarrassment and trouble.

The missionary board here has promised to furnish the legation with the data necessary to complete the transfers, and intimated a willingness to facilitate the work through the Turkish Department by the payment of a small fee to the functionaries in addition to the necessary transfer charges, but as many legal difficulties will no doubt be encountered, I would most respectfully suggest that I be authorized to employ Mr. A. K. Schmavonian as legal adviser to the legation, as suggested in a previous communication, who is thoroughly competent to look after the questions of this character, as he has been constantly consulted by the missionary board for many years, and if the Government is not prepared to act upon the recommendation contained in my dispatch No. 676 of January 12, 1904, that he be paid a

salary, I trust the Department will see its way clear to authorize the legation to pay him such fees for legal services as may be found proper and just, not to exceed the sum of \$1,000 per annum.

I have, etc.,

JOHN G. A. LEISHMAN.

Mr. Leishman to Mr. Hay.

No. 903.]

AMERICAN LEGATION,
Constantinople, September 30, 1904.

SIR: Referring further to my dispatch No. 889 of September 15, 1904, concerning the detail work necessary to conclude agreement with the Sublime Porte regarding American religious, charitable, and educational institutions in Turkey, I beg leave to inclose for the Department's further information copy of note addressed by the legation to Mr. Peet, showing the large amount of detailed information that must first be obtained from the missionary societies.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure.]

Mr. Leishman to Mr. Peet.

AMERICAN LEGATION,
Constantinople, September 29, 1904.

SIR: Referring to the question of the legal standing of American charitable, religious, and educational institutions in Turkey, and more especially to the tenure of the landed properties owned by such institutions but registered in trust, in the names of private individuals, I beg to inform you that the legation thinks that the time has come when the matter of such tenure should be taken up and all such properties registered in the names of the institutions and the title deeds issued accordingly. This has been already done in the case of some American and other foreign institutions, but it is desirable to extend it by degrees to all the properties owned by our institutions in Turkey.

I shall therefore feel obliged if you will obtain for me all the data in regard to the landed properties owned in Turkey by the various American societies, to wit:

1. Any and all title deeds covering the lands and all buildings and dependencies. You can keep these deeds at the Bible House until such time as the actual transfers take place, but hand in to the legation copies of the same at once.

2. All deeds of trust signed by the individuals in whose names the properties are registered. You can keep the original deeds of trust in the Bible House, and, as in the case of title deeds, hand in to the legation copies of the same. In case the trustee is dead, inform whether he has heirs, who they are, and whether they are accessible.

3. Copies of the registers of the municipalities or defeterhané authorities (tapou) if and wherever possible to obtain them.

4. Maps of the premises showing the position of the buildings, and also what part of the ground or buildings is covered by what title deed.

5. A full description of each building, giving the area, height, number of floors, number of halls, class rooms, etc.

6. If there are any errors or changes in the title deeds concerning the boundaries or the kind of property, such as *mulk*, *vacf*, *arazi-i-miriyé*, etc., inform me of those also.

7. In short, any further information as to when and how the properties

were purchased or any information which missionaries or other trustees think would be necessary for me to have, such as, for instance, whether there has been any dispute over the properties; whether any actions have been brought by or against the owners on account of such tenure, and if yes, what the result has been, whether there are any pending actions, etc. Seeing the importance of the matter and the amounts spent on these properties, I have asked for full information to avoid, as far as possible, delays resulting from long correspondence between the central Ottoman authorities and the vilayets.

As soon as I begin to receive the replies to the above questions I shall take the necessary steps for application to the Sublime Porte, in view of a final settlement of this question.

I am, etc.,

JOHN G. A. LEISHMAN.

Mr. Hay to Mr. Leishman.

No. 707.]

DEPARTMENT OF STATE,
Washington, October 8, 1904.

SIR: I have to acknowledge the receipt of your dispatch No. 870, of the 15th of August last, inclosing a copy of correspondence between you and the Porte concerning the adjustment of the questions pending between the United States and Turkey. I have also to acknowledge the receipt of your No. 889, of the 15th ultimo, on the subject of the school question.

In view of the fact that the Porte allowed over a year and a half to pass without taking any exception to the list of institutions filed by you in February, 1903, and failed to reply to your note of August 16 last, the Department approves your intention to assume the position that the institutions mentioned in that list must be considered as having been officially recognized.

As suggested by you, you are hereby authorized to employ skilled legal counsel, at a rate not to exceed \$1,000 per annum, to advise the legation in the matter of the transfer and registration of the property of the American institutions.

I am, etc.,

JOHN HAY.

**ASSAULT ON THE AMERICAN CONSUL AT ALEXANDRETTA BY
TURKISH OFFICIALS.**

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, December 7, 1903.

(Mr. Leishman reports that the American consul at Alexan-dretta has informed him that while in the act of placing one Attarian, an American citizen, aboard of a vessel yesterday he was assaulted and insulted by police and soldiers, that Attarian was seized and imprisoned, that the military governor used insulting language toward the consul, and that he had been compelled to go to Beirut for safety. Mr. Leishman states that on account of the consul's hasty action in leaving his post he has as yet made no formal complaint and is making a thorough investigation. It seems that the

trouble was caused by this man Attarian, for whose wife the legation obtained permission a few months ago to emigrate to the United States to join her husband, but who instead of going there joined her husband at Aleppo, the former having entered Turkey again by fraudulent means, and had been arrested on suspicion of being connected with the revolutionary committee.)

Mr. Loomis to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 14, 1903.

(Mr. Loomis states that, after considering all the circumstances connected with the Alexandretta incident, the Department has reached the conclusion that the attempt to restrain the American consul in public and the assault committed upon him by the police were acts which the consul was justified in resenting and resisting. Instructs him to demand a satisfactory expression of regrets from the Turkish Government, and that it administer a severe rebuke to the authorities at Alexandretta who were guilty of thus grievously exceeding their powers and insulting the consul of a friendly nation.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, December 15, 1903.

(Mr. Leishman reports that indications point to the fact that the Alexandretta incident is giving concern to the Turkish Government, and that it has offered free transportation to Beirut to Attarian, who was the primary cause of the trouble. Requests more definite instructions as to what expression of satisfactory regrets would prove acceptable to the Department.)

Mr. Hay to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, December 16, 1903.

(Mr. Hay informs Mr. Leishman that Admiral Cotton has been instructed to convey Consul Davis to Alexandretta when he desires to go. Regrets demanded should be explicit, but not humiliating, and apology by the governor and the punishment of the offending police may be accepted as sufficient.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, December 22, 1903.

(Mr. Leishman reports that the admiral has informed him that the local governor officially called upon the American consul at Alexandretta and expressed proper regrets, and that the incident may now be considered as closed.)

**MURDER OF REV. BENJAMIN W. LABAREE, AN AMERICAN
MISSIONARY IN PERSIA.^a**

Mr. Hay to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, March 25, 1904.

(Mr. Hay informs Mr. Leishman that the murderer of Missionary Labaree in Persia has been identified and located near the Turkish frontier, and that some apprehension is felt that he may effect his escape into Turkey. It is reported that savage Kurds aided and are now harboring the murderer, who also murdered a British subject last December, and upon whose apprehension the American and British legations at Teheran are jointly insisting. Instructs him to urgently request the Turkish Government to have its frontier watched and to prevent the murderer from obtaining asylum in Ottoman territory.)

Mr. Leishman to Mr. Hay.

No. 778.]

AMERICAN LEGATION,
Constantinople, May 2, 1904.

SIR: * * * I inclose copy of note just received from the Sublime Porte officially confirming the promise that proper steps would be taken to arrest the murderer of Missionary Labaree in case he attempt to enter Turkish territory.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure.—Translation.]

Tewfik Pasha to Mr. Leishman.

SUBLIME PORTE, MINISTRY OF FOREIGN AFFAIRS,
Constantinople, April 30, 1904.

MR. ENVOY: In answer to the note that your excellency addressed to me, dated the 26th of March last, No. 382, I have the honor to inform you, according to a telegram of the governor-general of the vilayet of Erzeroum, that categoric

^a See also under Persia, p. 657.

orders have been given to the civil and military authorities for the arrest of Seyid Ghaffar, accused of having assassinated the American missionary Labaree in Persia, in the event of his passing into Ottoman territory.

Accept, sir, etc.,

TEWFIK.

Mr. Loomis to Mr. Leishman.

No. 674.]

DEPARTMENT OF STATE,
Washington, July 22, 1904.

SIR: Referring to the Department's telegraphic instruction of March 25 last in relation to the murder of the Rev. B. W. Labaree, an American missionary, in Persia, I have to inform you that the Department is advised by the American minister to Persia, under date of the 8th instant, that Seyid Ghaffar, the murderer of Doctor Labaree, has been captured and incarcerated.

I am, etc.,

F. H. LOOMIS,
Acting Secretary.

REVOLUTIONARY MOVEMENT AND DISTURBED CONDITION IN ARMENIA.

Mr. Leishman to Mr. Hay.

No. 769.]

AMERICAN LEGATION,
Constantinople, April 28, 1904.

SIR: * * * There has been more or less trouble in Van, Moush, Bitlis, and Sassoun districts in Armenia for over a year past, and little doubt exists as to the existence of an incipient revolutionary movement.

The number of the active revolutionists is not very great, probably not over 1,000, and although the ultimate ends which they seek undoubtedly enjoy the sympathies of the great bulk of the Armenian population, the bands receive comparatively little encouragement, as their efforts are regarded as futile.

The attention of the Porte is constantly being called to the disturbed condition in Armenia by the English and French ambassadors in their capacities as representatives of the countries which champion the cause of the Protestant and Catholic faiths in Turkey, but unless specially instructed to do so I would not venture to offer any interference in matters relating to the internal affairs of Turkey concerning Ottoman subjects.

As far as the American missionaries in Armenia are concerned, I do not believe that they are in any immediate danger, except possibly from some overt act committed by the Christian population among whom they work * * *.

I have, etc.,

JOHN G. A. LEISHMAN.

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, June 11, 1904.

(Mr. Leishman reports that advices have reached him that the Kurds have broken loose from all restraint, and are, in retaliation for

the depredations committed by the revolutionists, destroying villages in the Moush district, and that several hundred Armenians have been killed. The British, French, and Russian embassies have made strong joint representations to the Porte, and efforts are being made to prevent the trouble from spreading.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, July 18, 1904.

(Mr. Leishman reports that the grand vizier has informed him that Consul Norton, at Harput, contemplates a trip to Van and Bitlis, and as he has no business there and as the Turkish authorities will have to furnish him with guards, the grand vizier requests that Mr. Norton be instructed not to go there.)

Mr. Loomis to Mr. Leishman.

[Telegram.—Paraphrase.]

DEPARTMENT OF STATE,
Washington, July 19, 1904.

(Mr. Loomis informs Mr. Leishman that the Department has instructed Mr. Norton to go to Van and Bitlis for the purpose of gathering information regarding the reported massacres of Armenians, and whether American missionaries are in danger there.)

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, August 1, 1904.

(Mr. Leishman reports the arrival of Mr. Norton at Moush, and that he is making a careful study of the conditions.)

Mr. Leishman to Mr. Hay.

No. 878.]

AMERICAN LEGATION,
Constantinople, August 28, 1904.

SIR: Referring further to the recent troubles in Armenia, I have been unable to learn anything that would materially change my original impressions, i. e.:

That the trouble was caused by outrages committed by Armenian revolutionary bands, who, when closely pursued by the troops, fled to the Armenian villages situated in the mountainous district above

Moush, where the Turks followed and shelled them out with field artillery, completely destroying a number of villages.

