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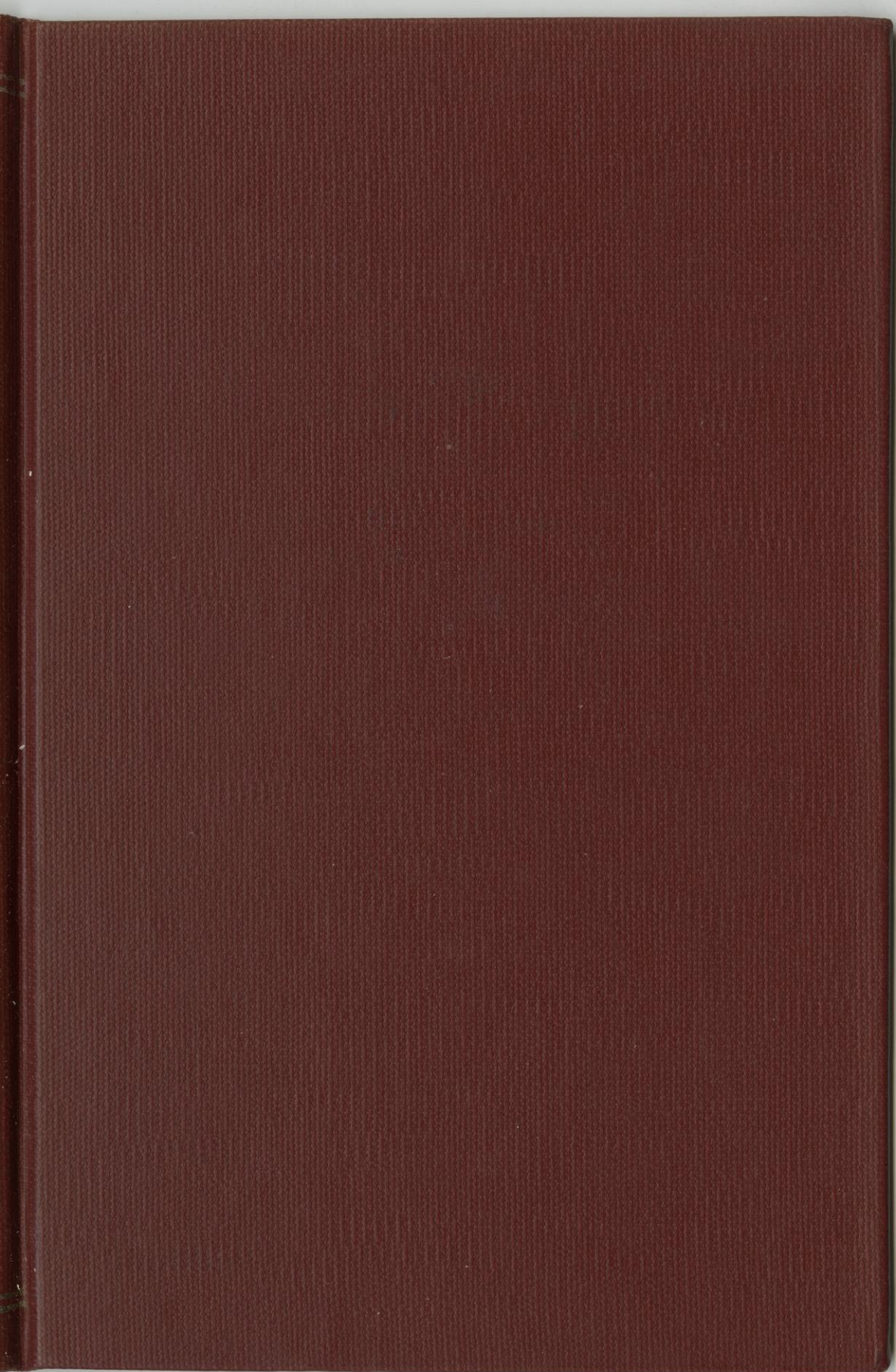
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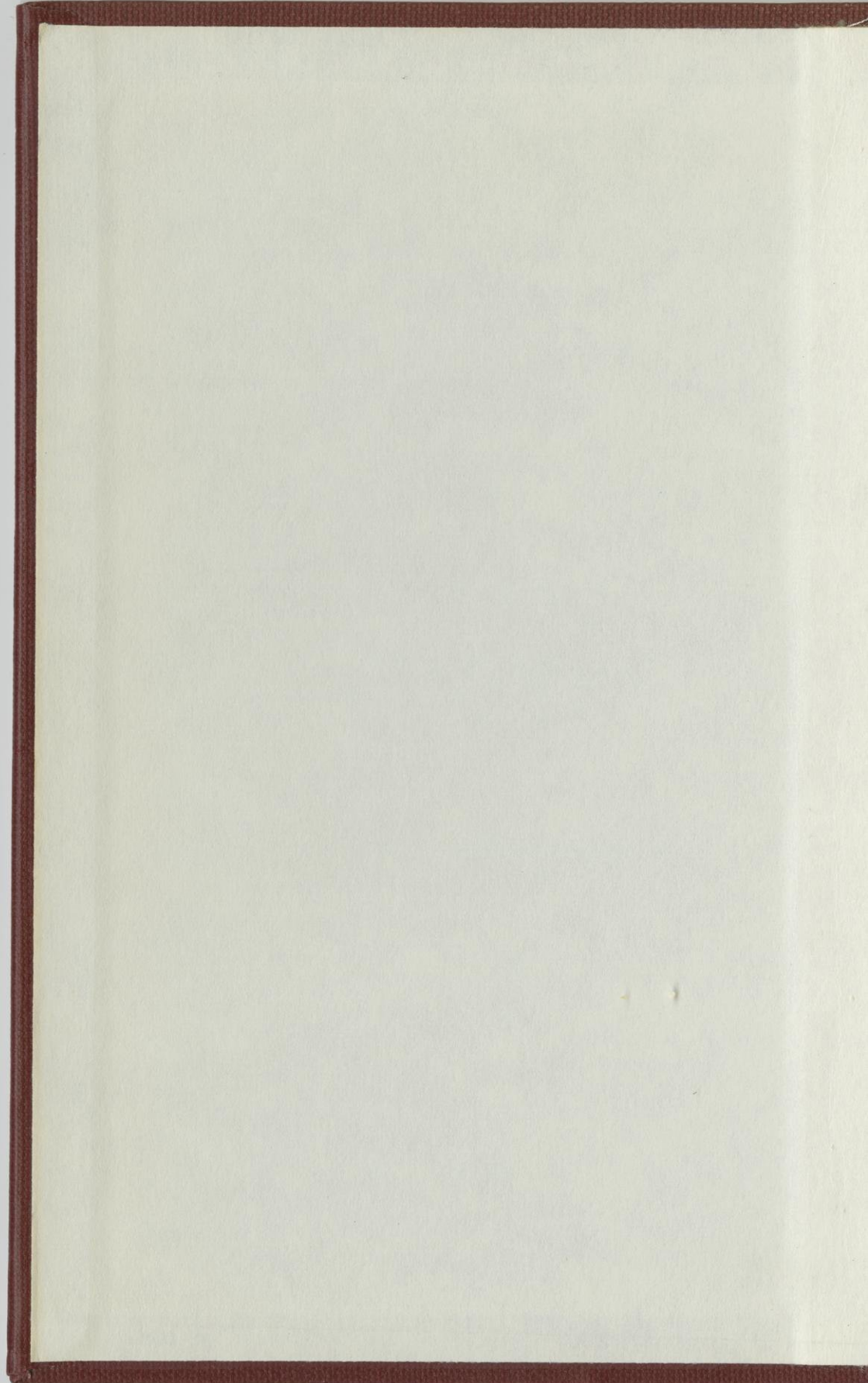
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X

PAPERS

RELATING TO THE

FOREIGN RELATIONS

OF

THE UNITED STATES,

WITH THE ANNUAL MESSAGE OF THE PRESIDENT

TRANSMITTED TO CONGRESS

DECEMBER 3, 1894.

WITH SUPPLEMENTARY VOLUMES CONTAINING THE DIPLOMATIC
CORRESPONDENCE CONCERNING

THE CHINESE-JAPANESE WAR.
ENFORCEMENT OF REGULATIONS RESPECTING FUR SEALS.
MOSQUITO TERRITORY, AFFAIRS AT BLUEFIELDS.
CLAIM OF ANTONIO MÁXIMO MORA.
IMPORT DUTIES LEVIED ON CERTAIN PRODUCTS OF
COLOMBIA, HAITI, AND VENEZUELA.
AFFAIRS IN THE SAMOAN ISLANDS.
AFFAIRS IN HAWAII.

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MESSAGE.

To the Congress of the United States :

The assemblage within the nation's legislative halls of those charged with the duty of making laws for the benefit of a generous and free people impressively suggests the exacting obligation and inexorable responsibility involved in their task. At the threshold of such labor now to be undertaken by the Congress of the United States and in the discharge of an executive duty enjoined by the Constitution I submit this communication, containing a brief statement of the condition of our national affairs, and recommending such legislation as seems to me necessary and expedient.

The history of our recent dealings with other nations, and our peaceful relations with them at this time, additionally demonstrate the advantage of consistently adhering to a firm but just foreign policy, free from envious or ambitious national schemes and characterized by entire honesty and sincerity.

During the past year, pursuant to a law of Congress, commissioners were appointed to the Antwerp Industrial Exposition. Though the participation of American exhibitors fell far short of completely illustrating our national ingenuity and industrial achievements, yet it was quite creditable in view of the brief time allowed for preparation.

I have endeavored to impress upon the Belgian Government the needlessness and positive harmfulness of its restrictions upon the importation of certain of our food products, and have strongly urged that the rigid supervision and inspection under our laws are amply sufficient to prevent the exportation from this country of diseased cattle and unwholesome meat.

The termination of the civil war in Brazil has been followed by the general prevalence of peace and order. It appearing at an early stage of the insurrection that its course would call for unusual watchfulness on the part of this Government, our naval force in the harbor of Rio de Janeiro was strengthened. This precaution, I am

satisfied, tended to restrict the issue to a simple trial of strength between the Brazilian Government and the insurgents, and to avert complications which at times seemed imminent. Our firm attitude of neutrality was maintained to the end. The insurgents received no encouragement of eventual asylum from our commanders, and such opposition as they encountered was for the protection of our commerce and was clearly justified by public law.

A serious tension of relations having arisen at the close of the war between Brazil and Portugal by reason of the escape of the insurgent Admiral da Gama and his followers, the friendly offices of our representatives to those countries were exerted for the protection of the subjects of either within the territory of the other.

Although the Government of Brazil was duly notified that the commercial arrangement existing between the United States and that country based on the third section of the Tariff Act of 1890, was abrogated on August 28, 1894, by the taking effect of the tariff law now in force, that Government subsequently notified us of its intention to terminate such arrangement on the first day of January, 1895, in the exercise of the right reserved in the agreement between the two countries. I invite attention to the correspondence between the Secretary of State and the Brazilian minister on this subject.

The Commission organized under the convention which we had entered into with Chile for the settlement of the outstanding claims of each Government against the other, adjourned at the end of the period stipulated for its continuance, leaving undetermined a number of American cases which had been duly presented. These claims are not barred and negotiations are in progress for their submission to a new tribunal.

On the 17th of March last a new treaty with China in further regulation of emigration was signed at Washington, and on August 13th it received the sanction of the Senate. Ratification on the part of China and formal exchange are awaited to give effect to this mutually beneficial convention.

A gratifying recognition of the uniform impartiality of this country towards all foreign states was manifested by the coincident request of the Chinese and Japanese governments that the agents of the United States should, within proper limits, afford protection to the subjects of the other during the suspension of diplomatic relations due to a state of war. This delicate office was accepted, and a misapprehension which gave rise to the belief that in affording this kindly unofficial protection our agents would exercise the same

authority which the withdrawn agents of the belligerents had exercised, was promptly corrected. Although the war between China and Japan endangers no policy of the United States it deserves our gravest consideration, by reason of its disturbance of our growing commercial interests in the two countries and the increased dangers which may result to our citizens domiciled or sojourning in the interior of China.

Acting under a stipulation in our treaty with Korea (the first concluded with a western power) I felt constrained at the beginning of the controversy to tender our good offices to induce an amicable arrangement of the initial difficulty growing out of the Japanese demands for administrative reforms in Korea; but the unhappy precipitation of actual hostilities defeated this kindly purpose.

Deploing the destructive war between the two most powerful of the eastern nations and anxious that our commercial interests in those countries may be preserved and that the safety of our citizens there shall not be jeopardized, I would not hesitate to heed any intimation that our friendly aid for the honorable termination of hostilities would be acceptable to both belligerents.

A convention has been finally concluded for the settlement by arbitration of the prolonged dispute with Ecuador growing out of the proceedings against Emilio Santos, a naturalized citizen of the United States.

Our relations with the Republic of France continue to be such as should exist between nations so long bound together by friendly sympathy and similarity in their form of government.

The recent cruel assassination of the President of this sister Republic called forth such universal expressions of sorrow and condolence from our people and Government as to leave no doubt of the depth and sincerity of our attachment. The resolutions passed by the Senate and House of Representatives on the occasion have been communicated to the widow of President Carnot.

Acting upon the reported discovery of Texas fever in cargoes of American cattle, the German prohibition against importations of live stock and fresh meats from this country has been revived. It is hoped that Germany will soon become convinced that the inhibition is as needless as it is harmful to mutual interests.

The German Government has protested against that provision of the customs tariff act which imposes a discriminating duty of one-tenth of one cent a pound on sugars coming from countries paying an export bounty thereon, claiming that the exaction of such duty

is in contravention of articles five and nine of the treaty of 1828 with Prussia.

In the interests of the commerce of both countries and to avoid even the accusation of treaty violation, I recommend the repeal of so much of the statute as imposes that duty, and I invite attention to the accompanying report of the Secretary of State containing a discussion of the questions raised by the German protests.

Early in the present year an agreement was reached with Great Britain concerning instructions to be given to the naval commanders of the two governments in Behring Sea and the contiguous North Pacific Ocean, for their guidance in the execution of the award of the Paris Tribunal of Arbitration and the enforcement of the regulations therein prescribed, for the protection of seal life in the waters mentioned. An understanding has also been reached for the payment by the United States of \$425,000, in full satisfaction of all claims which may be made by Great Britain for damages growing out of the controversy as to fur seals in Behring Sea, or the seizure of British vessels engaged in taking seal in those waters. The award and findings of the Paris Tribunal to a great extent determined the facts and principles upon which these claims should be adjusted, and they have been subjected by both governments to a thorough examination upon the principles as well as the facts which they involve. I am convinced that a settlement upon the terms mentioned would be an equitable and advantageous one and I recommend that provision be made for the prompt payment of the stated sum.

Thus far, only France and Portugal have signified their willingness to adhere to the regulations established under the award of the Paris Tribunal of Arbitration.

Preliminary surveys of the Alaskan boundary and a preparatory examination of the question of protection of food-fish in the contiguous waters of the United States and the Dominion of Canada are in progress.

The boundary of British Guiana still remains in dispute between Great Britain and Venezuela. Believing that its early settlement, on some just basis alike honorable to both parties, is in the line of our established policy to remove from this hemisphere all causes of difference with powers beyond the sea, I shall renew the efforts heretofore made to bring about a restoration of diplomatic relations between the disputants and to induce a reference to arbitration, a resort which Great Britain so conspicuously favors in principle and respects in practice and which is earnestly sought by her weaker adversary.

Since communicating the voluminous correspondence in regard to Hawaii and the action taken by the Senate and House of Representatives on certain questions submitted to the judgment and wider discretion of Congress, the organization of a government in place of the provisional arrangement which followed the deposition of the Queen has been announced with evidence of its effective operation. The recognition usual in such cases has been accorded the new Government.

Under our present treaties of extradition with Italy miscarriages of justice have occurred owing to the refusal of that Government to surrender its own subjects. Thus far our efforts to negotiate an amended convention obviating this difficulty have been unavailing.

Apart from the war in which the Island Empire is engaged Japan attracts increasing attention in this country by her evident desire to cultivate more liberal intercourse with us and to seek our kindly aid in furtherance of her laudable desire for complete autonomy in her domestic affairs and full equality in the family of nations. The Japanese Empire of to-day is no longer the Japan of the past, and our relations with this progressive nation should not be less broad and liberal than those with other powers.

Good will fostered by many interests in common has marked our relations with our nearest southern neighbor. Peace being restored along her northern frontier, Mexico has asked the punishment of the late disturbers of her tranquillity. There ought to be a new treaty of commerce and navigation with that country to take the place of the one which terminated thirteen years ago. The friendliness of the intercourse between the two countries is attested by the fact that during this long period the commerce of each has steadily increased under the rule of mutual consideration, being neither stimulated by conventional arrangements nor retarded by jealous rivalries or selfish distrust.

An indemnity tendered by Mexico, as a gracious act, for the murder in 1887 of Leon Baldwin, an American citizen, by a band of marauders in Durango, has been accepted and is being paid in installments.

The problem of the storage and use of the waters of the Rio Grande for irrigation should be solved by appropriate concurrent action of the two interested countries. Rising in the Colorado heights, the stream flows intermittently, yielding little water during the dry months to the irrigating channels already constructed along its course. This scarcity is often severely felt in the regions where the river forms a common boundary. Moreover the frequent changes

in its course through level sands often raise embarrassing questions of territorial jurisdiction.

Prominent among the questions of the year was the Bluefields incident, in what is known as the Mosquito Indian Strip, bordering on the Atlantic Ocean and within the jurisdiction of Nicaragua. By the treaty of 1860 between Great Britain and Nicaragua the former Government expressly recognized the sovereignty of the latter over the Strip, and a limited form of self-government was guaranteed to the Mosquito Indians, to be exercised according to their customs, for themselves and other dwellers within its limits. The so-called native government, which grew to be largely made up of aliens, for many years disputed the sovereignty of Nicaragua over the Strip and claimed the right to maintain therein a practically independent municipal government. Early in the past year efforts of Nicaragua to maintain sovereignty over the Mosquito territory led to serious disturbances culminating in the suppression of the native government and the attempted substitution of an impracticable composite administration, in which Nicaragua and alien residents were to participate. Failure was followed by an insurrection which for a time subverted Nicaraguan rule, expelling her officers and restoring the old organization. This, in turn, gave place to the existing local government established and upheld by Nicaragua.

Although the alien interests arrayed against Nicaragua in these transactions have been largely American, and the commerce of that region for some time has been and still is chiefly controlled by our citizens, we can not for that reason challenge the rightful sovereignty of Nicaragua over this important part of her domain.

For some months one, and during part of the time two, of our naval ships have been stationed at Bluefields for the protection of all legitimate interests of our citizens. In September last the Government at Managua expelled from its territory twelve or more foreigners, including two Americans, for alleged participation in the seditious or revolutionary movements against the Republic at Bluefields already mentioned; but through the earnest remonstrance of this Government the two Americans have been permitted to return to the peaceful management of their business. Our naval commanders at the scene of these disturbances, by their constant exhibition of firmness and good judgment, contributed largely to the prevention of more serious consequences and to the restoration of quiet and order. I regret that in the midst of these occurrences there happened a most grave and irritating failure of Nicaraguan justice. An American citizen named Wilson, residing at Rama, in

the Mosquito territory, was murdered by one Argüello, the acting governor of the town. After some delay the murderer was arrested, but so insecurely confined or guarded that he escaped, and notwithstanding our repeated demands it is claimed that his recapture has been impossible by reason of his flight beyond Nicaraguan jurisdiction.

The Nicaraguan authorities having given notice of forfeiture of their concession to the canal company on grounds purely technical and not embraced in the contract, have receded from that position.

Peru, I regret to say, shows symptoms of domestic disturbance, due probably to the slowness of her recuperation from the distresses of the war of 1881. Weakened in resources, her difficulties in facing international obligations invite our kindly sympathy and justify our forbearance in pressing long pending claims. I have felt constrained to testify this sympathy in connection with certain demands urgently preferred by other powers.

The recent death of the Czar of Russia called forth appropriate expressions of sorrow and sympathy on the part of our Government with his bereaved family and the Russian people. As a further demonstration of respect and friendship our minister at St. Petersburg was directed to represent our Government at the funeral ceremonies.

The sealing interests of Russia in Behring Sea are second only to our own. A *modus vivendi* has therefore been concluded with the Imperial Government restrictive of poaching on the Russian rookeries and of sealing in waters which were not comprehended in the protected area defined in the Paris award.

Occasion has been found to urge upon the Russian Government equality of treatment for our great life-insurance companies whose operations have been extended throughout Europe. Admitting, as we do, foreign corporations to transact business in the United States, we naturally expect no less tolerance for our own in the ample fields of competition abroad.

But few cases of interference with naturalized citizens returning to Russia have been reported during the current year. One Krzeminski was arrested last summer in a Polish province, on a reported charge of unpermitted renunciation of Russian allegiance, but it transpired that the proceedings originated in alleged malfeasance committed by Krzeminski while an Imperial official a number of years ago. Efforts for his release, which promised to be successful, were in progress when his death was reported.

The Government of Salvador having been overthrown by an abrupt popular outbreak, certain of its military and civil officers, while hotly pursued by infuriated insurgents, sought refuge on board the United States war ship *Bennington*, then lying in a Salvadorean port. Although the practice of asylum is not favored by this Government, yet in view of the imminent peril which threatened the fugitives, and solely from considerations of humanity, they were afforded shelter by our naval commander, and when afterwards demanded under our treaty of extradition with Salvador for trial on charges of murder, arson, and robbery, I directed that such of them as had not voluntarily left the ship be conveyed to one of our nearest ports where a hearing could be had before a judicial officer in compliance with the terms of the treaty. On their arrival at San Francisco such a proceeding was promptly instituted before the United States district judge, who held that the acts constituting the alleged offenses were political, and discharged all the accused except one Cienfuegos, who was held for an attempt to murder. Thereupon I was constrained to direct his release, for the reason that an attempt to murder was not one of the crimes charged against him and upon which his surrender to the Salvadorean authorities had been demanded.

Unreasonable and unjust fines imposed by Spain on the vessels and commerce of the United States have demanded from time to time during the last twenty years earnest remonstrance on the part of our Government. In the immediate past exorbitant penalties have been imposed upon our vessels and goods by customs authorities of Cuba and Porto Rico for clerical errors of the most trivial character in the manifests or bills of lading. In some cases fines amounting to thousands of dollars have been levied upon cargoes or the carrying vessels when the goods in question were entitled to free entry. Fines have been exacted even when the error had been detected and the Spanish authorities notified before the arrival of the goods in port.

This conduct is in strange contrast with the considerate and liberal treatment extended to Spanish vessels and cargoes in our ports in like cases. No satisfactory settlement of these vexatious questions has yet been reached.

The Mora case, referred to in my last annual message, remains unsettled. From the diplomatic correspondence on this subject, which has been laid before the Senate, it will be seen that this Government has offered to conclude a convention with Spain for disposal by arbitration of outstanding claims between the two countries, except the Mora claim, which, having been long ago adjusted, now

only awaits payment as stipulated, and of course it could not be included in the proposed convention. It was hoped that this offer would remove parliamentary obstacles encountered by the Spanish Government in providing payment of the Mora indemnity. I regret to say that no definite reply to this offer has yet been made and all efforts to secure payment of this settled claim have been unavailing.

In my last annual message I adverted to the claim on the part of Turkey of the right to expel, as persons undesirable and dangerous, Armenians naturalized in the United States and returning to Turkish jurisdiction. Numerous questions in this relation have arisen. While this Government acquiesces in the asserted right of expulsion it will not consent that Armenians may be imprisoned or otherwise punished for no other reason than having acquired without Imperial consent American citizenship.

Three of the assailants of Miss Melton, an American teacher in Mosul, have been convicted by the Ottoman courts, and I am advised that an appeal against the acquittal of the remaining five has been taken by the Turkish prosecuting officer.

A convention has been concluded with Venezuela for the arbitration of a long disputed claim growing out of the seizure of certain vessels, the property of citizens of the United States. Although signed, the treaty of extradition with Venezuela is not yet in force, owing to the insistence of that Government that, when surrendered, its citizens shall in no case be liable to capital punishment.

The rules for the prevention of collisions at sea which were framed by the maritime conference held in this city in 1889, having been concurrently incorporated in the statutes of the United States and Great Britain, have been announced to take effect March 1, 1895, and invitations have been extended to all maritime nations to adhere to them. Favorable responses have thus far been received from Austria, France, Portugal, Spain, and Sweden.

In my last annual message I referred briefly to the unsatisfactory state of affairs in Samoa under the operation of the Berlin treaty, as signally illustrating the impolicy of entangling alliances with foreign powers; and on May 9, 1894, in response to a resolution of the Senate, I sent a special message and documents to that body on the same subject, which emphasized my previously expressed opinions. Later occurrences, the correspondence in regard to which will be laid before Congress, further demonstrate that the Government which was devised by the three powers and forced upon the Samoans against their inveterate hostility can be maintained only by the con-

tinued presence of foreign military force and at no small sacrifice of life and treasure.

The suppression of the Mataafa insurrection by the powers, and the subsequent banishment of the leader and eleven other chiefs, as recited in my last message, did not bring lasting peace to the islands. Formidable uprisings continued, and finally a rebellion broke out in the capital island, Upolu, headed in Aana, the western district, by the younger Tamasese, and in Atua, the eastern district, by other leaders. The insurgents ravaged the country and fought the Government's troops up to the very doors of Apia. The King again appealed to the powers for help, and the combined British and German naval forces reduced the Atuans to apparent subjection, not however without considerable loss to the natives. A few days later Tamasese and his adherents, fearing the ships and the marines, professed submission.

Reports received from our agents at Apia do not justify the belief that the peace thus brought about will be of long duration. It is their conviction that the natives are at heart hostile to the present Government; that such of them as profess loyalty to it do so from fear of the powers, and that it would speedily go to pieces if the war ships were withdrawn. In reporting to his Government on the unsatisfactory situation since the suppression of the late revolt by foreign armed forces, the German consul at Apia stated :

"That peace will be lasting is hardly to be presumed. The lesson given by firing on Atua was not sufficiently sharp and incisive to leave a lasting impression on the forgetful Samoan temperament. In fact, conditions are existing which show that peace will not last and is not seriously intended. Malietoa, the King, and his chiefs are convinced that the departure of the war ships will be a signal for a renewal of war. The circumstance that the representatives of the villages of all the districts which were opposed to the Government have already withdrawn to Atua to hold meetings, and that both Atua and Aana have forbidden inhabitants of those districts which fought on the side of the Government to return to their villages and have already partly burned down the latter, indicates that a real conciliation of the parties is still far off."

And in a note of the 10th ultimo, inclosing a copy of that report for the information of this Government, the German ambassador said:

"The contents of the report awakened the Imperial Government's apprehension that under existing circumstances the peace concluded with the rebels will afford no assurance of the lasting restoration of tranquillity in the islands."

The present Government has utterly failed to correct, if indeed it has not aggravated, the very evils it was intended to prevent. It has not stimulated our commerce with the islands. Our participation in its establishment against the wishes of the natives was in plain defiance of the conservative teachings and warnings of the wise and patriotic men who laid the foundations of our free institutions, and I invite an expression of the judgment of Congress on the propriety of steps being taken by this Government looking to the withdrawal from its engagements with the other powers on some reasonable terms not prejudicial to any of our existing rights.

The Secretary of the Treasury reports that the receipts of the Government from all sources of revenue during the fiscal year ending June 30, 1894, amounted to \$372,802,498.29, and its expenditures to \$442,605,758.87, leaving a deficit of \$69,803,260.58. There was a decrease of \$15,952,674.66 in the ordinary expenses of the Government, as compared with the fiscal year 1893.

There was collected from customs \$131,818,530.62, and from internal revenue \$147,168,449.70. The balance of the income for the year, amounting to \$93,815,517.97, was derived from the sales of lands and other sources.

The value of our total dutiable imports amounted to \$275,199,086, being \$146,657,625 less than during the preceding year, and the importations free of duty amounted to \$379,795,536, being \$64,748,675 less than during the preceding year. The receipts from customs were \$73,536,486.11 less, and from internal revenue \$13,836,539.97 less than in 1893.

The total tax collected from distilled spirits was \$85,259,250.25; on manufactured tobacco \$28,617,898.62, and on fermented liquors, \$31,414,788.04.

Our exports of merchandise, domestic and foreign, amounted during the year to \$892,140,572, being an increase over the preceding year of \$44,495,378.

The total amount of gold exported during the fiscal year was \$76,898,061 as against \$108,680,444 during the fiscal year 1893. The amount imported was \$72,449,119, as against \$21,174,381 during the previous year.

The imports of silver were \$13,286,552, and the exports were \$50,451,265.

The total bounty paid upon the production of sugar in the United States for the fiscal year was \$12,100,208.89, being an increase of \$2,725,078.01 over the payments made during the preceding year. The amount of bounty paid from July 1, 1894, to August 28, 1894,

the time when further payments ceased by operation of law, was \$966,185.84. The total expenses incurred in the payment of the bounty upon sugar during the fiscal year was \$130,140.85.

It is estimated that upon the basis of the present revenue laws the receipts of the Government during the current fiscal year ending June 30, 1895, will be \$424,427,748.44, and its expenditures \$444,427,748.44, resulting in a deficit of \$20,000,000.

On the first day of November, 1894, the total stock of money of all kinds in the country was \$2,240,773,888, as against \$2,204,651,000 on the first day of November, 1893, and the money of all kinds in circulation, or not included in the Treasury holdings, was \$1,672,093,422, or \$24.27 per capita, upon an estimated population of 68,887,000. At the same date there was held in the Treasury gold bullion amounting to \$44,615,177.55, and silver bullion which was purchased at a cost of \$127,779,988. The purchase of silver bullion under the act of July 14, 1890, ceased on the first day of November, 1893, and up to that time there had been purchased during the fiscal year 11,917,658.78 fine ounces at a cost of \$8,715,521.32, an average cost of \$0.7313 per fine ounce. The total amount of silver purchased from the time that law took effect until the repeal of its purchasing clause, on the date last mentioned, was 168,674,682.53 fine ounces, which cost \$155,931,002.25, the average price per fine ounce being \$0.9244.

The total amount of standard silver dollars coined at the mints of the United States since the passage of the act of February 28, 1878, is \$421,776,408, of which \$378,166,793 were coined under the provisions of that act, \$38,531,143 under the provisions of the act of July 14, 1890, and \$5,078,472 under the act providing for the coinage of trade-dollar bullion.

The total coinage of all metals at our mints during the last fiscal year consisted of 63,485,220 pieces valued at \$106,216,730.06, of which there were \$99,474,912.50 in gold coined; \$758 in standard silver dollars; \$6,024,140.30 in subsidiary silver coin, and \$716,919.26 in minor coin.

During the calendar year 1893 the production of precious metals in the United States was estimated at 1,739,323 fine ounces of gold, of the commercial and coinage value of \$35,955,000, and 60,000,000 fine ounces of silver, of the bullion or market value of \$46,800,000 and of the coinage value of \$77,576,000. It is estimated that on the first day of July, 1894, the stock of metallic money in the United States, consisting of coin and bullion, amounted to \$1,251,640,958, of which \$627,923,201 was gold and \$624,347,757 was silver.

Fifty national banks were organized during the year ending October 31, 1894, with a capital of \$5,285,000, and seventy-nine, with a capital of \$10,475,000, went into voluntary liquidation. Twenty-one banks, with a capital of \$2,770,000, were placed in the hands of receivers. The total number of national banks in existence on the 31st day of October last was 3,756, being 40 less than on the 31st day of October, 1893. The capital stock paid in was \$672,671,365, being \$9,678,491 less than at the same time in the previous year, and the surplus fund and undivided profits, less expenses and taxes paid, amounted to \$334,121,082.10, which was \$16,089,780 less than on October 31, 1893. The circulation was decreased \$1,741,563. The obligations of the banks to each other were increased \$117,268,334, and the individual deposits were \$277,294,489 less than at the corresponding date in the previous year. Loans and discounts were \$161,206,923 more than at the same time the previous year, and checks and other cash items were \$90,349,963 more. The total resources of the banks at the date mentioned amounted to \$3,473,-922,055, as against \$3,109,563,284.36 in 1893.

From the report of the Secretary of War it appears that the strength of the Army on September 30, 1894, was 2,135 officers and 25,765 enlisted men. Although this is apparently a very slight decrease compared with the previous year, the actual effective force has been increased to the equivalent of nearly two regiments through the reorganization of the system of recruiting, and the consequent release to regimental duty of the large force of men hitherto serving at the recruiting depots. The abolition of these depots, it is predicted, will furthermore effect an annual reduction approximating \$250,000 in the direct expenditures, besides promoting generally the health, morale, and discipline of the troops.

The execution of the policy of concentrating the Army at important centers of population and transportation, foreshadowed in the last annual report of the Secretary, has resulted in the abandonment of fifteen of the smaller posts, which was effected under a plan which assembles organizations of the same regiments hitherto widely separated. This renders our small forces more readily effective for any service which they may be called upon to perform, increases the extent of the territory under protection without diminishing the security heretofore afforded to any locality, improves the discipline, training and *esprit de corps* of the Army, besides considerably decreasing the cost of its maintenance.

Though the forces of the Department of the East have been somewhat increased, more than three-fourths of the Army is still stationed west of the Mississippi. This carefully matured policy,

which secures the best and greatest service in the interests of the general welfare from the small force comprising our regular Army, should not be thoughtlessly embarrassed by the creation of new and unnecessary posts through acts of Congress to gratify the ambitions or interests of localities.

While the maximum legal strength of the Army is 25,000 men, the effective strength, through various causes, is but little over 20,000 men. The purpose of Congress does not, therefore, seem to be fully attained by the existing condition. While no considerable increase in the Army is in my judgment demanded by recent events, the policy of seacoast fortification, in the prosecution of which we have been steadily engaged for some years, has so far developed as to suggest that the effective strength of the Army be now made at least equal to the legal strength. Measures taken by the Department during the year, as indicated, have already considerably augmented the effective force, and the Secretary of War presents a plan, which I recommend to the consideration of Congress, to attain the desired end. Economies effected in the Department in other lines of its work will offset to a great extent the expenditure involved in the proposition submitted. Among other things this contemplates the adoption of the three-battalion formation of regiments, which for several years has been indorsed by the Secretaries of War and the Generals commanding the Army. Compact in itself, it provides a skeleton organization, ready to be filled out in the event of war, which is peculiarly adapted to our strength and requirements; and the fact that every other nation, with a single exception, has adopted this formation to meet the conditions of modern warfare, should alone secure for the recommendation an early consideration.

It is hardly necessary to recall the fact that in obedience to the commands of the Constitution and the laws, and for the purpose of protecting the property of the United States, aiding the process of Federal courts and removing lawless obstructions to the performance by the Government of its legitimate functions, it became necessary in various localities during the year to employ a considerable portion of the regular troops. The duty was discharged promptly, courageously and with marked discretion by the officers and men, and the most gratifying proof was thus afforded that the Army deserves that complete confidence in its efficiency and discipline which the country has at all times manifested.

The year has been free from disturbances by Indians, and the chances of further depredations on their part are constantly becoming more remote and improbable.

The total expenditures for the War Department for the year ended June 30, 1894, amounted to \$56,039,009.34. Of this sum \$2,000,614.99 was for salaries and contingent expenses, \$23,665,156.16 for the support of the military establishment, \$5,001,682.23 for miscellaneous objects, and \$25,371,555.96 for public works. This latter sum includes \$19,494,037.49 for river and harbor improvements, and \$3,947,863.56 for fortifications and other works of defense. The appropriations for the current year aggregate \$52,429,112.78, and the estimates submitted by the Secretary of War for the next fiscal year call for appropriations amounting to \$52,318,629.55.

The skill and industry of our ordnance officers and inventors have, it is believed, overcome the mechanical obstacles which have heretofore delayed the armament of our coasts, and this great national undertaking upon which we have entered may now proceed as rapidly as Congress shall determine. With a supply of finished guns of large caliber already on hand, to which additions should now rapidly follow, the wisdom of providing carriages and emplacements for their mount can not be too strongly urged.

The total enrollment of the militia of the several States is 117,533 officers and enlisted men, an increase of 5,343 over the number reported at the close of the previous year. The reports of militia inspections by regular Army officers show a marked increase in interest and efficiency among the State organizations, and I strongly recommend a continuance of the policy of affording every practical encouragement possible to this important auxiliary of our military establishment.

The condition of the Apache Indians, held as prisoners by the Government for eight years at a cost of half a million dollars, has been changed during the year from captivity to one which gives them an opportunity to demonstrate their capacity for self-support and at least partial civilization. Legislation enacted at the late session of Congress gave the War Department authority to transfer the survivors, numbering 346, from Mount Vernon Barracks, in Alabama, to any suitable reservation. The Department selected as their future home the military lands near Fort Sill, Indian Territory, where, under military surveillance, the former prisoners have been established in agriculture under conditions favorable to their advancement.

In recognition of the long and distinguished military services and faithful discharge of delicate and responsible civil duties by Major-General John M. Schofield, now the General Commanding the Army, it is suggested to Congress that the temporary revival of the grade of lieutenant-general in his behalf would be a just and gracious act

and would permit his retirement, now near at hand, with rank befitting his merits.

The report of the Attorney-General notes the gratifying progress made by the Supreme Court in overcoming the arrears of its business and in reaching a condition in which it will be able to dispose of cases as they arise without any unreasonable delay. This result is, of course, very largely due to the successful working of the plan inaugurating circuit courts of appeals. In respect to these tribunals the suggestion is made, in quarters entitled to the highest consideration, that an additional circuit judge for each circuit would greatly strengthen these courts and the confidence reposed in their adjudications; and that such an addition would not create a greater force of judges than the increasing business of such courts requires. I commend the suggestion to the careful consideration of the Congress. Other important topics are adverted to in the report, accompanied by recommendations, many of which have been treated at large in previous messages, and at this time, therefore, need only be named. I refer to the abolition of the fee system as a measure of compensation to Federal officers; the enlargement of the powers of U. S. commissioners, at least in the Territories, the allowance of writs of error in criminal cases on behalf of the United States, and the establishment of degrees in the crime of murder. A topic dealt with by the Attorney-General of much importance is the condition of the administration of justice in the Indian Territory. The permanent solution of what is called the Indian problem is probably not to be expected at once, but meanwhile such ameliorations of present conditions as the existing system will admit of ought not to be neglected. I am satisfied there should be a Federal court established for the Territory with sufficient judges and that this court should sit within the Territory and have the same jurisdiction as to Territorial affairs as is now vested in the Federal courts sitting in Arkansas and Texas.

Another subject of pressing moment referred to by the Attorney-General is the reorganization of the Union Pacific Railway Company on a basis equitable as regards all private interests and as favorable to the Government as existing conditions will permit. The operation of a railroad by a court through a receiver is an anomalous state of things which should be terminated, on all grounds, public and private, at the earliest possible moment. Besides, not to enact the needed enabling legislation at the present session postpones the whole matter until the assembling of a new Congress and inevitably increases all the complications of the situation, and could not but be regarded as a signal failure to solve a problem which has

practically been before the present Congress ever since its organization.

Eight years ago in my annual message I urged upon the Congress as strongly as I could, the location and construction of two prisons for the confinement of United States prisoners. A similar recommendation has been made from time to time since, and a few years ago a law was passed providing for the selection of sites for three such institutions. No appropriation has, however, been made to carry the act into effect, and the old and discreditable condition still exists.

It is not my purpose at this time to repeat the considerations which make an impregnable case in favor of the ownership and management by the Government of the penal institutions in which Federal prisoners are confined. I simply desire to again urge former recommendations on the subject and to particularly call the attention of the Congress to that part of the report of the Secretary of War in which he states that the Military Prison at Fort Leavenworth, Kansas, can be turned over to the Government as a prison for Federal convicts without the least difficulty and with an actual saving of money from every point of view.

Pending a more complete reform I hope that by the adoption of the suggestion of the Secretary of War this easy step may be taken in the direction of the proper care of its convicts by the Government of the United States.

The report of the Postmaster-General presents a comprehensive statement of the operations of the Post-Office Department for the last fiscal year.

The receipts of the Department during the year amounted to \$75,080,479.04 and the expenditures to \$84,324,414.15.

The transactions of the postal service indicate with barometric certainty the fluctuations in the business of the country. Inasmuch, therefore, as business complications continued to exist throughout the last year to an unforeseen extent it is not surprising that the deficiency of revenue to meet the expenditures of the Post-Office Department, which was estimated in advance at about eight million dollars, should be exceeded by nearly one and a quarter million dollars. The ascertained revenues of the last year, which were the basis of calculation for the current year, being less than estimated, the deficiency for the current year will be correspondingly greater, though the Postmaster-General states that the latest indications are so favorable that he confidently predicts an increase of at least eight per cent in the revenues of the current year over those of the last year.