A great many insurgents were killed during the fight, and undoubtedly a considerable number of the inhabitants who were not actually combatants were also killed or wounded; but from the best information I have been able to obtain nothing approaching the deliberate massacres of 1895 occurred, and that the total number killed was under 2,000.

The remnants of the bands which escaped during the fight have fled to other districts or escaped across the Russian frontier, and may possibly attempt to make other raids later on.

From the best information obtainable the Turkish authorities have treated the refugees, consisting principally of old men, women, and children, with commendable consideration, and several thousand have already returned to their homes.

The trouble at Moush is apparently over, at least for the present, and as advised in several of my dispatches during the past year or two, I am not inclined to credit the reports or share the fears of some of the missionaries that a repetition of the general massacres of 1895 is pending or even likely.

* * * * *

I have, etc.,

JOHN G. A. LEISHMAN.

Mr. Leishman to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Pera, September 3, 1904.

(Mr. Leishman reports that considerable anxiety prevails at Van, as the Armenian revolutionists are rather active at that place; that they have burned some Turkish houses and that small encounters are occurring, but that foreign residents seem to be in no particular danger.)

Mr. Leishman to Mr. Hay.

No. 879.]

AMERICAN LEGATION,
Constantinople, September 3, 1904.

SIR: I beg to confirm copy of telegram sent you this day concerning the continued disturbances in Armenia, as per copy on overleaf.

The trouble at Van was not unexpected, as the revolutionists who were concentrated a few months ago at Moush were scattered by the activity of the Turkish troops, and a number of the bands fled to the neighborhood of Van and Bitlis.

The British consul located at Van, who has been temporarily residing at Moush, has been ordered to return to Van immediately; and recent advices from Mr. Norton indicate that he also will reach Van in a short time.

The present troubles in Armenia resemble very closely the movement in Macedonia last year, and the revolutionists, no doubt, hope

for the same result, i. e., foreign interference; but this is not likely to occur unless a general massacre should ensue, which is not very probable, as little doubt exists here that the General Government is doing all it can to avoid a repetition of the events of 1895 and 1896.

Reliable information is very difficult to obtain, but conservative estimates place the number of persons killed up to the present time at about 2,000.

* * * * *

The action of the bands is well calculated to bring trouble to thousands of innocent Armenians who are not directly connected with the revolutionary movement, as the bands swoop down upon a Turkish village and, after committing what damage they can, seek refuge in some Armenian villages, and when followed by the troops flee to the mountains, where the Turks are unable to pursue them, and the consequence is that the troops generally fall upon the village and sack it.

I do not consider that our missionaries are in any particular danger, as the Turkish authorities will undoubtedly use every effort to prevent any trouble that might bring about a foreign complication, but this, of course, does not eliminate three sources of constant danger:

First. Being caught in a *mélée*.

Second. Harboring refugees.

Third. Damage which might be inflicted upon them by the revolutionists themselves, with the hope of causing foreign interference.

* * * * *

I have, etc.,

JOHN G. A. LEISHMAN.

NEW STAMP-TAX LAW IN TURKEY.

Mr. Leishman to Mr. Hay.

No. 822.]

AMERICAN LEGATION,
Constantinople, June 27, 1904.

SIR: I beg to inclose herewith copy of a circular note sent by the Sublime Porte to the several embassies and legations regarding a new stamp act—copy of the new “*Loi sur le Timbre*” being herewith inclosed,^a together with a copy of the legation’s reply to the Porte, similar action having been taken by the other embassies and legations.

As the proposed action of the Imperial Ottoman Government interferes with well-established rights and attempts to limit the “right of domicile,” I would be pleased to have the Department instruct me as to the line of action it wishes me to pursue.

As far as the tax itself is concerned, the liberal policy heretofore adopted by the Department would scarcely warrant my taking any exception to the slight increase, but I felt that what the Government might be willing to grant as a courtesy could not properly be conceded as a right.

Awaiting your instructions, I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.—Translation.]

Circular note verbale.

SUBLIME PORTE, MINISTRY FOR FOREIGN AFFAIRS,
June 12, 1904.

The ministry of foreign affairs has the honor to transmit herewith to the legation of the United States of America several copies of a new "stamp" law, which will enter into force the 1/14 July, except for the vilayets of Yemen, Hedjaz, Tripoli, Africa, Bassorah, Bagdad, Erzeroum, Mossul, Bittlis, Van, Diarbekir, Mamouret-ul-Aziz, and the sandjacks of Bengazi and Zor, where its application will not commence until after the 1/14 August.

The imperial ministry requests the legation of the United States to kindly bring the said law to the attention of its consuls.

[Inclosure 2.—Translation.]

Note verbale.

AMERICAN LEGATION,
Constantinople, June 23, 1904.

Under date of June 12 last, the imperial ministry for foreign affairs kindly communicated to the legation of the United States, inclosed with a note verbale, several copies of the new stamp law, with the information that this law would be put into force on the 1/14 of July next in most of the provinces of the Empire.

In the first place, the legation of the United States has to observe to the imperial ministry that the promulgation of this new law should have been preceded by an exchange of views between the Sublime Porte and the foreign missions in order to obtain the necessary assent of their Governments on the matter.

Besides, it observes that the text of the new law having naturally to be submitted to a thorough examination, the time which separates the communication of said copies from the date set forth by the Imperial Government for the enforcement is altogether insufficient.

The legation of the United States will proceed without delay to the examination of the text which has just been transmitted to it, and reserves the right to communicate the conclusion to the Sublime Porte.

It is understood in consequence that until an understanding on this subject is reached between the imperial ministry and the legation of the United States, the law at present in force will continue to be applied to American citizens.

Mr. Hay to Mr. Leishman.

No. 669.]

DEPARTMENT OF STATE,
Washington, July 11, 1904.

SIR: I am in receipt of your No. 822, of the 27th ultimo, inclosing a copy of a circular note sent by the Sublime Porte to the several embassies and legations in regard to a new stamp act, a copy of which "Loi sur le Timbre" you also inclose.

Your statement that the proposed action of the Imperial Ottoman Government interferes with well-established rights and your request that in view of the fact the Department instruct you as to the line of action it wishes you to pursue are noted, and in reply you are instructed to advise the Porte that the United States Government, while giving careful and impartial consideration to the proposed law, yet reserves to itself freedom of action in the event that a studied

examination and experience of the administration of the new law shall disclose any conflict in its provisions with the immunities and privileges already guaranteed to the Government or citizens of the United States.

You will carefully inform yourself by conference with your colleagues and by a study of the new law in the light of subsisting immunities and privileges enjoyed by foreigners and report as to any particulars in which the new law infringes such immunities and privileges.

Every government has the sovereign right, as a general proposition, to prescribe its own system of internal taxation, and that of the United States could not legally interfere in any manner with the exercise of this right by the Porte unless it should appear that the Porte in so doing was acting in disregard of rights, immunities, or privileges guaranteed by treaty or by the capitulations to the United States.

Your action in reserving all possible rights, in your reply to the Porte, is approved by the Department.

I am, etc.,

JOHN HAY.

Mr. Leishman to Mr. Hay.

No. 836.]

AMERICAN LEGATION,
Constantinople, July 13, 1904.

SIR: Referring further to my dispatch No. 822, of June 27, inclosing copy of the new stamp act (*Loi sur le timbre*) which the Turkish Government proposed putting into effect on the 1st of July (old style) I beg to inclose herewith, for the Department's further information, copy of a recent circular note issued by the Sublime Porte making some concessions in the proposed act; also copy of legation's reply thereto.

These concessions were prompted by the action of the British ambassador, who agreed to accept the new stamp act providing the changes mentioned were agreed to.

* * * * *

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure 1.—Translation.]

Circular note verbale.

SUBLIME PORTE, MINISTRY FOR FOREIGN AFFAIRS,
July 6, 1904.

The ministry for foreign affairs had the honor to receive the responsive note verbale that the legation of the United States of America kindly addressed to it on the 13th of June last relating to the new law on stamps.

The legation states that as this law must be subjected to deep study the time between its communication and the date set for its being put in force is insufficient, and that until an agreement is reached on this subject the stamp law at present in force must continue to be applied to its citizens.

The imperial ministry begs to point out that any delay in the enforcement of the new law, besides the considerable losses it will occasion to the imperial

treasury, will cause a great inconvenience to the service. Moreover, the Imperial Government taking into consideration the objections raised with regard to article 51 and to article 54 of Title IV relative to the exemptions as already stricken from the second paragraph of said article 51, modified article 54 in the following manner: "Avis des ambassades et consulats" which will not be exhibited before the Ottoman tribunals.

In view of the haste shown by the Sublime Porte to satisfy the criticisms which have been presented to it on this subject, the imperial ministry is pleased to hope that the legation of the United States of America will be willing, in its sentiments of high equity and its desire so many times manifested, to facilitate the action of the imperial authorities, to whom it expects to give the necessary instructions, in order that the law in question be equally applied to its citizens on the date set forth, viz, the 1/14 of July, 1904.

[Inclosure 2.—Translation.]

Note verbale.

AMERICAN LEGATION,
Constantinople, July 12, 1904.

With its note verbale of the 6th of July, 1904, the imperial ministry of foreign affairs kindly communicated to the legation of the United States of America some modifications introduced into the new stamp law.

The imperial ministry at the same time expressed the desire that the necessary instructions should be given by the United States legation, in view of the application of the law in question, to American subjects on the appointed date, namely, the 1/14 of July of the current year.

In reply the legation of the United States of America begs to observe that so long as the instructions already requested on this subject from its Government are not in hand it does not feel in a position to enter into any discussion on this matter.

It is owing to this consideration that the legation of the United States can but reiterate the conclusions of its note verbale dated June 23, 1904, relative to the application of the law in question to its citizens on the appointed date, i. e., 1/14 of July of this year.

Mr. Leishman to Mr. Hay.

No. 866.]

AMERICAN LEGATION,
Constantinople, August 11, 1904.

SIR: In reply to your dispatch No. 669, of July 11, 1904, regarding the new Turkish stamp act, I beg to advise that the Ottoman Government is endeavoring to enforce the new "Loi sur le timbre," which is being opposed by all the foreign missions.

As previously advised, I can see little or no objection to the tax itself, and acting under your instructions I have already intimated to the minister for foreign affairs that if the objectionable features of the bill were removed the legation would offer no objection to its enforcement.

According to the capitulations, foreigners residing in Turkey are exempted from taxation and can not be taxed without the consent of their respective governments. Consequently the Sublime Porte should have first submitted the proposed law to the foreign missions and obtained consent as in time past before attempting to put same into execution, as it would be a dangerous precedent to permit the Turkish Government to either increase or add to the old schedules,

which have been in force since 1890, at their own will and pleasure, for what may be granted as a courtesy can not be conceded as a right.

The Porte has already expressed its intention of eliminating the objectionable articles in the new law mentioned in my previous dispatch, but has not yet put the same into practical execution. As time goes by the Turkish officials themselves find the wording of the new law so ambiguous and complicated that even the department which issued it experiences difficulty in defining same, so that it will in all probability have to be recast.

I have, etc.,

JOHN G. A. LEISHMAN.

Mr. Leishman to Mr. Hay.

No. 912.]

AMERICAN LEGATION,
Constantinople, October 13, 1904.

SIR: Referring further to my dispatch No. 866, of August 11, 1904, in reference to the proposed new stamp law.

* * * * *

The objections raised were communicated in an informal manner, and as a matter of fact the Turkish department's officials experienced so much difficulty in interpreting the new law, which was clumsily drawn up, that the Sublime Porte has come to the conclusion that a complete revision of the law is necessary, and a commission composed of members of the council of state has been appointed to review the bill and make the necessary corrections.

Under these circumstances I deemed it wise to lodge a protest with the Sublime Porte against any efforts to enforce the new law against American citizens until such time as it be formally accepted by the American Government, fearing that tacit action might be construed as an acceptance; but I have advised the consuls that, as the Department was not disposed to raise any objection to the slight increase in the schedule, acceptance of the new law merely being withheld for reasons of general policy until such time as the objectionable articles were eliminated, in order to avoid any unnecessary trouble or complications, Americans should be quietly advised to pay the tax imposed under the new law under protest.

Trusting that my action will meet with the approval of the Department,

I have, etc.,

JOHN G. A. LEISHMAN.

Mr. Loomis to Mr. Jay.

No. 718.]

DEPARTMENT OF STATE,
Washington, November 4, 1904.

SIR: I have to acknowledge the receipt of Mr. Leishman's No. 912, of the 13th ultimo, in further relation to the proposed new stamp law.

Mr. Leishman's course in protesting to the Turkish Government against the imposition of such a tax upon American citizens in Turkey is approved.

I am, etc.,

F. B. LOOMIS,
Acting Secretary.

FRAUDULENT NATURALIZATION OF STELIO E. PAPPADIMITRIOU.

Mr. Leishman to Mr. Hay.

No. 902.]

AMERICAN LEGATION,
Constantinople, September 29, 1904.

SIR: I beg to inclose herewith for the Department's information copy of a recent dispatch sent by the legation to the consul at Smyrna regarding a probable case of fraudulent naturalization and irregular manner in which one Stelio E. Pappadimitriou secured a renewal of his passport.

As Consul Lane has already written to the Department upon this case and has been directed by the legation to examine into the matter thoroughly and report the result of his investigation to you, it is unnecessary for me to enter into further details.

I am quite of the opinion that many citizens of Ottoman origin have secured their naturalization in an irregular manner, and as the number of passport applications have fallen off tremendously during the past year or two, owing to the reports circulated by rejected applicants regarding the strictness in the examination, that it is altogether possible that the means resorted to by Pappadimitriou may be adopted by others.

The Ottoman regulations forbid anyone to enter Turkey without having their passports properly viséed, and as a matter of control requires the officials at the place of entry, whether such consular visé-exists or not, to affix their seal or some other mark on the back of the passport. I therefore respectfully request the Department to authorize the legation to instruct all the American consular officers in Turkey not to recognize or protect, before first referring the matter to the legation, naturalized citizens of Ottoman origin whose American passports have not been viséed by an Ottoman consular officer or which do not show on the face that the bearers have reentered their native land in a regular and proper manner, it being understood of course that a regulation of this character would not apply to holders of valid passports issued by the legation.

The issuance of such instructions to the consular officers would, in my opinion, correct the evil to a very considerable extent and would have a decided tendency to discourage this very undesirable class from attempting to secure passports in an irregular manner through their friends in America.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure.]

Mr. Leishman to Mr. Lane.

AMERICAN LEGATION,
Constantinople, September 29, 1904.

SIR: From information received through the consulate-general it appears that one Stelio E. Pappadimitriou, professing to be a naturalized citizen of the United States residing in your district, recently obtained a passport from the Department of State while continuing to reside in Turkey, which could only have been obtained by fraudulent representation, as the Department would not knowingly issue a passport to a nonresident.

A man who would resort to this position would certainly not hesitate to take false oath, so that your suspicion that he may have originally obtained his naturalization certificate without having resided in the United States for the period demanded by law may prove to be well founded.

You should send for the man at once and put him under a thorough and rigid examination, and if you find that he obtained a passport from Washington while residing in Turkey his name should be erased from the consulate's register and his passport taken up and forwarded to the Department, together with a full statement of the facts, including the name of his friend in New York through whom the passport was obtained.

Pappadimitriou should also be carefully questioned as to the manner in which he secured his naturalization, and if you are convinced that his certificate was obtained by fraudulent representations it should also be taken from him and sent to Washington, with a detailed report of your investigation.

The amount of fraudulent naturalization is simply appalling, and every consular officer in Turkey should use his every effort to assist the Department in the active and determined effort which it is making to put an end to the existing evil.

I am, etc.,

JOHN G. A. LEISHMAN.

Mr. Leishman to Mr. Hay.

No. 914.]

AMERICAN LEGATION,
Constantinople, October 13, 1904.

SIR: I have the honor to inclose in further reference to my dispatch No. 902, of September 29, 1904, copy of dispatch received from the American consul at Smyrna stating that Stelio E. Pappadimitriou obtained his naturalization papers after four years and nine months partial residence in America.

I have, etc.,

JOHN G. A. LEISHMAN.

[Inclosure.]

Mr. Lane to Mr. Leishman.

AMERICAN CONSULATE,
Smyrna, October 4, 1904.

SIR: I have to acknowledge receipt of legation dispatch dated the 29th ultimo concerning Stelio E. Pappadimitriou, and replying thereto I have to say that I evidently omitted to state in my No. 218 to the Department of State on this subject that Pappadimitriou claims to have been in America when he made his application for passport in June last. However, the slip had good results, for I interrogated him again about the dates of his several trips to America and brought out a discrepancy in his dates of arrival and departure, showing that he was three months short of five years' residence in applying for his citizenship papers.

He further betrayed the fact that he had been absent from the United States for very considerable periods during the time that he was supposed to be continuously residing in America.

He evidently was frightened at my cross-examination and let out more than he intended. After contradicting himself several times I told him to be careful to state the truth, as he might be required to testify on oath. He then gave me the following statement concerning the dates of arrival and departure to and from New York:

Arrival at New York:

October, 1897.
July, 1898.
June, 1902.
May, 1904.

Departure from New York:

November, 1897.
December, 1900.
July 4, 1902.
July 20, 1904.

His excuse for the long absences after his declaration of intention to become a citizen is that he was sent abroad as the agent of the Harbison-Walker Company, of Pittsburg, Pa. (this I believe is true, as he has on file at this consulate since September, 1901, a power of attorney from the Harbison-Walker Company).

On the strength of these statements I have taken up Stelio E. Pappadimitriou's papers, which consist of a certificate of naturalization and two passports, the first having been issued at London by Ambassador Choate in July, 1902, and the second issued at Washington by Secretary of State Hay on July 16, 1904. The certificate of naturalization is issued by a district court of the United States, southern district of New York, on July 1, 1902.

I am, etc.,

RUFUS W. LANE.

Mr. Adee to Mr. Leishman.

No. 716.]

DEPARTMENT OF STATE,

Washington, October 25, 1904.

SIR: The Department has received your No. 902, of the 29th ultimo, concerning the case of Stelio E. Pappadimitriou, and requesting authority to instruct American consuls in Turkey not to recognize or protect, before first referring the matter to the legation, naturalized American citizens of Ottoman origin who hold passports which have not been viséed by Ottoman consular officers, or which do not show that the holders have reentered Turkey in a regular and proper manner.

While such a regulation would, as you suggest, render it more difficult than it now is for a person who has by fraud secured a passport through some confederate in this country to make use of it in Turkey, the Department is, nevertheless, unwilling to authorize a practice which would amount to a discrimination in the protection of American citizens in Turkey, and thus offend the spirit of sections 1999 and 2000 of the Revised Statutes of the United States. If the holder of a passport has obtained it honestly and has not forfeited his allegiance to the United States his right to recognition and protection as a citizen of the United States can not properly be made dependent upon his having complied with or evaded the Turkish port and frontier regulations; and it would not be safe to assume that the holder of a passport which contains no Turkish visé has returned to Turkey as a Turkish subject and is consequently not entitled to the protection of this Government. If the holder of a passport applies to a consular officer for protection the fact that his passport bears no Turkish visé may naturally arouse suspicion and the circumstances surrounding his entrance into Turkey and reside there should be carefully scrutinized; but the passport is prima facie proof of citizenship and right to protection and a consular officer must so accept it unless it is set aside by proof of fraud or deceit, and in case of doubt a consular officer should apply to your legation for instructions.

I am, etc.,

ALVEY A. ADEE,

Acting Secretary.

PASSPORT FRAUDULENTLY OBTAINED BY XENOPHON J. RALLI.

Mr. Jay to Mr. Hay.

No. 942.]

AMERICAN LEGATION,

Constantinople, November 8, 1904.

SIR: I have the honor to inclose copy of a dispatch from the consulate-general, which itself incloses copy of a dispatch from the

American consul at Smyrna, concerning a certain Xenophon Ralli, and copy of the consulate-general's reply to the consul. The facts of the case are as follows:

In February, 1903, Mr. Leishman refused Xenophon Ralli a passport on the ground that he had resided seventeen years permanently at Smyrna, and that he had stated in his application that he had no intention of returning to the United States.

Mr. Leishman reported the facts of the case to the Department, and his refusal to grant a new passport was approved.

The consul at Smyrna now reports as follows: That this individual has had some eight or ten criminal summonses made against him since Consul Lane's appointment to Smyrna, and has escaped them all owing to the disinclination of the Ottoman authorities to prosecute in an American consular court.

The man, on finding himself denied further protection by the legation, makes a trip to America and obtains a new passport from the Department, which is naturally in ignorance of the full facts of the case.

He at once returns to Smyrna and loses no time in having a fresh criminal summons issued against him. He then proceeds to the consulate, shows his new passport, and claims protection.

The consul naturally wishes to know whether he is, by virtue of his fresh passport, to enjoy a further life of protection from the consequences of his ill deeds.

I have felt myself compelled to instruct the consul to afford him every protection pending the instructions I now beg the Department to give me.

* * * * *

I have, etc.,

PETER AUGUSTUS JAY.

[Inclosure.]

Mr. Lyte to Mr. Jay.

AMERICAN CONSULATE-GENERAL,
Constantinople, November 5, 1904.

SIR: I beg to transmit you a copy of the report of Consul Lane in regard to the recognition as an American citizen of one Xenophon Ralli, who was refused a new passport by the legation, but has since obtained one from the Department of State.

Consul Lane requests the legation's advice as to his being permitted to enjoy American protection.

I attach a copy of my reply to the consul on the subject of the many summonses issued against this individual by the Ottoman criminal court and his escape from trial owing to the disinclination of the authorities to appear before our consular court.

I am, etc.,

W. SMITH LYTE.

[Subinclosure.]

Mr. Lane to Mr. Lyte.

AMERICAN CONSULATE,
Smyrna, October 24, 1904.

SIR: I have to report that about ten days since this office was in receipt of a note from the local authorities, inclosing a summons from the criminal court of

Smyrna to be transmitted to Xenophon Ralli, erstwhile American citizen. In reply to same I advised the director of foreign affairs, in a note verbale, that since the 10th of March last Mr. Xenophon Ralli is considered by this consulate as having lost his rights to American protection, and at the same time I returned the summons.

I took this action in accordance with the refusal of the honorable American minister to grant a passport to Ralli last March, and with the observation contained in your No. 153, of March 10 last.

I have now to state that Ralli called at this consulate on Saturday last and exhibited a passport bearing date of August 24 last, issued at Washington by the Secretary of State, Hon. John Hay.

I immediately advised the local authorities that my recent note concerning Ralli's forfeiture of protection is null.

I am convinced that Ralli made his trip to America solely to obtain a passport after having been refused one by the American minister, and his immediate return to Smyrna proves his determination not to make America his country of residence.

Under these circumstances I do not believe he should be permitted to enjoy American protection in Turkey, and I request an instruction from the minister on this matter.