The expenditures increase steadily and necessarily with the growth and needs of the country, so that the deficiency is greater or less in any year depending upon the volume of receipts.

The Postmaster-General states that this deficiency is unnecessary and might be obviated at once if the law regulating rates upon mail matter of the second class was modified. The rate received for the transmission of this second-class matter is one cent per pound, while the cost of such transmission to the Government is eight times that amount. In the general terms of the law this rate covers newspapers and periodicals. The extensions of the meaning of these terms from time to time have admitted to the privileges intended for legitimate newspapers and periodicals a surprising range of publications and created abuses the cost of which amount in the aggregate to the total deficiency of the Post-Office Department. Pretended newspapers are started by business houses for the mere purpose of advertising goods, complying with the law in form only and discontinuing the publications as soon as the period of advertising is over. "Sample copies" of pretended newspapers are issued in great numbers for a like purpose only. The result is a great loss of revenue to the Government, besides its humiliating use as an agency to aid in carrying out the scheme of a business house to advertise its goods by means of a trick upon both its rival houses and the regular and legitimate newspapers. Paper-covered literature, consisting mainly of trashy novels, to the extent of many thousands of tons is sent through the mails at one cent per pound, while the publishers of standard works are required to pay eight times that amount in sending their publications. Another abuse consists in the free carriage through the mails of hundreds of tons of seed and grain uselessly distributed through the Department of Agriculture. The Postmaster-General predicts that if the law be so amended as to eradicate these abuses not only will the Post-Office Department show no deficiency, but he believes that in the near future all legitimate newspapers and periodical magazines might be properly transmitted through the mails to their subscribers free of cost. I invite your prompt consideration of this subject, and fully indorse the views of the Postmaster-General.

The total number of post-offices in the United States on the 30th day of June, 1894, was 69,805, an increase of 1,403 over the preceding year. Of these 3,428 were Presidential, an increase in that class of 68 over the preceding year.

Six hundred and ten cities and towns are provided with free delivery. Ninety-three other cities and towns entitled to this service under the law have not been accorded it on account of insuf-

ficient funds. The expense of free delivery for the current fiscal year will be more than \$12,300,000, and under existing legislation this item of expenditure is subject to constant increase. The estimated cost of rural free delivery generally is so very large that it ought not to be considered in the present condition of affairs.

During the year 830 additional domestic money-order offices were established. The total number of these offices at the close of the year was 19,264. There were 14,304,041 money orders issued during the year, being an increase over the preceding year of 994,306. The value of these orders amounted to \$138,793,579.49, an increase of \$11,217,145.84. There were also issued during the year postal notes amounting to \$12,649,094.55.

During the year, 218 international money-order offices were added to those already established, making a total of 2,625 such offices in operation June 30, 1894. The number of international money orders issued during the year was 917,823, a decrease in number of 138,176; and their value was \$13,792,455.31, a decrease in amount of \$2,549,382.55. The number of orders paid was 361,180, an increase over the preceding year of 60,263, and their value was \$6,568,493.78, an increase of \$1,285,118.08.

From the foregoing statements it appears that the total issue of money orders and postal notes for the year amounted to \$165,235,129.35.

The number of letters and packages mailed during the year for special delivery was 3,436,970. The special delivery stamps used upon these letters and packages amounted to \$343,697. The messengers' fees paid for their delivery amounted to \$261,209.70, leaving a balance in favor of the Government of \$82,487.30.

The report shows most gratifying results in the way of economies worked out without affecting the efficiency of the postal service. These consist in the abrogation of steamship subsidy contracts, reletting of mail transportation contracts, and in the cost and amount of supplies used in the service, amounting in all to \$16,619,047.42.

This report also contains a valuable contribution to the history of the Universal Postal Union, an arrangement which amounts practically to the establishment of one postal system for the entire civilized world. Special attention is directed to this subject at this time, in view of the fact that the next congress of the Union will meet in Washington in 1897, and it is hoped that timely action will be taken in the direction of perfecting preparations for that event.

The Postmaster-General renews the suggestion made in a previous report that the Department organization be increased to the extent of creating a direct district supervision of all postal affairs, and in this suggestion I fully concur.

There are now connected with the Post-Office establishment 32,661 employees who are in the classified service. This includes many who have been classified upon the suggestion of the Postmaster-General. He states that another year's experience at the head of the Department serves only to strengthen the conviction as to the excellent working of the civil-service law in this branch of the public service.

Attention is called to the report of the Secretary of the Navy, which shows very gratifying progress in the construction of ships for our new Navy. All the vessels now building, including the three torpedo boats authorized at the last session of Congress and excepting the first-class battle ship *Iowa*, will probably be completed during the coming fiscal year.

The estimates for the increase of the Navy for the year ending June 30, 1896, are large, but they include practically the entire sum necessary to complete and equip all the new ships not now in commission, so that unless new ships are authorized the appropriations for the naval service for the fiscal year ending June 30, 1897, should fall below the estimates for the coming year by at least \$12,000,000.

The Secretary presents with much earnestness a plea for the authorization of three additional battle ships and ten or twelve torpedo boats. While the unarmored vessels heretofore authorized, including those now nearing completion, will constitute a fleet, which it is believed is sufficient for ordinary cruising purposes in time of peace, we have now completed and in process of construction but four first-class battle ships and but few torpedo boats. If we are to have a navy for warlike operations, offensive and defensive, we certainly ought to increase both the number of battle ships and torpedo boats.

The manufacture of armor requires expensive plant and the aggregation of many skilled workmen. All the armor necessary to complete the vessels now building will be delivered before the 1st of June next. If no new contracts are given out, contractors must disband their workmen and their plants must lie idle. Battle ships authorized at this time would not be well under way until late in the coming fiscal year, and at least three years and a half from the date of the contract would be required for their completion. The Secretary states that not more than fifteen per cent of the cost of such ships need be included in the appropriations for the coming year.

I recommend that provision be made for the construction of additional battle ships and torpedo boats.

The Secretary recommends the manufacture not only of a reserve supply of ordnance and ordnance material for ships of the Navy, but

also a supply for the auxiliary fleet. Guns and their appurtenances should be provided and kept on hand for both these purposes. We have not to-day a single gun that could be put upon the ships *Paris* or *New York* of the International Navigation Company or any other ship of our reserve Navy.

The manufacture of guns at the Washington navy-yard is proceeding satisfactorily, and none of our new ships will be required to wait for their guns or ordnance equipment.

An important order has been issued by the Secretary of the Navy coordinating the duties of the several bureaus concerned in the construction of ships. This order it is believed will secure to a greater extent than has heretofore been possible the harmonious action of these several bureaus, and make the attainment of the best results more certain.

During the past fiscal year there has been an unusual and pressing demand in many quarters of the world for the presence of vessels to guard American interests.

In January last, during the Brazilian insurrection, a large fleet was concentrated in the harbor of Rio de Janeiro. The vigorous action of Rear-Admiral Benham in protecting the personal and commercial rights of our citizens during the disturbed conditions afforded results which will, it is believed, have a far-reaching and wholesome influence whenever in like circumstances it may become necessary for our naval commanders to interfere on behalf of our people in foreign ports.

The war now in progress between China and Japan has rendered it necessary or expedient to dispatch eight vessels to those waters.

Both the Secretary of the Navy and the Secretary of the Treasury recommend the transfer of the work of the Coast Survey proper to the Navy Department. I heartily concur in this recommendation. Excluding Alaska and a very small area besides, all the work of mapping and charting our coasts has been completed. The hydrographic work, which must be done over and over again by reason of the shifting and varying depths of water, consequent upon the action of streams and tides, has heretofore been done under the direction of naval officers in subordination to the Superintendent of the Coast Survey. There seems to be no good reason why the Navy should not have entire charge hereafter of such work, especially as the Hydrographic Office of the Navy Department is now, and has been for many years, engaged in making efficient maps entirely similar to those prepared by the Coast Survey.

I feel it my imperative duty to call attention to the recommendation of the Secretary in regard to the personnel of the line of the

Navy. The stagnation of promotion in this, the vital branch of the service, is so great as to seriously impair its efficiency.

I consider it of the utmost importance that the young and middle-aged officers should, before the eve of retirement, be permitted to reach a grade entitling them to active and important duty.

The system adopted a few years ago regulating the employment of labor at the navy-yards is rigidly upheld and has fully demonstrated its usefulness and expediency. It is within the domain of civil-service reform inasmuch as workmen are employed through a board of labor selected at each navy-yard and are given work without reference to politics and in the order of their application, preference, however, being given to Army and Navy veterans and those having former navy-yard experience.

Amendments suggested by experience have been made to the rules regulating the system. Through its operation the work at our navy-yards has been vastly improved in efficiency and the opportunity to work has been honestly and fairly awarded to willing and competent applicants.

It is hoped that if this system continues to be strictly adhered to there will soon be as a natural consequence such an equalization of party benefit as will remove all temptation to relax or abandon it.

The report of the Secretary of the Interior exhibits the situation of the numerous and interesting branches of the public service connected with his Department. I commend this report and the valuable recommendations of the Secretary to the careful attention of the Congress.

The public land disposed of during the year amounted to 10,406.-100.77 acres, including 28,876.05 of Indian lands.

It is estimated that the public domain still remaining amounts to a little more than 600,000,000 acres, excluding, however, about 360,000,000 acres in Alaska as well as military reservations and railroad and other selections of lands yet unadjudicated.

The total cash receipts from sale of lands amounted to \$2,674,-285.79, including \$91,981.03 received for Indian lands.

Thirty-five thousand patents were issued for agricultural lands, and thirty-one hundred patents were issued to Indians on allotments of their holdings in severalty, the land so allotted being inalienable by the Indian allottees for a period of twenty-five years after patent.

There were certified and patented on account of railroad and wagon-road grants during the year 865,556.45 acres of land, and at the close of the year 29,000,000 acres were embraced in the lists of selections made by railroad and wagon-road companies and awaited settlement.

The selections of swamp lands and that taken as indemnity therefor since the passage of the act providing for the same in 1849, amount to nearly or quite 80,500,000 acres, of which 58,000,000 have been patented to States. About 138,000 acres were patented during the last year. Nearly 820,000 acres of school and education grants were approved during the year, and at its close 1,250,363.81 acres remained unadjusted.

It appears that the appropriation for the current year on account of special service for the protection of the public lands and the timber thereon is much less than those for previous years and inadequate for an efficient performance of the work. A larger sum of money than has been appropriated during a number of years past on this account has been returned to the Government as a result of the labors of those employed in the particular service mentioned, and I hope it will not be crippled by insufficient appropriation.

I fully indorse the recommendation of the Secretary that adequate protection be provided for our forest reserves and that a comprehensive forestry system be inaugurated. Such keepers and superintendents as are necessary to protect the forests already reserved should be provided. I am of the opinion that there should be an abandonment of the policy sanctioned by present laws under which the Government for a very small consideration is rapidly losing title to immense tracts of land covered with timber which should be properly reserved as permanent sources of timber supply.

The suggestion that a change be made in the manner of securing surveys of the public lands is especially worthy of consideration. I am satisfied that these surveys should be made by a corps of competent surveyors under the immediate control and direction of the Commissioner of the General Land Office.

An exceedingly important recommendation of the Secretary relates to the manner in which contests and litigated cases growing out of efforts to obtain Government land are determined. The entire testimony upon which these controversies depend in all their stages is taken before the local registers and receivers, and yet these officers have no power to subpoena witnesses or to enforce their attendance to testify. These cases, numbering three or four thousand annually, are sent by the local officers to the Commissioner of the General Land Office for his action. The exigencies of his other duties oblige him to act upon the decisions of the registers and receivers without an opportunity of thorough personal examination. Nearly two thousand of these cases are appealed annually from the Commissioner to the Secretary of the Interior. Burdened with other important administrative duties his determination of these

appeals must be almost perfunctory and based upon the examination of others, though this determination of the Secretary operates as a final adjudication upon rights of very great importance.

I concur in the opinion that the Commissioner of the General Land Office should be relieved from the duty of deciding litigated land cases, that a nonpartisan court should be created to pass on such cases, and that the decisions of this court should be final, at least so far as the decisions of the Department are now final. The proposed court might be given authority to certify questions of law, in matters of especial importance, to the Supreme Court of the United States or the court of appeals for the District of Columbia for decision. The creation of such a tribunal would expedite the disposal of cases and insure decisions of a more satisfactory character. The registers and receivers who originally hear and decide these disputes should be invested with authority to compel witnesses to attend and testify before them.

Though the condition of the Indians shows a steady and healthy progress, their situation is not satisfactory at all points. Some of them to whom allotments of land have been made are found to be unable or disinclined to follow agricultural pursuits or to otherwise beneficially manage their land. This is especially true of the Cheyennes and Arapahoes, who, as it appears, by reports of their agent, have in many instances never been located upon their allotments, and in some cases do not even know where their allotments are. Their condition has deteriorated. They are not self-supporting, and they live in camps and spend their time in idleness.

I have always believed that allotments of reservation lands to Indians in severalty should be made sparingly, or at least slowly, and with the utmost caution. In these days, when white agriculturalists and stock-raisers of experience and intelligence find their lot a hard one, we ought not to expect Indians, unless far advanced in civilization and habits of industry, to support themselves on the small tracts of land usually allotted to them.

If the self-supporting scheme by allotment fails the wretched pauperism of the allottees which results is worse than their original condition of regulated dependence. It is evident that the evil consequences of ill-advised allotment are intensified in cases where the false step can not be retraced on account of the purchase by the Government of reservation lands remaining after allotments are made and the disposition of such remaining lands to settlers or purchasers from the Government.

I am convinced that the proper solution of the Indian problem and the success of every step taken in that direction depend to a

very large extent upon the intelligence and honesty of the reservation agents and the interest they have in their work. An agent fitted for his place can do much toward preparing the Indians under his charge for citizenship and allotment of their lands, and his advice as to any matter concerning their welfare will not mislead. An unfit agent will make no effort to advance the Indians on his reservation toward civilization or preparation for allotment of lands in severalty, and his opinion as to their condition in this and other regards is heedless and valueless.

The indications are that the detail of army officers as Indian agents will result in improved management on the reservations.

Whenever allotments are made and any Indian on the reservation has previously settled upon a lot and cultivated it, or shown a disposition to improve it in any way, such lot should certainly be allotted to him, and this should be made plainly obligatory by statute.

In the light of experience, and considering the uncertainty of the Indian situation and its exigencies in the future, I am not only disposed to be very cautious in making allotments, but I incline to agree with the Secretary of the Interior in the opinion that when allotments are made the balance of reservation land remaining after allotment, instead of being bought by the Government from the Indians, and opened for settlement with such scandals and unfair practices as seem unavoidable, should remain for a time at least as common land or be sold by the Government on behalf of the Indians in an orderly way and at fixed prices to be determined by its location and desirability, and that the proceeds, less expenses, should be held in trust for the benefit of the Indian proprietors.

The intelligent Indian school management of the past year has been followed by gratifying results. Efforts have been made to advance the work in a sound and practical manner. Five institutes of Indian teachers have been held during the year, and have proved very beneficial through the views exchanged and methods discussed particularly applicable to Indian education.

Efforts are being made in the direction of a gradual reduction of the number of Indian contract schools so that in a comparatively short time they may give way altogether to Government schools, and it is hoped that the change may be so gradual as to be perfected without too great expense to the Government or undue disregard of investments made by those who have established and are maintaining such contract schools.

The appropriation for the current year ending June 30, 1895, applicable to the ordinary expenses of the Indian service amounts to

\$6,733,003.18, being less by \$663,240.64 than the sum appropriated on the same account for the previous year.

At the close of the last fiscal year, on the 30th day of June, 1894, there were 969,544 persons on our pension rolls, being a net increase of 3,532 over the number reported at the end of the previous year.

These pensioners may be classified as follows: Soldiers and sailors, survivors of all wars, 753,968; widows and relatives of deceased soldiers, 215,162; army nurses in the war of the rebellion, 414. Of these pensioners 32,039 are surviving soldiers of Indian and other wars prior to the late civil war, and the widows or relatives of such soldiers.

The remainder, numbering 937,505, are receiving pensions on account of the war of the rebellion, and of these 469,344 are on the rolls under the authority of the act of June 27, 1890, sometimes called the dependent pension law.

The total amount expended for pensions during the year was \$139,804,461.05, leaving an unexpended balance from the sum appropriated of \$25,205,712.65.

The sum necessary to meet pension expenditures for the year ending June 30, 1896, is estimated at \$140,000,000.

The Commissioner of Pensions is of the opinion that the year 1895, being the thirtieth after the close of the war of the rebellion, must according to all sensible human calculation see the highest limit of the pension roll, and that after that year it must begin to decline.

The claims pending in the Bureau have decreased more than 90,000 during the year. A large proportion of the new claims filed are for increase of pension by those now on the rolls.

The number of certificates issued was 80,213.

The names dropped from the rolls for all causes during the year numbered 37,951.

Among our pensioners are nine widows and three daughters of soldiers of the Revolution and forty-five survivors of the war of 1812.

The barefaced and extensive pension frauds exposed under the direction of the courageous and generous veteran soldier now at the head of the Bureau leave no room for the claim that no purgation of our pension rolls was needed, or that continued vigilance and prompt action are not necessary to the same end.

The accusation that an effort to detect pension frauds is evidence of unfriendliness towards our worthy veterans and a denial of their claims to the generosity of the Government, suggests an unfortunate indifference to the commission of any offense which has for its motive the securing of a pension, and indicates a willingness to be

blind to the existence of mean and treacherous crimes which play upon demagogic fears and make sport of the patriotic impulse of a grateful people.

The completion of the Eleventh Census is now in charge of the Commissioner of Labor. The total disbursements on account of the work for the fiscal year ending June 30, 1894, amounted to \$10,365,676.81. At the close of the year the number of persons employed in the Census Office was 679. At present there are about 400. The whole number of volumes necessary to comprehend the Eleventh Census will be twenty-five, and they will contain 22,270 printed pages. The assurance is confidently made that before the close of the present calendar year the material still incomplete will be practically in hand, and the census can certainly be closed by the 4th of March, 1895. After that the revision and proof-reading necessary to bring out the volumes will still be required.

The text of the census volumes has been limited, as far as possible, to the analysis of the statistics presented. This method, which is in accordance with law, has caused more or less friction, and in some instances individual disappointment, for when the Commissioner of Labor took charge of the work he found much matter on hand, which, according to this rule, he was compelled to discard. The census is being prepared according to the theory that it is designed to collect facts and certify them to the public—not to elaborate arguments or to present personal views.

The Secretary of Agriculture in his report reviews the operations of his Department for the last fiscal year, and makes recommendations for the further extension of its usefulness. He reports a saving in expenditures during the year of six hundred thousand dollars, which is covered back into the Treasury. This sum is twenty-three per cent of the entire appropriation.

A special study has been made of the demand for American farm products in all foreign markets, especially Great Britain. That country received from the United States during the nine months ending September 30, 1894, 305,910 live beef cattle, valued at \$26,500,000, as against 182,611 cattle, valued at \$16,634,000, during the same period for 1893.

During the first six months of 1894 the United Kingdom took, also, 112,000,000 pounds of dressed beef from the United States, valued at nearly \$10,000,000.

The report shows that during the nine months immediately preceding September 30, 1894, the United States exported to Great Britain 222,676,000 pounds of pork; of apples, 1,900,000 bushels, valued at \$2,500,000; and of horses 2,811 at an average value of

\$139 per head. There was a falling off in American wheat exports of 13,500,000 bushels, and the Secretary is inclined to believe that wheat may not, in the future, be the staple export cereal product of our country, but that corn will continue to advance in importance as an export on account of the new uses to which it is constantly being appropriated.

The exports of agricultural products from the United States for the fiscal year ending June 30, 1894, amounted to \$628,363,038, being 72.28 per cent of American exports of every description, and the United Kingdom of Great Britain took more than 54 per cent of all farm products finding foreign markets.

The Department of Agriculture has undertaken during the year two new and important lines of research. The first relates to grasses and forage plants, with the purpose of instructing and familiarizing the people as to the distinctive grasses of the United States and teaching them how to introduce valuable foreign forage plants which may be adapted to this country. The second relates to agricultural soils and crop production, involving the analyses of samples of soils from all sections of the American Union, to demonstrate their adaptability to particular plants and crops. Mechanical analyses of soils may be of such inestimable utility that it is foremost in the new lines of agricultural research, and the Secretary therefore recommends that a division having it in charge be permanently established in the Department.

The amount appropriated for the Weather Bureau was \$951,100. Of that sum \$138,500, or 14 per cent, has been saved and is returned to the Treasury.

As illustrating the usefulness of this service, it may be here stated that the warnings which were very generally given of two tropical storms occurring in September and October of the present year resulted in detaining safely in port 2,305 vessels, valued at \$36,283,913, laden with cargoes of probably still greater value. What is much more important and gratifying, many human lives on these ships were also undoubtedly saved.

The appropriation to the Bureau of Animal Industry was \$850,000, and the expenditures for the year were only \$495,429.24, thus leaving unexpended \$354,570.76. The inspection of beef animals for export and interstate trade has been continued, and 12,944,056 head were inspected during the year, at a cost of 13¼ cents per head, against 4¾ cents for 1893. The amount of pork microscopically examined was 35,437,937 pounds, against 20,677,410 pounds in the preceding year. The cost of this inspection has been diminished from 8¾ cents per head in 1893 to 6½ cents in 1894.

The expense of inspecting the pork sold in 1894, to Germany and France by the United States, was \$88,922.10. The quantity inspected was greater by 15,000,000 pounds than during the preceding year, when the cost of such inspection was \$172,367.08. The Secretary of Agriculture recommends that the law providing for the microscopic inspection of export and interstate meat be so amended as to compel owners of the meat inspected to pay the cost of such inspection and I call attention to the arguments presented in his report in support of this recommendation.

The live beef cattle exported and tagged during the year numbered 363,535. This is an increase of 69,533 head over the previous year.

The sanitary inspection of cattle shipped to Europe has cost an average of 10¾ cents for each animal, and the cost of inspecting Southern cattle and the disinfection of cars and stock-yards averages 2.7 cents per animal.

The scientific inquiries of the Bureau of Animal Industry have progressed steadily during the year. Much tuberculin and mallein have been furnished to State authorities for use in the agricultural colleges and experiment stations for the treatment of tuberculosis and glanders.

Quite recently this Department has published the results of its investigations of bovine tuberculosis, and its researches will be vigorously continued. Certain herds in the District of Columbia will be thoroughly inspected, and will probably supply adequate scope for the Department to intelligently prosecute its scientific work and furnish sufficient material for purposes of illustration, description, and definition.

The sterilization of milk suspected of containing the bacilli of tuberculosis has been during the year very thoroughly explained in a leaflet by Dr. D. E. Salmon, the chief of the Bureau, and given general circulation throughout the country.

The office of experiment stations, which is a part of the United States Department of Agriculture, has during the past year engaged itself almost wholly in preparing for publication works based upon the reports of agricultural experiment stations and other institutions for agricultural inquiry in the United States and foreign countries.

The Secretary, in his report for 1893, called attention to the fact that the appropriations made for the support of the experiment stations throughout the Union were the only moneys taken out of the National Treasury by act of Congress for which no accounting to Federal authorities was required. Responding to this sugges-

tion the Fifty-third Congress, in making the appropriation for the Department for the present fiscal year, provided that—

The Secretary of Agriculture shall prescribe the form of annual financial statement required by section 3 of said act of March 2, 1887; shall ascertain whether the expenditures under the appropriation hereby made are in accordance with the provisions of said act, and shall make report thereon to Congress.

In obedience to this law, the Department of Agriculture immediately sent out blank forms of expense accounts to each station, and proposes in addition to make, through trusted experts, systematic examination of the several stations during each year, for the purpose of acquiring by personal investigation the detailed information necessary to enable the Secretary of Agriculture to make, as the statute provides, a satisfactory report to Congress. The boards of management of the several stations, with great alacrity and cordiality, have approved the amendment to the law providing this supervision of their expenditures, anticipating that it will increase the efficiency of the stations and protect their directors and managers from loose charges concerning their use of public funds, besides bringing the Department of Agriculture into closer and more confidential relations with the experimental stations, and through their joint service largely increasing their usefulness to the agriculture of the country.

Acting upon a recommendation contained in the report of 1893, Congress appropriated \$10,000 "to enable the Secretary of Agriculture to investigate and report upon the nutritive value of the various articles and commodities used for human food, with special suggestion of full, wholesome, and edible rations less wasteful and more economical than those in common use."

Under this appropriation the Department has prepared and now has nearly ready for distribution an elementary discussion of the nutritive value and pecuniary economy of food. When we consider that fully one-half of all the money earned by the wage-earners of the civilized world is expended by them for food, the importance and utility of such an investigation is apparent.

The Department expended in the fiscal year 1893, \$2,354,809.56; and out of that sum the total amount expended in scientific research was 45.6 per cent. But in the year ending June 30, 1894, out of a total expenditure of \$1,948,988.38, the Department applied 51.8 per cent of that sum to scientific work and investigation. It is, therefore, very plainly observable that the economies which have been practiced in the administration of the Department have not been at the expense of scientific research.

The recommendation contained in the report of the Secretary for 1893, that the vicious system of promiscuous free distribution of its departmental documents be abandoned is again urged. These publications may well be furnished without cost to public libraries, educational institutions, and the officers and libraries of States and of the Federal Government. But from all individuals applying for them a price covering the cost of the document asked for should be required. Thus the publications and documents would be secured by those who really desire them for proper purposes. Half a million of copies of the report of the Secretary of Agriculture are printed for distribution at an annual cost of about three hundred thousand dollars. Large numbers of them are cumbering storerooms at the Capitol and the shelves of second-hand book stores throughout the country. All this labor and waste might be avoided if the recommendations of the Secretary were adopted.

The Secretary also again recommends that the gratuitous distribution of seeds cease and that no money be appropriated for that purpose, except to experiment stations. He reiterates the reasons given in his report for 1893 for discontinuing this unjustifiable gratuity, and I fully concur in the conclusions which he has reached.

The best service of the Statistician of the Department of Agriculture is the ascertainment, by diligence and care, of the actual and real conditions favorable or unfavorable of the farmers and farms of the country, and to seek the causes which produce these conditions to the end that the facts ascertained may guide their intelligent treatment.

A further important utility in agricultural statistics is found in their elucidation of the relation of the supply of farm products to the demand for them in the markets of the United States and of the world.

It is deemed possible that an agricultural census may be taken each year through the agents of the Statistical Division or the Department. Such a course is commended for trial by the chief of that division. Its scope would be :

- (1) The area under each of the more important crops.
- (2) The aggregate products of each of such crops.
- (3) The quantity of wheat and corn in the hands of farmers at a date after the spring sowings and plantings and before the beginning of harvest; and also the quantity of cotton and tobacco remaining in the hands of planters, either at the same date or at some other designated time.

The cost of the work is estimated at \$500,000.

Owing to the peculiar quality of the Statistician's work, and the natural and acquired fitness necessary to its successful prosecution, the Secretary of Agriculture expresses the opinion that every person employed in gathering statistics under the chief of that division should be admitted to that service only after a thorough, exhaustive, and successful examination at the hands of the U. S. Civil Service Commission. This has led him to call for such examination of candidates for the position of assistant statisticians, and also of candidates for chiefs of sections in that division.

The work done by the Department of Agriculture is very superficially dealt with in this communication, and I commend the report of the Secretary and the very important interests with which it deals to the careful attention of the Congress.

The advantages to the public service of an adherence to the principles of civil-service reform are constantly more apparent; and nothing is so encouraging to those in official life who honestly desire good government as the increasing appreciation by our people of these advantages. A vast majority of the voters of the land are ready to insist that the time and attention of those they select to perform for them important public duties, should not be distracted by doling out minor offices, and they are growing to be unanimous in regarding party organization as something that should be used in establishing party principles instead of dictating the distribution of public places as rewards of partisan activity.

Numerous additional offices and places have lately been brought within civil-service rules and regulations, and some others will probably soon be included.

The report of the Commissioners will be submitted to the Congress, and I invite careful attention to the recommendations it contains.

I am entirely convinced that we ought not to be longer without a national board of health or national health officer charged with no other duties than such as pertain to the protection of our country from the invasion of pestilence and disease. This would involve the establishment, by such board or officer, of proper quarantine precautions, or the necessary aid and counsel to local authorities on the subject, prompt advice and assistance to local boards of health or health officers in the suppression of contagious disease, and in cases where there are no such local boards or officers, the immediate direction by the national board or officer of measures of suppression, constant and authentic information concerning the health of foreign countries and all parts of our own

country as related to contagious diseases ; and consideration of regulations to be enforced in foreign ports to prevent the introduction of contagion into our cities and the measures which should be adopted to secure their enforcement.

There seems to be at this time a decided inclination to discuss measures of protection against contagious diseases in international conference with a view of adopting means of mutual assistance. The creation of such a national health establishment would greatly aid our standing in such conferences and improve our opportunities to avail ourselves of their benefits.

I earnestly recommend the inauguration of a national board of health or similar national instrumentality, believing the same to be a needed precaution against contagious disease and in the interest of the safety and health of our people.

By virtue of a statute of the United States passed in 1888, I appointed in July last, Hon. John D. Kernan, of the State of New York, and Hon. Nicholas E. Worthington, of the State of Illinois, to form with Hon. Carroll D. Wright, Commissioner of Labor, who was designated by said statute, a commission for the purpose of making careful inquiry into the causes of the controversies between certain railroads and their employees which had resulted in an extensive and destructive strike, accompanied by much violence and dangerous disturbance with considerable loss of life and great destruction of property.

The report of the Commissioners has been submitted to me and will be transmitted to the Congress with the evidence taken upon their investigation.

Their work has been well done and their standing and intelligence give assurance that the report and suggestions they make are worthy of careful consideration.

The tariff act passed at the last session of the Congress needs important amendments if it is to be executed effectively and with certainty. In addition to such necessary amendments as will not change rates of duty, I am still very decidedly in favor of putting coal and iron upon the free list.

So far as the sugar schedule is concerned, I would be glad, under existing aggravations to see every particle of differential duty in favor of refined sugar stricken out of our tariff law. If with all the favor now accorded the sugar-refining interest in our tariff laws it still languishes to the extent of closed refineries and thousands of discharged workmen, it would seem to present a hopeless case for reasonable legislative aid. What-

ever else is done or omitted, I earnestly repeat here the recommendation I have made in another portion of this communication that the additional duty of one-tenth of a cent per pound, laid upon sugar imported from countries paying a bounty on its export, be abrogated. It seems to me that exceedingly important considerations point to the propriety of this amendment.

With the advent of a new tariff policy not only calculated to relieve the consumers of our land in the cost of their daily life, but to invite a better development of American thrift and create for us closer and more profitable commercial relations with the rest of the world, it follows as a logical and imperative necessity that we should at once remove the chief if not the only obstacle which has so long prevented our participation in the foreign carrying trade of the sea. A tariff built upon the theory that it is well to check imports and that a home market should bound the industry and effort of American producers, was fitly supplemented by a refusal to allow American registry to vessels built abroad though owned and navigated by our people, thus exhibiting a willingness to abandon all contest for the advantages of American transoceanic carriage. Our new tariff policy, built upon the theory that it is well to encourage such importations as our people need, and that our products and manufactures should find markets in every part of the habitable globe, is consistently supplemented by the greatest possible liberty to our citizens in the ownership and navigation of ships in which our products and manufactures may be transported. The millions now paid to foreigners for carrying American passengers and products across the sea should be turned into American hands. Ship-building, which has been protected to strangulation, should be revived by the prospect of profitable employment for ships when built, and the American sailor should be resurrected and again take his place—a sturdy and industrious citizen in time of peace and a patriotic and safe defender of American interests in the day of conflict.

The ancient provision of our law denying American registry to ships built abroad and owned by Americans appears in the light of present conditions not only to be a failure for good at every point, but to be nearer a relic of barbarism than anything that exists under the permission of a statute of the United States. I earnestly recommend its prompt repeal.

During the last month the gold reserved in the Treasury for the purpose of redeeming the notes of the Government circulating as money in the hands of the people became so reduced, and its further depletion in the near future seemed so certain that in the exercise

of proper care for the public welfare it became necessary to replenish this reserve and thus maintain popular faith in the ability and determination of the Government to meet, as agreed, its pecuniary obligations.

It would have been well if in this emergency authority had existed to issue the bonds of the Government bearing a low rate of interest and maturing within a short period; but the Congress having failed to confer such authority, resort was necessarily had to the resumption act of 1875, and pursuant to its provisions bonds were issued drawing interest at the rate of five per cent per annum and maturing ten years after their issue, that being the shortest time authorized by the act. I am glad to say, however, that on the sale of these bonds the premium received operated to reduce the rate of interest to be paid by the Government to less than three per cent.

Nothing could be worse or further removed from sensible finance than the relations existing between the currency the Government has issued, the gold held for its redemption, and the means which must be resorted to for the purpose of replenishing such redemption fund when impaired. Even if the claims upon this fund were confined to the obligations originally intended and if the redemption of these obligations meant their cancellation, the fund would be very small. But these obligations when received and redeemed in gold are not canceled but are reissued and may do duty many times by way of drawing gold from the Treasury. Thus we have an endless chain in operation constantly depleting the Treasury's gold and never near a final rest. As if this was not bad enough, we have, by a statutory declaration that it is the policy of the Government to maintain the parity between gold and silver, aided the force and momentum of this exhausting process and added largely to the currency obligations claiming this peculiar gold redemption. Our small gold reserve is thus subject to drain from every side. The demands that increase our danger also increase the necessity of protecting this reserve against depletion and it is most unsatisfactory to know that the protection afforded is only a temporary palliation.

It is perfectly and palpably plain that the only way under present conditions by which this reserve when dangerously depleted can be replenished is through the issue and sale of the bonds of the Government for gold; and yet Congress has not only thus far declined to authorize the issue of bonds best suited to such a purpose, but there seems a disposition in some quarters to deny both the necessity and power for the issue of bonds at all.

I can not for a moment believe that any of our citizens are deliberately willing that their Government should default in its

pecuniary obligations or that its financial operations should be reduced to a silver basis. At any rate I should not feel that my duty was done if I omitted any effort I could make to avert such a calamity. As long therefore as no provision is made for the final redemption or the putting aside of the currency obligation now used to repeatedly and constantly draw from the Government its gold, and as long as no better authority for bond issues is allowed than at present exists such authority will be utilized whenever and as often as it becomes necessary to maintain a sufficient gold reserve, and in abundant time to save the credit of our country and make good the financial declarations of our Government.

Questions relating to our banks and currency are closely connected with the subject just referred to and they also present some unsatisfactory features. Prominent among them are the lack of elasticity in our currency circulation and its frequent concentration in financial centers when it is most needed in other parts of the country.

The absolute divorcement of the Government from the business of banking is the ideal relationship of the Government to the circulation of the currency of the country.

This condition can not be immediately reached; but as a step in that direction and as a means of securing a more elastic currency and obviating other objections to the present arrangement of bank circulation, the Secretary of the Treasury presents in his report a scheme modifying present banking laws and providing for the issue of circulating notes by State banks free from taxation under certain limitations.

The Secretary explains his plan so plainly and its advantages are developed by him with such remarkable clearness, that any effort on my part to present argument in its support would be superfluous. I shall, therefore, content myself with an unqualified indorsement of the Secretary's proposed changes in the law and a brief and imperfect statement of their prominent features.

It is proposed to repeal all laws providing for the deposit of United States bonds as security for circulation; to permit national banks to issue circulating notes not exceeding in amount seventy-five per cent of their paid-up and unimpaired capital, provided they deposit with the Government, as a guarantee fund, in United States legal-tender notes, including Treasury notes of 1890, a sum equal in amount to thirty per cent of the notes they desire to issue, this deposit to be maintained at all times, but whenever any bank retires any part of its circulation a proportional part of its guarantee fund shall be returned to it; to permit the Secretary of the Treasury to pre-

pare and keep on hand ready for issue in case an increase in circulation is desired blank national-bank notes for each bank having circulation and to repeal the provisions of the present law imposing limitations and restrictions upon banks desiring to reduce or increase their circulation—thus permitting such increase or reduction within the limit of seventy-five per cent of capital to be quickly made as emergencies arise.

In addition to the guarantee fund required, it is proposed to provide a safety fund for the immediate redemption of the circulating notes of failed banks, by imposing a small annual tax, say one-half of one per cent, upon the average circulation of each bank until the fund amounts to five per cent of the total circulation outstanding. When a bank fails its guarantee fund is to be paid into this safety fund and its notes are to be redeemed in the first instance from such safety fund thus augmented—any impairment of such fund caused thereby to be made good from the immediately available cash assets of said bank and if these should be insufficient such impairment to be made good by pro rata assessment among the other banks, their contributions constituting a first lien upon the assets of the failed bank in favor of the contributing banks. As a further security it is contemplated that the existing provision fixing the individual liability of stockholders is to be retained and the bank's indebtedness on account of its circulating notes is to be made a first lien on all its assets.

For the purpose of meeting the expense of printing notes, official supervision, cancellation, and other like charges there shall be imposed a tax of say one-half of one per cent per annum upon the average amount of notes in circulation.

It is further provided that there shall be no national-bank notes issued of a less denomination than ten dollars; that each national bank, except in case of a failed bank, shall redeem or retire its notes in the first instance at its own office or at agencies to be designated by it, and that no fixed reserve need be maintained on account of deposits.

Another very important feature of this plan is the exemption of State banks from taxation by the United States in cases where it is shown to the satisfaction of the Secretary of the Treasury and Comptroller of the Currency by banks claiming such exemption that they have not had outstanding their circulating notes exceeding seventy-five per cent of their paid-up and unimpaired capital; that their stockholders are individually liable for the redemption of their circulating notes to the full extent of their ownership of stock; that the liability of said banks upon their circulating notes

constitutes under their State law a first lien upon their assets; that such banks have kept and maintained a guarantee fund in United States legal-tender notes including Treasury notes of 1890 equal to thirty per cent of their outstanding circulating notes and that such banks have promptly redeemed their circulating notes when presented at their principal or branch offices.

It is quite likely that this scheme may be usefully amended in some of its details; but I am satisfied it furnishes a basis for a very great improvement in our present banking and currency system.

I conclude this communication fully appreciating that the responsibility for all legislation affecting the people of the United States rests upon their representatives in the Congress, and assuring them that, whether in accordance with recommendations I have made or not, I shall be glad to cooperate in perfecting any legislation that tends to the prosperity and welfare of our country.

GROVER CLEVELAND

EXECUTIVE MANSION,

December 3, 1894.

CORRESPONDENCE.

ARGENTINE REPUBLIC.

INTERNATIONAL COPYRIGHT.

Mr. Gresham to Mr. Pitkin.

No. 241.]

DEPARTMENT OF STATE,
Washington, May 23, 1893.

SIR: The Department's instruction of May 1, 1891, inclosed copies of an act of Congress entitled "An act to amend title 60, chapter 3, of the Revised Statutes of the United States relating to copyrights," and directed you to present a copy of the law to the Government to which you are accredited, inviting attention to the fact that the benefits of the statute are extended to the citizens of foreign states only after a proclamation of the President to be issued under conditions specified in section 13.

No response accepting the provisions of this act having been received from the Government to which you are accredited, the Department wishes you again to call the attention of that Government to the subject with a view of ascertaining whether it is disposed to avail itself of the privilege offered by section 13 of the act.

The governments whose laws permit to citizens of the United States the benefit of copyright on substantially the same basis as to their own citizens or subjects, and in whose favor the President has issued his proclamation, are Belgium, Denmark, France, Germany, Great Britain and the British Possessions, Italy, and Switzerland.

I am, etc.,

W. Q. GRESHAM.

Mr. Fishback to Mr. Gresham.

No. 279.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, October 1, 1893. (Received December 14.)

SIR: I have the honor to report that in accordance with the instructions contained in Department No. 241, Minister Pitkin on July 11, 1893, addressed a note to the Argentine minister of foreign affairs, calling his excellency's attention to a legation note of June 10, 1891, a copy of which was inclosed in legation No. 267 to the Department of State, and requested the Argentine Government to indicate whether it were disposed to avail itself of the privilege offered by section 13 of the act of the U. S. Congress "to amend title 60, chapter 3, of the Revised

Statutes of the United States relating to copyrights;" that a reply from the foreign office has been received at this legation containing an opinion from the Argentine attorney-general, a translation of which is inclosed, and stating that the said opinion had been adopted by the minister of justice, culture, and public worship.

I have, etc.,

GEO. W. FISHBACK.

[Inclosure in No. 279.—Translation.]

Opinion of Argentine attorney-general.

MR. MINISTER: The United States of America, developing an inventive power superior to that of other nations, logically tends to insure the permanent property of its extraordinary productions and inventions, and to restrict the importation of similar foreign ones.