In the summons above referred to Ralli is accused of incendiarism. This is probably the eighth or tenth summons from the criminal court that has been issued against Ralli since I have known him. All of these he has escaped through the disinclination of the Turkish authorities to appear before the consular court. Ralli takes advantage of his immunity thus obtained in order to make himself objectionable to his neighbors.

I am, etc.,

RUFUS W. LANE.

Mr. Hay to Mr. Jay.

No. 731.]

DEPARTMENT OF STATE,
Washington, December 9, 1904.

SIR: I have to acknowledge the receipt of your dispatch No. 942, of the 8th ultimo, in which you report that Xenophon J. Ralli—who had resided for seventeen years permanently at Smyrna, with no intention, as he declared in his application to the legation for a new passport, to return to the United States—finding that he could not obtain a passport from the legation, went to the United States, obtained a passport on August 24 last from the Department, and at once returned to Turkey.

You further report that Ralli has been summoned some eight or ten times by the Turkish authorities to answer various criminal charges since Mr. Lane has been consul at Smyrna, but has escaped prosecution in every case, owing to the disinclination of the Ottoman authorities to prosecute him in an American consular court.

You add that you have felt compelled to instruct the consul at Smyrna to afford Ralli every protection pending the instructions which you request the Department to give you in the matter.

In reply I have to say that Ralli's status has not been improved by his obtaining a passport from the Department, inasmuch as the passport was obtained on false statements. The passport may, therefore, be disregarded, and his status considered the same as that he occupied before he made his hurried journey to this country for the sole purpose of securing a passport.

I am, etc.,

JOHN HAY.

URUGUAY AND PARAGUAY.

REVOLUTION IN URUGUAY.

Mr. Finch to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Montevideo, January 8, 1904.

(Mr. Finch reports that another crisis is at hand in Uruguay; that encounters have taken place between groups of "Blancos" and the Government forces, and that the former, who were neither concentrated nor well organized, have been dispersed. A number were killed and wounded. The Government is making an aggressive campaign and demands obedience to the constituted authority as a condition before peace negotiations will be entered into.)

Mr. Finch to Mr. Hay.

No. 713.]

AMERICAN LEGATION,
Montevideo, Uruguay, January 13, 1904.

SIR: No formal declaration of war has been published by the Government of Uruguay or the Blanco party. Restrictive orders have been issued, however, by the former. Egress from Montevideo and other points of the Republic is restricted to foreigners, and they, before being allowed to depart, are compelled to obtain permits issued only on certificates of nationality from their respective consuls or ministers. A rigid press censorship has been adopted. The telegraph companies of the Republic have been "intervened," and the circulation of outside newspapers containing prohibited matter—that is, news matter relating to current events—forbidden.

No order has as yet been published "intervening" the general mails.

All Blanco clubs have been officially closed, and their presidents notified that Blancos in larger numbers than two or three are not allowed to meet. To make this order effective policemen guard the entrances to the regular meeting places of Blancos.

You will see by the above that while martial law has not been formally proclaimed, martial law is being enforced throughout Uruguay.

Respectfully,

WILLIAM R. FINCH.

Mr. Finch to Mr. Hay.

No. 740.]

AMERICAN LEGATION,
Montevideo, Uruguay, March 16, 1904.

SIR: I inclose copy of a communication from United States Consul Hopley, of Montevideo, dated March 12, 1904, relating to the commercial, financial, and industrial condition in and about this capital created by the pending revolution.

In this connection I will add that the Government continues to assert its belief that the insurrection will soon be suppressed and on its own terms, unconditional surrender. The revolutionary leaders say they will not disband their forces until the Government meets them on a peace basis which at least will stipulate for full pardon and satisfactory assurances of a free ballot and an honest count.

Respectfully,

WILLIAM R. FINCH.

[Inclosure.]

Mr. Hopley to Mr. Finch.

AMERICAN CONSULAR SERVICE,
Montevideo, March 12, 1904.

SIR: I have the honor to report in answer to your request for information as to the effect of the present revolution on this country in my consular jurisdiction, that it has been of serious damage.

The calling out of the national guard in January last took from business occupation a large number of the young and active men of the country. The second call in February, enlisting the departmental guard, although not yet enforced, warns a large body of business men that they may be called upon to bear arms at any time. The national guard, already in the field, has taken men from the stores and workshops, leaving nearly every place of business crippled. Added to this, the Government has had need of horses, and these have been taken, leaving all carriers in a crippled condition for the transaction of their business.

The result has been that there is no industry or business that has not been more or less crippled by the continuance of the revolution.

In the rural districts business is more at a standstill than in this city, as both armies have seized all available horses and the products of the country can not be brought from the estancias to the railroads; men have fled from their farms to avoid going into the army of the Government or have joined the revolutionists or been enlisted in the Government army.

The revolution occurring when it did left much of the crops unharvested, and at least one half of the present harvest is lost. Ships arriving here the past month with lumber expecting to return with hides are forced to leave empty for the States or for other ports.

The impressment system into the army has had the effect that hundreds of the best young men have sought safety in other countries, and as a result the best of these will secure desirable positions and never return.

The cost of the war is probably one and a half millions per month, but the loss in products, in necessary and unnecessary destruction of property, far exceeds this, and the loss to the future of this country in again showing its unsettled condition, and the active young business men who have left it never to return is incalculable.

The banks are surfeited with money. Many persons have drawn out sums for safety, but many more have deposited, and very, very few risks will a banker regard as safe. As a result money is idle. Of three of the largest banks interviewed all said cash on hand exceeded by 50 per cent what it should be and what it was at this time last year.

Much of the business done here is done by foreigners. All these complain

of the serious effect of the war on business and are anxious for any termination of the struggle, and anxious for a peaceful government of this country, whether by either of the local parties or by any foreign power. The native population are equally anxious for a speedy termination of the trouble, and rather than have the existing condition of affairs continue would probably not object to Argentina or Brazil insisting on some permanent settlement, the majority of the Colorados (Government) being friendly to Brazil, the majority of the Blancos (revolutionists) being friendly to Argentina.

During the ten weeks the trouble has lasted the Government has, in my opinion, been very careful in protecting the interests of the subjects of foreign countries. But in a business way they suffer, as does everyone else.

I am, etc.,

JOHN E. HOPLEY.

Mr. Finch to Mr. Hay.

[Telegram.—Paraphrase.]

AMERICAN LEGATION,
Montevideo, September 12, 1904.

(Mr. Finch reports that the military leader of the revolution, Seravia, is dead.)

Mr. Finch to Mr. Hay.

[Telegram.]

AMERICAN LEGATION,
Montevideo, September 25, 1904.

Peace in Uruguay.

FINCH.

Mr. Finch to Mr. Hay.

No. 786.]

AMERICAN LEGATION,
Montevideo, Uruguay, October 18, 1904.

SIR: I inclose translation of the message of President Batlle to the Assembly General, dated October 15, 1904, submitting the terms on which peace was negotiated with the revolutionary leaders, together with a brief accompanying explanation.

I also inclose translation of the law which was submitted by the President with his message legalizing the terms and stipulations entered into by the Executive.

The law of interdictions, as it is called, is not repealed, but merely suspended, and there is quite general dissatisfaction expressed in consequence, not among Blancos alone, but conservative Colorados also.

The negotiations and the law appertaining thereto were approved by the Assembly General.

Respectfully,

WILLIAM R. FINCH.

[Inclosure.]

[From the Montevideo Daily Dia, October 16, 1904.]

MESSAGE OF THE EXECUTIVE POWER.

MONTEVIDEO, *October 15, 1904.**Honorable Assembly General:*

The Executive power has the satisfaction of informing you that the public peace, which was disturbed from the first days of January last, has been restored by means of the bases agreed upon with the leaders of the forces raised in arms and which are enumerated below:

First. General amnesty.

Second. Electoral legality, accords depending on the deliberations of the directive committees of the parties.

Third. Derogation of the interdictions.

Fourth. Submission to the legal authority by the forces raised in arms against it.

Fifth. Real and effective delivery by those forces of all their arms and parks to Colonel Galarza.

Sixth. Incorporation into the army of all the chiefs and officers included in the amnesty law.

Seventh. A mixed committee appointed by agreement by the Government and insurgents will distribute the sum of \$100,000 between the chiefs, officers, and soldiers of the rebel forces.

Eighth. The Government will include among the matters of the extraordinary sessions the reformation of the constitution, the legislative power being completely free to decree it or not, and to sanction in the first case the reformations it may judge convenient.

Ninth. The persons who have collected taxes on account of the insurrection shall not be prosecuted as the authors of common offenses.

The Executive power, knowing in advance the patriotic and high sentiments of the honorable Assembly, did not hesitate for a moment in concluding the conditions requiring legal sanction of the pact stipulated, in the assurance that you would uphold them and make them your own, sanctioning the bill it has the honor to inclose, declaring it included among the matters which are the motive of the actual convocation to extraordinary sessions by which amnesty is conceded for the acts of the insurrection, providing they do not come under the penalties of the common codes and the interdictions decreed in compliance with the law of February 25 last are raised.

In regard to what is stated in basis 7, relating to the distribution of a subsidy to the chiefs, officers, and soldiers of the rebel forces, the Executive power will attend to it, charging it to the account for the "mobilization of forces" temporarily opened on the occasion of the abnormal state of the country, and which is already known to the honorable Assembly.

In reference to basis 3, the Executive power makes it its duty to announce to you that very shortly it will include the matter relating to the reformation of the constitution among those which determined the actual convocation of the honorable legislative body to extra sessions.

The Executive power entertains the firmest conviction that the peace which constitutes the supreme national aspiration, negotiated in the form already narrated, without injuring in the least the advanced principles which govern our institutional organization, maintaining in all their force the faculties which the constitution and the laws confer on the Executive power and restoring to all citizens their full civil and political rights, will be of auspicious results for the country and a fruitful and lasting work of progress and civic concord.

On begging the honorable Assembly to give special attention to the project inclosed, the Executive power terminates by expressing the most fervent hopes that the blessings of peace may be permanent in the Republic and that controversies between citizens may be decided within our democratic principles and under the shelter of liberty, legality, and right.

The Executive power takes this opportunity to, etc.,

JOSÉ BATLLE Y ORDONEZ,
CLAUDIO WILLIMAN.

Ministry of government—Project of law.

The Senate and Chamber of Representatives of the Oriental Republic of Uruguay, united in Assembly General, etc., decree:

ARTICLE 1. All civilians who directly or indirectly have participated in the recent political events are hereby amnestied, persons who have collected taxes on account of the insurrection being included in the amnesty.

Common offenders are excepted from the prerogatives referred to in the preceding division.

ARTICLE 2. The interdictions which, in virtue of the authorization conferred by the law of February 25 of the current year, may have been decreed by the Executive power, remain without effect, the rents collected and other retentions verified for any other conception to be returned to the owners.

ARTICLE 3. Communicate, etc.

CLAUDIO WILLIMAN.

MONTEVIDEO, *October 15, 1904.*

Mr. Finch to Mr. Hay.

No. 787.]

AMERICAN LEGATION,
Montevideo, Uruguay, October 19, 1904.

SIR: I inclose copy and translation of a note from the minister of foreign relations of Uruguay dated the 17th instant, in which he states that the Assembly General has approved the peace negotiations submitted to it by the President, thereby ending the armed struggle which has existed in this Republic for the preceding ten months.

Respectfully,

WILLIAM R. FINCH.

[Inclosure.—Translation.]

Señor Romeu to Mr. Finch.

MINISTRY OF FOREIGN AFFAIRS,
Montevideo, October 17, 1904.