To this end responds its eminently protective legislation of the national industry and commerce, and this same purpose has been kept in view in the law referring to copyright, which his excellency the minister of the United States presents to your excellency, inviting the Argentine Government to avail itself of the privileges offered in section 13.

In that section the benefits of the North American law are offered to the citizens and subjects of all foreign nations in exchange for a substantially equal concession by virtue of a special law or of international treaties.

The law which is offered for your excellency's acceptance recognizes the author's right to books, maps, drawings, plans, dramatic or musical productions, engravings, illustrations, photography, paintings, chromos, statues, models of works of art, etc., and consequently declares that no person may reproduce, print, copy, execute, finish, or sell such objects except their authors or concessionaires, and this subject to the following prescriptions of the same law:

(1) Registration of the title of the work or of the description of the guaranteed object.

(2) Publication of such registration at the expense of the interested party, during four weeks, in one or more newspapers of the United States.

(3) Deposit of copies or models in the Library of the U. S. Congress, it being understood that in the publication of a book, photograph, chromo, or lithograph, the copies that shall be delivered or deposited are to be respectively printed with the typographical compositions, plates, negatives, or lithographic drawings made in the United States.

(4) That during the term of the author's rights the importation of objects equal to those guaranteed to their authors will be prohibited, it being necessary that the typographical composition, plates, negatives, etc., be made in the territory of the United States.

(5) Charges payable to the Treasury for the inscription, declaration, concession, etc.

I have stated the principal prescriptions of the North American law as a necessary condition for obtaining the recognition of authors' rights, in order to prove, by its own terms, that if the law can be beneficial to the progress of the United States and other nations of great scientific, literary, or artistic growth, it is contrary to that same growth in new countries where literature and industries are in their infancy.

International free trade brings us all the productions of the most progressive countries in science, industries, art, and literature, and the national industry, formed in a great measure by foreigners, copies engravings, prints, lithographs, and in fact reproduces without restrictions, the great works that instruct, teach, and prepare the public spirit for an original national production in a probably not remote future.

Until that future arrives, our rising literature and arts, notwithstanding their great growth, are not yet in a position to overcome the obstacles of a legislation which, in exchange for the rights of authorship, imposes such onerous conditions as the publication and composition with plates, negatives, and typographical types made in the United States.

If our industrial, artistic, and literary productions can not yet aspire to compete advantageously with the great nations of the old continent and with the United States of America, a law, or a treaty establishing and accepting the principal condition of the law presented for your excellency's consideration, would lack its fundamental basis, which is reciprocity of benefits.

My opinion, therefore, is that it would be convenient for your excellency to reserve your acceptance until the increasing growth of our intellectual and material progress reaches the high level that it needs to really make effective the benefits of reciprocity offered in the North American law.

BINIANO KIER,

Mr. Gresham to Mr. Fishback.

No. 261.]

DEPARTMENT OF STATE,
Washington, December 15, 1893.

SIR: Your No. 279, of October 1, 1893, has been received. It communicates the conclusion of the Argentine Government that reciprocal copyright arrangements between the United States and Argentina are, at present at least, inexpedient.

The opinion of the attorney-general of the Republic, which is transmitted in translation, gives reasons for this determination; but it may be that Señor Kier has, to a slight extent, misapprehended his premises. He proceeds on the assumption that the privilege of international copyright offered by the United States rests on the existence of similar legislation in the foreign country of which citizens of the United States may enjoy the benefits, and he accordingly shows the impracticability of applying in the Argentine Republic the conditions relative to setting up and printing, etc., which obtain in the United States.

This assumption, however, is not involved in the invitation of this Government, which implies mutuality of individual treatment and not reciprocal identity of legislation. As section 13 of the copyright act reads, the President may, in his discretion, issue the prescribed proclamation on ascertaining that there is in the foreign country some definite regulation of copyright by statute, and that citizens of the United States may enjoy its benefits on substantially the same footing as the citizens of the foreign country.

It may be inferred, however, from the attorney-general's opinion that no copyright law exists in Argentina. If this be the case, there would be of course nothing to go upon in the way of mutual recognition of authors' rights in the two countries; but the invitation of this Government will have shown that friendly spirit of cordiality befitting the good relations which it is alike the pleasure and interest of the two governments to promote.

I am, etc.,

W. Q. GRESHAM.

PROPOSED TARIFF LEGISLATION.

Señor Zeballos to Mr. Gresham.

ARGENTINE LEGATION,
Washington, January 30, 1894. (Received February 1.)

SIR: In confirmation of the suggestions which I had the honor to place before your Department and the matters submitted to the consideration of the President of the Republic in regard to the mutual economical advantages that would result to the United States and my country by the free introduction of Argentine wools into the American market, I take pleasure in stating that the Argentine Congress in passing the tariff law for 1894, in the sessions held during the past week, included in the list of articles to be admitted free of duty, crude petroleum.

My Government directs by cable that I communicate with your Department, announcing the fact that this action has been taken in consideration of the report by the Committee on Ways and Means of the

House of Representatives of the United States, which recommended that wools be placed upon the list of articles to be admitted free of duty.

The Argentine Government desires to strongly insist upon its opinion that the approval of this action in respect to wool will extraordinarily increase the volume of the commercial relations between the two countries and permit the manufactured products of the United States to enter into active competition with similar articles of European origin in the rich Argentine market.

It is also expected that the Argentine Congress will exempt from the payment of duties lumber, lubricating and fuel oils, and refined petroleum from this country, which articles are consumed in Argentine upon a large scale.

The exemption of crude petroleum is of the greatest importance for American commerce, for it will be remembered that in the Argentine Republic it is employed as a fuel in competition with English coals, the annual importation of which is as follows:

	1888.	1889.	1890.	1891.	1892.
Kilos.....	333, 798, 549	658, 054, 486	514, 582, 061	350, 680, 989	520, 771, 418
Tons.....	333, 798	658, 054	514, 582	350, 680	520, 771

Permit, etc.,

ESTANISLAO ZEBALLOS.

Mr. Uhl to Señor Zeballos.

DEPARTMENT OF STATE,
Washington, February 3, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 30th ultimo, informing me that in consideration of the recommendation of the Committee of Ways and Means of the House of Representatives that wools be placed upon the list of articles to be admitted into the United States free of duty, the Argentine Congress has, in the tariff law for 1894, included crude petroleum in the list of articles to be admitted free into the Argentine Republic, and that it is expected that the Argentine Congress will also exempt from the payment of duties lumber, lubricating and fuel oils, and refined petroleum from the United States.

It has given me pleasure to bring this information to the attention of the Committee on Finance of the Senate and that of Ways and Means of the House of Representatives.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Buchanan to Mr. Gresham.

No. 28.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, June 20, 1894. (Received July 30.)

SIR: The minister of foreign affairs called at my residence last night to express the satisfaction felt by the President and by the Argentine Government on the reported passage by the United States Senate of the tariff bill carrying free wool.

During an extended conversation, the minister assured me that his Government was ready and willing in return to recommend and urge upon Congress the adoption of concessions in the Argentine tariff laws which will furnish the United States a better opportunity for developing their commercial interests here than at present exists.

The minister was very frank, cordial, and outspoken in this, and I assured him that his sentiments would be highly gratifying to the people of the United States.

The time seems opportune to secure such modifications in this direction as can be had, affecting those lines of manufactures in which the United States can command the market or successfully compete with other countries.

To enable me to properly understand the tariff situation here, I am preparing a list of goods manufactured in the United States, which I believe can be successfully sold here; this list I am comparing with the Argentine tariff laws to see in what degree the various articles are affected by the import duties. When thoroughly matured, I shall accept the invitation extended last night by the minister of foreign affairs, and informally discuss with him such modifications in duties as appear to me of advantage wholly or largely to the manufacturers of the United States.

In the absence of any instructions from the Department, no steps will be taken by me in the matter, except upon the invitation of the minister of foreign affairs, and then only to such an extent as seems prudent and advisable.

The commission to revise the tariff is now sitting. This, together with the fact that the Argentine Congress is now in session, leads me to believe that the subject should have prompt attention if any benefits are to be received during this year.

I have, etc.,

WILLIAM I. BUCHANAN.

Señor Zeballos to Mr. Gresham.

[Translation.]

ARGENTINE LEGATION,
Washington, July 30, 1894. (Received July 31.)

MR. SECRETARY OF STATE: The news that the two Houses of the United States of America had voted the entry, duty free, of wool and of other articles which are likewise produced by the Argentine Republic, has made the most favorable impression on my Government and had the most favorable effect upon the commerce of my country, it being deeply interested in developing the relations of trade between the two republics.

Toward the close of 1893, the Argentine Congress suppressed the import duty upon crude petroleum, as I had the honor to inform the Secretary of State in my note of January 30 last.

The inclosed copy of the telegram of the minister of foreign relations of my Government, in which he acknowledges receipt of the news of the vote to which I have referred, shows that the executive power of my country proposes to advocate additional reductions of duty in respect to products of the United States of America; and a commission appointed to study the reform of the customs laws has already pub-

licly stated its opinion in favor of the reduction, to an important extent, of duties upon refined petroleum, agricultural machinery, and white pine and spruce (lumber), which articles are at present among the principal purchases of the Argentine Republic in the market of the United States.

In communicating to the Secretary of State these satisfactory tidings, I permit myself to remember that they confirm the predictions which I had the honor to submit to the upright judgment of the President of the United States in the interview wherewith he honored me on the 13th of November, 1893, and to the Secretary of State in various communications, oral and written, wherein I stated that the duty-free admission of wools and other agricultural products would give a new and reciprocally advantageous aspect to the commerce of the two nations, energetically stimulating it in favor of spontaneous and reciprocal parliamentary courtesies.

I renew, etc.,

ESTANISLAO ZEBALLOS.

[Inclosure—Telegram.]

Señor Costa to Señor Zeballos.

ARGENTINE MINISTER, *Washington, D. C.:*

BUENOS AYRES, *June 18, 1894.*

Received telegram with great satisfaction. Government will use efforts in order that Congress shall respond with possible exemptions.

EDUARDO COSTA.

Mr. Adee to Mr. Buchanan.

No. 23.]

DEPARTMENT OF STATE,
Washington, August 9, 1894.

SIR: I have received your No. 28, of June 20 last, reporting the satisfaction expressed by the Argentine Government at the action of Congress in placing wool on the free list, and their readiness to respond, and have inclosed a copy to the Secretary of the Treasury for his information.

I append copies of your telegram of the 4th and of the Department's reply of the 7th instant, and inclose copies of the Argentine minister's notes on the same subject.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure 1 in No. 23.]

Mr. Buchanan to Mr. Gresham.

[Telegram.]

BUENOS AYRES, *August 4, 1894.*

Mr. Buchanan inquires, whether in view of incorrect valuations and high duties in the tariff of Argentine on some prominent products of America, he is authorized to secure, if possible, equitable adjustment in tariff law under consideration.

[Inclosure 2 in No. 23.]

Mr. Gresham to Mr. Buchanan.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 7, 1894.

Mr. Buchanan is instructed to exert all legitimate influence to induce Argentina to enact laws favorable to the commerce of the United States and equitably responsive to the concessions made by Congress.

Mr. Buchanan to Mr. Gresham.

No. 49.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, August 13, 1894. (Received September 24.)

SIR: Referring to my telegram of the 4th instant, I beg to submit my reasons for asking the sanction of the Department as outlined therein and my subsequent action.

There have been several references made in the public press of this city to the effect that it was the understood purpose of this Government to either place lumber, kerosene, and agricultural implements on the free list or greatly reduce the duties thereon in compliment to the supposed purpose of the United States of placing wool on the free list. This view has been understood to meet the favor, either wholly or in a measure, of the distinguished Argentine minister in Washington, Dr. Zeballos.

A similar inference is contained in the remarks made by the present minister of foreign affairs, Dr. Costa, during his call at my residence, referred to in my No. 28.

I have taken pains to study this subject closely since my arrival, and am of the opinion that the probability of such a course being carried out by Congress, in whole or largely, is doubtful. I believe it will require an effort to secure any striking concessions from the present unequal and heavy tariff on many of our products.

I am led to this conclusion for three reasons.

First. The belief common here that this country has been very generous to the United States in custom laws; that our people do a large and profitable business here; that the balance of trade is in our favor, and that it requires "free wool" to place any credit on our side of the account.

Second. The fact that 75 per cent of the revenues of the Republic come from its custom-house, considering the large expenses the Government has to meet and the improbability of any change being made in the direction of a more equitable system of general taxation than now exists, it would seem to indicate that the custom-house will still be looked to as the main source of income.

Third. Should the illogical and unjust system of applying ad valorem duties to arbitrary and fictitious values be done away with, it would necessitate, if the present customs revenue be maintained, a complete revision and advance in the present tariff rates; this, I believe would appear to people here to be a step in the wrong direction; it would also oblige a revision of the present Government method of calculating the value of imports, which is responsible for the prevalent idea of the extent and value of our trade. I am not prepared to believe the present Congress will go to any such length, although I am informed that the Government tariff bill when presented will be vigorously

attacked by several Members of Congress who are outspoken in advocating low duties and more equitable general taxation.

I am, nevertheless, clear that an earnest effort should be made to have present evils, where they affect us, corrected so far as possible.

With that purpose in view, I at once acted on your telegram of the 7th instant, and addressed to the foreign office, on the 11th, a note concerning the subject, accompanying it with three statistical tables showing the status of our trade with this country, the errors of the Argentine statistics with reference thereto, and the excessive and unjust duties exacted from some of our largest export items to this country. To the copy of this note and inclosures herewith attached, I respectfully call your attention, trusting the presentation made will meet your approval.

Referring again to the subject of the Argentine statistics with reference to our exports to this country, I feel sure that a careful perusal of the tables inclosed will justify my suggestions that Consul Baker should be instructed to use great caution in embodying them in his reports, inasmuch as such a course gives a quasi indorsement and certificate of good character to their errors when published in our Consular Reports.

A reference to Consul Baker's reports and a comparison of the figures given by him as to our trade here, taken from the *Estadística de la Republica Argentina*, with our Commerce and Navigation for the same years will clearly illustrate the reason for the belief existing here as to the immensity of our trade.

I have, etc.,

WILLIAM I. BUCHANAN.

[Inclosure 1 in No. 49.]

Mr. Buchanan to Señor Costa.

LEGATION OF THE UNITED STATES,
Buenos Ayres, August 11, 1894.

MR. MINISTER: I have the honor to inclose herewith for the consideration of your excellency the tables referred to in my note of the 8th instant.

It is especially gratifying to me to know that the subject of closer commercial relations between this Republic and the United States is one regarding which your excellency and the distinguished minister now representing this Government in Washington have given so many and such kindly assurances of interest and good will.

The expressions so generously made by your excellency of the wish of this Government to do all that it consistently can to encourage the people of the United States in extending their commerce here have been transmitted to and are most kindly remembered by my Government.

Under such circumstances I deem it only necessary to briefly call your excellency's attention to the conclusions easily drawn from the tables inclosed, feeling that the burdens now placed on some great items of the imports of the United States into this Republic by reason of high duties and fictitious custom-house valuation will be equitably, fairly, and promptly adjusted.

It seems desirable, in view of the erroneous impressions existing among the people of this Republic regarding the extent of the trade of the United States with your country, to first call your excellency's attention to Exhibit A.

I can only account for this belief among your citizens on the theory that it is based on the assumption that the figures given out by your statistical office regarding this subject are correct.

I am sorry to say these figures are so much at variance with the United States statistics, as they apply to our imports here, that I have been at a loss to understand how your statistician reaches conclusions so manifestly erroneous and misleading.

I have given the subject careful study, knowing the method used by the statistical office of the United States in determining values to be the same employed in applying ad valorem duties, namely, basing calculations on the current market price in the country of origin, and am forced to two conclusions:

First, that your statistics of the value of imports from the United States used the erroneous and fictitious values placed on our goods by your custom-house law as

a basis; and, secondly, that your statistician has charged to the United States the entry trade of Canada and possibly some other countries.

His figures given in the *Estadística de la Republica Argentina* for 1892 are exceedingly unjust to the commerce of my country, as they convey the belief that the balance of trade was largely against the Argentine Republic during that year, when the contrary was the fact.

They are again unjust because they give color to the belief among your citizens that our trade is very large and profitable, and from these beliefs results the idea that the United States have decided advantages in this commerce, in return for which they have not dealt as liberally by the products of this country as they should have done.

The facts evidenced by the United States statistics given in Exhibit A show that the balance of trade for the fiscal year ending June 30, 1892, was \$2,415,310 in favor of the Argentine Republic; that during that year 73 per cent of the commerce of this Republic entered the ports of the United States free of duty as against 6 per cent of the commerce of the United States entering the Argentine Republic free of duty.

Believing in the doctrine that the greatest commercial freedom should be enjoyed by all peoples, your excellency will appreciate my gratification on the extent of your country's trade in the United States and of the generous reception now accorded your products by our laws.

This generosity and the evidence now being given of the wish of the Government of the United States to deal with the subject of commerce on broad ground will, I feel sure, be responsively met by your excellency's Government in every consistent manner where wrongs exist.

It is not necessary for me to say that my Government remembers kindly the treatment accorded in a large way on one line of manufactures, wherein the United States are large producers and wherein they have indirectly been enabled to return to aid in the development of your agricultural greatness.

Exhibit B gives in detail the statistics of both countries as they apply to the imports from the United States into this country for the same year covered by Exhibit A. This table will bear close study, as it contains in the totals of some groups enormous differences, which illustrate graphically the unjustness of your system of custom valuations as applied to some of our products, notably in the case of lumber.

To Exhibit C I desire particularly to call your excellency's careful attention. The illustrations there given of the burdens placed on some of the large items in the commerce of the United States with this country, by reason of the application to them of a system of valuations utterly inconsistent with their worth in the markets of origin, will, I feel sure, strongly suggest to your excellency's sense of fairness and equity the justness of insuring a careful and satisfactory revision, both in the duty and the valuation, on many items entering into our commerce with this country.

Indeed, I am so certain that it is but necessary to have the subject brought to your attention, as I am now doing, to secure the desired modifications and corrections that I will not add to the force of the figures given any further argument, reserving such explanations and comments as may seem proper for the personal interview I hope to have the pleasure of having with your excellency regarding the subject.

It is inconsistent with the generous treatment now accorded the products of the Argentine Republic by the United States, with the generous actions of your excellency's Government heretofore regarding the same general subject, and equally so with the commendable and worthy desire on the part of your excellency's Government to see still greater freedom accorded in the markets of the United States to your products, to believe that your excellency's Government will allow great items in the existing trade of the United States in this country to be burdened by high tariffs, unjust valuations, and consequent excessive duties.

I am, therefore, not prepared to accept the view that any request is necessary to secure for the yellow or pitch pine of the United States the same tariff rates applying to spruce pine, and a valuation closely related to its market price in the seaboard markets of the United States to secure for kerosene, lubricating, and cottonseed oil more consistent duties than now imposed, and to have extended in a broad and mutually advantageous manner the classification of agricultural implements and farm machinery, including farm wagons therein.

These changes, with others that will suggest themselves to your excellency as wise, beneficial, and to the mutual advantage of both countries, will add greatly to the enlargement of the trade of the Argentine Republic in the United States.

I should be highly pleased to be able to cable my Government at an early day that this Government will, in its tariff bill to be presented to Congress, continue its policy of encouraging the commerce of the United States and will most amply, generously, and equitably deal with the questions affecting it as herein submitted.

I am at your excellency's disposal to confer with reference to this subject and avail, etc.,

WILLIAM I. BUCHANAN.

COMPARATIVE STATISTICS.

EXHIBIT A.

Total trade between the United States and the Argentine Republic, as shown by the official figures of each country, for the fiscal and calendar year 1892.

	Dutiable.	Free.	Total.	Free.
Imports into the United States from the Argentine Republic for the fiscal year ending June 30, 1892 ¹	\$1,422,175	\$3,921,623	\$5,343,798	<i>Per cent.</i> 73
Exports from the Argentine Republic to the United States for the calendar year 1892 ² . . . . .	.....	.....	4,831,454	.....

¹ Figures taken from Commerce and Navigation of the United States, 1892.

² Figures taken from the Estadística de la República Argentina, 1892. No figures given except total.

NOTE.—Per cent shown by United States statistics in excess of Argentine statistics, 10.

Total trade between the United States and the Argentine Republic, as shown by the official figures of each country, for the fiscal and calendar year 1892.

	Domestic goods.	In bond.	Total.
Exports from the United States to the Argentine Republic for the fiscal year ending June 30, 1892 ¹	\$2,643,325	² \$284,163	\$2,927,488
Imports into the Argentine Republic from the United States for the calendar year, 1892 ³ . . . . .	.....	.....	7,376,583

¹ Figures taken from Commerce and Navigation of the United States, 1892.

² Less than \$2,000 of "In bond" paid duty to the United States; goods simply reshipped.

³ Figures taken from the Estadística de la República Argentina, 1892.

NOTE.—Per cent shown by Argentine statistics in excess of United States statistics, 152; per cent free according to Argentine figures, 9; deducting coal, per cent falls to 6; deducting for evident error in plows and result will be about 5.

RECAPITULATION.

Imports from the Argentine Republic into the United States (according to Commerce and Navigation of United States, 1892)	\$5,343,798
Exports from the Argentine Republic to the United States (according to the Estadística de la República Argentina)	4,831,454
Excess of United States figures over Argentine figures	512,344
Per cent of excess of United States figures over Argentine figures	10
Imports from the United States into the Argentine Republic (according to the Estadística de la República Argentina, 1892)	7,376,583
Exports from the United States to the Argentine Republic (according to Commerce and Navigation of United States, 1892)	2,927,488
Excess of Argentine figures over United States figures	4,449,095
Per cent of excess of Argentine figures over United States figures	152
Balance of trade in 1892 in favor of the Argentine Republic	2,415,310
Per cent of goods free from the Argentine Republic in the United States	73
Percent of goods free from the United States in the Argentine Republic (coal only deducted)	6

ARGENTINE REPUBLIC.

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EXHIBIT B.

Differences by groups in value of imports from the United States into the Argentine Republic for the year 1892.

[NOTE.—The United States figures are taken from Commerce and Navigation of the United States for the fiscal year ending June 30, 1892. The Argentine figures are taken from the Estadística de la Republica Argentina for the calendar year 1892.]

Articles.	Argentine figures.	United States figures.	Excess over United States figures.	Excess over Argentine figures.
Agricultural implements.....	\$1, 201, 239	\$781, 940	\$419, 299	.....
Books and printed matter.....	23, 051	21, 395	1, 656	.....
Cotton goods, cordage, and twine.....	944, 749	417, 546	527, 203	.....
Coal.....	237, 813	15	237, 798	.....
Drugs, chemicals, and medicines.....	55, 289	40, 932	14, 357	.....
Glassware, lamps, and chandeliers.....	18, 991	15, 338	3, 653	.....
Iron, and manufactures of.....	824, 896	248, 023	576, 873	.....
Wood, and manufactures of.....	2, 874, 546	686, 359	2, 188, 187	.....
Oils and resin.....	672, 164	563, 270	108, 894	.....
Turpentine.....	32, 674	52, 164	.....	\$19, 490
Firearms, rockets, and explosives.....	18, 994	10, 786	8, 208	.....
Meat and meat products.....	8, 750	3, 664	5, 086	.....
Tobacco and cigars.....	3, 366	23, 925	.....	20, 559
All others.....	460, 066	62, 136	397, 930	.....
Total.....	.....	.....	4, 489, 144 40, 049	40, 049
Net difference of Argentine figures over the United States figures.....	.....	.....	4, 449, 195	.....

EXHIBIT C.

Actual duty paid on certain articles under present Argentine tariff.

TABLE 1.

Lumber.	Cost at United States seaboard per 1,000 feet.	Cost at United States seaboard per square meter.	Custom-house value per square meter.	Per cent of duty.	Per cent of duty actually paid on cost at United States seaboard.
White pine No. 7 (65 per cent comes from Canada).....	\$30. 00	\$0. 33	¹ \$0. 45	5	9
Spruce pine (75 per cent comes from Canada).....	11. 50	. 14	¹ . 45	5	19
Pitch pine (forming 75 per cent of domestic lumber trade of the United States to the Argentine Republic).....	10. 50	. 13	² . 50	25	110
Black walnut.....	125. 00	1. 34	³ 1. 00	25	17½
Cherry.....	120. 00	1. 29	³ 1. 00	25	19

¹\$41.80 per 1,000 feet.

²\$46.45 per 1,000 feet.

³\$92.90 per 1,000 feet.

TABLE 2.

Articles.	Quantities and manner exported.	Cost in New York.	Per cent of duty.	Per cent of duty actually paid on cost in New York.
Kerosene.....	Case of 10 gallons equal 38 liters.	\$0.85.....	Per liter, 2....	89½
Lubricating oils: One quality.....	Shipped in barrels of 46½ gallons. Contents weigh 158 kilos; empty barrel weighs 32 kilos; total weight, 190 kilos.	Per gallon, \$0.07; empty barrel costs \$1.50; total cost, \$4.75.	Per kilo, 3....	¹ 120
Highest quality.....	Same as above.....	Per gallon, \$0.20.....	Per kilo, 3....	² 53

¹ Add freight, 7 cents per gallon, and duty stands at 71.

² Add freight, and duty stands at 40.

EXHIBIT C—Continued.

TABLE 3.—*Actual duty paid on certain articles under present Argentine tariff.*

Articles.	Quantities and manner exported.	Cost in New York.	Argentine custom-house value.	Per cent of duty.	Per cent of duty actually paid on cost in N. Y.
Cotton-seed oil.	Cases of 10 gallons; weight, including case, 48 kilos.	Per case, \$4.65..	Per kilo, \$0.25..	Per kilo, 12....	124
Varnish	Tin packages of various sizes.	Per kilo, average, \$0.20.	Per kilo, \$0.80...	Per kilo, 25....	100
Chairs	Dozen.....	Per dozen, \$3....	Per dozen, \$5....	Per dozen, 60..	100

¹This is valued in custom-house law at 25 cents per kilo, or 150 per cent above cost in New York.

Mr. Buchanan to Mr. Gresham.

No. 59.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, October 1, 1894. (Received November 5.)

SIR: Referring to your No. 23, and especially to the inclosures accompanying it, I beg to say that I see no reason to change the view I expressed in my No. 49, of the probable action of this Government with relation to lowering the duties on American products.

Great stress is laid by the Argentine minister, in his letter to the Department on January 30 last, on the action of the Argentine Congress in placing crude petroleum on the "free" list, and the distinguished minister cites the amount of coal imported here, conveying the idea that our "free" crude petroleum is to take its place as fuel.

When I say that no crude petroleum comes here, and that, so far as I can see, no prospect exists that any will come, unless the Standard Oil Company should build a refinery here, which seems wholly improbable, as they control the market as it is, you will be better able to appreciate the benefit of "free" crude petroleum to our commerce. "Free" crude petroleum was asked for by an importer here who felt that he would be able to get the railways to use it for locomotive fuel, but the hard times of the last few years side-tracked that plan entirely, and, when the Argentine Congress made the article "free," there was no use for it, and has been none since. I am of the opinion that this act instead of helping will hurt us, as it is used here as the Argentine minister has used it, conveying the idea that it was a concession to us, and one of great advantage.

There are a great number of articles in the manufacture of which we ought to and can compete with other countries, which by the Argentine tariff are either virtually prohibited or made luxuries; these, in my judgment, are more important to us than any one single item, and my efforts while here will be in the direction of attracting in every way the products of as many of our factories as possible to this market.

While their conclusions have not been given to the public, except by the newspapers, I think I am safe in saying that the work of the Argentine tariff commission, which has just adjourned, has been in the direction of increased duties.

What the action of the Government will be before the bill is submitted to Congress is uncertain. In this connection I beg to inclose a

copy of a note I addressed to the foreign office, in relation to the general subject, on September 18, last, and to inclose copy and translation of the minister's reply thereto.

I shall use my best efforts in trying to secure some concessions from the scheme submitted to the Government by the tariff commission.

I have, etc.,

WILLIAM I. BUCHANAN.

[Inclosure 1 in No. 59.]

Mr. Buchanan to Senor Costa.

LEGATION OF THE UNITED STATES,
Buenos Ayres, September 18, 1894.

MR. MINISTER: I beg to acquaint your excellency with the fact that I am in receipt of a dispatch from my Government acknowledging my dispatch in which I transmitted the assurances made by your excellency of the wish and purpose of your excellency's Government, in return for the action of the American Congress in placing wool on the "free" list, to modify and reduce, so far as possible, the duties on some of the more prominent articles exported from the United States to this Republic.

It is needless to say that my Government received the information with satisfaction, and that it sincerely hopes such modifications will be made as will demonstrate to the American people the wisdom of the action of the American Congress.

The Department incloses copies of two letters from your excellency's minister in Washington, both confirming the views of your excellency's Government as expressed by your excellency. In his letter to the State Department on January 30 last, your excellency's minister says:

"The Argentine Government desires to strongly insist upon its opinion that the approval of this action in respect to wool (referring to the recommendation of the Ways and Means Committee to place wool on the 'free' list) will extraordinarily increase the volume of the commercial relations between the two countries and permit the manufactured products of the United States to enter into active competition with similar articles of European origin in the rich Argentine market.

"It is also expected that the Argentine Congress will exempt from the payment of duties lumber, lubricating and fuel oils, and refined petroleum from this country, which articles are consumed in Argentine upon a large scale."

And, in his note to the Department on July 30 last, he says:

"The inclosed copy of the telegram of the minister of foreign relations of my Government, in which he acknowledges receipt of the news of the vote to which I have referred, shows that the executive power of my Government proposes to advocate additional reductions of duty in respect to products of the United States of America; and a commission appointed to study the reform of the customs laws has already publicly stated its opinion in favor of the reduction, to an important extent, of duties upon refined petroleum, agricultural machinery, and white pine and spruce (lumber), which articles are at present among the principal purchases of the Argentine Republic in the market of the United States."

(The minister is mistaken: Pitchpine is of far greater importance to us than spruce, and is the one class of lumber discriminated against by your tariff.)

These expressions and the views they represent have given my Government great pleasure, and it is reasonable to believe had some bearing on the subject of "free" wool. It is unnecessary for me to assure your excellency that I, whose views on the subject of tariffs you well understand, am especially gratified to feel that, in the wise course indicated, your excellency's Government can, by reducing and fairly adjusting the duties and valuations on several American products, focus the judgment of the American people on the benefits that follow the free introduction of the great staple products of sister countries.

In this connection I may say that I will not believe the rumor which has reached me, from apparently authentic sources, that the tariff commission now sitting proposes to increase the duty on agricultural implements, make no change in petroleum, and only a trivial correction in the glaring injustice of your tariff as applied to pitch-pine lumber, which is wholly, I may say, a product of the United States. Such a course would be so inconsistent with the views of your excellency's Government, as communicated to my Government, that I can not consent to credit it.

I hope your excellency will furnish me with an early opportunity of talking over this matter with yourself and the minister of Hacienda.

I have, etc.,

WILLIAM I. BUCHANAN.

[Inclosure 2 in No. 59.— Translation.]

Senor Costa to Mr. Buchanan.

MINISTRY OF FOREIGN AFFAIRS,
Buenos Ayres, September 26, 1894.

MR. MINISTER: I have had the honor to receive your excellency's note of the 18th instant, referring to the tariffs in force or projected in both countries.

Taking keen interest in so important a note, I am pleased to state that I have transmitted it to the minister of finance, calling his attention to the matter.

It will be very agreeable to me to talk with you in regard to these matters, and I permit myself to invite your excellency to come to my office on Tuesday, the 2d of October, at 2 p. m.

I avail, etc.,

EDUARDO COSTA.

Mr. Buchanan to Mr. Gresham.

No. 63.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, October 5, 1894. (Received November 21.)

SIR: You will have noted in inclosure 2 in my No. 59 the invitation of the minister of foreign affairs to confer regarding the proposed Argentine tariff for 1895; a reference to my Nos. 49 and 59 will give you the position I have taken regarding the subject. As requested, I met the minister, Dr. Costa, with the minister of hacienda, Dr. Terry, in conference on the 2d and 3d instants, with the results herein given.

I have on several occasions discussed informally with the minister of foreign affairs the question of tariff, and felt sure, as I now do, of his sincerity in expressing his desire to do what he consistently could to aid our commerce. I have had a like confidence in the justness and high purposes of His Excellency President Saenz-Pena, and have the greatest pleasure in recording his uniform kindly and interested wishes for the mutual success of both countries.

As to the position of others having to do with the subject of tariff, I do not deem it wise to express my opinion, lest I might do an unintentional injustice.

It is apparent to me that the large and small manufacturing concerns here will work to maintain or increase the duty on almost all manufactured articles; and, strange as it may seem, so little is known here in a general way on the subject of customs tariffs that some newspapers object to having lumber cheapened, as it would be by reducing the duty, because, they say, it will benefit some other country.

I advised the Department in my No. 49 that I believed the tariff commission, which is an appointive body created by the minister of finance, and presumably carrying out his views, would in its report increase the duty on many American products.

I was enabled to secure, before the conference on the 2d instant, a printed copy of the commissioners' report, and found that in regard to several of our prominent shipments to this country my belief was well founded.

It should be understood that this report is in the nature of a tariff bill, which is submitted to Congress by the Government with such few changes as seem desirable.

The commission placed all agricultural implements on the dutiable list; advanced the duty from 5 to 10 per cent; placed those which, under the existing law, are free on the 10 per cent list, and on those valued under \$150 raised the duty from 5 to 25 per cent, unless, like plows, they are specifically mentioned in the 10 per cent list.

The commission changed the lumber classification, lowering one and

raising two classes of pine, so that, instead of a reduction, there would be an actual increase of duty on the total lumber imports from the United States for the first six months of this year of over \$6,000.

They lowered the duty on kerosene one-half cent per kilo, and made a similar reduction on lubricating oils; they lowered the duty on tobacco, canned goods, furniture, and some other articles; but, in the main, unless raised, the duty on our exports to this country has been left as it now exists.

The Department will note in my letters to the minister of foreign affairs that I called particular attention to the inequalities and harshness of the tariff as applied to our lumber, and the actual prohibition it effected in several lines of manufacture in which we are preeminent and able to compete with the world, notably, farm wagons and canned goods, tomatoes, fruit, etc.

I took the position at both conferences that the action of the tariff commission in raising the duties on farm machinery and lumber was contrary to the spirit of the statements heretofore made to me by the minister of foreign affairs, and likewise the opposite of the views expressed by the Argentine minister in Washington to the Department.

The repeated intimations I had made to the minister of foreign affairs that we felt gratified and secure in the statement given out that it was the purpose and wish of this Government to make liberal concessions to us have not been I think without effect, as at the first conference I was told by the minister, in answer to my inquiry regarding the position of the Government on the action of the commission in raising the duty on agricultural implements, that the Executive would strike out the commission's recommendations and recommend that the present duties and regulations on this class of goods continue during next year.

This is of course no concession, as I pointed out to the minister; but in view of the undoubted protection tendencies of the Government as a whole and its inclination evidenced by the work of its tariff commission to advance duties, I am satisfied this action is all that can be expected at this time.

The lumber schedule was a source of greater difficulty because of the fact that our yellow pine, or pitch pine, as they call it here, pays, under the present excessive and illogical tariff, in duties about \$400,000 gold annually, against \$68,000 collected on an approximately equal quantity of white pine, the value of the latter wood being twice that of the former.

The position I have taken and endeavored in every way to illustrate and make clear to the Government is that this is virtual discrimination, inasmuch as all the pitch pine comes from the United States, while the greater part of the white pine, although passing through the United States in bond, comes originally from Canada. I urged that, not only was the course now being adopted unfair to the United States, but that it put an excessive burden on an article which, under normal conditions, would have a much greater consumption; that the loss in revenue by properly and fairly adjusting the question would, I believed, be made up by an increased use of the wood, and most important, as I thought lowering the duty would materially lessen the cost and thus benefit the people of the country.

The finance minister had present at the second conference a member of the tariff commission, a member of a large importing house, and the secretary of the commission, the purpose being seemingly to sustain the position taken by the commission.

After my refusal to acquiesce in several propositions suggested by the minister of hacienda, an agreement was reached on the general line I had maintained, that the values should be revised in accordance with the facts and that the same duty apply to each of the three kinds of pine.

The present duty and value per square meter on each of the three kinds of pine lumber imported here is:

	Duty.	Value per square meter.
	<i>Per cent.</i>	<i>Cents.</i>
White pine	5	45
Spruce pine	5	45
Pitch (or yellow)	25	50

Under the above, the duties paid on the total quantity of each of the three kinds of pine imported from the United States and Canada during the first six months of this year was:

White pine	\$33,076.14
Spruce pine	20,116.30
Pitch pine	200,577.75
Total	253,770.19

The recommendation of the tariff commission was as follows:

	Duty.	Value per square meter.
	<i>Per cent.</i>	<i>Cents.</i>
White pine	10	45
Spruce pine	15	25
Pitch pine	25	40

Under their plan the lumber above mentioned would have paid:

White pine	\$66,152.28
Spruce pine	33,527.10
Pitch pine	160,462.20
Total	260,141.58

Or \$6,371.39 more than at present, which would be a "reform" in the wrong direction.

As a result of the conference, the minister has agreed to make the pine schedule read as follows:

	Duty.	Value per square meter.
	<i>Per cent.</i>	<i>Cents.</i>
White pine	15	35
Spruce pine	15	25
Pitch pine	15	30

Under this scheme the lumber referred to in the last two illustrations would pay:

White pine	\$77,177.67
Spruce pine	33,527.10
Pitch pine	72,207.79
Total	182,912.56

Or \$70,857.43 less than under the present law, and \$77,228.82 less than under the commission's scheme.

To make clear the direct benefit such a change would be to our yellow pine, the following table, showing the amount which would have been collected under each plan on the yellow pine shipped to this country from the United States during the first six months of the year, is given:

Under present law.....	\$200,577.55
Under commission's scheme	160,462.20
Under conference scheme	72,207.99

It will thus be seen that if the Congress adopts the minister's recommendation, there will be taken off our yellow pine about \$256,000 in duty in one year, which should enable us to get a slight advance on the lumber and secure a greatly increased demand.

Crude petroleum has been omitted from the commission's bill, and my interpretation is that, if passed in that form, it would, under the "omnibus clause" pay 25 per cent; the secretary of the commission said it would still be free, but consented to specifically name it in the bill before it was presented to Congress.

The finance minister, in reply to my request for further opportunity to present for his consideration some other suggestions looking to modifications in the existing prohibitive duty on canned goods and farm wagons, said that he was obliged to decline, as he was asked to present the bill to Congress yesterday; but that he would consider my views if presented to him in writing, and, if he could agree with me, he would go with me before the Congressional committee and ask their adoption.

I shall carefully note the action of the Congressional committee and the drift of public opinion on the changes already made in the bill before deciding what I will do in regard to his request.

We will have secured, by the changes mentioned, if the bill becomes a law, a little better footing commercially than at present. It is, of course, impossible to predict what the Congress will do with the bill, but the general opinion is that, with a few alterations, it will pass.

I shall inclose the proposed bill, together with the President's message accompanying it, as soon as it has been forwarded to the Congress.

I have, etc.,

WILLIAM I. BUCHANAN.

Mr. Uhl to Mr. Buchanan.

No. 43.]

DEPARTMENT OF STATE,
Washington, November 23, 1894.

SIR: I have to acknowledge the receipt of your No. 63, of October 5, 1894, giving the details of your conference on the 2d and 3d of that month, with the Argentine ministers of foreign affairs and of hacienda, with regard to the new tariff of that country; also of your No. 64, of October 8, 1894, transmitting a copy of the President's message in regard thereto.

Your efforts to secure amendments in the proposed bill, which, if adopted, would result to the advantage of the United States, are warmly commended.

If practicable, you will procure and forward another copy of the President's message to the Department for its convenience, that transmitted by your No. 64 having been sent to the Treasury Department with copy of your two dispatches.

I am, sir, etc.,

EDWIN F. UHL,
Acting Secretary.

CERTIFICATES OF NATIONALITY—"PAPELETAS."

Mr. Buchanan to Mr. Gresham.

No. 33.]

LEGATION OF THE UNITED STATES,
Buenos Ayres, July 2, 1894. (Received August 13.)

SIR: I have the honor to call the attention of the Department to the general use here by all of the foreign consuls, except the consul of the United States, of forms or certificates of nationality, or, as they are known in the language of the country, "papeletas" or "protection papers."

The subject has been brought to my attention by our consul, and also by instances arising from the fact that, under the regulations governing the mobilization of the national guard now in progress, the police have authority to arrest persons liable for duty between the ages of 17 and 45 not reporting for drill unless they present a "papeleta" evidencing the fact of foreign birth or citizenship.

I find a wide difference in the form of certificate used by the different consuls.

These "papeletas" are printed in Spanish, and are asked for by foreigners, even though carrying a regular passport, to enable them to avoid impressment into the national guard and as a means of prompt identification should any trouble occur wherein the bearer found it necessary to establish at once the fact that he was not an Argentine subject.

In issuing these certificates the usual requirement of our consul has been an affidavit by the applicant that he is a citizen of the United States, supported by two witnesses known to the consul, who certify to the truth of the applicant's statement.

Section 143 of the Consular Regulations of 1888 contemplates the use of such a certificate where "prescribed by the laws of the country in which the legation or consulate is situated."

In the present instance, I do not understand, from an interview held last week with the minister of foreign affairs, that the Argentine Government prescribes any form of certificate, but that they accept the different forms now in use.

In all cases, the minister says, the "papeleta" is advisable in preference to a regular visaed passport, the police regulations contemplating that a foreigner shall have presented himself to his consul here and, being registered, be given a "papeleta," which is the only form of certificate known to or accepted by the police. I requested the minister to favor me with a copy or a reference to the laws requiring or prescribing this; he could not at once cite the law, but said that it had been and continued to be the usage and custom of the Argentine Government, and that the requirements were assumed in all regulations concerning the general subject.

In view of the general use of such certificates by all foreign consu-

lates or legations, I have the honor to recommend the adoption of some form of certificate for this legation and our consulate, and respectfully suggest such modifications or changes in the inclosed form as suggest themselves to your judgment.

In the event that some form is adopted, which I hope will be the decision of the Department, I beg to be advised of the conditions required to precede the issuing of such a certificate, and respectfully request the opinion of the Department on the following points:

(1) The certificate certifying only to the fact that the bearer is a citizen of the United States, and being valid in this Republic alone, to what extent will the rules now in force in relation to granting passports govern the issuing of such a certificate?

(2) Can such a certificate be issued to a known American citizen temporarily located here who has no passport?

(3) Can such a certificate be issued to a native or naturalized American citizen resident here, engaged in business with the United States, intending at some indefinite time to return to the United States, who has no passport and has had none for more than two years past?

(4) Can such a certificate be issued to a minor, born of American parents in the United States, who has since his early youth resided here with his parents, his father having no passport and presumably not entitled to one under the rules of the Department by reason of his seeming permanent residence here; the boy, however, declaring it to be his intention to go the United States before he becomes 21, and there become a citizen as provided by law? The "certificate" in this instance is necessary to secure him immunity from service in the national guard, he being over 17 years of age.

(5) Can such certificate be issued to persons of known American birth long resident here, who still claim the United States as their country, who are engaged in commerce largely between this country and the United States, who have no domicile in the United States, no citizenship here, no passport, and no definite intention of returning to the United States except to visit it in the interest of their business, who assert their nativity and allegiance to the United States, and are zealous in doing everything they can to further the interests of their country and of their fellow-citizens?

I have, etc.,

WILLIAM I. BUCHANAN.

Mr. Gresham to Mr. Buchanan.

No. 24.]

DEPARTMENT OF STATE,

Washington, August 15, 1894.

SIR: I have to acknowledge the receipt of your No. 33 of the 2d instant. You therein call attention to the general use by all foreign consuls at Buenos Ayres, excepting the consul of the United States, of forms of certificates of nationality known as "papeletas," and you state that under the regulations governing the mobilization of the national guard the police have authority to arrest persons not reporting for duty unless they present a "papeleta" evidencing the fact of foreign birth or citizenship, which being the only form of certificate known or accepted by the police, is considered preferable to a regularly visaed passport. You inclose the forms of certificates used by the foreign consuls and recommend, in view of their general use, the adop-

tion of some such certificate for your legation and our consulate at Buenos Ayres. You also ask, in the event of the adoption of such form, for instructions as to its use and request information on several points which relate to the subject.

The proposed form which you inclose (inclosure No. 4) is quite inadmissible. It is simply a passport in Spanish. There are only two ways of certification of American citizens available:

(1) Deposit of regular passport in the legation or consulate and the issuance to the bearer of a certificate of such deposit and of his registration in the legation or consulate. The French form (inclosure No. 2 to your dispatch) might serve.

(2) Indorsement on the passport itself of a certificate in Spanish. A Spanish translation of the following form might be used:

The within passport, issued by ———, dated ———, attests that ——— is a citizen of the United States of America, and as such is entitled to the rights and privileges of such a citizen in a foreign country.

Seen and noted in this legation (or consulate).

Good for all the territory of the Argentine Republic.

No person can receive a certificate of citizenship in lieu of a passport. Whatever certificate is given must be predicated upon a regular passport.

I am, etc.,

W. Q. GRESHAM.

AUSTRIA-HUNGARY.

UNITED STATES CITIZENS AND ARMY SERVICE.

Mr. Tripp to Mr. Gresham.

No. 45.]

UNITED STATES LEGATION,
Vienna, October 3, 1893. (Received October 18.)

SIR: I have the honor to transmit herewith, for your information, copies of correspondence between this legation, the United States consul at Budapest, and the ministry of foreign affairs at Vienna, relative to the arrest, enrollment into the army and subsequent release of Mike Minis, or Michael Minich, a native of the province of Slavonia, in the Kingdom of Hungary, and a naturalized citizen of the United States.

I have,

BARTLETT TRIPP.

[Inclosure 1 in No. 45.]

Mr. Hammond to Mr. Grant.

UNITED STATES CONSULATE,
Budapest, March 31, 1893.

SIR: Mike Minis (Michael Minich), as shown by the inclosed certificate of naturalization, is a citizen of the United States. Upon his return he was examined and found fit for the army in his native place and was enlisted and put in the army. This case came to my notice by letter written by Mathew Mieder from Mount Pleasant, Pa. Upon investigation I found that the above Minich is an uneducated Slovak, without energy, who did not object to his enlistment, and did not even mention that he was a citizen of the United States.

I have found out that the said Minich left this country by Bremen at 16 years of age in 1886; after living six years in Mount Pleasant and working in the coal mines, he acquired his citizenship. He returned to Hungary last year, and was enlisted October 1, 1892. His present address is Ferdinand Kaserne, Budapest. I turn the matter over for your action.

Yours, etc.,

E. P. T. HAMMOND,
U. S. Consul.

[Inclosure 2 in No. 45.]

Mr. Hammond to Mr. Grant.

UNITED STATES CONSULATE,
Budapest, April 15, 1893.

SIR: Yesterday I had conversation with Mike Minis (United States citizen in army here), and gathered from him the further information that he was born at Felső, Slavonia, but he could not tell what year or month, only that this summer he will be 23 years old. He went to America six years ago the 10th this April by steamer *Fulda*, or *Ems*, from Bremen, returned from America to Hungary about nine months ago, and has been serving in the army since 1st October, 1892. Knowing how important to find date and year of his birth, will write to proper authorities in Felső and try and get certificate of birth. I have heretofore and now given all information that can be obtained from said Minis himself.

I am, etc.,

E. P. T. HAMMOND,
U. S. Consul.

[Inclosure 3 in No. 45.]

*Mr. Grant to Count Kalnoky.*UNITED STATES LEGATION,
Vienna, April 14, 1893.

YOUR EXCELLENCY: I have the honor to inform you that I am in receipt of certain letters which seem to indicate that "Mike Minis," or "Michael Minich," a naturalized citizen of the United States of Hungarian origin, was, upon October the 1st, 1892, forced by the Hungarian authorities to enter the ranks of the imperial and royal army.

I can not as yet place before your excellency all the details of this case, as they have not been fully reported to me, but I inclose herewith Minis's naturalization certificate of American citizenship, and I hasten to request that his case may be investigated and that he may be discharged from the army of the Austro-Hungarian Monarchy.

Investigation has shown that Mike Minis, or Michael Minich, emigrated to the United States in the year 1886, and remained there for six years, during which time he was a workman in the mines of Pennsylvania.

It is also reported to me that the present address of the above-mentioned individual is K. K. Genie Regiment, fifteenth company, Ferdinands Kaserne, Budapest.

With the request that your excellency will have the inclosed certificate of citizenship of Mike Minis, or Michael Minich returned to this legation when the imperial and royal authorities shall have finished the investigation of this case,

I have, etc.,

FREDERICK D. GRANT.

[Inclosure 4 in No. 45.—Translation.]

Count Welsersheimb to Mr. Grant.

VIENNA, June 2, 1893.

SIR: In preliminary response to the esteemed note of April 14 last, No. 174, relative to the enrollment of Mike Minis, alias Michael Minich, a naturalized citizen of the United States, for service in the imperial and royal army, the ministry of foreign affairs begs leave to inform the honorable envoy of the United States that this case has been referred to the royal Hungarian ministry of public defense with a view of an immediate leave of absence to be granted him. and that investigations be made in regard to his naturalization.

WELSERSHEIMB,

For the Minister of Foreign Affairs.

[Inclosure 5 in No. 45.—Translation.]

Count Welsersheimb to Mr. Tripp.

VIENNA, September 25, 1893.

SIR: Supplementary to the note of June 2 last, which the ministry of foreign affairs addressed to the predecessor of the honorable envoy of the United States in reference to the enrollment of Mike Minis, alias Michael Minich, a naturalized citizen of the United States, for active service in the imperial and royal army, the undersigned now has the honor of informing the honorable envoy of the United States that the royal Hungarian ministry of public defense. after having fully investigated the case, report that Minich's naturalization in the United States took place in due form and according to law, and that he has been therefore definitely discharged from the imperial and royal army, and that the documents proving his identity have been returned to him.

WELSERSHEIMB,

For the Minister of Foreign Affairs.

UNITED STATES CITIZEN ARRESTED ON SUSPICION.

Mr. Tripp to Mr. Gresham.

No. 50.]

UNITED STATES LEGATION,
Vienna, October 29, 1893. (Received November 15.)

SIR: I have the honor to acknowledge the receipt of your dispatch No. 39, of date October 13 last, in reference to Edgar W. Mix, and I herewith submit for your consideration the subsequent correspondence between this legation and Mr. Mix in reference to his claim against the Government of Austria-Hungary for damages occasioned by his arrest.

You are of course cognizant of the fact that the municipal and governmental regulations in force in the fortified cities of Europe are very, and perhaps under the conditions obtaining here, necessarily strict, and on Mr. Mix's own showing, in my judgment, he fails to make a case favorable to his right of action against the Government, but, as I am informed from other sources, Mr. Mix, to put the matter mildly, was very imprudent, and he would have little show of recovery in a private action for damages against the local officers. Therefore, not regarding this a case in which the claimant had a cause of action upon the showing made by himself, I have not deemed it necessary to set out for your consideration the facts as claimed by the municipal officers of Przemyśl further than such claim appears in the note of the ministry of foreign affairs in the correspondence already submitted.

I have, etc.,

BARTLETT TRIPP.

[Inclosure 1 in No. 50.]

Mr. Mix to Mr. Tripp.

PARIS, October 6, 1893.

DEAR SIR: As you will remember, I had occasion to telegraph you from Przemyśl on the 14th of September regarding my imprisonment there on the charge of being a spy. I also wrote you as soon as I was liberated, stating that directly I returned to Paris I would make claims through the American minister against the Austrian Government for damages.

I have only just returned, after a business trip to Odessa. I returned by way of Berlin and have visited the American minister here, who informs me that the incident having occurred outside of his territory I must address you with regard to it.

I left Paris on September 7 on my business visit to Odessa, passing by way of Milan, Venice, and Vienna. I left Vienna on the night of September 12, having purchased a through ticket of Messrs. Cook & Co. I took the 10 o'clock train from Vienna. On the way from Krakau I had occasion once or twice to step out of the train as it stopped at the stations and photograph some curious costumes of the country. Arrived at Przemyśl I did the same. The train stops at this point not more than two minutes, and I had barely stepped out of the car before a detective approached me and demanded what I had and what I was doing. I tried as best I could to make him understand, and showed him my photographing apparatus, also my ticket direct through to Odessa, and on his demand showed him my passport. This did not seem to satisfy him and he ordered me to get out of the train and accompany him. This I did with what hand baggage I had in the car. My overcoat, unfortunately, was in the dining car, and as soon as I had stepped out of the train it rolled off.

I was conducted into a room in the depot, and the commissaire of police summoned. I was here searched from head to foot and all the papers in my baggage examined. As I speak neither Polish nor German I could not make myself understood until a gentleman was summoned who spoke French. I presented the case very plainly to him, and told him what I was doing, where I came from, and where I was going, and all the incidents of my voyage, and gave them the most detailed explanation of all papers and documents which I had about me.

My passport was in perfect order, and had been visaed by the Russian consul in Paris before my departure, this formality being necessary in order to cross the Russian frontier. It may be that the signature of the Russian consul caused them to suspect me of being a Russian spy.

My explanation in the depot was not apparently sufficient, and I was conducted to the commissaire of police. There my papers were again searched by two or three individuals, and I gave every explanation they demanded.

They called in a lawyer with whom I could converse, and he made out a statement in Polish as to who I was, where I came from, where I was going, and the object of my visit.

Up to this time everything looked as though I had given perfectly satisfactory explanations, and that I would be liberated before night. I had been arrested at noon. However, I would add that the commissaire of police was about half intoxicated, and I had occasion when I got out of prison to talk with the lawyer who had been present during my first examination, and he corroborated my opinion in this respect.

The commissaire, after the departure of the lawyer who had drawn up my statement, began a sort of cross-examination in German, of which I practically understood nothing, and he denied permission to an employé of the office, who understood some French, to make any interpretation for me. I comprehended sufficient German, however, to understand that the commissaire believed that I understood German perfectly, and was only pretending that I did not understand.

They then began sealing up my papers, which naturally told me that I would be detained some little time longer. I immediately began asking permission to telegraph to my company in Paris, and also to you. All such permission was denied, even after my repeated demands.

I was sent to prison about 5 o'clock, and locked up with a lot of criminals, after having had everything which I had in my pockets taken from me. I was not allowed to take anything, neither my traveling robe.

I was locked up until 10 o'clock the next morning, when I was taken before the jailer and obliged to pay for a dinner which I had eaten in the dining car and had not yet paid for at the moment of my arrest. Having again an opportunity for asking for permission to telegraph, I repeated my request, but was greeted with a refusal. I then asked for a lawyer, whom I succeeded in obtaining. The lawyer happened to be the one who had been present at my first examination at the commissaire of police, and I got him to procure permission from the commissaire of police and procureur-general to telegraph both to you and to my company at Paris. I was not, however, even permitted to see the telegrams which were sent, but was obliged to pay for them.

It was not until I had been locked up forty-eight hours that a telegram was received by the procureur general from the minister of the interior at Vienna, ordering them to set me free, that I was given my liberty. No excuse or apology whatever was made by any official.

The delay caused by my imprisonment, which lasted two days, and the loss of time caused by not being able to make the train connection to Odessa, caused me to lose, in all, just three days of time. This caused me a very great prejudice, as I had a very important affair on hand in Odessa.

The same delay also caused a very great prejudice both to my company in Paris and Berlin.

My camera had been taken away on the first day of my imprisonment and given to a photographer for developing. The developed plates were present during one of my examinations before the procurer, and there was nothing about them whatever which could excite the least suspicion that I was taking photographs of fortifications or acting as a spy. I may add here that the camera was broken in the hands of the photographer.

After my release it was impossible for me to find any trace of my overcoat, although I made inquiries at all the stations along the road to the Russian frontier, and also wrote to the railway company on the matter.

All in all, I consider my net losses, covering the overcoat, camera, telegrams, and lawyer, amount to 500 francs. Over and above this, I naturally desire to make very heavy claims for damages, as the news of my imprisonment was telegraphed all over the world and appeared in all American as well as European papers, and caused me considerable damage in that respect.

I therefore ask you to make claims against the Austrian Government for the sum of 100,000 francs, and I would request you to inform me what steps I should take to impress my claim.

This matter has been taken up by the newspapers, and since my return to Paris I have been approached by several, asking for details of the matter. I replied that I did not care to make any public statement until I had communicated with you and had made my claim for damages.

Yours, etc.,

E. W. Mix.

[Inclosure 2 in No. 50.]

*Mr. Tripp to Mr. Mix.*UNITED STATES LEGATION,
Vienna, October 11, 1893.

DEAR SIR: I have your favor of October 6 in reference to your imprisonment in Galicia, and your claim for damages for your loss of property, detention, etc.

In reply I am obliged to say that I do not feel justified in making a claim on the part of the United States against the Austrian Government for damages in this case, although as I can see you have suffered great wrong and insult as well as pecuniary loss; yet the fault seems to have been rather that of the blundering officials than of the Government itself; and the principal officers of the Austro-Hungarian Government, who must be regarded as its representatives, rather than the offending local officers, as soon as their attention was called to the matter, acted very promptly in ordering your discharge. A government can only be held responsible when it sanctions the action of its officials, done in violation of law; it ought not to be held responsible for unauthorized acts which it promptly disowns upon being cognizant thereof; the responsibility in such case falls upon the offending official. Your remedy lies in a private action against the municipal officers who committed the outrage upon you willfully or through overzeal in the performance of a supposed duty.

I have examined your case with some care and I am rather disposed to commend, than to criticise, the Government of Austria-Hungary for its action in the matter, and I do not feel that it is a case in which our Government would be justified in bringing the matter to the attention of the Austro-Hungarian Government by way of complaint for the acts of its subordinate officers, which it promptly condemned.

There is another feature in the case that should not be overlooked in considering your claim for damages even against the local officers. Przemysl is a fortified town, and it is a high offense in that province to take any pictures of its fortifications or immediate surroundings. You, a stranger, were found taking pictures, and while in fact you were innocent of any intentional wrong, it might be found that there were reasonable grounds for suspicion in the mind of a very vigilant officer (ambitious of notice) that your conduct was not prompted wholly by desire for pleasure and amusement.

Should the facts develop a sufficient apparent ground for action on the part of a zealous officer, having no apparent reason for committing a wilful wrong, it would be a sufficient defense, even in a private action, especially in a court presumably, as such must be, not inclined to be unfriendly to the Government which created it, and toward the officers acting in its behalf.

This, however, is but a suggestion on my own part for consideration of yourself and the counsel you may employ, for my official duty ends with the determination that the case is not one in which the Government I represent ought itself to intervene.

It is pleasant to note the kind expression of thanks on the part both of yourself and employers for my action in your behalf, and I trust I may be permitted to remain,

Yours, etc.,

BARTLETT TRIPP.

Mr. Tripp to Mr. Gresham.

No. 51.]

UNITED STATES LEGATION,
Vienna, November 1, 1893. (Received November 16.)

SIR: Referring to my dispatch No. 50, under date of October 29 last, relative to the claim of Edgar W. Mix for damages for arrest and detention by the local authorities at Przemysl, Galicia, I have the honor to submit herewith copy of a letter of Mr. Mix, recently published in the European papers, and in the Paris Herald of October 29, 1893, in which, while blaming the Austrian authorities for their overzealous action, he practically admits his own imprudence.

I have, etc.,

BARTLETT TRIPP.

Mr. Uhl to Mr. Tripp.

No 43.]

DEPARTMENT OF STATE,
Washington, November 17, 1893.

SIR: I have to acknowledge receipt of your Nos. 50 and 51, of the 29th ultimo and 1st instant, in relation to the claim of Mr. E. W. Mix against the Austrian Government growing out of his arrest on suspicion of being a Russian spy.

The Department approves your conclusion that upon the facts this Government would not be warranted in making a claim against the Austrian Government on behalf of Mr. Mix for damages. By taking photographs at Przemyśl he violated the law in force there, and however innocent in his intentions or ignorant of the law he may have been, his acts subjected him to the arrest and annoyance which he suffered. His release was by your exertions effected as soon as could possibly have been expected, and meantime no harsh or unreasonable treatment seems to have been experienced by him.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

VALIDITY OF NATURALIZATION CERTIFICATE.

Mr. Tripp to Mr. Gresham.

No. 58.]

UNITED STATES LEGATION,
Vienna, December 21, 1893. (Received January 5.)

SIR: I have the honor to transmit herewith for your information copies of correspondence between this legation and the imperial and royal ministry of foreign affairs at Vienna, relative to the genuineness of a naturalization certificate issued by the municipal court of Milwaukee, Wis., to a former subject of Austria, Cajetan Kern, held by the provincial court at Linz, on suspicion of having violated the provisions of the military laws of this monarchy, and his subsequent release.

I have, etc.,

BARTLETT TRIPP.

[Inclosure 1 in No. 58.—Translation.]

*Count Cziraky to Mr. Tripp.**VIENNA, November 1, 1893.*

A certain Cajetan Kern, of Berndet-Schlag, in Upper Austria, 25 years old, is held by the imperial royal provincial court at Linz, on suspicion of having violated paragraph 45 of the military law of April 11, 1889, No. 41.

Cajetan Kern has produced the accompanying certificate of naturalization and declared himself to be an American citizen.

The above-named court is not in a position to judge of the genuineness and validity of a document presented by a private person, issued by a foreign authority and verified by nobody, and has therefore addressed itself to this ministry in order to ascertain whether the document in question is an authentic proof of the regularly made naturalization of the above-named individual in the United States of America.

To this end, the imperial and royal ministry of foreign affairs has the honor of soliciting the kind intervention of the honorable envoy of the United States, and to request him to give his opinion as early as convenient regarding the documents in question, in order that the ministry of foreign affairs be enabled to convey the desired information to the provincial court at Linz.

The undersigned avails himself, etc.,

CZIRAKY,
For the Minister of Foreign Affairs.

[Inclosure 2 in No. 58.]

*Mr. Tripp to Count Kalnoky.*UNITED STATES LEGATION,
Vienna, December 4, 1893.

YOUR EXCELLENCY: Referring to the esteemed note of your excellency, No. 45033, of date November 1, 1893, in reference to the naturalization of Cajetan Kern, I have the honor to say that I am now in receipt of an abstract of the record of the municipal court of Milwaukee, Wis., in the United States of America, covering the naturalization of Cajetan Kern, and I herewith inclose for the consideration of the honorable imperial and royal ministry of foreign affairs of Austria-Hungary, and for transmission to the honorable court at Linz, where proceedings are pending against the said Cajetan Kern, the copy of such record accompanied by the certificate and seal of this legation, and permit me at the same time to avail myself, etc.

BARTLETT TRIPP.

[Inclosure 3 in No. 58.—Translation.]

Count Cziraky to Mr. Tripp.

VIENNA, December 11, 1893.

SIR: The imperial and royal ministry of foreign affairs expresses its sincere thanks for the favored note of December 4 last, containing information in regard to the legal naturalization of a former Austrian subject, one Cajetan Kern, in the United States of America. The ministry of foreign affairs has, however, the honor to inform the honorable envoy of the United States that by a communication received in the meantime from the imperial and royal provincial court in Linz, before whom the said Cajetan Kern was called to account on suspicion of having violated the provisions of the military law, it appears that proceedings against the same have been dismissed.

The undersigned avails himself, etc.,

CZIRAKY,
For the Minister of Foreign Affairs.

CASE OF EX-CONSULAR AGENT DUNHAM.

Mr. Townsend to Mr. Gresham.

[Extract.]

No. 86½.]

UNITED STATES LEGATION,
Vienna, August 1, 1894. (Received August 24.)

SIR: I have the honor to transmit herewith for your information the inclosed copies of correspondence relating to the claim of one Ernst Oechsle against the late U. S. consular agent, William Dunham, and the refusal of the present consular agent, Mr. Schlessing, to permit the officers of the district court at Haida to seize articles claimed to be the personal property of the said Mr. Dunham.

You will observe that the present consular agent, Mr. Schlessing, based his refusal to allow the articles in question to be seized upon the mistaken idea that they were to be held as the property of the U. S. Government to cover a claim which the latter had against Mr. Dunham, notwithstanding the consul-general of the United States at Vienna wrote to the U. S. consul at Reichenberg under date of January 2, 1894, informing him that the articles in question were the personal property of said William Dunham, and requesting him to direct Mr. Schlessing to deliver the articles to the officers of the imperial and royal court at

Haida. After a thorough examination of all the correspondence which passed between the Department of State, the consul-general in Vienna, the U. S. consul in Reichenberg, and the U. S. consular agent at Haida, much of which has not been inclosed as it is simply a repetition of the facts as set forth in the correspondence herewith submitted, I directed the consular agent at Haida to deliver the articles in question to the officers of the court at that place, and I have his reply to the effect that this has been done.

I have, etc.,

LAWRENCE TOWNSEND,
Chargé d'Affaires.

[Inclosure 1 in No. 863.—Translation.]

Count Welsersheimb to Mr. Townsend.

VIENNA, April 28, 1894.

SIR: In September, 1893, the former consular agent of the United States at Haida, Mr. William L. Dunham, left his post without settling a number of debts which he had contracted.

One of his creditors, Ernst Oechsle, brought suit against him for payment of florins 478.43, and received judgment that some articles, left behind by the debtor, should be turned over to him by way of execution.

The present consular agent of the United States at Haida, Mr. Schlessing, objects to this execution, claiming extraterritorial rights for his office, and saying that the articles left behind by Mr. Dunham were property of the United States. In case they were not consular property, he would, on instructions from his superiors, turn over the articles to the court.

In the correspondence which thereupon followed between the court at Haida and the consul-general in Vienna, the latter wrote under date January 2, 1894, that of the objects under execution, an iron safe and a wooden railing, were personal property of Mr. Dunham, and that Mr. Schlessing would be instructed to turn over these articles to the court.

Nevertheless the latter on January 17, 1894, refused again the attempted execution, producing a letter from the consul-general at Vienna, dated January 10, 1894, which he translated to the officers of the court, to the effect that the consul-general approved his actions in the matter and that he held that the things should not be delivered to the court.

Upon renewed written demand to Mr. Schlessing by the court for delivery of the articles, the former replied on January 30, last, that he could not allow the things to leave the office.

The matter having reached this point, it was submitted to the ministry of justice and by the latter to the foreign office, in order to bring light into the case and to bring pressure to bear upon the consular agent at Haida to give up the position he holds, as it appears entirely unjustified.

Principles of international law between the United States and Austria and the consular convention of July 11, 1870, do not grant to consular officers extraterritorial rights and the privileges of immunity connected therewith. Article V of the treaty grants the immunity of the archives only and secures the papers against search and seizure, but does not extend to objects in the rooms or in the office of the consular officer.

The court at Haida was therefore fully authorized to order the execution, especially as the letter from the consul-general of January 2, 1894, pointed out these two objects as not being property of the United States, and the resistance made by Mr. Schlessing to the action of the court and to the subsequent demand to deliver the articles, is therefore unjustifiable.

If the court at Haida has so far shown great moderation in view of the official position of Mr. Schlessing, and has refrained from applying measures of coercion, it is to be expected that Mr. Schlessing, as soon as he has been fully convinced of the true state of the case, will allow the matter to take its course, and thereby avoid the necessity of further actions to be taken by the court to secure its rights.

To this end the ministry of foreign affairs has the honor of requesting the kind intervention of the honorable chargé d'affaires ad interim, Mr. Townsend, and to beg that the matter above referred to be investigated by him, the necessary dispositions be made and that the result be communicated to this office.

The undersigned avails himself, etc.,

WELSERSHEIMB,
For the Minister of Foreign Affairs.

[Inclosure 2 in No. 86½.]

*Mr. Townsend to Mr. Schlessing.*UNITED STATES LEGATION,
Vienna, May 1, 1894.

SIR: Will you kindly inform me, as soon as possible, as to the nature of the articles which the court at Haida claims to be the property of the late consular agent, Mr. William L. Dunham. It is said that they consist of an iron safe and a wooden railing. Is this true? Are there any other articles at the agency which are the personal property of the said William L. Dunham?

The ministry of justice of Austria-Hungary, through the ministry of foreign affairs, have taken this matter in hand, and have made an international question of it. They claim "that the principles of international law and of the consular convention of 1870 between Austria-Hungary and the United States do not grant to consular officers extraterritorial rights and the privileges of immunity connected therewith. Article V grants the immunity only of the archives, and secures the papers against search and seizure, but does not extend to objects in the rooms or in the office of the consular officer." The court at Haida was therefore fully entitled to order the execution, especially as the letter from the consul-general at Vienna, of January 2, 1894, pointed out the two objects above referred to as not being the property of the United States, and "the resistance made by Mr. Schlessing to the action of the court, and to the subsequent demand to deliver the articles, is unjustifiable."

The ministry of foreign affairs further states that, in view of your official position, the court has shown great moderation in pushing its just claim, and has, until now, desisted from applying measures of coercion.

I see from copies of correspondence on the subject in the consul-general's office here that it has been admitted that the iron safe and wooden railings are the property of said William L. Dunham, and further, from dispatch No. 27, from the State Department to Mr. Judd, dated December 15, 1893, that "Mr. Dunham's creditors should be allowed to issue execution against any personal property left by him at the agency."

In view of these facts, I am at a loss to understand upon what grounds you still refuse to submit to the action of the Austro-Hungarian district court at Haida.

Awaiting further detailed information on the subject before presenting the claim of the ministry of foreign affairs of Austria-Hungary to the authorities at Washington,

I remain, etc.,

LAWRENCE TOWNSEND,
Chargé d'Affaires.

[Inclosure 3 in No. 86½.]

*Mr. Townsend to Mr. Schlessing.*UNITED STATES LEGATION,
Vienna, May 29, 1894.

SIR: After a thorough examination of the copies of the correspondence relating to the claim of the court at Haida against Mr. Dunham, sent to me by you, and also those on file at the consulate-general in Vienna, I find your action in refusing to deliver the iron safe and wooden railing, which are undoubtedly the personal property of Mr. Dunham, to the authorities at Haida, absolutely unjustifiable. You will therefore, immediately upon receipt of this order, deliver these articles to the authorities of the court at Haida, to satisfy any just claims against Mr. Dunham. The ministry of foreign affairs of Austria-Hungary has been informed of this decision and will no doubt communicate the fact to the authorities at Haida.

I remain, etc.,

LAWRENCE TOWNSEND.

[Inclosure 4 in No. 86½.]

*Mr. Townsend to Count Kalnoky.*UNITED STATES LEGATION,
Vienna, May 30, 1894.

YOUR EXCELLENCY: In reply to the esteemed note from the imperial and royal ministry of foreign affairs of date April 28, 1894, requesting that the case of Mr. Ernst Oechsle and the imperial and royal court at Haida against Mr. Dunham, late U. S. consular agent, and Mr. Schlessing, present U. S. consular agent at Haida, be investigated by this legation, I beg leave to say that immediately upon receipt of the above-mentioned note from the imperial and royal ministry of foreign affairs, I

put myself in communication with the parties in question, and have now before me copies of the entire correspondence between the Department of State at Washington, the consul-general of the United States at Vienna, the consul at Reichenberg, the consular agent at Haida, and the imperial and royal court at Haida, relating thereto. It seems that the consular agent at Haida, Mr. Schlessing, acted upon the authority and at the request of his superiors in refusing to permit the imperial and royal court at Haida to seize the iron safe and wooden railing in question; because, although they were originally the personal property of the late consular agent, Mr. Dunham, Mr. Schlessing was ordered to hold them as government property to cover a prior claim of the U. S. Government against Mr. Dunham for certain Government funds illegally retained by him. The U. S. consul-general at Vienna was not aware of this fact when, on January 2, 1894, he wrote to Mr. Schlessing and laid down the principle that any personal property left at the office of the consular agent at Haida by Mr. Dunham was subject to seizure for debts contracted by him. I now learn that the U. S. Government has no further claim against Mr. Dunham, said claim evidently having been withdrawn or covered by his bond to the Government so that the above-mentioned articles, viz, the iron safe and wooden railing, are the personal property of the late consular agent, Mr. Dunham, and I have instructed the present consular agent, Mr. Schlessing, that he is henceforth to consider these articles as the personal property of Mr. Dunham, and therefore subject to seizure to satisfy any just claims against the latter.

I take, etc.,

LAWRENCE TOWNSEND.

Mr. Gresham to Mr. Tripp.

No. 85.]

DEPARTMENT OF STATE,
Washington, August 27, 1894.

SIR: I have to inform you that Mr. Townsend's dispatch No. 86½, of the 1st instant, inclosing copies of correspondence relative to the refusal of Mr. Schlessing, the U. S. consular agent at Haida, to deliver certain property to the officers of the district court, has been received.

In reply I have to say that Mr. Townsend's course in regard to the matter in question is fully approved by the Department.

I am, etc.,

W. Q. GRESHAM.

EXPULSION FOR EVASION OF MILITARY DUTY.

Mr. Tripp to Mr. Gresham.

[Extract.]

No. 92.]

UNITED STATES LEGATION,
Vienna, August 13, 1894. (Received August 28.)

SIR: Permit me to present for your consideration the case of David Hofmann, a former citizen of Austria-Hungary, now a naturalized citizen of the United States, expelled from this country by order of the district authorities at Prague.

You will find herewith the correspondence between Mr. Karel, the U. S. consul at Prague, and the district commander, as well as the decision affirming the decree of expulsion on appeal to the government of the province, together with the correspondence between this legation and Mr. Karel.

It appears from the letters herewith inclosed that Mr. Hofmann was born in Bohemia, on the 21st day of March, 1864, and in July, 1883, at

the age of 19 years, he emigrated to the United States, where he became a naturalized citizen, and whence, after a residence there of eleven years, he returned to his native country, on or about May 15, 1894. Mr. Hofmann brought with him a certificate of his American citizenship and a passport from the State Department at Washington, which were exhibited to the proper authorities on his arrival in Bohemia. It does not appear from the correspondence what was the object of Mr. Hofmann in returning to Austria-Hungary, further than that Mr. Karel incidentally refers to it as being for the purpose of visiting his parents. Nor does the correspondence anywhere disclose how long a sojourn he intended to make in the country. About two months after his return, to wit, on the 8th day of July, 1894, Mr. Hofmann was served with a notice from the district authorities to leave the country within eight days, "for reasons of public welfare," and for the further reason, given by the district captain in his note of July 11 to the U. S. consul at Prague, "because it appears contrary to public peace and order that persons who have evaded the military law in this manner sojourn in this country."

From the decision of the district authorities Mr. Hofmann appealed to the governor of the province, which appeal was subsequently dismissed as not having been taken within the time allowed. An examination of the decision on appeal reveals the fact, however, that the governor did examine the case upon its merits, for after announcing the fact in his decision dismissing the appeal that it was not taken within the three days after sentence had been made known, he further adds, "Aside from this, the reasons for expulsion are justifiable," and we may therefore treat the decision on appeal as affirming the sentence for expulsion on the ground that it is contrary to public peace and order that persons who have evaded the military law sojourn in the country.

Mr. Hofmann has, I presume, left the country in obedience to the sentence of expulsion, as he would undoubtedly have been forcibly ejected had he declined so to do.

I have written to Mr. Karel, in answer to his request for the presentment of this matter to the foreign office, that I have submitted the case to the Department of State at Washington, and shall be governed by instructions received.

It will be observed that the authorities of Bohemia are careful to base their decree of expulsion, not upon the ground of the acquired citizenship of Mr. Hofmann in America, nor do they in anyway deny the right of the former Austrian citizen, owing military duty to his native country, to become a naturalized citizen of the United States, and thereby evade such duty. By their action, on the other hand, they admit all we claim under the treaty in behalf of the naturalized citizen, to wit, the full right of expatriation and an exemption from punishment for nonfulfillment of military duty, unless he be at the time of emigration enrolled as a recruit in the standing army, or in actual service, or on leave of absence for a limited or unlimited time, or belonging to the militia or reserve, he emigrated after call into service, or after public proclamation requiring his appearance, or after war had broken out. The action taken by the authorities in Bohemia is sustained by the position taken by the foreign office, and is in accordance with the action of the district authorities in several cases in the past, against which former ministers, my predecessors, have mildly protested, but no question of tangible international importance has been definitely presented for your consideration.

My own convictions are very strong in this matter, that every nation has the right to bar its doors against obnoxious citizens of other nations for reasons which to itself may seem sufficient, without cause of complaint on the part of the nation whose citizen is thus debarred. We have assumed the right in case of China and in particular classes of cases in reference to the citizens of other countries. I am disposed to think the reasons that Austria-Hungary gives for closing her doors to former citizens who have openly evaded her military laws a good one. It is an undeniable fact that hundreds of young Austro-Hungarian citizens approaching the age of military service emigrate to America, and, remaining there just long enough to acquire citizenship, return again to their native country to permanently reside, resuming their former citizenship and allegiance to the Government in everything but its military laws. Many of these returned *pseudo*-Americans are loud in their defiance of the military power, and openly and shamelessly boast of their smartness in being able to enjoy all the privileges of a government without being obliged to share its burdens or responsibilities. The example of these "Americans" before the young men of the country, to say nothing of their teachings and boastful assertions of immunity, is pernicious, and against public order and ready obedience on the part of the citizens to the necessarily harsh enforcement of the military laws of this Government. I have seen very much of these "American" citizens during the past year. Many of them are married and in business here; they have no intention of returning to America, they own no property, and they pay no taxes in America, they have not even the ties of family or friendship to bind them to their adopted country; their citizenship is a fraud, a fraud against their adopted as well as against their native country. In time of peace they burden us with their claims of loyalty; in time of war they deny their assumed allegiance, and claim, by abandonment, a restoration of their civil rights to which they are entitled by birth.

* * * * *

I have digressed somewhat, and at considerable length have attempted to give you a partial view of the position of the legation here in reference to these returning American citizens, and as the question is an important one, and one that must likewise trouble our ministers and ambassadors at other courts, I have thought proper to set forth the condition of affairs existing here somewhat at length, and I shall with pleasure modify any action that may have been taken, if deemed necessary, to bring myself in accord with the general administration of the State Department in reference to all foreign countries in which similar cases may arise.

I may further add, in reference to the treatment of naturalized Austro-Hungarian citizens returning to their native country, I have several times had occasion to ask permission for such citizens, even some who were liable to arrest and imprisonment under the treaty, to return for a brief visit to their parents and friends, and in every instance it has been cheerfully granted. From my observation here and my intercourse with the ministry of foreign affairs of Austria-Hungary, I am free to say that this Government has not only been very courteous, but has exhibited on every occasion a desire to fulfill with exactness the conditions of the treaties existing between the two governments in reference to expatriation and naturalization of citizens of either nation.

It is probable that something may have arisen in reference to David Hofmann during his two months' visit in Bohemia that made his longer

sojourn undesirable, for the remarks and conduct of all foreign citizens are under complete surveillance here. But in the case as it appears upon the record, the question is squarely presented, is it a sufficient reason for expelling a naturalized American citizen, that he has evaded the military laws of the country? If you say it is, and that this country has the right to declare what class of citizens are obnoxious and shall be prohibited from crossing its boundaries, that will end the matter. If you say it is not, I trust you will explicitly give me your views in reference to the course to be pursued in such cases; and in this connection be so kind as to lay down the rule of action that ought to govern in the renewal of passports of American naturalized citizens remaining indefinitely abroad.

I shall await your answer with much interest. In the meantime,
Permit me, etc.,

BARTLETT TRIPP.

[Inclosure 1 in No. 92.]

Mr. Karel to Mr. Tripp.

U. S. CONSULATE AT PRAGUE,
July 18, 1894.

SIR: A citizen of the United States by the name of David Hofmann, who is a young man of about 25 years of age, came back to Bohemia to visit his father. After he had been home a few days the district authorities asked for his passport and its examination, and found it correct. A few days thereafter an official order (A) to quit the Austro-Hungarian Empire within eight days was served on him on the 8th day of July. On the 9th he appeared at my office and stated his case. In reading the order over, I found that it was issued under paragraph 2, which relates to vagrancy, and could not be applied to Mr. Hofmann, because he has sufficient means to support himself, lived with his friends, and did not molest any one. I therefore wrote on the same day to the district authorities (B), requesting an explanation. Answer (C) reached me on the 14th. In the answer they base their action under paragraph 45, relating to resistance (defense) law, which according to our treaty can not be applied to Mr. Hofmann.

He left Austria at the age of eighteen, before he was subject to military duty. If paragraph 45 would legally apply to him, he would be a deserter; then why do they not deal with him according to the law? On the 14th I wrote again to the district authorities (D), but to this date have received no answer. I advised Mr. Hofmann to appeal from the order of the district captain to the governor, and he notified me that he did so through Dr. Dieschner, an attorney at Pilsen. He also inquired whether he should leave Austria at the expiration of the eight days, and I told him to remain here and wait the result of his appeal.

Thinking that I would be able to adjust this matter without referring it to you, but failing, and it being a question of importance to naturalized American citizens, I therefore transmit the same for your consideration and action.

I am, etc.,

JOHN KAREL.

[Inclosure A in inclosure 1 in No. 92.]

DISTRICT CAPTAIN'S OFFICE, IN MIES,
July 8, 1894.

The contents of these acts having been shown to David Hofmann, he produced two papers made out in English purporting to be proofs of his American citizenship. Thereupon he was told that for reasons of public welfare and according to paragraph 2 of the law of the 27th of July, 1871, he was to be expelled forever from Austria, and that he must leave within eight days or be escorted over the frontier under a guard.