MR. MINISTER: I have the honor to inform your excellency that the honorable Assembly General has approved the arrangement negotiated with the revolutionists, which puts an end to the armed struggle, peace being therefore restored all through the territory of the Republic.

Please, your excellency, to make this known to your Government, and to accept, etc.,

JOSÉ ROMEU.

CITIZENSHIP OF PERSONS BORN IN THE UNITED STATES OF ALIEN PARENTS.

Mr. Finch to Mr. Hay.

No. 708.]

AMERICAN LEGATION,
Montevideo, Uruguay, January 9, 1904.

SIR: Francisco C. Estrazulas was born in Philadelphia in 1885, while the father, an Oriental, was temporarily residing there. With his parents he returned to Uruguay when very young, where he has since resided and where, so far as he now knows, he intends to reside.

Is he entitled to a passport? If forced into the Uruguayan army

could his release be demanded by the United States representative in Montevideo because of his birth in the United States?

Since the Uruguayan Government began, about two weeks since, mobilizing the militia I have received numerous applications for what are called "protection papers" for sons born of alien fathers in the United States and residing in Uruguay. Italy, Spain, England, and other countries give such papers to persons born in those countries, and the American-born seem to think their issuance discretionary with me. * * *

Respectfully,

WILLIAM R. FINCH.

Mr. Hay to Mr. Finch.

No. 253.]

DEPARTMENT OF STATE,
Washington, February 23, 1904.

SIR: In reply to your No. 708, of the 9th ultimo, I have to say that the question of the citizenship of children born in the United States to aliens temporarily residing here is fully discussed in Chapter I of Van Dyne on Citizenship of the United States.

The question of granting passports to persons having a dual allegiance is treated in Chapter II, pages 42 et seq., of the same work.

I am, etc.,

JOHN HAY.

**CITIZENSHIP OF LOUIS EUGENE HUFNAGEL, BORN IN URUGUAY
OF NATURALIZED AMERICAN PARENTS.**

Mr. Finch to Mr. Hay.

No. 733.]

AMERICAN LEGATION,
Montevideo, Uruguay, March 3, 1904.

SIR: The within correspondence relates to the detention and discharge by the military authorities of this Republic of Louis Eugene Hufnagel. Mr. Hufnagel is the bearer of passport No. 19, issued in renewal of passport No. 8, the latter issued in compliance with your No. 188, dated June 28, 1901.^a

Respectfully,

WILLIAM R. FINCH.

[Inclosure 1.—Telegram.]

Mr. Hufnagel to Mr. Finch.

AMERICAN COMMERCIAL AGENCY,
Paysandu, February 24, 1904.

Louis Hufnagel is detained in barracks of national guards, notwithstanding his passport. Await answer.

JOHN HUFNAGEL.

[Inclosure 2.—Telegram.]

*Mr. Finch to Mr. Hufnagel.*AMERICAN LEGATION,
Montevideo, February 24, 1904.

Will ask for his immediate release.

W. R. FINCH.

[Inclosure 3.]

*Mr. Finch to Señor Romeu.*AMERICAN LEGATION,
Montevideo, Uruguay, February 25, 1904.

STR: I inclose copy and translation of a telegram received last evening from the United States commercial agent at Paysandu, Uruguay.

Mr. Louis Hufnagel is the bearer of a passport issued by authority of the Government of the United States and should not have been detained. If he has not already been released please have an order to that effect issued.

I am, etc.,

WILLIAM R. FINCH.

[Inclosure 4.—Telegram.]

*Mr. Hufnagel to Mr. Finch.*AMERICAN COMMERCIAL AGENCY,
Paysandu, February 25, 1904,

Louis Hufnagel has been released.

JOHN HUFNAGEL.

[Inclosure 5.—Translation.]

*Señor Romeu to Mr. Finch.*MINISTRY OF FOREIGN AFFAIRS,
Montevideo, February 26, 1904.

MR. MINISTER: I had the honor to receive your excellency's note dated the 25th instant, inclosing copy of a telegram from the United States commercial agent in Paysandu addressed to your excellency stating that his son has been taken to serve in the national guard in that locality.

In the conception that Mr. Louis Hufnagel is really a North American citizen, as his father asserts, the ministry had ordered his release from military service, and for this purpose gave the corresponding instructions to the respective authorities one day previous to that on which your excellency's note was received.

Meanwhile I must say to your excellency for the corresponding ulterior effects that the military commander of that department asserts that Mr. Louis Hufnagel was born in Paysandu and is inscribed in the civil register in accordance with the law on the matter, which document he will forward to the Government at the first opportunity.

I will be pleased to confer with your excellency on this subject to-morrow at 5 o'clock, as I took the liberty of indicating on a private card dated yesterday.

With this motive, etc.,

JOSÉ ROMEU.

Mr. Finch to Mr. Hay.

No. 734.]

AMERICAN LEGATION,
Montevideo, Uruguay, March 4, 1904.

SIR: I inclose copy and translation of a communication, with accompanying certificate,^a from the minister of foreign affairs of this Republic, in relation to the recent detention and discharge of Louis E. Hufnagel by the Uruguayan military commander at Paysandu, Uruguay. Mr. Hufnagel is the bearer of passport No. 19, issued February 3, 1904, in renewal of passport No. 8, issued March 11, 1902, the latter in compliance with your No. 188, dated June 28, 1901, signed Hill, acting.

Mr. Louis E. Hufnagel is the son of John G. Hufnagel, of Paysandu, a naturalized citizen of the United States, but now and for many years previously a regular resident of this Republic. Louis E. Hufnagel was born at Paysandu, and at the age of 17 was enrolled as a member of the national guard. This guard has been called out to assist in suppressing the impending insurrection, and, not reporting for duty, he was arrested and held in the cuartel for a short time. His release was ordered by the Government, but it does not concede his claim to exemption on the ground that he is a bona fide citizen of the United States.

According to the constitution and laws of Uruguay Mr. Hufnagel, having been born in the country, is a citizen thereof, and as such is subject to military duty and any and all other duties legally imposed on Uruguayan citizens.

Respectfully,

WILLIAM R. FINCH.

[Inclosure.—Translation.]

Mr. Romeu to Mr. Finch.

MINISTRY OF FOREIGN AFFAIRS,
Montevideo, March 2, 1904.

MR. MINISTER: On answering your excellency's note dated the 25th of February last, relating to Mr. Louis Hufnagel, I had the honor to inform you that his discharge from the service of the national guard had been ordered, in the understanding that said gentleman really was a North American citizen, as was asserted.

I also said to your excellency that the military commander of Paysandu, where Hufnagel resides, asserted that this gentleman was born in that locality and was inscribed in the civil register, in accordance with the laws and regulations on the matter, promising to send the document proving this at the first opportunity.

In effect, I received to-day from that authority a testimonial in the form of the registration of Hufnagel's birth, as your excellency may see by the inclosed copy duly certified by the secretary.

It states that on the 12th day of May, 1884, Mr. John Hufnagel appeared before the justice of the peace of the first section of the city of Paysandu to declare, in accordance with the law, that on the 10th of said month, at 10 a. m., a child was born, son of the person declaring, who was named Louis Eugene, mentioning, in accordance with the regulations, the names of the parents and grandparents of the newborn child.

^a Certificate not printed.

Mr. John Hufnagel signed the act mentioned in the presence of witnesses.

Now, according to the constitution of the State, Louis Hufnagel is a native citizen of the Republic, and therefore enjoys all the rights it consecrates, and consequently, in his turn, is subject to the duties called for by citizenship.

Article 7 of the political code, which is the supreme law, the law of laws, establishes the following: "All free men born in any part of the territory of the State are native citizens."

The same constitution determines the cases in which the exercise or enjoyment of citizen rights are suspended or lost; but in no case can the duties or obligations imposed by the laws regulating the constitutional precepts be suspended or exonerated.

I know that in the matter of nationality and citizenship opinions differ among authors, and that European legislation differs from the American of a Spanish origin.

While some sustain and state in their political codes and in their laws the personal principle which attributes to the son the nationality of its parents, the others sustain the territorial principle according to which the birthplace determines the nationality.

The last-mentioned principle is the one which this Republic adopted from the time of its independence, and this was established in its constitution, sworn on July 18, 1830, from which date it has been faithfully and invariably observed and fulfilled, as emanating from national sovereignty.

States, in virtue of their sovereign rights, form their constitution and their laws, and have for their people and for their territory an independent legislation established in conformity with the principles of the right of people, and is regulated in many cases by conventional right; and the conflicts on legislation which may occur between States are settled, when possible, by international accords or treaties, but always in conformity with the fundamental principles of the respective constitutions.

That conflict undoubtedly exists between the constitutions of Europe and America, and thus it frequently happens that a native citizen who, being obliged in his country to comply with all the duties of citizenship, has to comply with them also in the country of his parents, if he should happen to go there, even temporarily.

So that such an individual has a double nationality and consequently has to fulfill duties in both, according to the place he is in and the residence he may select in accordance with the principles of nationality of his original or territorial birthplace.

Some nations have negotiated treaties to determine the condition of naturalized citizens in the respective countries, reciprocal concessions being made, but Spanish America, and especially the countries of the Plata and the Pacific have imposed nationality in an absolute manner on all those born within their territory, whatever the nationality of the parents, and this is explained in a very convincing and logical manner.

Our America being almost entirely populated by free men from all parts of the globe, who preserve and wish to preserve their foreign nationality, it is easily understood that their sons, born there, must be declared native citizens, with the enjoyment of their rights and subject to all the duties emanating therein, otherwise those new nationalities could not have been formed, nor could they have subsisted for the want of citizens were they declared incorporated to the nationality of the parents.

I would fear to abuse the extreme benevolence of your excellency and of your recognized eminence were I to abound in other considerations to demonstrate that Mr. Louis Hufnagel, born in the territory of the Republic, is an Uruguayan citizen according to the constitution of the State, and consequently subject to the service of the national guard as well as to all other citizen duties, and at the same time able to enjoy all the rights it accords.

I do not know, nor is it my duty to investigate, the reasons which may have mediated for him to have been furnished a passport as a North American citizen. What is to me essential, and what I have just done, is to demonstrate to your excellency in an incontrovertible manner that Mr. Hufnagel is an Uruguayan citizen.

With this motive, I am, etc.,

JOSÉ ROMEU.

Mr. Hay to Mr. Finch.

No. 256.]

DEPARTMENT OF STATE,
Washington, April 8, 1904.

SIR: I have to acknowledge the receipt of your No. 733, of the 3d, and your No. 734, of the 4th ultimo, in regard to the arrest of Louis E. Hufnagel for failure to report for military duty in Uruguay.

You state that he was subsequently released.

In reply I have to say that, although by section 1993 of the Revised Statutes of the United States children born abroad of American fathers are citizens of the United States, the law can not be so construed as to exempt them from the allegiance due to the country of their birth so long as they remain within its territory, provided that by the law of the country where they are born and reside such children are citizens of that country.

The question is fully discussed and numerous precedents are given in Van Dyne on Citizenship, section 8.

I am, etc.,

JOHN HAY.

Mr. Finch to Mr. Hay.

No. 754.]

AMERICAN LEGATION,
Montevideo, Uruguay, May 21, 1904.

SIR: I inclose copy of my note dated the 17th instant, addressed to the minister of foreign affairs of this Republic, in relation to the case of Louis E. Hufnagel, who claimed to be a citizen of the United States, although born and residing in Uruguay, and copy and translation of the minister's response, dated May 19, 1904.

If the status of Mr. Hufnagel has been settled adversely to his contention, should he be allowed to retain a United States passport?