SALV. REX.

I take cognizance of the foregoing and request a copy of this sentence, wishing to appeal against it.

DAVID HOFMANN.

Certified to be a true copy.

Signature of the clerk of the court.

F B 94—3

[Inclosure B in inclosure 1, No. 92.]

UNITED STATES CONSULATE,
Prague, July 9, 1894.*To the District Captain at Mies:*

SIR: David Hofmann, a United States citizen, appeared in my office to-day and showed me a copy of the note of July 8, received by him from the district captain at Mies, in which he is ordered to leave the country within eight days. As this note does not give the reason why this measure was adopted, I beg leave to request to be informed why this order to leave the country was issued against this American citizen. I also request to be put in possession of the details of the case in order to form a clear conception of the facts to enable me to take the necessary further steps.

Requesting an early reply,

I am, etc.,

JOHN KAREL.

[Inclosure C in inclosure 1 in No. 92.]

To the CONSULATE OF THE UNITED STATES OF AMERICA,

Prague:

In reply to the esteemed note of the 9th of July, I beg to inform you that the former Austrian subject, David Hofmann, at present a naturalized citizen of the United States, is liable to military duty.

He went to America before he had reached the age which rendered him liable to military duty, and recently returned to this country. As the provisions of paragraph 45 will not be applied to him on account of his having acquired United States citizenship, it has been decreed that the above named be expelled by the police, because it appears contrary to public peace and order that persons who have evaded the military laws in this manner be allowed to sojourn in this country.

THE I. AND R. DISTRICT CAPTAIN.

MIES, July 11, 1894.

[Inclosure D in inclosure 1 in No. 92.]

UNITED STATES CONSULATE,
Prague, July 14, 1894.*To the District Captain in Mies:*

SIR: I am in receipt of your answer stating the reason why D. Hofmann, a United States citizen, at present staying in Wenussen, near Tschkau, in Bohemia, was ordered to leave the country. It is said that this course was adopted in accordance with paragraph 45. I affirm, however, that this paragraph can not be applied to Hofmann's case, for then he would be a deserter. I beg to call your attention to Article II of the treaty between the United States and Austria-Hungary of September 20, 1870. Hofmann did not leave Austria to avoid rendering military duty, but to find a new home. He arrived in the United States, lived there, and acquired citizenship. After some years he returned to his native country to visit his parents. At the time he left Austria he was not liable to military duty, nor did he leave as a criminal; therefore paragraph 45 can not be applied to him.

Accordingly I request the honorable captain of the district that the order of expulsion issued against David Hofmann be withdrawn, and that this decision be immediately communicated to me.

Should my appeal not be granted, I will be compelled to refer the matter to the legation of the United States in Vienna for further action.

Trusting to be favored with an early answer,

I am, etc.,

JOHN KAREL.

[Inclosure 2 in No. 92.]

*Mr. Townsend to Mr. Karel.*UNITED STATES LEGATION,
Vienna, July 19, 1894.

SIR: I beg to acknowledge the receipt of your favor of the 18th instant, with inclosures A, B, C, and D, relating to the case of Mr. Hofmann, a naturalized American citizen, ordered to leave the country of his birth, said order being based on paragraph 2 of the law of July 27, 1871.

Sufficient time has hardly elapsed since July 14, the date of your statement of the case to the local authorities, for them to have investigated it and received instruc-

tions from headquarters. I shall, therefore, wait until I hear from you before presenting the case to the foreign office, especially as it will be necessary for me to have the following additional data, viz, the date and place of Hofmann's birth, date of his emigration, date of his return, and his domicile prior to his emigration. I may add for your information and for the consideration of Mr. Hofmann, that it is extremely doubtful if the Government of Austria-Hungary will withdraw their order of expulsion, as they have carried into effect exactly similar orders in like cases in the past. I quote as follows from a letter received by this legation from the foreign office in a corresponding case:

"The expulsion took place in conformity with article 2 of the law of July 27, 1871, because his stay in Austria was considered inconsistent with public order.

"Not coming under the provisions of 1, 2, and 3 of Article II of the treaty of September 20, 1870, he was not on his return to Austria held to perform military service. The treaty has therefore not been violated, inasmuch as his United States citizenship was recognized.

"The above-mentioned treaty, however, does not deprive the imperial and royal government of the right to issue a decree of expulsion against any foreigner whose stay in the country may be considered as being inconsistent with public peace. In the present case the United States citizenship was obtained with the evident intention, or at least with the full knowledge of avoiding by so doing, the performance of the duties of an Austrian subject, under the protection of the treaty of September 20, 1870.

"The naturalization took place, therefore, when regarded from an Austrian legal point of view, doubtless in *fraudem legis*.

"The provisions of the Austrian military laws of October 2, 1882, were not framed until after the treaty of September 20, 1870, had been concluded. The result is, that the U. S. Government does not always judge the proceedings of the authorities here against former Austro-Hungarian subjects from the same point of view, however justified the measures may be, according to our laws."

You will observe from the foregoing that the Austro-Hungarian Government reserves the right to exercise expulsion upon any foreigner whose stay in the country may be considered as being inconsistent with public order. To say that the stay of Mr. Hofmann is inconsistent with public order is doubtless stretching the point to its utmost limits, and upon this point must we base our claim.

Awaiting further details,

I am, etc.,

LAWRENCE TOWNSEND.

[Inclosure 3 in No. 92.]

Mr. Karel to Mr. Townsend.

UNITED STATES CONSULATE,
Prague, July 24, 1894.

SIR: In compliance with your request of the 19th instant I wish to give you the following further information in the case of David Hofmann:

He was born March 21, 1864, at Dobraken, in Bohemia; emigrated to the United States in July, 1883; returned May 15, 1894. His domicile prior to his emigration was Wenussen, in Bohemia.

His appeal is pending, and I have received no further official information.

I am, etc.,

JOHN KAREL.

[Inclosure 4 in No. 92.]

Mr. Karel to Mr. Townsend.

UNITED STATES CONSULATE,
Prague, August 2, 1894.

SIR: The governor of Bohemia has dismissed the appeal of David Hofmann on the ground that he did not appeal within the time prescribed by law, namely, within three days. I am sorry; I would like to have heard the governor's ruling on this question.

A copy of the decision is herewith inclosed.

I have written to Mr. Hofmann that under these circumstances he will have to leave.

Will you bring it before the imperial and royal minister of foreign affairs?

I am, etc.,

JOHN KAREL.

[Inclosure in inclosure 4 in No. 92.]

DECISION.

PROVINCIAL GOVERNMENT OF BOHEMIA,
Prague, July 31, 1894.

To the District Captain at Mies :

The imperial and royal provincial government finds that the appeal of David Hofmann, domiciled at Ullitz, who acquired citizenship in the United States, made by him against decision of the court dated July 8, 1894, No. 12756, decreeing his expulsion from the kingdoms and countries represented in the Reichsrath, was presented too late, and dismissed because the appeal was not made within the lawful limit of three days after the sentence had been made known, and not until July 16, 1894.

Aside from this, the reasons for expulsion are justified.

According to paragraph 7 of the law of July 27, 1871, No. 88, no further appeal can be made.

The district captain will take the necessary steps to carry out the order for expulsion.

The supplements of the report of July 18, 1894, No. 13971, are herewith returned with the information that a copy of this decision has been transmitted to the U. S. consulate in Prague.

PRAGUE, July 31.

Transmitted to the U. S. consulate at Prague with reference to the note addressed to the district captain at Mies and the appeal made by David Hofmann, presented in the esteemed note of July 14, 1894.

FOR THE GOVERNOR OF THE PROVINCE.

Mr. Uhl to Mr. Tripp.

No. 88.]

DEPARTMENT OF STATE,
Washington, September 4, 1894.

SIR: I have to acknowledge the receipt of your No. 92, of the 13th ultimo, in relation to the expulsion of David Hofmann from Bohemia.

In reply I have to say that Hofmann, having come to this country a short time before he arrived at the age for military service in Austria, is by the terms of the treaty of 1870 exempt upon his return to that country from trial and punishment for nonfulfillment of military duty.

There is, however, nothing in the treaty or in the general principles of international law to prevent the Austro-Hungarian Government from expelling Hofmann, upon his return there, under the circumstances of his case, "for reasons of public welfare." The expulsion seems to have been made after due judicial examination into the facts, and without any circumstances of harshness or oppression.

I can see no ground for exception or protest against the action of the Austro-Hungarian authorities.

I am, etc.,

EDWIN F. UHL.
Acting Secretary.

CASE OF JOHN BENICH—VALIDITY OF PASSPORT.

Mr. Tripp to Mr. Gresham.

No. 93.]

UNITED STATES LEGATION,
Vienna, August 23, 1894. (Received September 8.)

SIR: Referring to my dispatch No. 13, dated July 1, 1893, and your esteemed reply No. 29, dated September 4, 1893, in reference to the case of John Benich,¹ I have the honor to submit herewith the following

¹ See Foreign Relations, 1893, pp. 15, 23.

correspondence between this legation and the ministry of foreign affairs of Austria-Hungary, together with the correspondence between this legation and Mr. Gelletich, the consular agent of the United States at Fiume.

The case has become one of considerable importance, not only by reason of the attention it has received from the press, both in Europe and America, but on account of the principles of international law involved in the construction of the treaty of 1870 between the two governments; and it gives me great pleasure to announce that, notwithstanding it is claimed on the part of the provincial authorities of Croatia that the American citizenship of John Benich was procured by fraud, every principle contended for in your dispatch No. 29 of September 4, 1893, to this legation, has been conceded by the Government of Austria-Hungary.

First. It is conceded that the passport of the citizen of either government, native or naturalized, not bearing upon its face the insignia of its own invalidity, can not be called in question by the municipal, district, and inferior officers of the government, but that such paper is *prima facie* evidence of the facts therein stated and must be respected as such. If the subordinate officers of the government have suspicions of the fraudulent character of the paper presented, they may report the fraud or irregularity alleged to some tribunal, if any, having competent authority under the rules of international law to determine the same.

Second. That it is the duty of either Government, if its properly constituted tribunal shall be satisfied that the certificate of naturalization, upon which the passport was based, was fraudulently or illegally procured, to present such consideration to the Government granting the same with the request that an examination be had and, if the fact be found that such certificate of naturalization was fraudulently or illegally obtained, that it be canceled and annulled.

Third. That the arrest or detention of a citizen bearing a passport of his Government, issued by competent authority, by a subordinate officer of either Government, is a breach of the courtesy due to a friendly nation, and a breach of official duty on the part of the officer so offending.

Fourth. That consular and other representative officers of the Government of the United States have the right to intervene for the protection of American citizens so unlawfully arrested, and a refusal to permit them so to do by such officiating subordinate officer, or the use of offensive or contemptuous language by him in reference to the Government of the United States, its representatives, or the treaty stipulations existing between the two nations, not only subjects the guilty party to censure and reprimand, but such conduct is an offense against the laws of Austria-Hungary, which may be tried and punished as such.

The precedent established by this case is an important one and will save this legation and the Government of the United States much annoyance in the future from the assumed right arrogantly asserted on the part of the district officers throughout the provinces of Austria-Hungary to summarily pass upon American passports and to determine by *ex parte* evidence, which the bearer is wholly powerless to refute, the validity or invalidity of a solemn document under the great seal of the National Government and founded upon the solemn decision of a court of record. The instructions which were issued by the governor of Croatia to the subordinate officers of that province have in effect also, as I am informed, been issued to the district officers of other provinces of Austria-Hungary, so that in the future we may confidently

expect that travel by American citizens in Austria-Hungary will not be subject to so frequent and annoying interruptions on the part of the local authorities as in the past. In fact, since the reception of my note of September last by the foreign office, a perceptible improvement has been observed at this legation, and the positions taken therein, founded upon your esteemed dispatch, have evidently been the basis of the action of the honorable imperial and royal ministry of foreign affairs of Austria-Hungary in determining the individual cases which have intermediately arisen and been decided by the same.

It gives me great pleasure to say that there is no ground for complaint as to the treatment of American citizens in the past by the national authorities of Austria-Hungary. It has been uniformly kind and considerate. Every case presented to the foreign office has been satisfactorily determined, and in a manner not only conciliatory and courteous, but with an apparent desire to give to the existing treaty as to naturalization of citizens a fair and liberal interpretation.

The only question in this case, which is now open and requires consideration by you, is the claim made by the Croatian authorities that the certificate of naturalization issued to Benich was fraudulent and illegal and should be canceled.

I have read the facts found by the Croatian authorities and I can but conclude that they have proceeded upon a too narrow and an erroneous interpretation of the terms of the treaty under which they claimed to act. They seem to conclude, and in such conclusion the foreign office seems to concur, that the five years' residence provided for in the treaty means actual uninterrupted bodily presence of the applicant for the period prescribed. Such an interpretation would make the accidental or ignorant crossing of the boundary line of the nation, even for the moment, a suspension of his inchoate right and require a new inception of the probation period. I can not subscribe to such a narrow and unnatural construction of the language of the treaty. I take the terms "have resided" and "residence" to mean something more than mere personal presence; they are intended to have the larger and more natural definition which carries with it the idea of a fixed and permanent abode, an abiding place selected with the *animus manendi* on the part of its owner or possessor. The agent of our Government, in drafting or consenting to the phraseology used in the treaty, which is attested by his name, must presumably have had in mind the existing laws of his own Government in reference to the subject-matter of the treaty itself. This is indicated by the period of time required as to residence being the same as that in case of ordinary naturalized citizens of the United States, and the entire phraseology of the section is not unlike that used in the amended statute of 1870, enacted about two months prior to the conclusion of this treaty. That act required that "no alien shall be admitted to become a citizen who has not for the continued term of five years next preceding his admission resided within the United States." (U. S. R. S., § 2170.) The language of the treaty is: "Citizens of the Austro-Hungarian monarchy who have resided in the United States of America uninterruptedly at least five years" and have become naturalized, etc., shall be treated as citizens, etc. Both use the term "resided." The one requires that he reside for a continuous term and the other that he shall have resided uninterruptedly. If there be a difference in meaning, it must be admitted that the statute is more rigorous in its requirements as to residence than the treaty. It could more plausibly be argued that the continued term of five years was broken by personal absence than that

his residence was interrupted thereby. It will be remembered, however, that Congress gave a legislative construction to this legislation by striking out from the original act of 1813 the words "without being during the said five years out of the territory of the United States," the courts having held under the old statute, as they were obliged to do, that personal absence, though temporary, interrupted the running of the statute. After the amendment so made in 1848, however, the courts have been unanimous, so far as I am informed, in holding mere personal presence not indispensable, and that mere temporary absences, unaccompanied by changes of abode, habitation, or intention, do not interrupt the probation of the alien.

It will be observed that if this be the proper construction to be given the treaty, the voluminous testimony taken by the authorities of Croatia, at an expenditure of so much time and the exhibition of so great diligence, has but little bearing on the case itself, for if it be established that young Benich returned to Croatia for a temporary visit to his parents, with the fixed and continuing intention of returning to his home in Chicago, the acts proven by the numerous witnesses would not be in conflict therewith. He might, without abandoning his residence, witness baptisms, attend marriages, arrange balls, and even receive passports from Austria-Hungary, if he found it necessary to visit Bosnia and Herzegovina. He was not yet a citizen of the United States; he was still a citizen of Austria-Hungary, and the latter alone could grant him such a right. With due respect, it seems to me that no fact enumerated in the findings of the court, except the unexplained absence of Benich for so long a period of time, tends to show an interruption.

Should you, however, concur in the apparent interpretation of the treaty by the authorities of Austria-Hungary, you will, without doubt, take immediate steps to have the certificate of naturalization of Benich canceled and annulled. But should you, on the other hand, agree with me in my construction of the language therein employed, I am impelled to ask you to request the superior court of Cook County, Ill., to require Benich to show cause why the certificate of naturalization should not be canceled and discharged of record, giving him thereby an opportunity to explain his protracted absence during his residence period, and to show, if he can, that such absence was a temporary one only, with no abandonment of the residence he had already begun.

I shall await your answer to this dispatch before making reply to the note from the ministry of foreign affairs, a translated copy of which is herein inclosed, in order that I may be governed by your views upon the question presented and the instructions you may be pleased to give.

I have, etc.,

BARTLETT TRIPP.

[Inclosure 1 in No. 93.]

Mr. Tripp to Count Kalnoky.

UNITED STATES LEGATION,
Vienna, September 26, 1893.

YOUR EXCELLENCY: The minister of the United States at Vienna regrets the necessity of again bringing before the honorable ministry of foreign affairs of Austria-Hungary the case of John Benich, concerning whom the esteemed note of Count Welsersheimb, of date June 23 last, was duly received at this legation.

The case being one occurring during the time of my predecessor, Col. Grant, and of which I have no knowledge except such as may be derived from the records

of this office and the report of consuls, I had hoped the unpleasant occurrence would have terminated in the prompt erasure of the name of John Benich from the rolls of the army and navy of Austria-Hungary, with such apologies and reparation on the part of the offending officials as the gravity of the case would seem to demand and the apparent disrespect shown to a friendly sovereign power might lead my Government to reasonably expect. From a careful reading of the record of this case, and governed by my knowledge of the apparent desire and prompt action always exhibited on the part of the honorable imperial and royal ministry of foreign affairs of Austria-Hungary in protecting the rights of American citizens within its jurisdiction, I am indubitably led to the conclusion that some misunderstanding of the real facts of this case has misled the honorable minister in his action, or rather the nonaction of the foreign department, in failing to give this matter the attention that its apparent gravity deserves. I am assured that no difference of opinion can arise as to the legal questions involved or as to the rights of the respective governments under the treaty of 1870 in reference to naturalized citizens and the immunities and protection which such citizens are entitled to claim from the nation in which they may have their temporary domicile.

The facts in the case of John Benich, stated briefly but more specifically than in the letter of my predecessor, Col. Grant, are as follows:

Benich was born in the province of Croatia, Austria, in 1871; in 1885, when not quite 14 years of age, he emigrated to the United States, and took up his residence in the city of Chicago. He continuously resided in the United States until he became of age (21 years), when, upon his application, on the 5th day of October, 1892, before the superior court of Cook County, Ill., in the city of Chicago, he was admitted to citizenship; in the spring of 1893 he accompanied his sick father to Vienna, Austria, intending to return immediately to his home in Chicago. At Vienna, on the 15th of April, 1893, he received from the United States legation a passport in due form, having made proof of the above facts to the satisfaction of the American minister at that legation, which passport is numbered 379. At Novi, in Croatia, on the 16th day of May following, he was arrested by the military authorities and held for military duty. He immediately appealed to the U. S. consular agent at Fiume, Mr. Gelletich, who intervened in his behalf, and who translated into their own language and read to the military authorities who held Benich in arrest, and to the judicial authorities before whom he was brought, both his certificate of naturalization and his passport; but instead of respecting these papers or releasing him from arrest, they forcibly stripped him of his citizen's clothing and put upon him the uniform of an Austrian soldier, and to the gentlemanly protest of the American consular agent they made the contemptuous reply that "they did not recognize the convention of September 20, 1870, nor the authority of the U. S. consular officer." Benich was immediately enrolled and sent forward to active service as a soldier in the Austrian army. Mr. Gelletich, the U. S. consular agent at Fiume, reported these facts to the U. S. minister at Vienna, Col. Grant, who immediately addressed the honorable imperial and royal ministry of foreign affairs of Austria-Hungary his note of May 21, and to which Count Welsersheimb, for the imperial and royal minister of foreign affairs, was pleased to reply by his esteemed favor of June 23.

I nowhere find in the records that the contemptuous language and acts of the officials at Novi have been brought to the notice of the honorable ministry of foreign affairs, and I am assured that such conduct on the part of provincial authorities toward the representatives of a foreign and friendly government and such open disrespect of the solemn contract and treaties of sovereign nations will be promptly visited with the condemnation it deserves. The passport of a sovereign government, issued to one of its citizens, is the exercise of one of its highest national prerogatives, and such paper carries upon its face the implied assumption that its bearer will be treated with that international courtesy and respect which the citizens of the visited country have the right to expect and demand in return. The doctrine of expatriation between the friendly Governments of Austria-Hungary and the United States has been set at rest by the solemn compact entered into between the two great nations on the 20th day of September, 1870. The right of naturalization of the citizens of the respective governments has been definitely provided for by the terms of the treaty itself. Under its provisions any or every citizen of the one government can become a citizen of the other by residing therein for the period of five years and complying with the conditions of the naturalization laws of the respective government, reserving on the part of such government only the right to punish the former citizen for offenses committed by him against the government of the native country before expatriation began.

It will not be contended that Benich, who expatriated himself at the infant age of 14, could have been answerable for any offense against the military laws of his native land under the provisions of this treaty, nor is any criminal offense alleged against him that could possibly have led to a military arrest. It will hardly be contended, nor can the Government of the United States for a moment admit, that

the provincial authorities of Croatia had any right to pass upon the question of the citizenship of Benich. In the most solemn form known to American law a high court of judicature has by its judgment passed upon the facts which determine his right to American citizenship, and of such force and effect is this judgment of our courts that the Supreme Court of the United States has said it is entitled to the same respect as other judgments of courts of record, and that it must be so observed until vacated or reversed by a court of superior jurisdiction; and no less an authority than the late Hamilton Fish, former Secretary of State, has held such judgment absolutely binding upon the political departments of our own Government. But whether or not such judgment be binding upon the political departments in a case where fraud may have been employed in its procurement, it is submitted that when the passport carries upon its face no *indicia* of its own invalidity it is *prima facie* valid and should be respected as such by the nation that issues it and by the authorities of the nation to whom it is presented; that whatever may be the ultimate right of the foreign nation to inquire into the fraudulent character of the instrument itself, it can only be done by the tribunal of a national character, governed by and subject to the jurisdiction of international law. Neither municipal authorities nor provincial officers should be permitted to determine or set in motion an inquiry directed toward the discrediting or annulment of papers issued by a friendly nation in solemn form, under its national seal, and by authority of its highest department of state. It is further submitted that the nation which has passed upon the question to be determined is the final arbiter of the matters involved in such deliberation, for no higher power exists by which its determinations can be modified or annulled, and in case such determination should be found to be at variance from the views or findings of the other nations interested therein, the final determination of the disputed question would be one of international concern, to be finally determined as such questions must be—between the nations themselves. If one nation has passed upon and determined a question in which the other has or may have an interest, such as the citizenship of one of its subjects, and the nation whose interests are injuriously affected by such decision is of the opinion that it was procured or is being used in fraud of its own national rights, a suggestion of such fact to the nation by whom it was made would place in motion a courteous and effective remedy by which the error could at once be corrected and the dignity of the two nations concerned be maintained, without endangering the amicable relations existing between them; for it will be presumed that the nation upon whom a fraud has been practiced would be as anxious to correct the error and punish its author as the other party could possibly be. It is also submitted that the passport is and must be treated by the municipal authorities of the friendly nation to which it is presented, as absolute evidence, when fair upon its face, of the facts which are recited therein; that neither its bearer nor the government by which it is issued can be called upon by the inferior and municipal authorities of the government to which it is presented to corroborate by additional and extraneous evidence the ultimate facts which have been passed upon and determined in this most solemn and judicial form. It is believed that this is not only the view universally taken of this question by the civilized nations of the world in their relations with each other, but it is the position taken so emphatically and uniformly by my own Government that I should feel I were derelict in my duty as its representative did I not firmly but courteously insist that the municipal authorities of Croatia must learn to observe and respect the passports of American citizens, and that they be held responsible for injuries sustained through their unwarranted and unlawful arrest of persons bearing such papers. Said Mr. Frelinghuysen, former Secretary of State, in reply to the assumed authority of the Mexican officials to pass upon the validity of certificates of naturalization: "The assumption of the Mexican Government of a right to inspect and decide upon the validity of certificates of naturalization issued by the numerous courts in preference to receiving the proofs afforded by a passport of this Department must be regarded as wanting in proper courtesy to the government of a friendly power." (2 Whart. Int. Law, 480, § 195.)

Mr. Evarts, one of the ablest lawyers who has ever filled the chair of the Secretary of State at Washington, states the proposition more emphatically, denying the rights of the authorities to demand an inspection even of the naturalization paper of a citizen who bore the passport of his Government. He says: "The pretension of that Government to ignore the passport of this Department and to require an inspection of the certificate of the naturalization of an alien can not be acquiesced in. You will distinctly apprise the minister of foreign affairs to that effect, and will add that this Government will expect to hold that of Mexico accountable for any injury to a citizen of the United States which may be occasioned by a refusal to treat the passport of this Department as sufficient proof of his nationality." (2 Wharton, Int. Law, p. 480, § 195.)

It is believed that no new doctrine of international law is announced in the above questions, and it is confidently expected that the position taken by this legation will be conceded by the honorable ministry of foreign affairs of Austria-Hungary as the

one that must govern all friendly nations in their relations with each other. And it is intended that the views expressed in this note may be taken as applying also to other cases pending before the foreign office, for not only Croatia but several other provinces of Austria-Hungary seem to arrogate to themselves the right of passing upon the naturalization of American citizens temporarily staying in their locality, and of determining by evidence *dehors* the record of the passport and certificate of naturalization, the ultimate facts which affirm or deny the validity of the papers themselves. This note is therefore written with the assumed confidence that the honorable imperial and royal ministry of foreign affairs of Austria-Hungary will immediately cause any investigation now being had before the local authorities of Croatia to be abandoned and dismissed, that any information which has been received by the honorable imperial and royal minister of foreign affairs, and which has raised in his mind a doubt rising to the dignity of a suspicion as to the validity of the certificate of naturalization borne by Benich, may be reported to this legation, to the end that the Government of the United States, from whose State Department such papers were issued, may direct a proper investigation to be made, and the fraud, if such has been committed, be punished as it deserves; that the local authorities of Croatia be required to make proper reparation to Benich for such injury as he may have sustained through their lawless and unwarranted action; and that such further action may be taken in the premises as will in the future prevent the frequent occurrence of these arrests of American citizens, bearing American passports attested in proper form, while temporarily remaining within or passing through the provinces of Austria-Hungary.

Taking this occasion of extending personally my thanks, as well as the high appreciation of my Government, for the prompt and considerate action taken by the imperial and royal ministry of foreign affairs of Austria-Hungary in protecting the rights of American citizens within its jurisdiction in the present cases before it,

I beg, etc.,

BARTLETT TRIPP.

[Inclosure 2 in No. 93.]

Mr. Hüning to Mr. Gelletich.

U. S. LEGATION,
Vienna, February 17, 1894.

SIR: Referring to previous correspondence on the matter of the arrest of John Benich, a naturalized citizen of the United States, for alleged violation of the military laws of Austria-Hungary, I beg leave to inform you that the U. S. minister directs me to inquire whether anything further has come to your knowledge respecting his case, whether he is still in Austria, or any other information which you think likely to be of interest to learn.

I am, etc.,

WILLIAM HÜNING, *Clerk.*

[Inclosure 3 in No. 93.]

Mr. Gelletich to Mr. Tripp.

U. S. CONSULAR AGENCY,
Fiume, February 20, 1894.

SIR: I beg to acknowledge the receipt of your favor of 17th instant referring to John Benich, a naturalized citizen of the United States, for alleged violation of the military laws of Austria-Hungary. I have the honor to inform you that the said John Benich, after having been released by the military authority, lived two months in his father's house, and in the month of October returned to the United States and precisely to Chicago. This information was transmitted at the time to Mr. Hammond, U. S. consul at Budapest. A few weeks ago I received a letter from the said John Benich, who requested me to inform him about his case, and if he was canceled from the rolls, so that he may be free to return to this country in a year or two, for the purpose of getting married. This information I requested of Mr. Hammond at Budapest, and I received the reply that the consul was too busy with consular business to occupy his time in this case, and if Mr. Benich wanted to know about his case to employ a lawyer. I do not know now what I am to reply to the said Benich, and I beg you will be kind enough to inform me if you know anything about it.

I am, etc.,

GIOV. GELLETICH

[Inclosure 4 in No. 93.]

*Mr. Gelletich to Mr. Tripp.*U. S. CONSULAR AGENCY,
Fiume, March 23, 1894.

SIR: I beg to inform you that the chief of the political district of Sussak-Tersato appeared in my office and informed me that John Benich is canceled from the rolls of the army, and further informed me that he is instructed to give satisfaction for the offense to U. S. consular authority, and requested me in what manner I require such satisfaction.

I beg you to inform me what I am to do, and what kind of satisfaction I am to ask of the said chief of political district.

Awaiting your kind reply,

I am, etc.,

GIOV. GELLETICH.

[Inclosure 5 in No. 93.]

*Mr. Tripp to Mr. Gelletich.*U. S. LEGATION,
Vienna, March 25, 1894.

DEAR SIR: I have your favor of the 23d instant, as well as your letter of February 20, in reference to John Benich, which last-named letter I have delayed answering until I could have something more definite from the ministry of foreign affairs of Austria-Hungary.

In reply to your inquiry as to what kind of satisfaction you should demand of the district officers for the disrespectful treatment of yourself on the occasion of arrest of John Benich, I have only to say, the Government of the United States expects and demands respectful treatment of her officers, on all occasions, when acting in their official capacity, and if the officer of another Government has willfully or ignorantly failed to accord such treatment, or has by his acts not only ignored, but treated with open contempt, the authority of an officer of another Government, not only the law of nations, but that pertaining to the most ordinary relations of gentlemen with each other, requires that he should admit his error by such acts of recognition as one gentleman should always know how to express to another.

You are not in a position to speak for the Government you represent, further than to be satisfied as to a proper apology for the insults you may have received in your representative capacity, and whatever therefore, by way of an apology to yourself, or recognition of error committed on the part of the district officers, may be satisfactory to you will be satisfactory to the Government of the United States, so far as its official dignity or its national honor may be a matter of diplomatic concern.

Hoping that this unpleasant matter may soon be satisfactorily terminated,

I have, etc.,

BARTLETT TRIPP.

[Inclosure 6 in No. 93.]

*Mr. Gelletich to Mr. Tripp.*U. S. CONSULAR AGENCY,
Fiume, May 26, 1894.

SIR: In the case of John Benich, American citizen illegally recruited, and this case ended satisfactorily, I beg to inform you that yesterday I received a letter from the royal district authority of Sussak. I beg to inclose a translated copy from Croatian language, and with this letter I hope that the matter has ended.

The chief of the district authority also appeared in my office and verbally expressed his regrets for the occurrence.

I am, etc.,

GIOV. GELLETICH.

Copy of inclosure.

Fiume, May 22, 1894.

To the honorable the Consular Agent of the United States at Fiume :

SIR: I take the liberty to express to your honor my deep regret regarding the case which happened on May 20, 1893, in the matter of your protest for the recruiting of John Benich, and I assure you that this case, based on misunderstanding, shall not alter at all in the future the good and friendly relations which have existed from early times between the royal district authority of Sussak and the honorable consular agency of the United States of America in Fiume.

Accept, etc.,

KONSTANTIN ROJCEVIC.

[Inclosure 7 in No. 93.—Translation.]

Count Welsersheimb to Mr. Tripp.

The imperial and royal ministry of foreign affairs has not failed to address itself to the royal Hungarian ministry in compliance with the esteemed note of September 26, 1893, No. 24, in reference to the enrollment in the army on May 20, 1893, of John Benich, a naturalized citizen of the United States, asking that he be definitely discharged from the imperial navy (of which temporary discharge the foreign office had the honor of informing the honorable legation in the note of June 23, 1893), and that full investigation be made relative to the manner of procedure adopted by the Croatian authorities at Novi toward the intervening U. S. consular agent at Fiume, Mr. Gelletich, and the judgment passed upon similar cases by the Croatian authorities.

The imperial and royal ministry of foreign affairs, having received the respective information from the royal Hungarian minister, president, is now in a position to report to the honorable legation of the United States the result of the investigations, as well as the consequences deduced by the Croatian authorities, adding that the delay in the present instance is due partly to the minute and careful treatment which the case has received on the part of the officials charged with its examination, and principally to the many facts, which, in order to ascertain them, had to be referred to the competent Hungarian central bureaus, which necessarily required a greater length of time.

The result of the investigation, as it now appears on the records, is as follows:

Ivan Dominik Benich, born August 3, 1871, at Dvorska, community of Crkvenica, legalson of Michael and Helena Benich, Hungarian by birth, received a passport from his home authorities on March 21, 1884, No. 2318, good for three years, and for America, and by his own declaration, on record, as well as by the testimony of Andria Car, his traveling companion, left his home for the first time in 1885 as a youth 14 years old.

The above-named Andria Car, as well as Ivan Benich himself, both state, and several other witnesses testify to the fact, that Ivan Benich returned to his native place in October or November, 1888. His first absence, therefore, lasted only three years and several months. The time from November, 1888, to the 24th of April, 1889, he passed in his native town, Dvorska, as testified by the following witnesses: Maria Benich, Jelena Brujac, Mate Skreljan, Tomo Katnic, Ana Benich, Ivanova Felicina Benich, Ivan Katnic.

Additional proof of this statement will be found in the fact that an entry on the records of the parish church in Crkvenica shows that Ivan Benich officiated in the above-named church as an official witness to a baptism three times, namely, on November 11, 1888, November 24, 1888, and on February 27, 1889. His mother also testifies that he passed the winter from 1888 to 1889 in the house of his parents, and that he was present at the marriage of Bartol Zupan in Ladvic, which took place on January 18, 1889. This last fact is also corroborated by Katharina Zupan, Ursula Zupan, Ana Brenjac, and Moztin Zupan. The innkeeper, Ivan Dracic, confirms that during the carnival of 1889 Benich arranged balls in his house, and that on the last three days of the carnival of that year, namely, on March 3, 4, and 5, he stopped in his house. An official certificate given by the county clerk of Modens, Fiume, and Buccari shows that Ivan Benich, at his own request, obtained a passport dated on the 9th of February, 1889, numbered 361, good for two years, for Bosnia and the Herzegovina.

The witnesses, Vicko Car, Ivan Zupan, and Andria Car, testify that Benich left his home for the second time on April 24, 1889, and went via Fiume to Bremen, where he embarked, together with the above-named three persons on board of a North German Lloyd steamer, in May, 1889, and arrived in New York, whence he started

for Chicago, where he has an uncle, Gregor Benich, who keeps a coffeehouse. In April, 1893, he again returned to his native country, and procured, while at Vienna, a passport from the U. S. legation, dated April 15, 1893, numbered 379.

This second absence from his home, therefore, lasted from April, 1889, to April, 1893, or four years. Foregoing testimony and Benich's own statement therefore, bear ample proof that his sojourn in America from 1885 to May, 1893, was interrupted by his visit to his native country lasting from October, 1888, to April, 1889, and that consequently, he was neither during his first nor during his second stay, uninterruptedly for a period of five years in America. On the ground of this fact, fully ascertained and proven by the investigations, and in conformity with the provisions of paragraph 50, of the Hugarian law, Article I, of 1879, relative to the acquisition and loss of the Hungarian citizenship, the following decision was given by the Governor (Banus) of Croatia, Slavonia-Dalmatia, dated on the 26th of May, 1894, No. 22054.

In view of the fact that Ivan Benich has not resided uninterruptedly for five years in the United States of America, and his American citizenship is therefore, according to Article I, of the treaty of September 20, 1870, to be regarded as having been acquired fraudulently, he be considered as a subject of Hungary, and that in consequence the U. S. Government be petitioned to cancel the certificate of naturalization given to Benich and dated at Chicago the 5th of October, 1892, as well as his passport dated at Vienna, the 15th of April, 1893, No. 379.

As far as the course is concerned which the Croatian authorities saw proper to adopt towards Ivan Benich, at his enrollment, despite the protest made by the U. S. consular agent at Fiume, the governor of Croatia does not hesitate to state that the two officials who acted on the occasion, namely the chief of the district at Novi, Otto Rajakovic and his assistant in Sussak, Constantin Rajcevic, as members of the enrollment commission, were by no means justified in denying their recognition to the certificate of naturalization issued by the court of Cook County, Chicago, in 1892, and to the passport given by the U. S. legation in Vienna on April 15, 1893, or in refusing to respect them as legal documentary proof, but that it would have been their duty to take due cognizance of these papers, to take into consideration the protest made by the consular agent at Fiume, to cancel Benich's enrollment and to submit their suspicions, that these papers had been procured by unfair means, to the competent authorities for decision, and that therefore the two above-named officials had rendered themselves liable for a violation of their official duty by not showing to these papers, or to the remonstrance made by the consular agent, the respect which was due.

Attention must be called to the fact, however, that these two officials acted without the knowledge and authority of their superiors, but in their own sphere and upon their own responsibility, and that furthermore, although their course was an incorrect one, they certainly can not be accused of having been guilty of an intentional lack of respect to the provisions of the treaty with the United States, or a want of deference due to the representative of the friendly Government of the United States; but that the conduct displayed by the two functionaries is explained in this, that having found that Benich had not been absent for fully five years, and therefore not removed from their jurisdiction, they had bona fide acted in the belief of proceeding lawfully, and that, in the present case, they had been misled in their interpretation of the provisions of the military law, the law governing acquisition and loss of Hungarian citizenship, the provisions of the treaty of September 20, 1870, and the claim made by the U. S. consular agent, which appears the more entitled to belief as a similar case had not occurred since 1870, either within their practice or within the limits of Croatia or Slavonia.

Without attaching particular weight to these extenuating circumstances, the governor of Croatia and Slavonia has nevertheless given orders to proceed against the two above-named officials, and the law provided for such case will be applied and take its course. The governor at the same time expresses his deep regret that officials belonging to his department have, by their incorrect behavior, given just cause for complaint to the U. S. legation, in which connection it must be observed that, in case the investigations now pending show that the remark said to have been made by a member of the enrolling commission to Mr. Gellejich, the U. S. consular agent, that neither the convention of September 20, 1870, nor the authority of the consular officer of the United States would be recognized, should be true, the presiding officer of the enrolling commission will have to answer the charges which will be brought against him, as it would have been his duty to examine the protest made by the consular agent at Fiume and to determine afterward what steps would be proper to take.

In regard to that part of the esteemed letter of September 26, 1893, which treats of the necessity that papers issued by the competent authorities of one country should be respected and recognized by the authorities of a third state as long as these documents do not bear unmistakable proofs of having been counterfeited or otherwise obtained by fraud, the provincial government of Croatia-Slavonia-Dalmatia

begs leave to say that it fully shares the views expressed in that part of the note, and that the governor has not failed to instruct all his subordinate officers to act in the future in due conformity.

As regards the indemnity, however, which Benich claims for the annoyance to which he was subjected, the facts show that no such claim has any foundation, for the reason that there is no one to blame in the matter except Benich himself; and the ministry of foreign affairs, at the instance of the minister-president of Hungary and the governor of Croatia-Slavonia-Dalmatia, takes this occasion to request the honorable legation of the United States to submit the facts in this case, as they appear from the foregoing official investigation, to the Government of the United States, and at the same time to plead that the necessary steps be taken to cancel the certificate of naturalization given to Benich at Chicago, on October 5, 1892, and the American passport issued to him, on the strength of this certificate, by the legation at Vienna on April 15, 1893, which it is believed the U. S. Government will not hesitate to do after having been convinced that Benich had not been in the United States uninterruptedly for a period of five years, and that his certificate of naturalization had therefore been issued to him erroneously, or had been obtained by fraudulent means.

While the ministry of foreign affairs looks forward to a decision arrived at by the competent American authorities, it cherishes the hope that, so far as the complaint of the U. S. consular agent at Fiume, Mr. Gelletich, regarding his protest against the enrollment of Benich is concerned, the Government of the United States, in view of the expressions of regret and the promise of the governor of Croatia to bring the guilty officials to justice, will not refrain from looking upon the lamentable incident in question as terminated.

The undersigned avails, etc.,

WELSERSHEIMB,
For the Minister of Foreign Affairs.

Mr. Uhl to Mr. Tripp.

No. 89.]

DEPARTMENT OF STATE,
Washington, September 14, 1894.

SIR: I have to acknowledge the receipt of your No. 93, of the 23d ultimo, and its accompaniments, with reference to the arrest and enrollment of John Benich, a naturalized citizen of the United States, by the Austro-Hungarian authorities, and desire to express the Department's gratification at learning that the Austro-Hungarian Government has conceded every essential principle contended for by the Department and the legation.

The Department fully concurs in your view that a reasonable and proper construction of the language of the treaty—resided uninterruptedly—does not preclude a mere temporary absence of the alien during the period of probation, when such absence is unaccompanied by any intention of changing his domicile.