I issued to Mr. Hufnagel on or about February 3, 1904, a passport in renewal of the one issued to him on or about March 11, 1902, in obedience to instructions from Acting Secretary Hill in a dispatch dated June 28, 1901.

Respectfully,

WILLIAM R. FINCH.

[Inclosure 1.]

Mr. Finch to Señor Romeu.

AMERICAN LEGATION,
Montevideo, Uruguay, May 17, 1904.

SIR: In reply to dispatches from me in relation to the arrest and subsequent release of Louis E. Hufnagel at Paysandu, Uruguay, for failure to report for military duty in the national guard of this Republic, the honorable Secretary of State at Washington, under date of April 8, 1904, says:

"I have to say that, although by section 1993 of the Revised Statutes of the United States children born abroad of American fathers are citizens of the United States, the law can not be so construed as to exempt them from the allegiance due to the country of their birth so long as they remain within its territory, provided that by the law of the country where they are born and reside such children are citizens of that country."

I am, etc.,

WILLIAM R. FINCH.

[Inclosure 2.—Translation.]

*Señor Romeu to Mr. Finch.*MINISTRY OF FOREIGN AFFAIRS,
Montevideo, May 19, 1904.

MR. MINISTER: I had the honor to receive your excellency's note dated the 17th instant, in which you are pleased to transcribe a communication addressed to your excellency by the honorable Secretary of State at Washington, regarding the nationality of Luis E. Hufnagel.

The doctrine expressed in that note is the same as that sustained by this ministry, and I never doubted but that the illustrious and upright Government of your excellency would recognize the right of the national authorities to oblige Mr. Hufnagel to lend military service, as a native citizen of Uruguay, according to the constitution and the existing laws.

I am pleased, with this motive, to renew, etc.,

JOSÉ ROMEU.

Mr. Adee to Mr. Finch.

No. 262.]

DEPARTMENT OF STATE,
Washington, July 5, 1904.

SIR: The Department has received your No. 754, of May 21 last, relative to the case of Louis E. Hufnagel, who received a passport from you, the Department having instructed you in its No. 256, of April 8, that he was not exempt from allegiance to Uruguay, the country of his birth, if the laws of that country provide that those who are born and reside therein are citizens thereof. You ask whether, under the circumstances, his passport should be withdrawn.

In reply you are informed that the Department's instruction to you of June 28, 1901, No. 188, stating that Mr. Hufnagel was entitled to the protection of this Government, and consequently to receive a passport during his minority, because his parents were at the time of his birth American citizens, is not withdrawn; but "it has been repeatedly held by the executive branch of this Government that our statute declaring children born abroad of American citizens to be themselves citizens can not, consistently with our established rule of citizenship by birth in this country, operate extraterritorially so as to relieve any person born and residing in a foreign country and subject to its government from his allegiance to that country." (Van Dyne on Citizenship, p. 35.) While, therefore, Mr. Hufnagel can not be protected from his obligations to the Government of Uruguay, he is at the same time, as an American citizen, entitled to a passport for such purposes as it may properly be used to serve.

I am, etc.,

ALVEY A. ADEE,
*Acting Secretary.***REVOLUTION IN PARAGUAY.***Mr. Ruffin to Mr. Loomis.*

No. 160.]

AMERICAN CONSULATE,
Asuncion, Paraguay, August 11, 1904.

SIR: I beg to confirm my telegram of to-day stating that a revolution has broken out in this Republic, and to explain that same was

sent in Spanish because the telegraph office would not receive either cipher messages or telegrams in English, giving as their reason that there was declared a censure on messages going out of the country.

The translation of same is as follows:

Paraguay in state of seige. Revolutionary forces on the river and those of the Government have fought. Legations here give asylum. Telegraph if this consulate should give asylum.

Since sending you this telegram the river encounter has been confirmed, and the Government forces were defeated, the minister of the interior, who led the forces, being taken prisoner.

The state of siege as declared you will find on the accompanying page in Spanish.^a This declaration places the entire country under military laws, and the Government is amassing a large number of troops to suppress the revolution. It is impossible at present to say whether it will be of long or short duration. The revolutionary forces are proceeding up the river in boats, and the Government has placed or erected defenses along the river near the capital.

Upon inquiries as to the cause of this revolution I am informed that the opposition to the Government is that the party in power is endeavoring to exclude entirely the liberal element from participation in the administration of affairs, assigning that said party, which is in power, which is denominated "Colorados," have not sufficient persons prepared for the administration of the Government. On the other hand, the "Colorados" assign that the revolution is due to ambitious persons who form an opposition and are classed under the name "Azul," colorados meaning "reds" and azul "blues."

* * * * *

I am, etc.,

JOHN N. RUFFIN.

Mr. Adee to Mr. Ruffin.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 15, 1904.

Consulate should not be used as an asylum for political refugees.

ADEE.

Mr. Finch to Mr. Hay.

No. 799.1

AMERICAN LEGATION,
Montevideo, Uruguay, December 26, 1904.

SIR: Peace in Paraguay. The revolutionists have triumphed. The agreement entered into at Formosa, Argentina, has finally been signed by the revolutionary leaders and the Government's representatives, General Ferreyra, the military leader of the revolution, being the last one to sign, and on account of his unexplained hesitation it was feared, for a few days, that the agreement would fail.

I inclose translation of the agreement or treaty of peace. * * *

Respectfully,

WILLIAM R. FINCH.

[Inclosure.—Translation.]

Formosa, December 13, 1904.—The peace signed between the Paraguayan belligerents is a complete triumph for the revolution.

The bases are:

Resignation of the President of the Republic, Colonel, Ezcurra, and election of Señor Juan Gauna as successor.

Appointment of the following ministers:

Interior: Señor Emilio Perez.

Justice: Señor Cayetano Carreras.

Both belong to the present Government.

The other ministers will be filled with partisans of the revolution.

Complete dissolution of the army and reorganization of the new army with instructed officers.

The revolutionary army will not be dissolved until the new government and army are constituted.

Señor Elias Garcia is appointed chief of police, with ample powers.

General amnesty is accorded for all political offenses.

SETTLEMENT OF THE DIFFICULTIES BETWEEN URUGUAY AND THE ARGENTINE REPUBLIC.

Mr. Finch to Mr. Hay.

No. 798.]

AMERICAN LEGATION,

Montevideo, Uruguay, December 19, 1904.

SIR: I inclose translation from the Montevideo Daily Siglo headed "Our relations with Argentina—The incident terminated—The protocol signed."

The Secretary will observe that the parties to this pact have apparently sought to restore the external official relations existing between the two Republics previous to the recent revolution in Uruguay.

Respectfully,

WILLIAM R. FINCH.

[Inclosure.]

[From the Montevideo Daily Siglo, December 11, 1904.]

Our relations with Argentina—The incident terminated—The protocol signed.

It is already known by telegrams from Buenos Ayres, which were published at the time that a protocol was signed in that capital on the 6th instant, between our minister in Argentina, Señor Daniel Munoz, envoy extraordinary and minister plenipotentiary of the Oriental Republic of Uruguay, and the minister of foreign affairs of the Argentine Republic, with the object of giving a friendly and conciliatory solution to the diplomatic incidents which arose on the occasion of acts which provoked the reclamation previously presented by Minister Munoz, in the name of his Government, on the occasion of the subversive movement which broke out in that country and happily ended to-day, and to settle all and any difficulty that might be an obstacle to that laudable purpose, the ministers, after an exchange of ideas, agreed on the following:

The following is the protocol which has been signed:

"United in the ministry of foreign affairs and worship of the Argentine Republic, their excellencies, Señor Daniel Munoz, envoy extraordinary and minister plenipotentiary of the Oriental Republic of Uruguay, and the minister of foreign affairs of the Argentine Republic, with the object of giving a friendly and conciliatory solution to the diplomatic incidents which arose on the occasion of acts which provoked the reclamation previously presented by Minister Munoz, in the name of his Government, on the occasion of the subversive movement which broke out in that country and happily ended to-day, and to settle all and any difficulty that might be an obstacle to that laudable purpose, the ministers, after an exchange of ideas, agreed on the following:

"1st. To consider by common agreement as not existing and withdrawn the notes of August 16 and 27 and of September 16 of the current year, exchanged between the legation of the Oriental Republic of Uruguay and the minister of foreign affairs of the Argentine Republic, leaving only the note dated August 6, in which claims were initiated for certain acts connected with the subversive movement which existed in the Oriental Republic of Uruguay, about which the Argentine Government has taken the corresponding measures regarding the employees accused.

"2d. That in the desire to establish fixed rules which will serve for proceeding in future and which it may be possible and easy to apply in practice, should internal commotions unfortunately occur in either of the two States, they compromise to negotiate an essential arrangement on the subject, or to amplify that of January 14, 1876.

"3d. That pursuing similar purposes and in the interest of avoiding future discussions regarding the meaning and interpretation of Title II of the treaty of international penal right signed in Montevideo on January 23, 1889, in reference to asylum, they agree to formulate, separately, protocolized declarations which will serve as a rule of conduct for both countries in occurring cases.

"In faith of which they sign the protocol in duplicate in Buenos Ayres, the capital of the Argentine Republic, on the 6th day of the month of December, of the year 1904.

"DANIEL MUNOZ.

"CARLOS RODRIGUEZ LARRETA."

VENEZUELA.

ARBITRATION OF VENEZUELAN CLAIMS BY THE MIXED CLAIMS COMMISSIONS UNDER PROTOCOLS OF 1903.

(NOTE.—Continuation of correspondence printed in Foreign Relations, 1903. See also "Ralston's Report Venezuelan Arbitration of 1903," Senate Doc. 316, 58th Cong., 2d sess., and "Report of Agent of the United States," Senate Doc. 317, 58th Cong., 2d sess.)

Mr. Hay to Mr. Russell.

No. 104.]

DEPARTMENT OF STATE,
Washington, April 7, 1903.

SIR: The mixed claims commission appointed by the United States and Venezuela will assemble on the 1st day of June at Caracas. I inclose two copies of the protocol,^a one for yourself and the other for the Venezuelan foreign office. You will arrange with the foreign office for suitable rooms in which the commission and its personnel may perform their work.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Russell.

No. 105.]

DEPARTMENT OF STATE,
Washington, April 20, 1903.

SIR: I inclose herewith six copies of the protocol between the United States and Venezuela.

You will advise the Venezuelan Government that the United States Government has named as its commissioner Mr. William E. Bainbridge, and as its agent before the commission Mr. Robert C. Morris; also that the United States Government has presented the request on its part to the Queen of the Netherlands to name an umpire, pursuant to the protocol.

I am, etc.,

JOHN HAY.

Mr. Loomis to Mr. Russell.

No. 108.]

DEPARTMENT OF STATE,
Washington, May 1, 1903.

SIR: You are instructed to ascertain immediately whether the Government of Venezuela has appointed a commissioner, in accordance with the protocol of an agreement between the United States of America and the Republic of Venezuela for submission to arbitration of all unsettled claims against Venezuela, signed at Washington on the 17th of February, 1903. If the commissioner to be chosen by the

^a Printed in Foreign Relations, 1903, page 804.

Government of Venezuela has not been appointed, you will immediately call the attention of the minister for foreign affairs to the omission and urge prompt compliance with this provision of the protocol.

You will further state that the commissioner on the part of the United States and its agent will sail from New York about May 15 and will be prepared to begin work on the morning of June 1, as is provided in the protocol.

You will suggest to the Venezuelan Government that it is expected that proper rooms for the sittings of the commission will be furnished and that they will be ready for occupancy upon the arrival of our commissioner. It is the desire of this Government that the work of adjudicating the claims should proceed as speedily as possible.

Very respectfully, yours,

FRANCIS B. LOOMIS.

Mr. Russell to Mr. Hay.

No. 173.]

AMERICAN LEGATION,
Caracas, May 2, 1903.

SIR: I have been informed by the Venezuelan Government that Dr. José de Jesus Paul has been appointed the representative of Venezuela on the mixed commission which is to consider the claims of the United States. Doctor Paul is also the Venezuelan member of the mixed commission for the French claims.

* * * * *

I have, etc.,

WILLIAM W. RUSSELL.

Mr. Hay to Mr. Russell.

No. 113.]

DEPARTMENT OF STATE,
Washington, May 11, 1903.

SIR: The Department is in receipt of a note of the 28th ultimo from the minister of the Netherlands at this capital, stating that Charles Augustinus Henri Barge, LL. D., former governor of Curaçao, has been designated by the Queen of the Netherlands to act as umpire on the commission to meet at Caracas to consider the claims of the United States against Venezuela.

The selection of Doctor Barge is satisfactory to the Department, and the minister of the Netherlands at Washington has been so informed.

I am, etc.,

JOHN HAY.

Mr. Hay to Mr. Russell.

No. 117.]

DEPARTMENT OF STATE,
Washington, May 15, 1903.

SIR: You will inform the Venezuelan Government that the President has named—

1. General Henry H. Duffield, a distinguished lawyer of Detroit, Mich., and one of the most prominent men in the west, to act as

umpire on the German-Venezuelan claims commission to sit at Caracas on June 1 next; and

2. Mr. Jackson H. Ralston, who appeared for the United States as its agent in the Pious Fund case before The Hague Tribunal, as umpire on the Italian-Venezuelan claims commission, to sit at Caracas on the same day.

I am, etc.,

JOHN HAY.

Mr. Loomis to Mr. Russell.

[Telegram—Paraphrase.]

DEPARTMENT OF STATE,
Washington, May 20, 1903.

(Mr. Loomis informs Mr. Russell that Mr. Frank Plumley has been appointed umpire for the British and Dutch commissions, and instructs him to convey this information to the Venezuelan Govern-

Mr. Russell to Mr. Hay.

No. 212.]

AMERICAN LEGATION,
Caracas, October 11, 1903.

SIR: I have the honor to report that the Spanish minister here, who was umpire for the Mexican claims, has given an award in favor of the Mexican claimants for £102,400. The award was for £17,955, with interest at the rate of 6 per cent for seventy-five years. The press has been so violent and abusive at this decision that the Spanish minister has notified the Venezuelan Government that he intends to leave Caracas, and has turned the legation over to the secretary, who will take charge as *chargé d'affaires ad interim*.

I translate from one of the local papers in giving a history of this claim:

In the year 1824 the Government of Gran Colombia secured in London, through its representative there, Mr. Zea, a loan of £2,500,000. In the month of May, 1826, the fourth quota of this loan was due, and Colombia was ready to meet it with funds it had deposited with the firm of Goldschmidt & Co., but this house having failed in February of the same year (1826), Mr. Hurtado, then minister of Colombia in London, found himself without funds to meet the payment due, and applied to Mr. Vicente Rocafuerte, Mexican minister, and asked him for a loan of £63,000 of the funds which Mexico had on deposit with a banking firm of London. Mr. Rocafuerte, mindful of the close ties of friendship which united the two countries, lent Mr. Hurtado the £63,000 for eighteen months without interest.

In the year 1830, when Gran Colombia was dissolved, the £63,000 had not yet been paid, and in the year 1834 the Republics of New Granada, Ecuador, and Venezuela made an arrangement for dividing among themselves proportionately the debts of the extinct Gran Colombia, and of the Mexican debt, £63,000, 28½ units were allotted to Venezuela, which amounted to £17,955; this is the origin of the debt of Venezuela to Mexico, which debt the Mexican Government afterwards sold to the mercantile firm of Martinez del Rio Hermanos.

Martinez del Rio Hermanos are the present claimants, and purchased the debt in question in 1856.

Venezuela claims counter credits against this debt, the largest sum being for \$194,000, expenses for a squadron which Colombia assem-

bled at Cartagena and lent to Mexico to aid in the taking of San Juan d'Ulloa in 1825. Venezuela claims several other counter credits, reducing the debt to \$30,000, and this was the amount awarded by the supreme court in Caracas last May, which the claimants would not accept and carried the case to the mixed commission.

The Spanish minister here accepted the position as umpire for the Mexican claims and also for the claims of Sweden and Norway.

* * * * *

I have, etc.,

WILLIAM W. RUSSELL.

Mr. Russell to Mr. Hay.

No. 213.]

AMERICAN LEGATION,
Caracas, October 11, 1903.

SIR: I have the honor to inform you that four of the mixed commissions for the settlement of claims have closed their sessions—French, Belgian, Mexican, and German. In my No. 212 of to-day I have given you the decision of the Mexican commission. I now inclose you a newspaper clipping with a brief account of the work of the German commission.

I am, etc.,

WILLIAM W. RUSSELL.

[Inclosure—Clipping from Venezuelan Herald.]

MIXED TRIBUNALS.

The mixed German-Venezuelan tribunal has closed its sittings after four months' sessions, during which 23 claims were presented, amounting to 5,619,031 marks; two claims amounting to 500,000 marks and one relating to the navigation of the Catatumbo for 2,400,000 marks were disallowed. Of the remaining ones which were taken into consideration, 1,673,527 marks have been awarded.

Mr. Russell to Mr. Hay.

No. 218.]

AMERICAN LEGATION,
Caracas, October 24, 1903.

SIR: I have the honor to inform you that Dr. Carlos F. Grisanti has been appointed a member on the part of Venezuela of the mixed commission for the examination of claims of the United States, vice Doctor Paul, appointed special agent of Venezuela before The Hague Tribunal.

I am, etc.,

WILLIAM W. RUSSELL.

Mr. Russell to Mr. Hay.

No. 225.]

AMERICAN LEGATION,
Caracas, November 29, 1903.

SIR: At the request of the minister for foreign affairs I have the honor to inclose two documents, copies of attachments ^a issued by the

^a Not printed.

local courts here against the property of the heirs of Henry F. Rudloff.

I am,

WILLIAM W. RUSSELL.

Mr. Russell to Mr. Hay.

No. 228.]

AMERICAN LEGATION,
Caracas, December 6, 1903.

SIR: I have the honor to inclose a copy with translation of a letter from the foreign office referring to the protest of Venezuela against the award of the umpire in the Belgian claims. I also inclose a copy with translation of the protest of the attorney-general of Venezuela referred to.

I am, etc.,

WILLIAM W. RUSSELL.

[Inclosure—Translation.]

Mr. Sanabria to Mr. Russell.

MINISTRY OF FOREIGN AFFAIRS OF THE
UNITED STATES OF VENEZUELA,
Caracas, November 27, 1903.

SIR: With the request that you will please forward it to the Government you worthily represent, permit me to inclose a copy of the statement and protest, which the representative of the Republic made to the members of the Venezuelan-Belgian mixed commission in regard to an award given by the umpire of said commission in the claim presented by the Compagnie Générale des Eaux de Caracas.

Venezuela, as you know, has resorted on more than one occasion to arbitration for settling various questions of the gravest importance, and has carefully complied with the sentence of the judges. But her interest in and action in regard to such a beneficial and civilizing process imposes upon her at the same time the duty of disregarding those awards which are in violation of the obligations of contract and the principles of justice.

Once before in a similar case Venezuela was obliged to avail herself of the means now employed to try and obtain, as in effect she did obtain, that the Government of the United States should listen to her just demands, and agree to a revision of the awards of the mixed commission of April 25, 1866.

The lofty sense of justice and honor of which the American Union gave eloquent proof in giving heed to the claims of the Republic, will inspire, as it is to be sincerely hoped, the course of the Government of the Kingdom of Belgium, whose elevated spirit of justice, no doubt, will cause it to receive favorably the protest so justly made by the representative of the nation.

The undersigned takes this occasion, etc.,

GUSTAVO J. SANABRIA.

[Subinclosure—Translation.]

Mr. Parejo to the members of the Venezuelan-Belgian mixed commission.

The undersigned, agent of the United States of Venezuela before the mixed commission, by virtue of special instructions from his Government, very respectfully lays before your honorable commission the following facts:

On the 22d of the present month the umpire of your commission made an award in a claim presented by "La Compagnie Générale des Eaux de Caracas" against the Government of Venezuela, by which award Venezuela is obliged to

pay the sum of 10,565,199.44 bolivars gold, and in the form prescribed by Article V of the protocol signed in Washington last March. Said award, which absolutely disregards the rights set up by Venezuela, is in contradiction with the facts proved in the memorial, and constitutes a manifest violation of those principles of equity which should govern the decisions of your commission in accordance with the provisions of Article I of the protocol referred to, all of which your orator will now proceed to demonstrate:

I.

According to the Washington protocol there are two essential requisites to be observed in the presentation of claims to your honorable commission.

1. All claimants must be Belgian subjects.

2. All claims must be owned by Belgian subjects. The first of the two conditions required has not been plead against the claimant company; the second seems to have been disregarded in making the award for the following reasons:

(a) The claimant company in its memorial textually states "Au premier Janvier 1901 d'apres le Livre Jaune le chiffre que nous ne pouvons controler était ramené par suite des amortissements effectués à bs. 10,175,000 représentés par 20,350 obligations." If the company had been in possession of all the bonds of the special internal debt of the Caracas waterworks, which constitute the award of the umpire, it would undoubtedly have been able to verify the figures mentioned in the yellow book; it asserts on the contrary that it was unable to do this, and, consequently, according to its own confession, it is evident that it was not the owner of all the bonds, the payment of which nevertheless is demanded by the umpire.

(b) The commissioner for Venezuela produced with his opinion an affidavit from the manager of the Bank of Caracas to the effect that on the 24th of last July said bank was the owner of 100,000 bolivars worth of bonds of the debt referred to, and that in addition there was on deposit in said bank 52,500 bolivars of the same debt belonging to different persons, no one of whom is the claimant company, nor even a Belgian subject.

(c) The special internal debt of the Caracas waterworks has been always quoted, and is quoted to-day on the Caracas market, which is a proof that there is in circulation a part of the bonds, and as said bonds are payable to bearer and the claimant company is not domiciled here it is a necessary presumption that it does not own the bonds that are in circulation.

II.

By the award Venezuela is compelled to pay in gold and for the nominal value 21,131 bonds of the special internal debt of the Caracas waterworks, in spite of the following facts, which could not have been hidden from the umpire:

The 10,792,199.44 bolivars in bonds of the special internal debt of the Caracas waterworks issued by the Venezuelan Government amount to 4,316,879.77 bolivars in gold, as irrefutably proven.

1. By the conferences between Messrs. José Herrera and George Nevett, for the Government, and Mr. Norberto Paquet, the representative of the company. At the last conference there was produced a copy of the opinion of the commissioner for Venezuela, together with the report of the ministry of public works, wherein appears an account of it.

2. According to article 6 of an agreement with the company the Venezuelan Government reserved to itself the right to redeem the special internal debt within two years, paying for it in gold at 40 per cent. It is not rationally conceivable how the company could recognize the Government's right to buy at 40 per cent if it had not received the debt at the same rate of 40 per cent.

3. The debt was quoted on the Caracas market up to the 28th of last July at from 18 to 20; it has gone up considerably lately, but has never reached its nominal value. Notwithstanding all this, the award directs the conversion to be made at par.