As to the request of the Austro-Hungarian Government, that the necessary steps be taken to cancel the certificate of naturalization granted to Benich by the superior court of Cook County, Ill., you should inform the minister of foreign affairs that this Department has no power, by any steps of its own, to effect such cancellation. While the Department is strongly inclined to agree with you that the circumstances do not warrant the setting aside of Benich's naturalization, his brief stay abroad not seeming to have constituted an interruption of his residence here, yet the question will be submitted to the Chicago court, by communicating your request that it will require Benich to show cause why the judgment of the court admitting him to citizenship should not be set aside on the grounds suggested. Should the court decide that its decree of naturalization was erroneously issued and set the same aside, this Department will of course withdraw the passport, which was given in reliance upon such naturalization.

I am, etc.,

EDWIN F. UHL.
Acting Secretary.

Mr. Tripp to Mr. Gresham.

No. 99.]

UNITED STATES LEGATION,
Vienna, September 29, 1894. (Received October 12.)

SIR: I have the honor to acknowledge the receipt of your dispatch, No. 89, of date September 14, 1894, in reference to the case of John Benich, and I have, in a formal note, communicated to the imperial and royal ministry of foreign affairs of Austria-Hungary the gratification on the part of the Government of the United States that the position taken by the Department and legation upon the legal questions involved were fully concurred in by Austria-Hungary; and while communicating the further fact that the Department of State had requested the superior court of Cook County, Ill., to require John Benich to show cause why the certificate of naturalization issued to him should not be set aside, on the ground that his protracted absence in Austria-Hungary constituted an interruption of his five-years residence, I took occasion to call the attention of his excellency to the fact that this was all the power that existed in the Department of State to exercise in the premises; that under our form of government the judiciary department, which was charged with the power of granting certificates of naturalization, was wholly independent of the executive department, to which the Department of State belonged, and that should the superior court of Cook County, upon an examination of the case, find that the absence of John Benich was merely temporary, without any intention of abandoning his residence already begun, and that mere temporary absence of such a character was not an interruption within the meaning of the treaty, such decision must govern the case and would be binding upon the executive department of the Government and the Department of State.

I further stated that when the result of the action of the court of Cook County was communicated to this legation it would give me pleasure to transmit the same to the ministry of foreign affairs.

I have, etc.,

BARTLETT TRIPP.

COLLISIONS AT SEA.

Mr. Tripp to Mr. Gresham.

No. 102.]

UNITED STATES LEGATION,
Vienna, October 19, 1894. (Received November 2.)

SIR: I have the honor of submitting herewith the translation of a note just received from the imperial and royal ministry of foreign affairs of Austria-Hungary, making favorable response to my note of September 20, 1894, in which was presented the earnest request of the United States that Austria-Hungary would, if it had not already done so, adopt regulations similar to those already adopted by the United States, Great Britain, and France for the prevention of collisions at sea, in accordance with the recommendations of the International Marine Congress held at Washington in 1889.

I have, etc.,

BARTLETT TRIPP.

[Inclosure in No. 102—Translation.]

The Honorable BARTLETT TRIPP,
United States Minister at Vienna.

SIR: In the esteemed note of September 17, 1894, No. 66, the honorable envoy of the United States was pleased to submit copy of a proclamation, made by the President of the United States, relating to the adoption of regulations framed by the Congress of August 19, 1890, for preventing collisions at sea, expressing at the same time the desire that Austria-Hungary would also adopt these regulations.

In reply the ministry of foreign affairs now has the honor of informing the honorable envoy that Austria-Hungary is prepared to adopt the regulation in question in so far as it was proposed by England in 1892, and as recently reproduced in the English programme of February, 1894, and that it is intended to let a regulation in conformity therewith take effect on March 1, 1895.

The undersigned avails himself of this opportunity, etc.

VIENNA, *October 17, 1894.*

For the minister of foreign affairs,

GLAUZ.

ADMEASUREMENT OF VESSELS.

Mr. Gresham to Mr. Tavera.

DEPARTMENT OF STATE,
Washington, March 7, 1894.

SIR: The Secretary of the Treasury has referred to this Department your note to the Commissioner of Navigation (not dated) in which your request to be informed with regard to the views of the Government of the United States relative to the proposition of the London International Statistical Institute for convening an international commission for the establishment of uniform rules for the admeasurement of sea-going vessels.

A similar inquiry was made of the Secretary of the Treasury by this Department in January last, and on the 30th of that month that official replied as follows:

"While the Government of the United States recognizes the utility of uniformity among commercial nations in the methods of admeasuring vessels and is willing to cooperate in any practical measure to establish such uniformity, at the present time it is disposed to believe that some more rapid progress toward the desired end can be effected through correspondence and the concentration of efforts in the law-making branches of the governments of the commercial nations interested than through the convocation of an international conference.

"It is confirmed in its belief by a review of the parliamentary history of the establishment of the regulations for admeasurement in vogue in the various countries subsequent to and based upon the adoption of the Moorsom system by Great Britain in 1854.

"It deems applicable in part to the proposition for an international tonnage conference the conclusions of the international maritime conference of 1889 concerning the proposed establishment of a permanent international maritime commission. Those conclusions, to which the delegates from Belgium, Chile, France, Germany, Great Britain, Sweden, and the United States assented, were: 'It seems to your committee that such a consulting body of experts would not serve the purpose for which it is intended to be created, viz, that of facilitating the introduction of reforms in maritime legislation, because the advice given by such a commission would not in any way enable the governments of the maritime nations to dispense with the necessity of considering the

subjects laid before them, and laying the proposals made to them, if adopted, before the legislative bodies of the different states.

“The consequence of instituting a body like that in question, on the contrary, would, it appears, be this: That merely another investigation of any scheme proposed with a view to reforming international maritime laws would have to be gone through before the opinions of the governments could be taken, and thus the course of procedure as it is now—by correspondence between the different governments—would be made more complicated instead of being simplified.”

The Secretary of the Treasury concludes by observing that, so far as his Department is aware, the British Government has taken no steps to carry out the recommendations of the London International Statistical Institute.

Accept, etc.,

W. Q. GRESHAM.

F R 94—4

BELGIUM.

PROHIBITION OF AMERICAN CATTLE.

Mr. Gresham to Mr. Ewing.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 24, 1894.

Reported that Belgium prohibits landing American live cattle because of danger from pleuro-pneumonia. Secretary of Agriculture authorizes positive denial of that disease in the United States. As important cargoes are afloat and under charter, you will ascertain facts of alleged prohibition and make above denial if necessary.

GRESHAM.

Mr. Ewing to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
Brussels, August 27, 1894. (Received August 27.)

No prohibition yet, but under consideration. Will prevent if possible.

Mr. Ewing to Mr. Gresham.

No. 83.]

LEGATION OF THE UNITED STATES,
Brussels, August 31, 1894. (Received September 11.)

SIR: I have the honor to acknowledge the receipt on August 24 of your cablegram. * * *

As no reports concerning the matter had reached the legation, I requested our consul at Antwerp, by telegram, to investigate at once whether such prohibition was existing, and I also called on the Belgian minister of foreign affairs to procure the necessary information, and to prevent, if possible, the issuance of any such order.

In the absence of the minister of foreign affairs, I was informed by his chief of cabinet that no prohibitory order had yet been issued, but that in view of the fact that two cases of pleuro-pneumonia had been discovered in cattle imported from the United States by the steamer *Minnesota*, the minister of agriculture, of industry, etc., was then considering the issuance of a decree placing under quarantine in the ports of Belgium cattle imported from the United States.

I strongly insisted upon the denial of our minister of agriculture of the existence of such disease in cattle being shipped from the United States and upon the loss that would be entailed upon shippers of cattle then afloat bound for said ports. He promised to call the attention of

the minister of agriculture immediately to my protest. On my return I sent you a telegram as follows:

No prohibition yet, but under consideration. Will prevent, if possible.

And I also addressed to the minister of foreign affairs an official communication embodying the matters stated in my verbal communication above referred to.

On August 27 I received from the department for foreign affairs a copy of the ministerial decree which also appeared in the official paper, *Le Moniteur Belge*, the next day, and of which I send you herewith a printed copy with a translation.

You will perceive that, by the terms of article second, animals en route one day after the date of publication of the decree aforesaid are permitted to be disembarked at the port of Antwerp on the condition that they be slaughtered at the "abattoir public."

This modification of the general quarantine was the result of my protest and was the best I could procure for the present.

On August 28 I cabled you as follows:

Ministerial order subjects American cattle forty-five days' quarantine.

Cattle en route before August 29 are excepted on condition that they must be killed at public slaughterhouse.

I have ascertained the following facts:

There were shipped from Baltimore by the S. S. *Minnesota*, July 29, 1894, 350 head of live cattle in two consignments.

They arrived at Antwerp August 14, all the cattle in apparently good condition. Since that time 291 had been killed up to August 28. Out of that number two cases of diseased cattle were found as discovered by an examination of the lungs after death, and these were pronounced cases of pleuro-pneumonia by the Belgian veterinary surgeon.

The 59 remaining cattle were at the last above date apparently in good health.

I am informed by W. H. Wray, D. V. S., now in the employ of the U. S. Department of Agriculture, that he had just examined the cases referred to, and that in his opinion they were not cases of contagious pleuro-pneumonia, but were well-pronounced cases of catarrhal pneumonia with coexisting pleurisy, and he claims that it is the same disease about which the same controversy has been in England.

However this may be determined, the Belgian authorities have felt themselves justified in the preventive measures which they have taken.

The only American cattle I can hear of en route to Antwerp are two consignments, one on board the *Rialto*, 134 head, and one on board the *Lepanto*, 337 head, both of which would come within the exception embodied in article 2 of said ministerial decree.

I have requested the U. S. consul at Antwerp to cooperate with the agent of the American shippers in watching and reporting the result of further examination as to all American cattle slaughtered at Antwerp, and if results should corroborate our theory I hope to be able to obtain such a modification of the prohibitory quarantine as will entail as little loss and inconvenience to American shippers as possible.

I have, etc.,

JAS. S. EWING.

[Inclosure in No. 83.—Translation.]

The Minister of Agriculture, of Industry, and of Public Works:

Considering the royal decree of the 13th of October, 1890, modifying article 49 of the rules of general administration of the 20th of September, 1883, relative to the sanitary police of domestic animals;

Reconsidering the ministerial decree of the 14th of March, 1884, designating the ports (Antwerp, Ghent, and Ostend) which may be utilized for the importation and exportation of domestic animals;

Reconsidering the ministerial decree of the 28th of July, 1891, stipulating that the animals imported through these ports are there subject to a quarantine of three days;

Considering that contagious pleuro-pneumonia has been discovered in bovine animals exported from the United States of America, and that consequently there is reason to suspect all the animals of the bovine species of that country to be afflicted with that disease;

Considering article 60 of regulations of 20th September, 1893, which fixes at forty-five days the delay of sequestration of bovine animals suspected to be contaminated with that disease;

Considering the report of the veterinary inspection;

DECREES:

Article 1. By a modification of the decrees of the 14th of March, 1884, and of the 28th of July, 1891, above referred to, and until further ordered, the importation of animals of the bovine species imported from the United States of America may not take place at any other port than Antwerp.

Such animals will be subject in said port to a quarantine of forty-five days.

Article 2. Nevertheless, the animals in course of expedition on the day after the day of publication in the *Moniteur* of the present decree may be disembarked in the port of Antwerp on the condition that they be taken to a public slaughterhouse (*abattoir public*) to be killed there under the delay provided for by the regular rules.

(Signed)

THE MINISTER.
L. DE BRUYN.

BRUSSELS, *August 25, 1894.*

Mr. Uhl to Mr. Ewing.

No. 79.]

DEPARTMENT OF STATE,
Washington, September 12, 1894.

SIR: I have to acknowledge the receipt of your dispatch No. 83, of the 31st ultimo, relative to the quarantine regulations of the Belgian Government applicable to American cattle.

Commending your discreet efforts to secure modifications of the regulations in question,

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

ADMEASUREMENT OF VESSELS.

Mr. Le Ghait to Mr. Gresham.

LEGATION OF BELGIUM,
Washington, December 23, 1893.

MR. SECRETARY OF STATE: The Belgian Government has received, as the United States Government doubtless has also, a letter from the London International Statistical Institute, advocating a meeting of an international commission for the unification of the systems of admeasurement of seagoing vessels that are now in force in the different countries.

My Government would be glad to be acquainted with the views of the United States Government in relation to this proposition. So far as it is concerned, it would be glad to see this measure carried out, as its utility appears incontestable, and it is prepared to cooperate in any efforts that may be made to this end.

I beg, etc.,

A. LE GHAIT.

Mr. Gresham to Mr. Le Ghait.

DEPARTMENT OF STATE,
Washington, February 5, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 23d of December last, in which you ask an expression of the views of the Government of the United States relative to a proposition for convening an international commission for the unification of the systems of admeasuring seagoing vessels in the various countries concerned.

The matter was promptly referred to the Treasury Department, and I am now in receipt of a letter of the 30th ultimo from the Acting Secretary of the Treasury which contains the conclusions of that Department.

"While the Government of the United States recognizes the utility of uniformity among commercial nations in the methods of admeasuring vessels and is willing to cooperate in any practical measure to establish such uniformity, at the present time it is disposed to believe that more rapid progress toward the desired end can be effected through correspondence and through the concentration of efforts on the law-making branches of the governments of the commercial nations interested than through the convocation of an international conference. It is confirmed in its belief by a view of the parliamentary history of the establishment of the regulations for admeasurement in vogue in the various countries, subsequent to and based upon the adoption of the "Moorsom" system by Great Britain in 1854. It deems applicable in part to the proposition for an international tonnage conference the conclusions of the international maritime conference of 1889 concerning the proposed establishment of a permanent international maritime commission. Those conclusions, to which the delegates from Belgium, Chile, France, Germany, Great Britain, Sweden, and the United States assented were: 'It seems to your committee that such a consulting body of experts would not serve the purpose for which it is intended to be created, viz, that of facilitating the introduction of reforms in maritime legislation, because the advice given by such a commission would not in any way enable the governments of the maritime nations to dispense with the necessity of considering the subjects laid before them and laying the proposals made to them, if adopted, before the legislative bodies of the different states. The consequence of instituting a body like that in question, on the contrary, would, it appears, be this: That merely another investigation of any scheme proposed with a view to reforming international maritime laws would have to be gone through before the opinions of the governments could be taken, and thus the course of procedure as it is now—by correspondence between the different governments—would be made more complicated instead of being simplified.'"

It should be observed that the British Government, so far as this Department is aware, has taken no steps to carry out the recommendations of the London International Statistical Institute to which you refer, and that the letter of that institute is based largely upon a report by Mr. M. A. N. Kiaer, director of the Norwegian Bureau of Statistics, whose Government has since (September 14, 1893) enacted a law covering the matter of admeasurements in Norway, and conforming, with certain exceptions, to the system now existing in Great Britain and the United States.

Accept, etc.,

W. Q. GRESHAM.

BOLIVIA.

PROMOTION OF MAJOR FORTÚN.

Mr. Moonlight to Mr. Gresham.

No. 8.]

LEGATION OF THE UNITED STATES,
La Paz, Bolivia, May 5, 1894. (Received June 1.)

SIR: I have the honor to transmit herewith copy of note No. 6 to the minister of foreign relations, requesting "if consistent with the views of the Government and the custom in like cases," the promotion of Maj. Romulo Fortún of the army and an aid-de-camp to his excellency the President of the Republic, for courtesies and kindnesses received on my arrival and during the reception. This, I was assured, was according to custom and was expected.

Inclosed also find reply of the minister of foreign relations, with translation of the same, in which it seems Maj. Fortún had been, along with all leading officers and officials of the army, promoted April 4 on the recovery of the President (who had been sick) and his resumption of the duties of his office, and the case is now in the hands of the minister of war for consideration.

I have, etc.,

THOS. MOONLIGHT.

[Inclosure 1 in No. 8.]

Mr. Moonlight to Dr. Emeterio Cano.

LEGATION OF THE UNITED STATES,
La Paz, Bolivia, April 25, 1894.

SIR: The many courtesies received from Maj. Romulo Fortún, of the infantry and aid-de-camp to his excellency the constitutional President of the Republic of Bolivia, induces me to solicit the favor (if consistent with the views of the Government and the custom in like cases) of the promotion of the said Maj. Romulo Fortún to the rank of commandant.

I renew, etc.,

THOMAS MOONLIGHT.

[Inclosure 2 in No. 8.—Translation.]

Dr. Emeterio Cano to Mr. Moonlight.

MINISTRY OF FOREIGN RELATIONS,
La Paz, May 4, 1894.

YOUR EXCELLENCY: In reply to your kind note of the 25th ultimo, in which your excellency was pleased to request the promotion of Commandant Romulo Fortún, to whose lot it fell, by order of the Government, to do the honors of reception to your excellency from Puerto Perez (to this city), I have the honor to inform you that I have communicated the matter to the minister of war, to whose jurisdiction it belongs.

In the meantime I have the pleasure of notifying you that Commandant Fortún has been included in the promotions decreed by general order of April 4, on the occasion of the restoration of the President of the Republic, and as a reward for the services rendered by the commanders and officers of the army.

I renew, etc.,

EMETERIO CANO.

Mr. Gresham to Mr. Moonlight.

No. 12.]

DEPARTMENT OF STATE,
Washington, June 4, 1894.

SIR: I have received your No. 8, of the 5th ultimo, inclosing a copy of your note to the Bolivian minister of foreign affairs recommending the promotion of Maj. Romulo Fortún, of the Bolivian army, in recognition of courtesies and kindnesses received from him during your reception. You state that you were assured that this was expected, and according to custom.

However usual such a proceeding may be in Bolivia, it is so entirely contrary to section 1751 of the Revised Statutes that the Department can not approve your note, and you should make a proper explanation to the minister of foreign affairs.

I am, etc.,

W. Q. GRESHAM.

Mr. Moonlight to Mr. Gresham.

No 36.]

LEGATION OF THE UNITED STATES,
La Paz, Bolivia, July 19, 1894. (Received August 24.)

SIR: Replying to No. 12, of June 4, received yesterday, disapproving of my action in asking the Bolivian Government for the promotion of Maj. Romulo Fortún, of the army, for courtesies and kindnesses received during my reception, and requesting that proper explanation be made to the minister of foreign affairs, I have the honor to transmit herewith my No. 13 to the minister of foreign relations, making the proper explanation, which I trust will receive the approval of the Department. I acknowledge frankly that it was with great reluctance note 6 of April 25 was written, and was careful to say "if consistent with the views of the Government and custom in like cases;" but had overlooked that it was in violation of section 1751 of the Revised Statutes, and which I very much regret.

I have, etc.,

THOS. MOONLIGHT.

[Inclosure 1 in No. 36.]

Mr. Moonlight to Dr. Emeterio Cano.

LEGATION OF THE UNITED STATES,
La Paz, Bolivia, July 19, 1894.

SIR: Referring to my note 6, of April 25, I find that it was in violation of the Revised Statutes of the United States to ask for the promotion of Maj. Romulo Fortún, of the Bolivian army; but was led to believe that it was customary to make such request, and, in fact, expected of the envoy extraordinary and minister plenipotentiary for courtesies and kindnesses received from the officer designated to escort him from the Bolivian port of entry to La Paz and render him assistance during the ceremony of reception.

With this explanation, I sincerely trust your excellency will deem it proper to consider No. 6 as a nullity.

I avail, etc.,

THOMAS MOONLIGHT.

Mr. Gresham to Mr. Moonlight.

No. 26.]

DEPARTMENT OF STATE,
Washington, August 27, 1894.

SIR: I have received your No. 36, of the 19th ultimo, concerning the case of Romulo Fortún, of the Bolivian army, and desire to approve your explanatory note to the minister of foreign affairs touching the same.

I am, etc.,

W. Q. GRESHAM.

BRAZIL.

REVOLT OF THE NAVY.*

Mr. Thompson to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, April 5, 1894.

Mr. Thompson reports that the Brazilian fleet will be sent to Parana-gua, in the State of Paraná, with a view to preventing rebels from embarking there, and that the Government will recall its minister to Portugal, whose proposal it declines to accept.

Mr. Thompson to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
Rio de Janeiro, April 12, 1894.

Mr. Thompson reports that the governor of Rio Grande do Sul has telegraphed to the Brazilian foreign office the news of a serious defeat and great loss sustained at Port Alegre by the rebels, who took to their vessels and, being advised of the approach of the squadron sent by the Brazilian Government, fled in haste.

Mr. Thompson to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
Petropolis, April 18, 1894.

Mr. Thompson telegraphs that according to intelligence received from the south the revolutionary cause has been abandoned by Admiral Mello, who has gone with 1,200 men and 4 vessels of the revolting squadron to the Argentine Republic, which gives them protection. The sinking of the *Aquidaban* and the complete overthrow of the revolutionary movement are announced.

* See Foreign Relations 1893, pp. 45-148.

Senhor Mendonça to Mr. Gresham.

LEGATION OF THE UNITED STATES OF BRAZIL,
Washington, April 19, 1894.

SIR: I have the honor to communicate to your excellency the following cablegram just received from my Government:

Aquidaban was sunk in the port of Santa Catharina by torpedo boat of the fleet of the Brazilian Government. Mello went to Buenos Ayres with the cruiser *Republica* and four other vessels; asked for and obtained asylum, declaring to abandon the contention, for lack of resources. Delivered vessels to Argentine Government. Rebellion ended.

Accept, etc.

SALVADOR DE MENDONÇA.

Mr. Thompson to Mr. Gresham.

No. 220.]

LEGATION OF THE UNITED STATES,
Petropolis, April 19, 1894. (Received May 14, 1894.)

SIR: Since the surrender and escape of Saldanha da Gama, in military operations the utmost quiet has prevailed at Rio de Janeiro, and business has resumed its usual channels. The Portuguese war vessels, *Mindello* and *Albuquerque*, with da Gama and other refugees on board, went from here to Montevideo and from there to Buenos Ayres, where a number of the refugees landed from the ships, it is stated, without the consent of the commander. A demand for them is reported to have been formally made afterwards by the representative of Portugal, and the Argentine Government refused to give them up. This, it was believed, would make an issue between the governments of Portugal and Argentina similar to the question of asylum pending between Portugal and Brazil; but later advices indicate that the entire number of refugees taken on board the Portuguese vessels will be transported to Portugal, and thus the issue may be avoided.

Authentic information has been received confirming the reported successes of the Government forces at Rio Grande do Sul, wired you on the 12th instant. The rebels were driven from the shore back to their ships, with heavy losses, and left the port before the Government fleet arrived.

Confirming my cipher telegram of yesterday, authentic information has been received from Buenos Ayres and Montevideo announcing an engagement at Desterro on the 16th, between the Government squadron and the *Aquidaban*, which resulted in the sinking of the *Aquidaban* near the shore by torpedo boats, under the command of Admiral Gonçalves of the Brazilian navy, whose flagship is the *Nietheroy*. Also, the arrival of Mello with five ships, the *Republica*, *Esperança*, *Iris*, *Meteoro*, *Uranus*, and 1,200 men, who asked and were granted an asylum by the Government of Argentina. The ships were taken possession of by the Argentine Government, and, it is stated, will be turned over to Marechal Peixoto when called for. The Government having now gained complete control of the three southern States lately in rebellion, viz, Paraná, Santa Catharina, and Rio Grande do Sul, and driven the revoltors from the territory of Brazil, the revolution seems to be practically at an end. Gumacindo, having fled to the mountains of Uruguay, may continue his raids upon the people of Rio Grande do Sul for a

time. It is stated that 4,000 rebels have taken refuge in Argentina and Uruguay. President Peixoto has been gloriously triumphant in all his undertakings against the insurgents, though the odds at times seemed to be largely against his success. His splendid executive ability and dauntless courage have won the victory! The permanency of Brazil as an American Republic is now assured.

I have, etc.,

THOS. L. THOMPSON.

Mr. Gresham to Mr. Thompson.

No. 125.]

DEPARTMENT OF STATE,
Washington, April 25, 1894.

SIR: I have received your No. 189, of the 4th ultimo, in regard to certain items printed in the newspapers of this country in December and January last, which reflected upon your supposed conduct and views touching the Mello-Gama revolt.

The Department is at a loss to account for these disparaging reports. Its instructions to you by cable and mail faithfully represent its views as to your course, and an examination of them does not suggest any criticism based on your supposed partiality for the insurgent cause. So far as your attendance at your post is concerned the published statements had some apparent foundation, but your response to the Department's telegram of inquiry dispelled the apprehension that the public interests might suffer by reason of your continued residence at Petropolis.

The request cabled to you on the 30th of January for fuller reports in regard to the situation at Rio had its rise in the necessity of having more precise information concerning the progress of the events on land and the applications for belligerent recognition addressed to you by the revolted admirals. Captain Picking's reports dealt mainly with the military aspects of the situation and the measures proposed for the protection of legitimate commerce in the waters of Rio. The Department necessarily had to look to its legation for current advices as to the political and diplomatic phases of the problem.

I am pleased to believe that the reliance placed from the outset upon your discretion in dealing with the complex and embarrassing issues presented in the protracted course of the revolt was amply justified by the event.

On the whole, I can only suppose that the press items, which have naturally disquieted you, may have been due to the Department's proper reticence in respect to your political reports as contrasted with the equally proper publicity given to the intelligence received from the naval commander as regards the military happenings at Rio. The propriety of conceding belligerent rights to the insurgents was obviously more appropriate for consideration in the executive councils of this Government than for discussion in the papers, especially in view of the supposed attitude of European powers.

I am, sir, your obedient servant,

W. Q. GRESHAM.

Mr. Thompson to Mr. Gresham.

No. 225.]

LEGATION OF THE UNITED STATES,
Petropolis, April 25, 1894. (Received May 29.)

SIR: I have the honor to transmit copy of correspondence between his excellency the minister of foreign affairs and this legation upon the occasion of the occupation by the Government forces of the islands and ships which had been held by the insurgents in the bay of Rio de Janeiro and upon the announcement of the defeat and abandonment of their cause by the insurgents in the States of Paraná, Santa Catharina, and Rio Grande do Sul.

I have, etc.,

THOS. L. THOMPSON.

[Inclosure 1 in No. 225.—Translation.]

Senhor Nascimento to Mr. Thompson.

MINISTRY OF FOREIGN RELATIONS,
Rio de Janeiro, March 14, 1894.

I have the pleasure of notifying Mr. Thomas L. Thompson, envoy extraordinary and minister plenipotentiary of the United States of America, that the rebellion in the harbor of this capital is ended, and that the Government is in possession of the forts and vessels which were in the hands of the rebels.

This happy event, which is of great interest to those countries that have commercial relations with Brazil, permits those relations to resume their usual course, and the marechal vice-president will do all in his power to that end.

I avail, etc.,

CASSIANO DO NASCIMENTO.

[Inclosure 2 in No. 225.]

Mr. Thompson to Senhor Nascimento.

LEGATION OF THE UNITED STATES,
Petropolis, March 15, 1894.

I have the honor to acknowledge your excellency's communication of March 14, declaring that the revolt in the port of the federal capital is at an end, and of the determination on the part of the Government to maintain the free operation of commerce. I have the honor further to tender congratulations to his excellency the Sr. marechal vice-president of the Republic, upon the successful termination of the issue which has enabled the Government to give this assurance.

I improve, etc.,

THOS. L. THOMPSON.

[Inclosure 3 in No. 225.—Translation.]

Senhor Nascimento to Mr. Thompson.

MINISTRY OF FOREIGN RELATIONS,
Rio de Janeiro, April 20, 1894.

I have waited for the latest news from the south to have the pleasure of notifying Mr. Thomas L. Thompson, envoy extraordinary and minister plenipotentiary of the United States of America, that the rebellion is also happily ended in that portion of the territory of the Republic, and that the Government of the Union is in possession of the States of Santa Catharina and Paraná, in which it has already reestablished the reign of law. As to the State of Rio Grande do Sul, it still continues under the legal Government.

In communicating to the minister this happy event, which is of so great interest to mutual commercial relations,

I avail, etc.,

CASSIANO DO NASCIMENTO.

[Inclosure 4 in No. 225.]

*Mr. Thompson to Senhor Nascimento.*LEGATION OF THE UNITED STATES,
Petropolis, April 22, 1894.

With great satisfaction I have the honor to acknowledge the communication of his excellency Dr. Cassiano do Nascimento, minister for foreign affairs, of April 20, the announcement of the suppression of the revolt, and the restoration of lawful authority in the States of Paraná, Santa Catharina, and Rio Grande do Sul.

Conveying to his excellency, the vice-president, congratulations upon the reestablishment of constitutional authority in the rebellious States, I beg to express also the good will of the people of the United States of America, and the hope that his excellency the vice-president may live long to enjoy the fruits of a victory which seems to perpetuate the States of Brazil as a Republic, and, under its benign authority, the happiness of the people.

It is with much pleasure I have the honor to again assure, etc.,

THOMAS L. THOMPSON.

Mr. Thompson to Mr. Gresham.

No. 234.]

LEGATION OF THE UNITED STATES,
Petropolis, May 4, 1894. (Received May 29, 1894.)

SIR: Governmental authority seems to be dominant now throughout all the States of Brazil. Since the insurgents, under the leadership of Admirals Mello and Da Gama, were driven from the country, peace has reigned in all parts of the nation, and the vice-president will be able to report to the National Congress, which is about to convene, the complete suppression of the rebellion and the preservation of the Republic. Mello and Da Gama seem to be engaged at Montevideo and Buenos Ayres in the discussion of international comity with Argentine and Portuguese authorities.

The *Aquidaban*, which was sunk at Desterro, has been raised and will be brought to Rio.

Monday, the 30th of April, the birthday of the vice-president, Marechal Floriano Peixoto, was observed as a holiday and celebrated in honor of the protector of the Republic, who now seems to be eternally enshrined in the hearts of his countrymen.

Business is improving, and now that the war is ended, I shall be able to give more particular attention to the development and expansion of our commercial relations with Brazil. The field is a profitable one, and I hope in time to be able to cultivate it to the satisfaction of the Department.

I have, etc.,

THOS. L. THOMPSON.

Mr. Uhl to Mr. Thompson.

No. 135.]

DEPARTMENT OF STATE,
Washington, May 31, 1894.

SIR: I have received your No. 225, of the 25th ultimo, inclosing correspondence between the Brazilian foreign office and your legation in regard to the termination of the rebellion.

The Department approves your notes in response to those of the minister expressing your congratulations upon the restoration of domestic peace in Brazil.

I am, etc.,

EDWIN F. UHL,

Mr. Thompson to Mr. Gresham.

No. 248.]

LEGATION OF THE UNITED STATES,
Petropolis, June 17, 1894. (Received July 14.)

SIR: Since the opening of Congress there have been no new demonstrations on the part of the revolutionists of any consequence. From the State of Rio Grande do Sul reports come of an engagement between the insurgent Gen. Gumacindo, who escaped with a small party at the time of the overthrow of the revolutionary movement in the south, and a detachment of Government troops. Gumacindo was routed and fled across the boundary into Uruguay, from whence it is expected he will continue his marauding expeditions.

The measures adopted by the Government since their victory, in the federal capital and elsewhere, have been very rigid. The state of siege has been continued and many persons have been thrust into prison while investigations into their conduct during the revolution were made. The object of the Government has been to discover and punish the parties who furnished the revolutionists funds to carry on their campaign, and nothing has been left undone to capture the guilty.

A number of foreigners have been arrested, among them two Americans, the Rev. Tilly, a Methodist missionary, and P. Slaughter, an employé of the Rio News. Mr. Tilly, after forty-eight hours' confinement, was released without trial, but Mr. Slaughter is still held. The justification for the arrest of many of these foreigners is stated to be information contained in a recent issue of the New York Sun, which was republished here in the local papers.

Thus far the sessions of the National Senate have been devoted to organization and the canvassing of the presidential vote. The House of Deputies has likewise been engaged, and in the settlement of contested-election cases. Nothing of importance has been accomplished. On the 12th instant, Sr. José de Carlos, rising to a question of privilege, stated that his name had been coupled with that of Admiral Benham by a New York paper in regard to the effort of the latter to arbitrate the differences between the Government and the insurgents, and, as several errors had been made, he desired to correct them. I will send you his remarks as soon as they can be translated.

Rumors are constantly being circulated by opponents of the Government to the effect that another revolution is imminent, but I believe them to be entirely without foundation, not only because of the disastrous ending of the last, but also for the reason that President Peixoto has so well in hand and so well organized the army, and is so quick to suppress all demonstrations which may lead to trouble.

I have, etc.,

THOS. L. THOMPSON.

Mr. Thompson to Mr. Gresham.

No. 250.]

LEGATION OF THE UNITED STATES,
Petropolis, June 17, 1894. (Received July 14, 1894.)

SIR: There has been passed in the National Congress a resolution ordering to be made bronze medals for distribution to the officers and men of the loyal forces who during the revolution distinguished themselves by acts of bravery or meritorious conduct.

This resolution also provided for two medals of gold and palladium intended, one for the President of the United States, the other for the Vice-President of Brazil.

I have, etc.,

THOS. L. THOMPSON.

RESTRICTIONS ON CIPHER TELEGRAMS.*

Mr. Gresham to Mr. Thompson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 12, 1894.

Mr. Gresham instructs Mr. Thompson to request that the restrictions on commercial cipher telegrams be removed.

Mr. Thompson to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
Petropolis, April 25, 1894. (Received April 25, 1894.)

Restrictions cipher telegrams removed.

THOMPSON.

Mr. Thompson to Mr. Gresham.

No. 227.]

LEGATION OF THE UNITED STATES,
Petropolis, April 27, 1894. (Received May 29, 1894.)

SIR: Referring to your telegram of the 12th instant, conveying instructions that an effort be made to have the restrictions on commercial telegrams in cipher removed, I have the honor to state that a note was addressed on the 13th instant to his excellency the minister for foreign affairs renewing my previous request for such action, and on the 24th instant I received a telegram announcing that the restrictions would be removed.

I inclose the correspondence upon the subject.

I have, etc.,

THOS. L. THOMPSON.

[Inclosure 1 in No. 227.]

Mr. Thompson to Senhor Nascimento.

LEGATION OF THE UNITED STATES,
Petropolis, April 13, 1894.

SIR: By direction of telegraphic instructions just received, I hasten to renew to his excellency Dr. Cassiano do Nascimento, minister for foreign affairs, my request for the removal of restrictions placed by the Government of Brazil upon commercial

* See Foreign Relations 1893, pp. 38, 41, 42, 43, 47, 50, 62, 145.

telegrams in cipher. In view of the recent decisive victories which have attended the arms of the loyal forces for the preservation of the Republic and the consequential restoration of business throughout the country, the necessity appears no longer to exist for the maintenance of heretofore restrictive measures which have had a tendency to embarrass the free interchange of communication between the representatives of trade in the great commercial centers of our respective republics.

Trusting that his excellency the Sr. marechal, vice-president, in view of what is above set forth, the magnitude of the interests involved, and the good which would result, may not be precluded from granting the relief desired, I have presented the matter for consideration.

I improve, etc.,

THOS. L. THOMPSON.

[Inclosure 2 in No. 227.—Translation.]

Minister of Exterior to Mr. Thompson.

RIO DE JANEIRO, April 24, 1894.

Orders have been given in deference to the last solicitations of your excellency relative to the telegraph. Good wishes to your excellency.

MINISTER OF EXTERIOR.

SUSPENSION OF DIPLOMATIC RELATIONS WITH PORTUGAL.

Mr. Thompson to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,

Petropolis, May 15, 1894.

The Brazilian Government has recalled its minister at Lisbon and given passports to the chargé d'affaires of Portugal.

Mr. Gresham to Senhor Mendonça.

DEPARTMENT OF STATE,

Washington, May 31, 1894.

SIR: At your interview with me yesterday you had communicated copy of a telegraphic instruction you had received from the minister for foreign affairs, directing you to ask if the Government of the United States would authorize its minister at Lisbon to protect Brazilian citizens during the suspension of diplomatic relations with Portugal.

Having taken the President's directions in this regard, I have the pleasure to inform you that the minister of the United States at Lisbon will be instructed, by cable, to use his friendly offices, with the acquiescence of the Portuguese Government, for the protection of Brazilian citizens in Portugal or the Portuguese dependencies during the present suspension of diplomatic relations between those countries.

Promising myself the further pleasure of communicating to you such reply as I may receive from Mr. Caruth,

I avail myself, etc.,

W. Q. GRESHAM.

Senhor Mendonça to Mr. Gresham.

LEGATION OF THE UNITED STATES OF BRAZIL,
Washington, May 31, 1894. (Received May 31.)

SIR: I have the honor to acknowledge the receipt of your note of to-day, by which, referring to my interview yesterday with your excellency in regard to the protection by your minister in Portugal of the Brazilian citizens in that country during the suspension of the diplomatic relations between Brazil and Portugal, your excellency informs me that the minister of the United States at Lisbon will be instructed, by cable, to use his friendly offices, with the acquiescence of the Portuguese Government, for the protection of Brazilian citizens in Portugal or the Portuguese dependencies during the present suspension of diplomatic relations between those two countries, and that your excellency will further communicate to me such reply as you may receive from Mr. Caruth.

Thanking your excellency for this friendly assent of the American Government to the desire of my Government,

I avail, etc.,

SALVADOR DE MENDONÇA.

Mr. Thompson to Mr. Gresham.

No. 249.] LEGATION OF THE UNITED STATES,
Petropolis, June 17, 1894. (Received July 14, 1894.)

SIR: I have the honor to transmit translation of the notes and telegrams passed between the Portuguese legation and the Brazilian minister for foreign affairs, concerning the question of the asylum of the insurgents.

It appears from this correspondence that the Government of Brazil, in demanding the surrender of the insurgents, places particular stress upon the fact that it had previously decreed them pirates, and they were therefore not entitled to the protection usually granted political refugees, virtually ignoring the fact that Saldanha da Gama had been promised asylum by the commander of the Portuguese naval forces before active hostilities were commenced and contingent upon the acceptance of his proposition to surrender.

I have, etc.,

THOS. L. THOMPSON.

[Inclosure 1 in No. 249.—Translation.]

Here follows the correspondence between the Portuguese legation and the Brazilian legation at Lisbon, with regard to the delivery of the rebels in asylum on board the cruisers *Mindello* and *Alfonso de Albuquerque*:

NOTE OF THE PORTUGUESE LEGATION TO THE BRAZILIAN GOVERNMENT.

LEGATION OF PORTUGAL IN BRAZIL,
Rio de Janeiro, March 15, 1894.

MOST ILLUSTRIOUS AND EXCELLENT SIR: I have the honor to inform you that on the morning of the 13th a numerous group of insurgents, who for months have been in arms in Rio de Janeiro Bay, went aboard the Portuguese ships *Mindello* and

Alfonso de Albuquerque, and begged for refuge and asylum, which was conceded to them, according to the provisions of international law, and to the principles of humanity generally recognized by civilized nations.

Not having received the report of the commander in chief of the two ships, I can not yet give the names and conditions of these political refugees. I take advantage of the occasion to reiterate the protests of my highest consideration.

CONDE DE PARATY.

To the illustrious and excellent Dr. CASSIANO DO NASCIMENTO,
Most worthy Minister and Secretary of State for Foreign Affairs.

REPLY TO THE PRECEDING NOTE.

MINISTRY FOR FOREIGN AFFAIRS,
Rio de Janeiro, March 15, 1894.

I have received the note which the Conde de Paraty, chargé d'affaires of Portugal, sent to me to-day, communicating that on the morning of the 13th a numerous group of insurgents asked and obtained refuge and asylum on board the warships of his nation, the *Mindello* and the *Alfonso de Albuquerque*.

The Federal Government already knew of this circumstance, but whilst recognizing that the acts of the commanding officers of the Portuguese warships were inspired by humane sentiments, it is obliged to demand the delivery of those individuals, whom it considers as criminals, and who are not in circumstances to receive the protection extended to them. I have the honor to reiterate, conde, the assurance of my distinguished consideration.

CASSIANO DO NASCIMENTO.

To the CONDE DE PARATY, etc.

TELEGRAM FROM THE BRAZILIAN GOVERNMENT TO ITS LEGATION IN LISBON.

Representatives of that Government here refuse to deliver military rebels who sought refuge aboard Portuguese warships. It is not a case for asylum, and, moreover, you know rebels were declared pirates by decree of October for crimes, depredations, and robbery committed and do not represent any part of political opinion; therefore, they should be surrendered in order to be submitted to the competent tribunals. Demand order of that Government in this sense.

MINISTER OF EXTERIOR.

REPLY.

Without loss of time I went to the president of the council and minister for foreign affairs, and after showing the telegram of your excellency I made him understand the convenience, in order for the continuance of the good relations between the two countries, of the delivery of the rebels, who can not be considered political criminals, because of the decree of October 10, which declared them to be pirates. That a favorable decision of the Portuguese Government would avoid an incident which would be disagreeable and onerous to both nations. His excellency replied, saying that it appeared to him impossible, as he considered the fugitives aboard the Portuguese warships as political criminals; that because of his conscience, and because of every principle of humanity, he could not deliver them, but nevertheless he would submit himself to the same rule of conduct which guided the commanders of other ships, which had given asylum to the insurgents. After this interview I sent you the following telegram in cipher: "Demanded with energy, government, but declared could only follow same rule of conduct other ships which gave refuge to rebels." In reply to this telegram you sent me the following: "All rebels, numbering 493, in refuge on Portuguese ships. None on ships of other nations. Government does not admit sovereignty opposed to its own in the port of the capital of the Republic. (Signed) Minister Exterior."

I received this telegram on the 18th at 7:30 p. m.; at 8 I went to the minister of foreign affairs and submitted for his consideration the communication I had just received. His excellency was a good deal worried, and said he had received notice that the sailing of the ships was opposed in a friendly manner, and that your telegram surprised him, and that he would telegraph to Conde de Paraty and on the following day would see me. I then sent you the following telegram in cipher: "By telegram from Paraty, Government thought sailing of ships was opposed in a friendly manner. Surprised at your dispatch; asked explanations of his representative."

TELEGRAM FROM MINISTER FOR FOREIGN AFFAIRS TO CHARGÉ D'AFFAIRES OF PORTUGAL IN PETROPOLIS.

MARCH 16, 1894.

To CONDE DE PARATY, etc.:

Very urgent. Hearing that the cruiser *Alphonso de Albuquerque* is going to sail this afternoon, taking with her the military rebels and those aboard the *Mindello*, and the incident treated of in our correspondence on yesterday not being yet settled, in order to avoid greater complications I ask you to give orders to delay the sailing of said cruiser until the pending question is decided, which question, unfortunately, occupies us and whose final solution I await.

I renew, etc.,

CASSIANO DO NASCIMENTO.

REPLY TO ABOVE TELEGRAM.

PETROPOLIS, March 16, 1894—at 10:50 a. m.

MINISTER FOR FOREIGN AFFAIRS, Rio:

Very urgent. I have not yet considered the note to which you refer. In the meantime I can assure you that the commander in chief of the *Mindello* is responsible for the guarding of the political refugees, and will not land them on foreign soil until the final decision of the diplomatic question. If I have time I will delay the sailing of the warships, which only go for hygienic motives and for prudence, in order to avoid pretexts to excite the public spirit. I send telegram to commander, thus giving another proof of the wish to conciliate which inspires my Government, and hoping you will send the telegram to its destination and afterwards will act with me in measures to protect the health of those aboard the ships without prejudice to the question in consideration.

The telegram to the commander of the *Mindello* was as follows: "Will you delay sailing until you can converse with me? (Signed) Paraty."

NOTE OF THE PORTUGUESE LEGATION TO THE BRAZILIAN GOVERNMENT.

LEGATION OF PORTUGAL IN BRAZIL,
Petropolis, March 17, 1894.

ILLUSTRIOUS AND EXCELLENT SIR: I have the honor to acknowledge the reception of your telegram with regard to the projected sailing of the Portuguese war ships. I am sure that you do not contest the right of these ships to proceed to any point that the convenience of the service of His Majesty may require. I must confirm the telegram which in reply I sent you in the following terms: "I have not yet considered the note to which you refer. In the meantime I can assure you that the commander in chief of the *Mindello* is responsible for the guarding of the political refugees and will not land them on foreign soil until the final decision of the diplomatic question. If I have time, I will delay the sailing of the war ships, which only go for hygienic motives and for prudence in order to avoid pretexts to excite the public spirit. I send telegram to commander, thus giving another proof of the wish to conciliate which inspires my Government, and hoping you will send the telegram to its destination and afterwards will act with me in measures to protect the health of those aboard the ships, without prejudice to the question in consideration." The telegram to the commander of the *Mindello* was as follows: "Will you delay sailing till you can converse with me? (Signed) Paraty."

NOTE OF THE PORTUGUESE LEGATION TO THE BRAZILIAN GOVERNMENT.

PORTUGUESE LEGATION IN BRAZIL,
Petropolis, March 16, 1894.

I have the honor to acknowledge your note No. 13, dated 15th March, and which reached me on the 16th at 9:30 p. m., relative to the admission of the insurgents on board the Portuguese men-of-war. I note that your excellency demands the surrender of those people, and await the orders of my Government in this respect; and must assure you that on this morning I have given orders to the commander of the *Mindello* not to land them on foreign soil, and that he must keep them aboard till the final solution of the diplomatic question.

I assure you, etc.,

CONDE PARATY.

To Dr. CASSIANO DO NASCIMENTO,
Minister for Foreign Affairs.

NOTE OF THE PORTUGUESE LEGATION TO THE BRAZILIAN GOVERNMENT.

MARCH 17, 1894.

I have the honor to herewith remit you a list of the fugitives in refuge on the Portuguese ships, it being a copy of a list furnished me by Commander Castilho.

I renew the assurance, etc.,

CONDE PARATY.

To Dr. CASSIANO DO NASCIMENTO,
Minister for Foreign Affairs.

TELEGRAM FROM THE BRAZILIAN GOVERNMENT TO ITS LEGATION IN LISBON.

BRAZILIAN LEGATION IN LISBON,
Rio, March 16, 1894.

Paraty communicated on the 15th that on the morning of the 13th insurgents asked and obtained asylum on *Mindello* and *Alfonso de Albuquerque*. Same day said to him that I would claim their surrender. Replied would await orders and stated had recommended to Castilho not to land fugitives in foreign territory, keeping them aboard until solution of diplomatic question. Informed that *Alfonso de Albuquerque* would sail, taking rebels; asked Paraty to give orders. Replied reason of going was to refresh crew, hygienic motives; that if still time would order commander by telegram to retain ships, saying meanwhile he was responsible for rebels. Afterwards, in conference, I agreed for ships to leave port for three or four days, Paraty compromising himself for the return of rebels, for which he sent me a list of their names.

MINISTER EXTERIOR.

CONTINUATION OF LETTER OF LEGATION IN LISBON OF 25TH MARCH.

On the 19th I went to the department to the president of the council, and when he saw me he showed great satisfaction because of two telegrams he had just received, one from Paraty, in which he communicated, without other information, the sailing of the cruisers *Mindello* and *Alfonso de Albuquerque*, and another from Reuter's agency to the same effect.

I sent to your excellency the following telegram: "Lisbon, 19th March, Minister Exterior, Rio: Minister states that his representative there (in Rio) notifies sailing this morning Portuguese ships. I ask confirmation. Government asks me to send you great satisfaction, and protests profound recognition." The president of the council was as much worried by your telegram of 18th as he was pleased with the one just received from his representative. He said, thus will disappear an incident which might cause complications with a country with which Portugal has always maintained the best relations, and to which it is joined by the ties of race and common interests.

Referring to the telegram sent March 16 to the legation at Lisbon and received 21st early in the morning, the said document states: As soon as I read this telegram I wrote to the president of the council asking him to receive a visit from me. He replied that between 11 and 1 o'clock (that day) he would receive me. At that hour I went to his house and communicated to him the contents of said telegram. He appeared completely ignorant of what I showed him, and stated that he knew nothing of the obligation of Paraty, and that he had not authorized him to order the sailing of the vessels to refresh the crews, and much less to promise their return in three or four days, and that he would reprove his (Paraty's) conduct. He further said that he would at once telegraph to his chargé d'affaires asking explanations, and asked me to delay answering you for twenty-four hours.

On the following day I received a letter from his excellency asking me to fix an hour for him to visit me; I replied that I would at once go to his house, and without delay I did so. The president of the council told me that he had just read a telegram from the Conde de Paraty, in which he confirmed the sailing of the ships *Mindello* and *Alfonso de Albuquerque* with the fugitives aboard for Buenos Ayres, at which place he had ordered them to await orders from the Portuguese Government and not to refresh and return to Rio de Janeiro after three days' absence. Paraty added that he had promised the Brazilian Government not to land the insurgents on foreign soil, and to keep them aboard until the solution of the diplomatic reclamation. The president of the council told me that Paraty had made said promise without instructions. I insisted on the right of the Brazilian Government to demand the sur-

render of the refugees, as they can not be considered as political criminals, but only as common criminals, and for other reasons. The president of the council declared that, according to the rules of international law, by article 6 of the extradition treaty, by the rules of all navies, and by the duties of humanity and of conscience, he could not for any motive surrender the fugitives to the Brazilian Government; that it annoyed him immensely to refuse the reclamation which I had sent him, but that it was utterly impossible; that no other government would act differently, and that the public opinion of his country would protest as one man against a government which acted differently from all other nations in such a case. He concluded by asking me to send to you all these considerations and to ask you to desist from your demands, and to assure you that the fugitives would not be landed on foreign soil, but would be carried to a Portuguese possession in Portuguese ships, and established in military establishments, guarded and watched over, so that they shall not return to Brazil to disturb the peace.

I then sent you the following telegram in part in cipher: "Lisbon, 22d March. Minister of Exterior, Rio de Janeiro: Paraty communicated that ships sailed for Buenos Ayres to await orders, and not return to Rio. Obligated himself not to disembark rebels in foreign country; they stay aboard until settlement diplomatic question. Government declines positively; can not surrender insurgents, because against international law and extradition treaty. Asks you to desist reclamation because obliges himself to only land fugitives on Portuguese soil; guard and impede their return to Brazil."

MATTA.

TELEGRAM FROM BRAZILIAN GOVERNMENT TO LEGATION IN LISBON.

LISBON, *March 29.*

MINISTER OF BRAZIL:

Inform Portuguese Government following telegram from legation, Montevideo: Saldanha arrived, Mindello, wounded in shoulder; declares he has means to continue revolution. There are 8 wounded, 3 passed midshipmen, 5 midshipmen; some with broken arms and legs. Passed Midshipman Fraga died. It is sure they will be landed at Martin Garcia. In both ships, 518 men, officers, and sailors. It appears they intend to attack Uruguay squadron.

MINISTER EXTERIOR.

LETTER FROM LEGATION IN LISBON, 7TH APRIL, REFERRING TO PRECEDING TELEGRAM.

The telegram reached me at 11 o'clock on 30th, and at 2 o'clock p. m. I spoke with the president of the council, who, after attentively reading the telegram, asked me to allow him to take a copy, in order to show it to the minister of marine, whom he then sent for; said he was unaware that the fugitives had been landed in Buenos Ayres, as he had no official news, except what had been referred to in an evening newspaper; that the orders sent to their chargé d'affaires and to Commander Castilho had been positive that the fugitives should not land anywhere, but that they should at once be carried to Portuguese soil.

The president of the council also said that, in consequence of the great number of persons aboard, and the small capacity of the ships to hold them, and the poor condition of the ships, the *Mindello* could hardly move herself; he was endeavoring to hire a steamer in Buenos Ayres which would hoist the Portuguese flag, and would be commanded by Portuguese officers, and would transport the refugees to this kingdom.

The president of the council added that his Government comprehends perfectly the responsibility assumed, and for this reason would use every endeavor that the refugees be as soon as possible brought to Portugal, and would not cease its efforts, and would only be easy when it knew of the arrival of the refugees in the Portuguese dominions.

As soon as this conference was finished, I sent you a telegram as follows: "Lisbon, 31 March, 1894, at 4:45 p. m. Minister Exterior, Rio: Government does not know of landing refugees. Orders Castilho use all vigilance; in case Argentine Government requires quarantine, charter a vessel there and bring refugees at once."

MATTA.

NOTE OF THE PORTUGUESE LEGATION TO THE BRAZILIAN GOVERNMENT.

PETROPOLIS, *April 2, 1894.*

Confirming the information which I gave you on last Thursday, I have the honor to assure you, being duly authorized, that His Majesty's Government has given the necessary orders that the Brazilian insurgents, in refuge on board the Portuguese men of war, shall be landed as soon as possible on Portuguese soil, where they will be placed under military guard by the competent authorities, and will not be allowed to interfere with the political movements in Brazil. I hope that this attitude of the Portuguese Government, harmonizing the duties of a friendly power, entirely neutral in the civil war, with the sacred principles of international law of all civilized nations, will contribute to further bind the cordial relations existing between Brazil and Portugal, which is so much to be desired for the interests of both nations.

I take the occasion, etc.,

CONDE DE PARATY.

 VERBAL COMMUNICATION OF THE PRESIDENT OF THE COUNCIL OF THE PORTUGUESE MINISTRY TO THE BRAZILIAN REPRESENTATIVE AT LISBON, ACCORDING TO THE BEFORE CITED OFFICIAL DOCUMENT OF APRIL 7.

On the 3d instant, being with the president of the council, he showed me a telegram from Mr. Saldanha da Gama, thanking, in his and the names of his comrades, for the hospitality which the Portuguese Government had given them, and asking leave to land in Buenos Ayres, where he hoped for a good reception from the Argentine Government and people. Although he had not yet shown this telegram to his colleagues, as he had just received it, he said to me that his serious reply, as I must suppose, would be positively negative, and he would so notify Mr. Saldanha, and also give positive orders to Mr. Castilho not to land him or any of the refugees; also he would order him to stay a long distance from the wharves, to sail outside the bar for three or four days, to return and go outside again, and to repeat these maneuvers when he found it necessary, and, above all, should he have reason to believe that an attempt would be made to liberate the refugees until they could be removed to this kingdom.

Immediately afterwards I sent you this telegram, partly in cipher: "Lisbon, 4th April, 1894, at 11:30 a. m. Minister Exterior, Rio: Government received to-day telegram Saldanha asking to land with sailors; says counts on good reception from people and Government of Argentine; this Government replies impossible; ordered Castilho keep far from wharves, and in case of any attempt to liberate, sail out over the bar frequently until arrival ship, to bring them to Portugal."

MATTA.

 NOTE OF THE PORTUGUESE LEGATION TO THE BRAZILIAN GOVERNMENT.
LEGATION OF PORTUGAL,
Petropolis, April 16, 1894.

I have just received a dispatch from His Majesty's Government. I had the honor this morning to send you a telegram as follows: "The Conde de Paraty has the honor to inform Dr. Cassiano do Nascimento, minister for foreign affairs, after sending his most attentive compliments, that the Portuguese cruisers, in spite of the yellow fever and the want of officers, have left Buenos Ayres, going to meet the transports, thus finishing the attempts of the refugees. Not one Brazilian officer has fled."

It appears that the Argentine Government has presented a reclamation against Portugal, based on the excess of zeal of some of the Portuguese sailors in capturing some of the Brazilian refugees who had tried to escape.

I take this opportunity, etc.,

PARATY.

To the MINISTER FOR FOREIGN AFFAIRS.

 NEW COMMUNICATIONS OF THE PRESIDENT OF THE COUNCIL OF PORTUGUESE MINISTRY TO THE REPRESENTATIVES OF BRAZIL IN LISBON, REFERRED TO BY SAID REPRESENTATIVE IN HIS LETTER OF 20TH APRIL.

The president of the council and minister for foreign affairs has continued to inform me of the occurrences in the Bay of Buenos Ayres in relation to the refugees on board the Portuguese ships.

The Argentine Government demanded from the first that the refugees should land to undergo quarantine because of the great crowd aboard, as this fact might cause the development of the epidemic existing in the port from which they had come. The Portuguese Government being consulted replied that it would not allow the landing of the refugees except on Portuguese soil, because it was compromised to this with the Brazilian Government.

Some days afterwards the yellow fever broke out aboard and the Argentine Government notified the ships to land the refugees or go to sea. In view of this, the Portuguese Government, anxious to comply with its given word, ordered the ships to leave the River Plate Bay and to go over the bar and wait for the *Pedro III*, which had been chartered to convey the refugees to the Island of Assumption directly, from whence they could be transported to Angola and from thence to Portugal.

While the ships were coaling three or four officers escaped and were not missed until afterwards. In spite of the vigilance which Commander Castilho says was exercised aboard, more officers in greater number tried to escape, but being missed and being discovered aboard another vessel a guard was sent for them, arrested them, and brought them back. This fact gave rise to a reclamation on the part of the Argentine Government, because of the violence practiced by a foreign power in their waters.

The president of the council told me on this occasion that he had received a telegram from his chargé d'affaires communicating that the steamer *Pedro III* had received provision and would sail from Buenos Ayres on the 10th, and that on the 17th the refugees would embark and would proceed to the Island of Ascension, escorted during four days by the *Alfonso de Albuquerque*.

After this interview, which took place on the 17th, I did not again see the president of the council, and I do not know whether the ship sailed or not. Health and fraternity to the minister for foreign affairs, Rio.

I. P. DA COSTA MOTTA.

Finally, to the note of the Brazilian Government sending his passports to Conde de Paraty, this diplomat replied as follows:

LEGATION OF PORTUGAL IN BRAZIL,
Petropolis, May 14, 1894.

MOST ILLUSTRIOUS AND EXCELLENT SIR: I have the honor to acknowledge the reception of the note of the 13th instant which your excellency has sent me, informing me that his excellency Marechal Floriano Peixoto has determined to suspend all diplomatic relations with Portugal. With grief I note this fact, and because of it, on the part of Portugal, I refrain from discussing the incidents which your note includes. I hope that history will do justice to His Majesty's Government, and that shortly relations of perfect friendship will be restored, which for many motives should exist between Portugal and Brazil.

Thanking, etc.,

CONDE DE PARATY.

To DR. CASSIANO DO NASCIMENTO,
Minister for Foreign Affairs.

Senhor Mendonça to Mr. Uhl.

LEGATION OF THE UNITED STATES OF BRAZIL,
Washington, June 22, 1894. (Received June 22.)

SIR: Referring to my interviews with yourself on the 18th and 21st instants, in the first of which you manifested the desire to know if the Brazilian consul at Lisbon was exercising any diplomatic functions as chargé d'affaires, *ad interim*, during the suspension of the diplomatic relations between Brazil and Portugal, as well as if, in case of necessity of protection to Brazilian citizens in Portugal or its dependencies, the requisition for such protection should be made directly by the party needing the protection or through the said Brazilian consul at Lisbon, I had the honor to inform you in our interview of yesterday that I had cabled to my Government and had received from the minister of foreign

relations at Rio de Janeiro, under date of the 20th instant, the answer that the Brazilian consul at Lisbon had no diplomatic character, and that he had been instructed by cable not to hold correspondence with the Portuguese Government on diplomatic matters, and that the requisition for protection could be made, at the choice of the American minister, either directly or through the said consul for the purpose of identification of the person or persons applying for protection.

In the same message of the 20th the minister of foreign relations says that he does not know as yet if the Portuguese Government had given its consent to the protection of Brazilian subjects by the minister of the United States at Lisbon, and although I had the honor to be informed by you in the two interviews referred to in this note that the answer of your diplomatic agent in Lisbon, that he should follow the instructions of the State Department, implied that the communication of the subject to the Portuguese Government had been made and its consent obtained, I beg you the favor of letting me know the answer of the Portuguese Government when such answer is received by the State Department in order to inform my Government.

Accept, sir, etc.,

SALVADOR DE MENDONÇA.

Mr. Gresham to Senhor Mendonça.

DEPARTMENT OF STATE,
Washington, July 16, 1894.

SIR: Referring to my note to you under date of May 31 last, I have the honor to inform you that the Department is in receipt of a dispatch from the United States minister at Lisbon, No. 40, of June 27, 1894, stating that in an interview had with the minister of foreign affairs regarding Brazilian citizens resident in Portugal, his excellency was extremely courteous, and said that in case of need during the suspension of diplomatic relations between Brazil and Portugal it would be entirely agreeable to His Majesty's Government to have Brazilian citizens resident in Portugal placed under the protection of the American minister.

Accept, etc.

W. Q. GRESHAM.

Mr. Thompson to Mr. Gresham.

No. 287.]

LEGATION OF THE UNITED STATES,
Petropolis, September 12, 1894. (Received October 9.)

SIR: Under the constitution of Brazil the sessions of the National Congress terminate upon the completion of three months from their opening, but may be continued from time to time as the necessities of the public service may require. In accordance with this provision Congress has continued the present session until October 7. I inclose copy of the decree with a translation.

This action of Congress is believed to have no material political significance beyond the fact that it has been the desire of the vice-president to have an adjournment during the continuance of the state of

siege, but the state of siege has expired and he has tacitly given his sanction to the continuance by the promulgation of the decree.

On the 1st instant the state of siege expired and no attempt was made in either house to have it continued. The State and Federal elections have taken place in Santa Catharina and those in Rio Grande do Sul and Parana are called for the early part of the coming month. Brazil has, therefore, regained her normal condition, the first time since the commencement of the Federalista movement in the south. In consequence, trade is rapidly improving, and with it a material advance in the rate of exchange and Government securities. It is a source of much pleasure to see the Government, after passing through so many difficulties, again firmly established. It is a triumph for republican institutions.

There have, however, been troubles in the north which called for the exercise of federal authority. In the States of Alagoas and Sergipe dissensions in the State governments have arisen, but I believe have now been happily settled.

There have been no new developments in the Portuguese difficulties and diplomatic relations still remain severed.

Telegrams from Paris in the local papers yesterday note that the Brazilian Government has reopened the question of boundary between its territory and that of French Guiana, but no further information has been made public.

I have, etc.,

THOS. L. THOMPSON.

REFUND OF EXPEDIENTE CHARGES.

Mr. Thompson to Mr. Gresham.

No. 244.]

LEGATION OF THE UNITED STATES,
Petropolis, May 31, 1894. (Received June 25.)

SIR: I have the honor to transmit herewith copy and translation of a circular from the office of the minister of finance which appeared in the local press of recent date. This circular has reference to the claims of a number of importers in Rio de Janeiro which were caused by the imposition of a customs tax upon importations of American wheat flour in violation of the commercial arrangement between the United States and Brazil.

The tax, known as expediente, was removed upon the representation of Mr. Markell and Mr. Conger, acting under Department's instructions of February 24, 1893, and reported in Mr. Conger's No. 425, April 19, 1893, and No. 448, June 2, 1893, from which will be seen the origin of the claims.*

The importers, acting presumably under an impression gained from a statement of the minister for foreign affairs that "the money already paid for these taxes would be refunded," have filed their claims through local attorneys, and the circular inclosed contains the decision of the minister of finance on them.

From this circular it appears that this adverse decision is based upon two grounds, viz: (1) That the taxes of expediente are not in the nature of imposts, and therefore not in contravention of the commercial arrangement; (2) that the importers, having added the amount of the

* See Foreign Relations, 1893, pp. 36, 38.

tax to the selling price of the flour, have been fully reimbursed, and to allow the claims now would make a double burden upon the national consumer.

As the decision is adverse, and the claims confined chiefly to American merchants, the case will doubtless come before the Department in the near future. The claims, it is said, aggregate \$300,000.

I have, etc.,

THOS. L. THOMPSON.

[Inclosure in No. 244—Translation—From the Jornal do Commercio.]

CUSTOM-HOUSE CHARGES (DEREITOS DE EXPEDIENTE).

On the 21st of the present month the ministry of finance published the following circular:

This ministry has received several reclamations based on circular No. 28, of the 25th May, 1893, for the restitution of expediente charges paid on goods imported from the United States of America anterior to the date of said circular, such goods being exempt from custom-house duties, in virtue of the agreement whose execution was determined by decree No. 1338, of February 5, 1891; and

Considering that the custom-house collected these duties up to the date of that circular, authorized by order No. 60, of March 31, 1891, issued competently from this capital;

Considering that this order stands on a legal base, because, according to our legislation, the charges for service have never been considered as imposts, especially for such goods as are admitted free, in the terms of article 575 of consolidation, and therefore, not from the fact of importation, but only and simply as remuneration for the services of the custom-house employés and for the work of dispatching said goods.

Considering that for this motive these charges were not contemplated in the order of March, 1891, as for importation or additional taxes for importation, the importation duties being only considered in the agreement.

Considering, therefore, that circular No. 28 of May 25 of last year was not in accordance with an indispensable precept, but simply represents a concession, and its effects can not extend to a period anterior to the reclamations and only can contemplate future cases, as is clear from the terms of the circular;

Considering that the restitutions asked for, for the period extending from April 1, 1891, to May 25, 1893, are not only not authorized by the said circular, which does not allude to restitution, but also they can not be granted because the importers of goods dispatched free have already had all the corresponding advantages from the Brazilian consumer from the amount paid for charges for service;

Considering that if these restitutions were granted, to the American importer would accrue double advantages and the onus would be doubled for the Brazilian consumer, who would have to contribute for the expenses made in the custom-house although he had already paid for the goods in the conditions in which they were dispatched;

I declare that the circular No. 28, of May 25, 1893, only, is in vigor for importations made after its date, and I instruct the custom-houses to re-collect the sums which under protection of this circular have been restored, whether under the article 552 of the consolidation or whether under special orders, which orders are annulled.

FELISBELLO FREIRE.

Mr. Gresham to Mr. Thompson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 6, 1894.

April 12, 1893, the Brazilian minister of foreign affairs agreed with Conger the duty on American flour should cease, and duties previously collected be refunded.

Levering & Co., of Rio de Janeiro, and others have claims for duties so exacted, and which Brazil has not satisfied.

You are instructed to call the attention of Brazilian Government, and report upon have to.

Mr. Thompson to Mr. Gresham.

No. 246.]

LEGATION OF THE UNITED STATES,
Petropolis, June 10, 1894. (Received July 14.)

SIR: I have the honor to acknowledge the receipt of your telegram of the 6th instant, with regard to the refunding of certain duties collected by the Government of Brazil on wheat flour.

I have brought this matter to the attention of the Government, as directed, and am awaiting a reply.

I have, etc.,

THOS. L. THOMPSON.

Mr. Gresham to Mr. Thompson.

No. 176.]

DEPARTMENT OF STATE,
Washington, September 28, 1894.

SIR: Referring to the Department's telegram of June 6 last regarding the refunding by Brazil of duties collected on flour previously to April 12, 1893, I inclose herewith in original a letter from the Secretary of the Treasury, together with one from Mr. W. B. Wilson, of Baltimore, having reference to the admission into the United States of importations from Brazil. By the letter of the Secretary of the Treasury you will see that no fees for permits or bonds have been collected on the entry of goods from that country since the date of the reciprocity agreement, such fees having, in fact, been abolished by section 22 of the act of June 10, 1890, while the proclamation of the President in regard to the modification of the tariff law of Brazil was dated February 5, 1891.

You will use this statement of the Treasury in pressing earnestly for the return of the charges made by the Brazilian Government, contrary to the letter and spirit of the agreement, which has been faithfully observed by the United States.

I am, etc.,

W. Q. GRESHAM.

[Inclosure 1 in No. 176.]

Mr. Carlisle to Mr. Gresham.

TREASURY DEPARTMENT,
Washington, September 27, 1894. (Received September 28.)

SIR: Referring to the letter addressed to Assistant Secretary Rockhill by Mr. W. B. Wilson, dated Baltimore, Md., the 26th instant, in regard to importations from Brazil, I can assure you that no fees for permits or bonds have been collected on the entry of goods imported from that country since the date of the reciprocity agreement, such fees having, in fact, been abolished by section 22 of the act of June 10, 1890, while the proclamation of the President in regard to the modification of the tariff law of Brazil, was dated February 5, 1891.

The letter of Mr. Wilson is returned herewith.

Respectfully, yours,

J. G. CARLISLE.

[Inclosure 2 in No. 176.]

*Mr. Wilson to Mr. Rockhill.*BALTIMORE, *September 26, 1894.* (Received September 28.)

MY DEAR MR. ROCKHILL: In my interview with Mr. Mendonça this morning he stated to me that about the 6th of September he received a cable inquiry from his Government to know whether the articles enumerated as "free" in the reciprocity treaty had been admitted free of any duty or custom-house charges whatsoever by this Government; to which he replied by cable on the 8th of September from Portsmouth, N. H., that not only had these goods been admitted free of duty, but that the customary fee of 10 cents for permit and 40 cents for bond had also been abolished, leaving such goods absolutely free of any charge whatever. This cablegram, he assures me, reached Rio the same day, but up to this time no action has been taken by the Brazilian Government, or we would have been apprised of the fact by cable. I now inclose the copy of letter addressed to Minister Thompson by our friends at Rio, and will be glad if you will see that a certificate is sent to-morrow from the State Department, in effect that all goods from Brazil, which were exempt from duty under the reciprocity treaty have, since the ratification of the treaty, received entry absolutely free from any charge whatever; that even the charges of 10 cents for permit and 40 cents for bonds have been abolished.

Be good enough to mark per *S. S. Coleridge*, which is a very fast boat and sails from New York Saturday morning early. It would also hurry matters very much if you would request Mr. Thompson by cable to push the matter. Our experience with the Brazilians has shown that the effect of cable is twofold that of a mail communication, and I am sure with all the required evidence before them they would have no further excuse for delay.

I will appreciate it very much if you will get the Secretary's permission to cable.

Yours, sincerely,

W. B. WILSON.

Mr. Gresham to Mr. Thompson.

[Telegram.]

DEPARTMENT OF STATE,

Washington, November 26, 1894.

Mr. Gresham instructs Mr. Thompson to press the refund of duty on flour in accordance with instruction No. 176, and if necessary, to see the President in regard to the matter. A telegraphic answer is requested.

Mr. Thompson to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,

Petropolis, November 28, 1894. (Received November 30.)

The new minister for foreign affairs has flour claims under consideration, and promises definite conclusion in a few days.

RECIPROCITY ARRANGEMENT.

*Mr. Gresham to Senhor Mendonça.*DEPARTMENT OF STATE,
Washington, August 29, 1894.

MY DEAR MR. MENDONÇA: I received yesterday your important letter of the 25th instant. I think it clear that the reciprocity arrangement between Brazil and the United States was terminated by the going into force of our existing tariff law, and I do not think the Executive Departments can act upon any other theory.

This is the view of the Secretary of the Treasury.

The so-called treaties or agreements that were entered into based upon the third section of the McKinley bill were not treaties binding upon the two Governments, and the present law is mandatory. Notice to your Government that the arrangement would terminate as provided by its terms would have no force, as the arrangement actually exists no longer.

Very truly yours,

W. Q. GRESHAM.

Mr. Thompson to Mr. Gresham.

[Telegram.]

PETROPOLIS, *September 22, 1894.* (Received Sept. 24.)

Minister for foreign affairs officially informs me that it is the intention of the President to terminate reciprocity treaty on January 1 proximo.

Mr. Thompson to Mr. Gresham.

No. 291.]

LEGATION OF THE UNITED STATES,
Petropolis, September 22, 1894. (Received Oct. 24.)

SIR: I inclose memorandum of a conversation I had with the director-general of the foreign office on the 20th instant. The memorandum outlines the probable action of the Brazilian Government in regard to the commercial arrangement in view of the recent changes in our customs duties.

I also inclose copy of a letter from Consul-General Townes upon the same subject, complaining that orders for American goods are being canceled on account of the possible discontinuance of the arrangement.

I have, etc.,

THOS. L. THOMPSON.

[Inclosure 1 in No. 291.]

MEMORANDUM.

During an interview with the director-general of the foreign office the Viscount Cabo Frio, referring to the recent passage of the new tariff bill by Congress, stated, unsolicited, that in view of the fact that all sugars were made dutiable it was the present intention of the Brazilian Government to give notice on October 1 signifying

a desire to terminate the commercial arrangements now existing between it and that of the United States. The notice would be given in accordance with the provisions of the arrangement requiring three months' notice in advance, and would be made so as to take effect on January 1, 1895. This action was regarded necessary in order to avoid questions and disputes which would be likely to result in reclamations against the Government. Regret was expressed that it had been impossible for Congress to delay the operation of the sugar schedule, so that the denunciation could have been made as the correspondence on the subject stipulated, but indicated that the Government was in no way displeased that the matter would soon come to an end. That there was a large party in Brazil violently opposed to the arrangement and that its early termination would in all respects be satisfactory.

The conversation was unofficial, and the above can only be regarded as the present intention of the Government, which may be changed.

LEGATION OF THE UNITED STATES,
Petropolis, September 21, 1894.

[Inclosure 2 in No. 291.]

Mr. Townes to Mr. Thompson.

CONSULATE OF THE UNITED STATES,
Rio de Janeiro, September 19, 1894.

SIR: Further considering the subject of tariff changes between Brazil and the United States, I beg to advise that quite a number of merchants of this city have daily called upon me and made inquiries as to the probable effect the recent changes in our tariff would have upon articles exported from the United States to this country. The newspapers of Rio have been publishing articles on the subject, and I understand the papers at Pernambuco are urging the abrogation of the rights of commerce which our country enjoys under the reciprocity treaty.

I have received a copy of the Journal of Commerce of New York, in which is given in full the schedule of the new tariff in the United States. From a casual perusal of the same I note that there have been some changes in our tariff which should prove quite beneficial to Brazil. The rate on tallow has been reduced from 2 cents to 1 cent per pound, nuts from 5 cents to 3 cents per pound, while coffee, rubber, hoofs, horns, hides, and grass fibers all remain free, as heretofore.

Taking the exports from this country to the United States at an approximate total of one hundred millions of dollars annually, it appears that only about 4 per cent of that amount is sugar, while 96 per cent is either free or reduced in rate under the new tariff.

The district of Pernambuco alone will be affected unfavorably by our new tariff. As we are beginning to establish a most satisfactory trade for American goods here, and as the general sentiment of this country is now most favorable to American interests, I beg to suggest that, if expedient, you will take some action looking toward quieting the rumor afloat in the city to the effect that Brazil will soon put all of our exports here upon equal footing with other countries.

Foreign merchants in this city are now doing all they can through that channel to have orders for American goods canceled and to forestall the taking of further orders, as I am advised by American houses resident here and their agents. If it is possible to procure from the present Administration some indication that our country will continue to enjoy the present tariff schedule, it would be quite beneficial to American interests here, while if a treaty could be negotiated along these lines it would ultimately result in largely increased exports of our goods.

I remain, etc.,

WM. T. TOWNES,
Consul-General.

Senhor Mendonça to Mr. Gresham.

LEGATION OF THE UNITED STATES OF BRAZIL,
Washington, September 24, 1894.

SIR: The tariff law of the 28th of August ultimo having abrogated the commercial agreement entered into on January 31, 1891, by the United States of Brazil and the United States of America, I have the honor to communicate to your excellency that my Government has

informed his excellency Thomas L. Thompson, minister of the United States of America at Rio de Janeiro, of its intention and decision to denounce said commercial agreement, and has directed me to communicate to your excellency that, in virtue of the stipulation contained in the notes exchanged between the negotiators of said international agreement, and dated January 31, 1891, it deems it necessary to definitely inform your excellency of its intention and decision to consider at an end said commercial agreement in accordance with the stipulation therein contained regarding its duration, so that the termination of said agreement shall begin to take effect on the 1st day of January, of the year 1895.

I am sure that the cessation of our reciprocity agreement will in no wise affect the commercial relations of our countries, considering that their mutual interests and spirit of cordial friendship now rest on a firmer basis than a written contract.

Accept, etc.,

SALVADOR DE MENDONÇA.

Mr. Gresham to Senhor Mendonça.

DEPARTMENT OF STATE,
Washington, October 26, 1894.

SIR: I have had the honor to receive your note of the 24th ultimo, in which you inform me that your Government, in view of the abrogation of the commercial arrangement between the two countries by the tariff law of the 28th of August last, has directed you to communicate to me the fact that, "in virtue of the stipulation contained in the notes exchanged between the negotiators of the said international agreement, and dated January 31, 1891, it (the Government of Brazil) deems it necessary" definitely to inform me of "its intention and decision to consider at an end said commercial agreement, in accordance with the stipulation therein contained regarding its duration, so that the termination of said agreement shall begin to take effect on the 1st day of January of the year 1895."

In concluding your note you express the assurance that "the cessation of our reciprocity agreement will in no wise affect the commercial relations between our two countries, considering that their mutual interests and spirit of cordial friendship now rest on a firmer basis than a written contract."

This satisfactory and well-founded assurance, in which the President directs me to say that he fully concurs, would seem to render any comment on your note superfluous, if it were not for your previous statement that your Government, notwithstanding the abrogation of the arrangement in question by the act of August 28, deems it necessary, in accordance with the stipulations contained in the notes exchanged on January 31, 1891, to give notice of its intention to consider the arrangement as terminated on and after the 1st of January next.

By section 104 of the act of August 28, section 3 of the act of 1890, under which the commercial arrangements with Brazil and certain other countries were negotiated, was repealed; but it was also provided that nothing in the repealing section should be held to abrogate or affect such arrangements, except where they were inconsistent with the provisions of the new law. Notice, therefore, of an intention to terminate those arrangements was not contemplated by the new law;

and, so far as they were inconsistent with the provisions of that law, such notice was rendered unnecessary by the fact of their immediate termination.

Your note, however, seems to imply that the United States and Brazil had contracted an obligation not to terminate the arrangement between them in any manner whatsoever except that stipulated in the communications exchanged on January 31, 1891. There is no disposition on the part of this Government to avoid the question thus raised.

The circumstances under which the late commercial arrangement between the United States and Brazil was negotiated are disclosed in the official correspondence that preceded its conclusion. It appears that on the 3d of November, 1890, the Secretary of State of the United States notified the minister of Brazil in Washington that, by the third article of the tariff law then recently enacted, provision was made for the admission into the ports of the United States, free of duty, of sugar, not above No. 16 Dutch standard, molasses, coffee, tea, and hides; and that in the same section it was declared that these remissions of duty were made "with a view to secure reciprocal trade with the countries producing those articles." It was also stated that, whenever the President should become satisfied that "reciprocal favors" were not granted to the products of the United States in the countries referred to, it was made his duty to impose upon the articles above enumerated the rates of duty set forth in the section above cited. In view of these facts, the Government of Brazil was invited to enter into a reciprocal arrangement, and the Secretary of State, in concluding his note, said:

In the happy event of an agreement between the two Governments, the same can be notified to each other and to the world by an official announcement simultaneously issued by the Executive Departments of the United States of America and the United States of Brazil; and such an agreement can remain in force so long as neither Government shall definitely inform the other of its intention and decision to consider it at an end.

The minister of Brazil, in his response of January 31, 1891, enumerated certain articles which the Government was prepared to admit either free, or at reduced rates of duty, and announced that he held himself ready to agree "upon a time when an official announcement of this legislation may be simultaneously issued by the executive departments of the two Governments with the understanding that the commercial arrangement thus put in operation shall remain in force so long as neither Government shall definitely, at least three months in advance, inform the other of its intention and decision to consider it at an end at the expiration of the time indicated; provided, however, that the termination of the commercial arrangement shall begin to take effect either on the 1st of January or on the 1st day of July."

In a note of the same date the Secretary of State accepted the terms that were offered, but the arrangement did not go into effect till the 1st day of April, 1891, which was the date fixed in the act of Congress for the free admission of sugars into the United States.

It is manifest that the arrangement thus concluded rested wholly on legislation adopted by the United States of America and the United States of Brazil, respectively, and that the terms of this legislation were well known to the executive departments of both Governments, and were recognized by them as the basis of their action. So far, therefore, as the arrangement may have been considered as an international agreement, it was made subject to the terms of that legislation.

It is not suggested that the third section of the act of 1890 assumed to confer on the Executive Departments of this Government any power

to bind Congress in its future action as to the laying of duties and the raising of revenue. It merely provided that, on and after January 1, 1891, the President "whenever and so often" as he should be satisfied that countries exporting certain specified articles to the United States, imposed "duties or exactions upon the agricultural or other products of the United States," which, in view of the free admission of the specified articles into the United States, he might deem to be "reciprocally unequal and unreasonable," should "suspend" by proclamation the free entry of those articles, which should then become subject to certain fixed rates of duty. It is obvious that this act did not contemplate the creation of a condition of things which it would not be within the power of this Government, or any other government that might be affected at any time, to alter.

The Constitution of the United States, like the constitution of Brazil, points out the way in which treaties may be made and the faith of the nation duly pledged. In the United States treaties are made by the President, by and with the advice and consent of the Senate; in Brazil they are made by the President, subject to the approval of the Congress. Of such provisions in each other's constitutions governments are assumed to take notice. "The municipal constitution of every particular state," says Wheaton, "determines in whom resides the authority to ratify treaties negotiated and concluded with foreign powers, so as to render them obligatory upon the nation;" and it is, he declares, "consequently an implied condition in negotiating with foreign powers, that the treaties concluded by the executive government shall be subject to ratification in the manner prescribed by the fundamental laws of the state." (*Elements of International Law*, Dana's ed., pp. 337, 338.)

Of all subjects in relation to which the treaty-making power has been exercised, it may be said that there is none of greater importance, or of greater delicacy, than that of taxation. As the power to tax is an essential power of government, any attempt to contract or restrict it by the exercise of the treaty-making power has always been regarded in this country with jealousy, and in a few cases in which reciprocity treaties have been ratified and carried into effect by the United States, they have encountered criticism and opposition on that ground.