III.

It is an undisputed and indisputable fact that the claimant company accepted voluntarily and deliberately as the price for its property bonds of the special debt issued for the purpose by the Venezuelan Government. Said debt having been suspended for reasons which your commission is aware of are due to the

claimant itself, the only thing that can be justly claimed now is a resumption of said debt, as it is a principle of international law that no action can be taken to collect from governments through the diplomatic channels claims of the nature of this one. (See circular of Lord Palmerston to the British agents in January, 1848, and the opinion of Rolin Jacquemin, *Revue de droit international et de législation comparée*, tome XIX, and tome I, 1869, cited by Pradier Fodéré, *Public International Law*.)

IV.

Lastly, the award to which your orator refers places the claimant company in the ignominious position, be it said, of engaging in a fraudulent negotiation, viz, that of purchasing the debt at the price it fixes, being sure of collecting it in gold at its nominal value.

To sum up, the award of the umpire is in violation of the protocol signed in Washington on the 7th of March by Venezuela and Belgium, infringes on the principles of justice and equity, and is directly opposed to the unquestionable rights of Venezuela.

Consequently your orator, in his capacity as agent of Venezuela before your honorable commission, in the most formal and solemn manner reserves to the Republic all the rights it may have to ask from the proper authority the nullification of said award on account of the radical faults contained in it.

F. ARROYO PAREJO.

CARACAS, August 26, 1903.

Mr. Russell to Mr. Hay.

No. 237.]

AMERICAN LEGATION,
Caracas, December 27, 1903.

SIR: I have the honor to inform you that the United States-Venezuelan claims commission which met in Caracas on June 1, 1903, completed its work on the 26th instant. Several claims are still awaiting the umpire's decision.

* * * * *

I have, etc.,

WILLIAM W. RUSSELL.

Mr. Bowen to Mr. Hay.

No. 242.]

AMERICAN LEGATION,
Caracas, January 9, 1904.

SIR: I have the honor to inform you that I arrived here on the 4th instant, and to thank you for the many kindnesses that I have received from you and your subordinates during the last year.

I called on the President yesterday. He told me that he believes the revolution is completely crushed; that he will have no serious difficulties with foreign powers. * * *

I urged him to free all political prisoners as soon as possible, and to permit General Matos and the widow and sons of ex-President Guzman Blanco to return to Caracas when they choose. Then I handed to him a memorandum showing how much money this Government owes on the Hancox and mixed claims, and requested him to continue the payments to this legation without delay. He promised to give the matter his attention.

This morning I called on the minister for foreign affairs and handed him a duplicate of the same memorandum. He stated that

he thought the payments could be made in conformity with my request.

The situation in Venezuela has improved quite perceptibly since I was here last May. The country is quiet, and trade is better.

I am, etc.,

HERBERT W. BOWEN.

Mr. Loomis to Mr. Bowen.

No. 168.]

DEPARTMENT OF STATE,
Washington, January 9, 1904.

SIR: I have to acknowledge the receipt of Mr. Russell's No. 225, of November 29 last, containing inclosures of certain documents relating to attachments issued by local courts against the award of the United States and Venezuelan mixed claims commission in the case of Henry F. Rudloff.

You will advise the Venezuelan Government that the awards rendered by the said commission, in behalf of the claimants, who are United States citizens, are the property of the United States; that the Government of the latter can not recognize the validity of any attachment issued against its property in said awards; that said awards will be collected by the United States Government, and that it will make distribution thereof to whatever parties it may find equitably entitled thereto, and that creditors having claims against claimants before the said commission who are United States citizens would be left to their ordinary recourse before the courts, and that an attempt by the creditors of such claimants to attach the said property of the United States Government would be inconsistent with the comity of States and in contravention of the principles of international law.

I am, etc.,

FRANCIS B. LOOMIS,
Acting Secretary.

Mr. Loomis to Mr. Bowen.

No. 173.]

DEPARTMENT OF STATE,
Washington, January 22, 1904.

SIR: I have to acknowledge the receipt of your No. 242, of the 9th instant, in which you report a conversation which you recently had with the President of Venezuela and state that you handed him a memorandum "showing how much money this Government owes on the Hancox and mixed claims and requested him to continue the payments to this legation without delay."

No payment has been made to these claimants, who received their awards through the commissions of 1890 and 1895, since August, 1901.

The Department has been extremely considerate in its attitude toward the Venezuelan Government in respect to these payments, which seem to have been unreasonably deferred, and deferred, too, in violation of specific promises.

You are instructed to insist upon prompt payment of all sums now due claimants who received awards on account of the Hancox claim and other claims of the commission of 1890.

I am, etc.,

FRANCIS B. LOOMIS,
Acting Secretary.

Mr. Bowen to Mr. Hay.

No. 315.]

AMERICAN LEGATION,
Caracas, Venezuela, August 20, 1904.

SIR: I have the honor to make the following report about the awards of the mixed commission:

Claimant.	Amount of awards.
	<i>Bolivars.</i>
Great Britain.....	9,401,267.86
Germany.....	2,091,908.75
France.....	2,667,079.51
Spain.....	1,974,818.41
Belgium.....	10,898,643.86
Sweden and Norway.....	174,359.08
The Netherlands.....	544,301.47
The United States of America.....	2,313,711.37
Mexico.....	2,577,328.10
Italy.....	5,785,962.19
	38,428,580.60
Paid to the allied powers (Germany, Great Britain, and Italy) up to June 30, 1904.....	6,880,450.00
Remaining to be paid.....	31,548,130.60
To said allied powers.....	10,398,688.80
To the other claimants.....	21,149,441.80
	31,548,130.60

I am, etc.,

HERBERT W. BOWEN.

MESSAGE OF PRESIDENT CASTRO TO THE VENEZUELAN CONGRESS.

Mr. Bowen to Mr. Hay.

AMERICAN LEGATION,
Caracas, Venezuela, March 2, 1904.

SIR: I have the honor to send to you herewith two copies of President Castro's message and two copies of the report of the minister for foreign affairs ^a to the Venezuelan Congress.

On page 32 of the message you will find an eloquent expression of gratitude to President Roosevelt and the American people. * * *

I am, etc.,

HERBERT W. BOWEN.

[Inclosure—Translation.]

Extract from the message of the President of Venezuela to the Congress of 1904.

* * * * *

Our relations with the United States are perfectly harmonious and cordial. Each day the deferential consideration which that great nation is showing us becomes more frank and affectionate. We should remember, as a proof of that

^a Not printed.

harmony and cordiality, the interest which the President and the people of the American Union showed toward Venezuela in the unfortunate days of our international disturbance. The good offices of the First Magistrate of that friendly nation were interposed more than once to obtain a pacific solution and avoid the action which was then threatened against us.

With a view to expressing to the people of the great Republic the gratitude of Venezuela for this friendly action, and also for the purpose of strengthening our friendly political relations, it was resolved last year to reestablish the Venezuelan legation at Washington. The compatriot appointed by the Government as the head of the legation has received a courteous reception by the President of the United States.

* * * * *

REESTABLISHMENT OF RELATIONS BETWEEN VENEZUELA AND COLOMBIA.

Mr. Bowen to Mr. Hay.

No. 276.]

AMERICAN LEGATION,
Caracas, Venezuela, April 17, 1904.

SIR: I have the honor to inform you that this afternoon Gen. Rafael Reyes, President-elect of Colombia, after a long conference with President Castro, called on me and told me that General Castro agreed to send consuls to Colombia this week, and that Colombia would then send consuls to Venezuela. No date was named for appointing ministers, but it was understood that they should be named soon. I judge from what General Reyes added that all questions in dispute between the two countries will be submitted to arbitration, and that the arbitrator will be Señor Herboso, the Chilean minister to Colombia and Venezuela. Señor Herboso is in Caracas, and it is principally owing to his efforts that President Castro and General Reyes were brought together. General Reyes wants the Orinoco River opened to Colombia and the Maracaibo district provided with liberal transit regulations and facilities. General Reyes will leave here day after to-morrow, after a visit of less than a week.

* * * * *

I am, etc.,

HERBERT W. BOWEN.

Mr. Bowen to Mr. Hay.

No. 285.]

AMERICAN LEGATION,
Caracas, Venezuela, May 14, 1904.

SIR: I have the honor to inform you that President Castro on the 11th instant issued the following decree:

DECREE.

ARTICLE 1. Traffic with the Republic of Colombia is reestablished.

ART. 2. Foreign merchandise, fruits, and products imported into Maricaoibo in transit to that Republic, as well as her exports, may be carried in steamers, boats, and canoes on the Zulia River between El Guayabo and Puerto Villamizar without any restrictions except those established by law 23 of the Treasury Code.

* * * * *

I am, etc.,

HERBERT W. BOWEN.

NEW CONSTITUTION OF VENEZUELA.

Mr. Bowen to Mr. Hay.

No. 281.]

AMERICAN LEGATION,
Caracas, Venezuela, May 14, 1904.

SIR: I have the honor to inform you that on the 27th of April last, the ninety-third year of the independence and the forty-sixth of the federation of Venezuela, a new constitution was adopted for the Republic.

It reduces the number of States to thirteen—Aragua, Bermudez, Bolivar, Carabobo, Falcon, Guarico, Lara, Merida, Miranda, Tachira, Trujillo, Zamora, and Zulia—and provides for five Territories—Amazonas, Cristobal Colon, Colon, Delta-Amacuro, and Yururari—and the Federal District, which is composed of the departments Libertador, Varagas, Guaicaipuro, and Sucre, and the island of Margarita.

The States enjoy equality and autonomy, having all rights not delegated to the central Government. The Territories are administered by the President.

The Government is divided into three branches—the legislative, the executive, and the judicial.

The legislative branch is called the Congress, and is composed of two bodies—the Senate and the House of Deputies. One deputy will be elected by every 40,000 inhabitants, and all deputies, as well as senators (two from every State) and the President, will serve for six years. Deputies must be 21 years of age, senators 30, and the President over 30. No extraordinary powers are given to the Congress, except that 14 of its members shall be chosen by itself to elect every sixth year a President, a first and a second vice-president, and to elect a successor to the second vice-president.

The President, besides being charged with the usual executive duties, is authorized to declare war, arrest, imprison, or expel natives or aliens who are opposed to the reestablishment of peace, to issue letters of marque and reprisal, to permit aliens to enter the public service, to prohibit the immigration into the Republic of objectionable religious teachers, and to establish rules for the postal, telegraph, and telephone services.

The judicial power is vested in the Corte Federal y de Casacion (seven judges elected by the Congress) and the lower courts (appointed by the State governments).

All Venezuelans over 21 years of age may vote, and aliens can obtain that right by getting naturalized. No length of time is prescribed for an alien to live in the Republic before he can become naturalized.

Article 15 of the constitution denies the right of natives or aliens to present claims to the nation or States for damages caused by revolutionists.

Article 17 abolishes the death penalty.

And article 120 provides that all of Venezuela's international treaties shall hereafter contain the clause, "All differences between the contracting parties shall be decided by arbitration, without going to war."

In conclusion, the constitution provides that the next constitutional terms shall begin May 23, 1905. Up to that date General Castro will be Provisional President. He took his oath of office as such on the 5th instant, and on the same day Juan Vicente Gómez was made first vice-president and José Antonio Velutini second vice-president.

As Provisional President, General Castro has been authorized to name the presidents of the States, to organize the Federal Territories, to fix the estimates for the public expenses, and, in short, to exercise the fullest powers. * * *

I am, etc.,

HERBERT W. BOWEN.

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