In view of these well-known principles of law and matters of fact, it can not be supposed that it was intended, by the simple exchange of notes on January 31, 1891, to bind our Governments as by a treaty, to certain duties or remissions of duty on the specified articles, beyond the time when the Congress of the United States might, in the exercise of its constitutional powers, repeal the legislation under which the arrangement was concluded. By the terms of that legislation the President, so long as it was enforced, was invested with power to suspend its provisions touching the free entry of the specified articles, under certain conditions the existence of which was to be determined by himself. It is to be assumed that the stipulation in the notes referred to, in relation to the termination of the arrangement with Brazil was made with reference to that power, and that it was intended by the Executive merely as a declaration of the manner in which he would, in the particular case, exercise the special power conferred upon him. No other effect, it is conceived, can reasonably be ascribed to the stipulation.

It is needless to say that this Government desires to cultivate with Brazil the most liberal and extensive commercial relations. Its disposition in this regard is sufficiently attested by its present tariff legisla-

tion, in which the great bulk of the articles exported by Brazil to the United States is on the free list. While our imports from Brazil, from 1890 to 1893, increased to the extent of nearly \$17,000,000 in value, our exports to Brazil in 1893 show an increase of less than half a million dollars over those in 1890. These facts are not referred to in a spirit of complaint, but in the hope that our commercial relations with Brazil, while they may in no wise be affected by the termination of the reciprocity arrangement, may exhibit in the future a constant and mutual expansion.

Accept, etc.,

W. Q. GRESHAM.

Mr. Thompson to Mr. Gresham.

No. 295.]

LEGATION OF THE UNITED STATES,
Petropolis, September 25, 1894. (Received October 24.)

SIR: Referring to my No. 291 of the 22d instant and cipher telegram of same date, I have the honor to state that formal ratification of the desire of the Brazilian Government to terminate the commercial arrangement of January 31, 1891, was received at this legation on September 22.

I inclose copy and translation of the correspondence upon the subject.

I have, etc.,

THOS. L. THOMPSON.

[Inclosure 1 in No. 295.—Translation.]

Mr. Nascimento to Mr. Thompson.

MINISTER FOR FOREIGN AFFAIRS,
Rio de Janeiro, September 22, 1894.

I have the honor to make known to Mr. Thomas L. Thompson, envoy extraordinary and minister plenipotentiary of the United States of America, that the vice-president of the Republic, by virtue of the stipulation in the customs accord of January 31, 1891, has determined to denounce it and the proclamation. This accord will continue to be executed in all its parts in Brazil until the 31st of December of the current year and will cease in all its parts on the 1st of January, 1895.

I improve, etc.,

PASSIANO DO NASCIMENTO.

[Inclosure 2 in No. 295.]

Mr. Thompson to Mr. Nascimento.

LEGATION OF THE UNITED STATES,
Petropolis, September 25, 1894.

I have the honor to acknowledge the receipt of the note which his excellency, Dr. Cassiano do Nascimento, minister for foreign affairs, sent to me on the 22d instant, containing information of the steps taken by his excellency the vice-president with the view of terminating the commercial arrangement of January 31, 1891.

I avail, etc.,

THOS. L. THOMPSON.

Mr. Adee to Mr. Thompson.

No. 184.]

DEPARTMENT OF STATE,
Washington, October 27, 1894.

SIR: I have received your dispatch No. 295, of the 25th ultimo, reporting that you have received formal notification of the desire of the Brazilian Government to terminate the commercial arrangement of January 31, 1891, between the United States of America and the United States of Brazil.

The views of this Government in regard to the cessation of the effects of the commercial arrangement of 1891, by the operation of our existing tariff law and without notification on our part, are expressed in a note I have just addressed to Senor Mendonça on the subject, of which, and of the Brazilian minister's communication to me, copies are appended for your information.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

REFUSAL OF EXEQUATUR.

Mr. Thompson to Mr. Gresham.

No. 275.]

LEGATION OF THE UNITED STATES,
Petropolis, August 27, 1894. (Received September 25.)

SIR: Referring to your No. 142, of June 19, inclosing certificate of appointment of Reuben Cleary as deputy consul-general of the United States at Rio de Janeiro, and instructing that application be made to the foreign office for the recognition of Mr. Cleary in his official capacity, I have the honor to report that in pursuance of the instruction application was made for an exequatur, which the minister for foreign affairs declines to grant.

The reasons, as set forth in his note to this legation of the 9th instant, for refusing the request, are that the office of deputy consul-general, being merely auxiliary to that of the consul-general, the prerogatives, privileges, and immunities of the latter do not attach to the former, which the granting of an exequatur would import. He, however, states that his Government is fully cognizant of the appointment of Mr. Cleary, and has since informed me verbally that this recognition implies full power to act.

I inclose the correspondence upon the subject, and request instructions as to whether this recognition of the appointment of Mr. Cleary is satisfactory.

I have, etc.,

THOMAS L. THOMPSON.

[Inclosure 1 in No. 275.]

Mr. Thompson to Mr. Nascimento.

LEGATION OF THE UNITED STATES,
Petropolis, July 17, 1894.

I have the honor to inclose to your excellency the certificate of appointment of Reuben Cleary, an American citizen, as deputy consul-general of the United States at Rio de Janeiro, and to request that an exequatur be issued recognizing Mr. Cleary in his official capacity.

I reiterate, etc.,

THOMAS L. THOMPSON.

[Inclosure 2 in No. 275.—Translation.]

MINISTRY OF EXTERIOR RELATIONS,
Rio de Janeiro, July 25, 1894.

I have the honor to acknowledge the receipt of the note which Mr. Thomas L. Thompson, envoy extraordinary and minister plenipotentiary of the United States of America directed to me on the 17th of the current month, and to request of him the kindness to inform me upon the official character of Mr. Reuben Cleary, for whom is requested an exequatur of the Government of the Republic in order to be recognized as deputy consul-general in Rio de Janeiro.

As there has been always in this capital one consul-general and one vice-consul-general from those States, I did not know if the appellation deputy consul corresponds to the vice-consul-general, Mr. Cleary being consequently named in substitution of Mr. Lewis, to whom I gave an exequatur on October 16, 1893.

I reiterate, etc.,

CASSIANO DO NASCIMENTO.

[Inclosure 3 in No. 275.]

Mr. Thompson to Mr. Nascimento.

LEGATION OF THE UNITED STATES,
Rio de Janeiro, August 1, 1894.

I am in receipt of your excellency's communication of the 25th instant, asking for information in regard to the official position of Mr. Reuben Cleary, for whom I have made application for an exequatur in order that he might perform the duties of deputy consul-general of the United States at this post.

In reply, I have the honor to state that deputy consuls-general are defined by section 20 of the Consular Regulations to be * * * "Consular officers subordinate to their principals and exercising the powers and performing the duties within the limits of their respective offices at the same ports or places where the principals are located. They may perform their functions where the principal is absent from his district as well as when he is at his post, but they are not authorized in the former case to assume the responsible charge of the office, that being the duty of the vice-consul-general." * * *

The appointment of Mr. Cleary has been made with the view of facilitating our consular business at this port, and he is not named in the place of Mr. Lewis, who remains the vice-consul-general.

Trusting that these explanations will make clear to your excellency the position Mr. Cleary occupies, and that the exequatur requested may be issued,

I have, etc.,

THOMAS L. THOMPSON.

[Inclosure 4 in No. 275.—Translation.]

MINISTRY OF EXTERIOR RELATIONS,
Rio de Janeiro, August 9, 1894.

Acknowledging the receipt of the note which Mr. Thomas L. Thompson, envoy extraordinary and minister plenipotentiary of the United States of America, directed to me on the 1st of the current month and by which is explained the powers of Mr. Reuben Cleary, named assistant of the consul-general in this city, I am compelled to declare to you that the Government can not grant to him the exequatur requested.

Mr. Cleary, to whom Mr. Thompson refers, is simply to assist the consul-general and has not the responsibility proper. In this position he has not the prerogatives, privileges, and immunities of consul agent, and consequently the granting of the exequatur would import an acknowledgment of these privileges.

So then, Mr. Minister, I have suffered myself to return to you the commission of Mr. Reuben Cleary, of whose nomination the Government remains thoroughly informed, and thanks for your communication.

I improve this occasion, etc.,

CASSIANO DO NASCIMENTO.

Mr. Gresham to Mr. Thompson.

No. 174.]

DEPARTMENT OF STATE,
Washington, September 27, 1894.

SIR: In response to your No. 275, of the 27th ultimo, I have to say, that as the Brazilian Government has recognized the appointment of Mr. Reuben Cleary as deputy consul-general of the United States at Rio de Janeiro, a formal exequatur is not necessary.

I am, etc.,

W. Q. GRESHAM.

ELECTION OF PRESIDENT.

Mr. Thompson to Mr. Gresham.

No. 253.]

LEGATION OF THE UNITED STATES,
Petropolis, June 28, 1894. (Received July 26, 1894.)

SIR: The conclusions of the congressional committee appointed to examine the returns and report upon the legality of the presidential election were adopted in joint session June 22, and Prudente de Moraes and Victorino Pereira recognized as President and Vice-President during the period from 1894 to 1898. The term of the newly elected officers commences on November 15 of this year.

The total vote only reaches 350,795, which is small considering the committee estimates the number of electors at 800,000. But as there was no organized opposition, and this is the first election by the people, it is not surprising to find it small. The fact also that the States of Santa Catharina, Paraná, and Rio Grande do Sul did not participate materially reduced the total vote.

It has been urged that the failure of these States to take part invalidated the election, but the committee in their report dispose of the question in a very reasonable manner.

This was the only opposition which the adoption of the committee's report met with in Congress, but it only had the support of three members, who withdrew their opposition before a vote was reached.

I have, etc.,

THOS. L. THOMPSON.

CELEBRATION OF THE FOURTH OF JULY.

Mr. Thompson to Mr. Gresham.

No. 262.]

LEGATION OF THE UNITED STATES,
Petropolis, July 12, 1894. (Received August 14, 1894.)

SIR: On the Fourth of July a general demonstration of friendliness and good will to our Government was made by the people of Rio de Janeiro. In honor of the anniversary of our Declaration of Independence all public departments were closed, flags displayed, and some buildings very beautifully decorated. The vessels of the national squadron were also decorated, and the fortresses in the harbor at 6 a. m., 12 m., and 6 p. m. fired a national salute. Many private business houses were closed, and the day was generally observed as a holiday.

I received on the 2d instant notice from a committee of citizens that they desired to address me on the 4th, and requested that I name an hour and place convenient. I replied that I would be pleased to meet them at the consulate at 1 o'clock. At the hour appointed the committee arrived, and Dr. Ennes de Souza read an address, of which I inclose a copy and translation, together with my reply, which immediately followed.¹ The greetings were very cordial, characterized by expressions of admiration and the warmest friendship for the President, Government, and people of the United States.

During the afternoon special aids from the Vice-President, minister for foreign affairs, war, navy, and other public departments called to offer the congratulations of their chiefs, as well as a great many private citizens.

Bands of music from the war, navy, and police departments were sent to serenade, and during the afternoon played ours as well as their own national airs.

At the legation the representatives of other foreign powers called.

I inclose all correspondence had upon the subject, with extracts from the local papers.

As the demonstration was impromptu and in no way official, a note to the minister for foreign affairs thanking the Government for the friendly interest shown by the people I considered unnecessary, if not out of place, preferring to call upon the heads of the departments and thank them personally for their kindness.

I have, etc.,

THOS. L. THOMPSON.

¹ Inclosures not printed.

CHILE.

UNITED STATES AND CHILEAN CLAIMS.

Mr. Gresham to Mr. Porter.

No. 55.]

DEPARTMENT OF STATE,
Washington, January 10, 1894.

SIR: My No. 48 of the 23d ultimo confirmed my telegraphic instruction to you of December 21, in regard to the negotiation of a supplementary convention extending to August 9, 1894, the term fixed by the second paragraph of the claims convention of August 7, 1892, within which the commissioners are bound to examine and decide upon every claim presented to them. In your acknowledging telegram of December 22 you expressed yourself as not being confident of negotiating the needed extension.

I am in receipt of your telegram of the 28th ultimo, announcing that "Chile declines convention."

This intelligence was to some extent disquieting, in view of the apprehension that it might possibly foreshadow a purpose on the part of the Chilean Government to contend that, under the terms of the eleventh article of the convention, claims duly presented to the commission but not considered or acted upon by it, should be included in the category of claims to "be treated and considered as finally settled, concluded, and barred."

The eleventh article clearly means that the result of the commission shall be "a full, perfect, and final settlement of any and every claim upon either Government" actually brought before the commission; and the barring clause was incorporated, as is usual in this class of treaties, to meet the case of claims which, by design or neglect, might not be presented to the tribunal. This clause is necessary to avert the probable abuse which would ensue were claimants at liberty to keep their claims internationally alive by the simple expedient of not submitting them to the tribunal. It certainly could never be construed as barring claims which are presented but not considered by the commission owing to shortness of time.

While the maintenance of such a position by Chile seemed as unlikely as that the United States should advance it in regard to claims of Chilean citizens against this Government in the event of failure to act upon them, it appeared proper to confer with the minister of Chile on the subject, and an interview was accordingly arranged with him.

I am happy to say that I received from Señor Gana the most explicit and positive assurances that his Government regards and will regard the provisions of Article XI of the convention as barring (with the unrepresented claims) only such duly presented claims as shall in due course of the proceedings of the commission be settled and concluded by its announced award; and that under no circumstances shall the international rights of a claimant whose claim has been duly brought

before the commission be prejudiced by the failure of the commission to pronounce an award or reach a decision in respect thereof.

It afforded me pleasure to give Señor Gana an equally positive and explicit assurance on behalf of the Government of the United States.

You will communicate the purport of this instruction to his excellency the secretary of foreign relations.

I am, etc.,

W. Q. GRESHAM.

Mr. Gresham to Mr. Porter.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 10, 1894.

Mr. Gresham informs Mr. Porter that the commission for the settlement of claims has expired by limitation, having disposed of twenty-five cases, leaving eighteen not disposed of, and instructs him to ascertain whether Chile will consent to a convention to create another commission as it is earnestly desired by the United States.

Mr. McGarr to Mr. Gresham.

No. 118.]

LEGATION OF THE UNITED STATES,
Santiago, April 13, 1894. (Received May 25.)

SIR: I received your telegram of the 10th instant. On the same day I sent to Mr. Blanco, the minister of foreign relations, a note—copy of which is inclosed—expressing the wish of our Government for another commission to dispose of the cases left undisposed of by the late commission, etc.

The resignation of the present cabinet was accepted by the President several weeks ago, upon the condition of its remaining in office until a new ministry should be selected in harmony with the liberal majority in the Congress. Up to this time the efforts made by the liberal leaders to form such ministry have been abortive, and the "ministerial crisis" continues. In the meanwhile the old cabinet remains only to perform routine duties and such urgent acts as are necessary to the ordinary functions of the Government. It is, therefore, probable that the question of a new commission will not be determined until after the formation of the proposed new ministry.

I have, etc.,

OWEN MCGARR.

[Inclosure in No. 118.]

Mr. McGarr to Mr. Blanco.

UNITED STATES LEGATION,
Santiago, April 11, 1894.

SIR: The commission for the settlement of claims under the convention of August 7, 1892, between the United States and the Republic of Chile, has expired by limitation after disposing of twenty-five cases, and leaving eighteen claims undisposed of for want of time.

My Government earnestly desires another commission to complete the work left unfinished, and I am instructed to ascertain if your excellency's Government, animated by a like desire, will consent to a convention to create another commission for the purpose indicated.

Trusting to receive a favorable response, and with renewed assurances of my highest consideration.

I am etc.,

OWEN MCGARR.

Mr. McGarr to Mr. Gresham.

No. 121.]

LEGATION OF THE UNITED STATES,
Santiago, April 21, 1894. (Received May 25.)

SIR: I have received from the minister of foreign affairs a note (of which a translation is inclosed) saying that the determination of the question of another commission to dispose of the unsettled claims presented to the late United States and Chilean claim commission will be communicated by his successor in that ministry.

I am, etc.,

O. MCGARR.

[Inclosure in No. 121—Translation.]

Mr. Blanco to Mr. McGarr.

SANTIAGO, *April 16, 1894.*

SIR: I have the honor to receive your communication in which, after informing me that the functions of the arbitration commission created by the convention of August 7, 1892, have expired without its having disposed of some of the claims presented, in compliance with instruction of your Government you invite me to enter into a new commission to decide them.

In reply it devolves upon me to inform you that, owing to the situation in which the present cabinet is placed, the determination which the Government may take in regard to this grave matter will be communicated to you by my successor in this ministry.

I avail myself of the opportunity, etc.

V. BLANCO.

Mr. McGarr to Mr. Gresham.

No. 134.]

LEGATION OF THE UNITED STATES,
Santiago, June 5, 1894. (Received July 14.)

SIR: In reply to your note of the 10th of April last, in reference to another commission to adjudicate the claim left undisposed of by the late arbitration commission, I received yesterday a note from the minister of foreign relations, a translation of which I inclose.

It will be seen that Mr. Fontecilla confirms his oral statement reported in my dispatch, No. 131, of the 29th ultimo, that Chile had agreed to discuss, through its representative at Washington, the matter of another international commission.

I am, etc.,

O. MCGARR.

[Inclosure in No. 134—Translation.]

Mr. Fontecilla to Mr. McGarr.

REPUBLIC OF CHILE,
 MINISTRY OF FOREIGN RELATIONS,
Santiago, May 31, 1894.

SIR: Relative to your note of the 11th of April last, I have the honor to inform you that a conference having taking place in Washington at the invitation of the honorable Secretary of State to the diplomatic representative of Chile, and they having exchanged views upon the matter to which your note alludes, I have agreed to conduct at your capital the negotiations referred to.

Advising you that proper and timely instructions will be given to the plenipotentiary of Chile in the United States, I avail myself with pleasure of this occasion to renew to you the assurances of my distinguished consideration.

M. SANCHEZ FONTECILLA.

Mr. Gana to Mr. Gresham.

[Translation.]

LEGATION OF CHILE,
Washington, July 28, 1894.

SIR: I have the honor to inform your excellency that I have received a communication from the minister of foreign relations of Chile, in which, referring to the claims which were not decided by the commission that sat at Washington up to the 9th of April last, he authorizes me to submit to your excellency's consideration the question of adjusting them by means of an arrangement, for which the pro rata existing between the amounts claimed and those awarded by the aforesaid commission might be taken as a basis.

My Government adds that a similar arrangement has been adopted to mutual advantage by France, Great Britain, Italy, Portugal, Austria-Hungary, Belgium, and, lastly, by Spain, with a view to reaching a final settlement of the claims against Chile which were not adjusted by the international commissions that sat at Santiago in 1884.

Hoping that your excellency will take this suggestion into kind consideration, I take pleasure in renewing to you the assurances, etc.

DOMINGO GANA.

Mr. Gresham to Mr. Gana.

DEPARTMENT OF STATE,
Washington, August 13, 1894.

SIR: I have the honor to acknowledge your note of the 28th ultimo, submitting the suggestion of your Government that the claims not decided by the American-Chilean commission, which recently sat at Washington, be adjusted by paying such an amount of the face of such claims as the aggregate amount awarded by the commission on claims which they did consider bears to the face amount of the latter claims.

In reply I have the honor to say to your excellency that this Government does not feel warranted in consenting to such an arrangement. It thinks that each and every claim should be examined and settled upon its merits, by an international commission.

Accept, Mr. Minister, the renewed assurance of my highest consideration.

I am, etc.,

W. Q. GRESHAM.

Mr. Gana to Mr. Gresham.

[Translation.]

LEGATION OF CHILE,
Washington, August 16, 1894.

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 13th instant, in which your excellency is pleased to inform me that his Government does not consider itself authorized to assent to the proposition of adjustment which in the name of my Government was submitted to your excellency on the 28th ultimo, as a means of terminating satisfactorily the claims which were left unsettled by the commission which held its sessions in this capital from the 9th of April last.

I have hastened to transmit your excellency's communication to my Government, which will doubtless regret that it can not count upon the acceptance by the Government of your excellency of an arbitrament which, in its opinion would, under the present circumstances, be the most adequate for the settlement of existing claims.

I avail, etc.,

DOMINGO GANA.

Mr. Gana to Mr. Gresham.

LEGATION OF CHILE,
Washington, November 15, 1894.

SIR: My Government has carefully considered the contents of your excellency's esteemed note of the 13th of August last relative to the reciprocal claims still undecided between the two countries, and it has instructed me to submit to your excellency certain considerations which it feels confident will be received in the same friendly spirit that has dictated them.

My Government thinks that, in view of the number of the claims and their nature, it would be more practical and less expensive to settle them directly, either by means of a gross sum embracing all the claims collectively, or by means of an examination which would render it possible to eliminate those that are without foundation, and to pay the others by means of a compensation based upon a spirit of amicable equity.

It would not be difficult to find precedents, as your excellency is aware, that would warrant the adoption of either of the methods proposed. I have had the honor to state to your excellency that the principal nations of Europe have settled difficulties of the same kind which they had with Chile by means of collective arrangements for a

conventional amount. The United States Government has also had recourse to the same amicable means for the settlement of claims which formerly existed with Denmark, France, Peru, and Spain.

The second method, viz, a previous examination of the claims with a view to the elimination of those which have no reasonable foundation, and to settling such as may be found just by the payment of a suitable compensation, is daily resorted to by all Governments in their relations with one another.

It will be sufficient for me to call attention to the fact that your excellency's Government made no objection whatever to the adoption of this latter method before the conclusion of the convention of August 7, but that, on the contrary, it was prepared to accept and second it with decided interest. In the note addressed under date of September 30, 1890, by Mr. Egan, then United States minister plenipotentiary, to the minister of foreign relations, that gentleman wrote as follows:

In an interview which I had the honor to have with His Excellency the President of the Republic relative to the claims of citizens of the United States against the Government of Chile, his excellency was pleased to suggest the propriety of furnishing data with respect to all those claims, with a view to reaching a speedy investigation of the grounds on which they were based, and an amicable settlement, either by means of a direct arrangement or by submitting the case to arbitration.

In accordance with this suggestion, and being actuated by the spirit of sincere friendship which happily characterizes the relations existing between the two countries, I have the honor to send your excellency, for the information of your Government, a list of these claims, together with a brief statement with regard to the nature of each.

After enumerating the said claims Mr. Egan ended his communication as follows:

I can assure your excellency that my Government has no desire to support any claim that does not appear to be founded upon right and justice; and at the same time I entertain the fullest confidence that the Government of Chile will give proper attention to all claims that are found to be just and meritorious, and that it will pay them in full. I consequently desire here to state that whenever your excellency's Government may think proper to proceed to an investigation of the above-mentioned claims I shall take great pleasure and shall deem it my duty to cooperate, by the exhibition of the documents concerned and in any other way, in throwing all necessary light upon the grounds of each one of the claims.

These antecedents and the amicable spirit which happily governs the relations between the two Governments lead that of Chile to entertain the well founded hope that your excellency's Government will be willing to take into kind consideration either of the two suggestions which I have the honor to lay before you.

I avail, etc.

DOMINGO GANA.

Mr. Gana to Mr. Gresham.

LEGATION OF CHILE,

Washington, November 15, 1894. (Received November 15.)

SIR: I duly transmitted to my Government the contents of the communication which your excellency did me the honor to address to me under date of the 9th of July last.

In reply, the minister of foreign relations informs me that there has doubtless been a misunderstanding in the reports transmitted to your excellency with regard to the willingness of the Government of Chile

to settle, by means of a new commission, the reciprocal claims which the former commission left undecided.

The minister adds that neither in the correspondence of the Government of Chile with the United States chargé d'affaires, nor on any occasion subsequent to the conclusion of the convention of August 7, 1892, has that Government consented to the organization at Washington of a new tribunal of arbitration for the purpose mentioned.

The minister sends me, at the same time, a copy of the correspondence had on this subject with the American legation at Santiago, from which, as your excellency may see by the accompanying documents,¹ the sense in which it seems to have been understood by the United States representative in Chile is in no wise deducible.

I avail, etc.,

DOMINGO GANA.

Mr. Gresham to Mr. Gana.

DEPARTMENT OF STATE,
Washington, December 22, 1894.

SIR: I received in due course your note of the 15th ultimo, in which having reference to the matter of completing the settlement of the claims between the United States and Chile, which was interrupted by the adjournment of the late Mixed Commission without action upon a number of cases duly presented under the convention of August 7, 1892, you communicate the statement of the minister of foreign relations that there has doubtless been some misapprehension in the reports made to this Department regarding the willingness of the Government of Chile to dispose of those unadjusted claims by a new convention. His excellency declares that Chile never, either in its correspondence with the chargé d'affaires of the United States or on any other occasion subsequent to the convention of 1892, agreed that a new convention be organized at Washington for that purpose. In support of this view you inclose copies of the correspondence on the subject with our legation at Santiago.

On April 11, 1894, Mr. McGarr wrote asking whether the Chilean Government would consent to sign another convention for the creation of another commission for the purpose mentioned. Señor Bascuñan acknowledged this April 16, promising timely communication of the conclusion which should be reached in the matter. Later, on May 31, 1894, his excellency further answered Mr. McGarr's note of April 11, saying that in view of conferences between the Chilean minister at Washington and the Secretary of State, he, Señor Bascuñan, "had agreed to conduct in this capital [Washington] the negotiations to which the said note refers." The negotiations referred to in Mr. McGarr's note were stated to be for "another convention for the creation of another commission," and this, also, was the proposal considered by you and me in the conferences to which his excellency adverts as having led him to the announced agreement to negotiate further in Washington. I submit that the impression formed by this Government respecting the intentions of your own was reasonably deducible from these premises, especially as the only point of essential disagreement developed in my preceding conferences with you concerned the place where the new commission should sit, you favoring Santiago and I Washington.

¹ See inclosures in No. 118, page 88; in No. 121, page 89; in No. 134, page 90.

However this may be, it is evident that your note shows a misunderstanding between the two Governments, not as to the necessity of disposing of the unfinished work of the late commission, as to which both are in accord, but as to the proper manner of accomplishing that necessary result.

I have no reason to change the views I have so often expressed to you and otherwise made known to your Government, that the natural and reasonable way is to carry to completion the adjustment begun under the operation of the convention of 1892. The reasons which induced the two Governments to come to an agreement then for a commission to sit at Washington, apply now with even greater force. The evidence in the undecided cases laid before the tribunal is carefully preserved here, and it would not be fair to the claimants of either Government to revert at this interrupted stage of the proceedings to methods of settlement which at the outset were considered and abandoned. If the unfinished cases are not disposed of by a commission it is believed that the controversy between the two Governments will be prolonged indefinitely.

Having once adopted arbitration as an honorable mode of adjustment, it behooves the two friendly Governments to adhere to it to its legitimate end. Failure to do so now, when the work is more than half done, can but discredit the labors of the late honorable commission and detract from the high example our Governments have set by advocating and accepting arbitration to end their differences. The organization of a new commission should be as easy as its task would be brief.

I am, therefore, directed by the President, to whom the whole matter has been referred, to lay the foregoing considerations before the Government you so worthily represent, and urge that it join with ours in giving full effect to the methods stipulated in 1892.

Accept, etc.,

W. Q. GRESHAM.

AMNESTY TO POLITICAL OFFENDERS.

Mr. McGarr to Mr. Gresham.

No. 158.]

LEGATION OF THE UNITED STATES,
Santiago, September 11, 1894. (Received October 24.)

SIR: The Chilean Congress at its regular session, which expired on the 1st instant, passed a law of general amnesty comprehending all persons liable for acts of a political character, or growing out of the political condition of the country, done up to the 28th of August, 1891, and all Chileans liable for acts against the internal order of the State since the 29th of August of the same year.

While expressed in few and general terms, this act was designed especially, if not wholly, as one of oblivion or pardon for offenses charged to have been committed by many civil and military officers of Balmaceda's Government before and after the beginning of the revolutionary movement, and for offenses committed in the several attempts against the Government established since Balmaceda's overthrow. It removes the last exception to complete amnesty to all concerned in the civil war.

The act was promptly approved by the President, and a large number of prisoners, some under sentence, have been restored to liberty.

I have, etc.,

OWEN MCGARR.

CHINA.

FRIENDLY OFFICES TO JAPANESE IN CHINA.¹

Mr. Denby, chargé, to Mr. Gresham.

[Telegram.]

PEKING, *July 24, 1894.*

Have received a telegram from the U. S. minister in Japan with reference to taking Japanese citizens under the protection of the United States in case of war. Chinese Government has given consent and asks the United States to protect Chinese in Japan. A reply is requested.

Mr. Gresham to Mr. Denby, chargé.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 26, 1894.

China acceding, you may act as custodian Japanese legation and afford friendly offices for protection Japanese subjects in China, either directly or through consuls acting under your instructions, but you will not represent Japan diplomatically.

Mr. Denby, chargé, to Mr. Gresham.

LEGATION OF THE UNITED STATES,
Peking, July 27, 1894. (Received September 11.)

SIR: I have the honor to report that the Japanese chargé d'affaires at Peking has made all his arrangements for placing under the protection of the United States the interests of the subjects of Japan in China, immediately upon the outbreak of hostilities between these two countries.

In that event all Japanese residing or traveling in the interior are to be recalled to the treaty ports. The Japanese consuls and all the members of the legation are to be withdrawn, and the care of the legation and consulates and the protection of Japanese subjects are to be left to the officials of the United States.

In view of the fact that the assistance of our consuls will be more in demand by Japanese immediately upon the declaration of war than

¹ See Senate Ex. Doc. No. 36, Fifty-third Congress, third session.

later, and in view of the fact that it would be difficult and expensive to give them proper instructions by telegraph at the last moment, I have considered it advisable to notify them, by circular, in advance, that our Government has undertaken, in case of war, to protect the subjects of Japan in Chinese territory. A copy of this circular was mailed yesterday to each of the consuls of the United States in this country, and I have the honor to inclose a copy herewith. It will now only be necessary to advise them by telegram of a declaration of war. I have made an arrangement for the transmission of these telegrams, should they become necessary, through the consulate-general at the least expense.

I have, etc.,

CHAS. DENBY, JR.,
Chargé d'Affaires ad interim.

[Inclosure.]

Mr. Denby, chargé, to U. S. consular officers in China.

LEGATION OF THE UNITED STATES,
Peking, July 26, 1894.

SIR: At the request of Japan, and with the consent of China, the U. S. Government has agreed, in event of war between those two powers, to take under its protection all Japanese subjects residing in Chinese territory.

Under these circumstances it will be your duty on receipt of telegraphic advice from this legation that hostilities have begun, to give every proper assistance consistent with the functions with which you are charged and the discharge of your own duties to the subjects of Japan within your jurisdiction.

I am, etc.,

CHAS. DENBY, JR.,
Chargé d'Affaires ad interim.

Mr. Denby, chargé, to Mr. Gresham.

LEGATION OF THE UNITED STATES,
Peking, July 31, 1894. (Received September 12.)

SIR: Much misapprehension seeming to exist in the minds of the U. S. consuls in China as to the scope of their duties as to the protection of Japanese subjects in China, in case of war, and application having been made to me for further instructions on the subject, I have considered it desirable to inform them, somewhat more in detail than was done in my circular of the 26th instant, of what would be expected of them. I inclose herewith a copy of a circular which I have this day mailed to the consuls at the various ports.

I have, etc.,

CHARLES DENBY, JR.

[Inclosure.—Circular.]

Mr. Denby, chargé, to U. S. consular officers in China.

Confidential.]

LEGATION OF THE UNITED STATES,
Peking, July 31, 1894.

SIR: This legation having been requested to state more specifically what will be the duties of the U. S. consuls as to the protection of Japanese in case of war, I have the honor to give you further instructions as follows:

In such an event, on receipt of notice from this legation, you will exert your good offices for the protection of Japanese subjects in your vicinity, such action on your part to be as consul of the United States, and in no respect as representing Japan, and to be strictly confined to such acts as are proper for a consul of a power friendly to and at peace with China. You may, if requested, become custodian of the Japanese consulate and take charge of the archives. It will not, however, be proper to raise the American flag on such buildings. It will not be necessary to make any official announcement of your attitude toward the citizens of Japan. Such notice will be given through the proper authorities at Peking. Your duties will be confined to the protection of Japanese subjects only; you will not be charged with any Japanese consular functions or authority.

I have the honor to be, sir, your obedient servant,

CHAS. DENBY, JR.,
Chargé d'Affaires ad interim.

Mr. Denby, chargé, to Mr. Gresham.

No. 1905.]

LEGATION OF THE UNITED STATES,
Peking, August 2, 1894. (Received September 12.)

SIR: I have the honor to report to you that, at the request of the Japanese chargé d'affaires, I took charge yesterday at noon of the legation of Japan and of the interest of the subjects of Japan in China.

Inclosed herewith are copies of his official request to me, of my reply, and of the dispatch which I addressed to the Yamên notifying the prince and minister of this action.

I telegraphed promptly to the U. S. consuls, who had been notified by circular to expect such an announcement, that Japanese interests had been placed under American protection, and I sent you a cipher telegram which I confirm in Inclosure No. 4 herewith.

I have, etc.,

CHAS. DENBY, JR.

[Inclosure 1 in No. 1905.]

*Mr. Komura to Mr. Denby, chargé.*LEGATION OF JAPAN,
Peking, August 1, 1894.

SIR: In view of my departure from Peking this afternoon with all the members of this legation, I have the honor to request that you will at once take charge of Japanese interests in China, in accordance with the arrangement made between our respective Governments.

I avail, etc.,

J. KOMURA,
H. I. J. M's. Chargé d'Affaires.

[Inclosure 2 in No. 1905.]

*Mr. Denby, chargé, to Mr. Komura.*LEGATION OF THE UNITED STATES,
Peking, August 1, 1894.

SIR: I have the honor to acknowledge the receipt of your official letter of this date stating that, in view of your departure from Peking, you request me at once to take charge of Japanese interests in China, in accordance with the arrangements made between our respective Governments.

I have the honor to state in reply that, acting under the orders of the honorable Secretary of State, I hasten to accede to your request. I will at once advise by telegraph the consuls of the United States in China and the honorable Secretary of State at Washington that you have this day committed to this legation the interests of the subjects of Japan in China.

This information will also be at once communicated by me to the Chinese Government.

I avail, etc.,

CHAS. DENBY, JR.

[Inclosure 3 in No. 1905.]

*Mr. Denby to the Tsung-li-Yamén.*LEGATION OF THE UNITED STATES,
Peking, August 1, 1894.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to state that the chargé d'affaires of Japan at this capital has to-day, in view of the state of hostilities which unfortunately exists between your two countries, requested this legation to take under the protection of the United States all the subjects of Japan residing in Chinese territory.

Acting under the authority of the honorable Secretary of State, and with the assurance hitherto given me by your highness and your excellencies that the Government of China would consent thereto, I have acceded to this request, and it now becomes my duty to advise you that, from this date until further notice, this legation, and the consuls of the United States at the treaty ports acting under its instructions, will exert their friendly offices for the protection of Japanese subjects residing in Chinese territory.

In requesting that this information be communicated to the provincial and customs authorities, I beg to express the hope that your highness and your excellencies will not only take every precaution to prevent outbreaks of violence at the foreign settlements, but also will issue stringent orders to the authorities of the provinces and of Manchuria and Mongolia, enjoining the protection of Japanese subjects who may be traveling in the interior in those localities and to permit their safe return to the treaty ports.

I avail, etc.,

CHAS. DENBY, JR.

[Inclosure 4 in No. 1905.—Telegram.]

Mr. Denby, chargé, to Mr. Gresham.

AUGUST 1, 1894. (Sent 3 p. m.)

War is declared. Japanese chargé d'affaires left Peking to-day; has placed interests Japanese subjects in charge of legation of the United States. Outbreak feared Tientsin. Request war vessel.

Mr. Denby, chargé, to Mr. Gresham.

No. 1907.]

LEGATION OF THE UNITED STATES,
Peking, August 3, 1894. (Received September 12.)

SIR: During the last few days, chiefly on the 30th and 31st July and the 1st August, this legation has been frequently appealed to by the Chinese Government and the Japanese chargé d'affaires in Peking.

For some reason, not as yet explained, the Japanese chargé found himself in the unfortunate position of being unable to communicate with his Government. For six days he remained without instructions. In the meantime China had notified him that diplomatic relations were broken off. His position at Peking was unpleasant and somewhat dangerous. Under these circumstances he addressed himself to me, and I undertook to obtain advice from Tokyo for him.

With this intention, I addressed two telegrams to Mr. Dun, American minister, stating in the first that the Japanese chargé proposed to leave Peking, and in the second that the immediate transfer of the protection of the interests of Japanese subjects to the authorities of our country was necessary. He turned over his legation to me at noon on the 1st instant, as stated in my dispatch No. 1905, of August 2, and at 3 o'clock left Peking with all the members of his legation, not having as yet received instructions.

Yesterday afternoon I received, however, a reply from Mr. Dun announcing that Japan had given notice of the existence of war with China and that the Japanese chargé d'affaires had been recalled. This information, which fully justifies his departure, I promptly transmitted to him at Tientsin.

The difficulties of the Chinese Government were of a somewhat similar character. It had been decided to declare war against Japan, but the ministers of the Yamén were unable to learn definitely whether the U. S. Government had consented to assume charge of Chinese subjects in Japan. On the 28th ultimo they wrote me that Japan had commenced hostilities and requested me to inform you and ask that our minister at Tokyo be ordered to assume protection of the Chinese. I telegraphed you the same day, as confirmed in my dispatch No. 1900 of the 30th ultimo. In the meantime and subsequently the Yamén telegraphed repeatedly to Mr. Yang, at Washington, and to the Chinese minister at Tokyo on this subject, but received no reply. On the 31st two secretaries of the Yamén called at this legation and told me that China was only awaiting information from you in order to declare war and recall their minister. They asked me, in the name of the prince, to telegraph again to you. As I was confident, however, that you had already instructed Mr. Dun, I telegraphed to him instead. Without waiting for an answer to this telegram, they notified the for-

eign representatives, on the afternoon of the same day, that war with Japan existed.

Your telegram of July 31, which was received here August 2, stating that "our minister to Japan was promptly instructed to exercise good offices for China," was at once communicated to the Yamèn and put an end to their anxiety. A telegram from Mr. Dun, stating that he had actually taken the subjects, legation, and consulates of China in Japan under his protection, was subsequently received and communicated to the Yamèn this morning.

I have, etc.,

CHAS. DENBY, JR.

Mr. Denby, chargé, to Mr. Gresham.

LEGATION OF THE UNITED STATES,
Peking, August 8, 1894. (Received September 22.)

SIR: On the 6th instant the prince and ministers wrote to this legation, stating that they were informed that Japanese spies had been sent into the interior of China in disguise, and announced their intention of dealing severely with them if apprehended.

In replying to this dispatch, I considered it my duty to urge the Chinese Government to proceed with moderation and to be influenced rather by motives of humanity than by bitterness toward Japan.

I have, etc.,

CHAS. DENBY, JR.

[Inclosure 1.]

The Tsung-li Yamèn to Mr. Denby, chargé.

AUGUST 6, 1894.

As Japan has commenced hostilities, all Japanese merchants and others residing in China have been placed under the protection of the U. S. Government. The prince and ministers, on receiving, some time ago, a communication from the chargé d'affaires of the United States on the subject, addressed the high officers of the various provinces, and also sent a reply to the chargé d'affaires.

The Yamèn have now received a telegram from the minister superintendent of northern trade to the effect that some twenty or thirty Japanese have been deputed from Tientsin as spies. They have changed their dress and shaved their heads and made their way secretly to various places for the purpose of prying into the condition of our military affairs.

By the rules laid down in international law, paragraphs 627 and 641, the most severe punishment is meted out to military spies. As relations of friendship have been broken off and war exists at the present time between China and Japan, merchants and others, natives of Japan, who are peacefully pursuing their vocations, will be protected as provided by treaty, but military spies do not come within the rule of being entitled to protection, and the most severe punishment will be inflicted upon them, as provided by international law.

The Yamèn have addressed the Tartar generals, governors-general, and governors of the various provinces to take strenuous measures to secretly apprehend all who are engaged as spies, and, as in duty bound, the prince and ministers send this communication for the information of the chargé d'affaires of the United States.

[Inclosure 2.]

Mr. Denby, chargé, to the Tsung-li-Yamén.

AUGUST 8, 1894.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to acknowledge the receipt of your dispatch of the 6th instant, with reference to the reported presence of Japanese spies in the interior of China, engaged in gaining information as to the military affairs of the country.

Should Japanese be found in the interior under such circumstances as to excite suspicion as to their character, it is to be hoped that a most careful examination will be made and every opportunity given them to prove their innocence before any action is taken against them. In such matters it would be easy to make mistakes whose consequences would be much to be regretted.

As there are no armed forces of Japan within Chinese territory, and as the war is being conducted entirely abroad, the infliction of extreme penalties would be unjustifiable. I respectfully suggest to your highness and your excellencies that the safety of China would be sufficiently guarded and sufficient punishment inflicted on Japanese found unlawfully or in disguise within the interior if they were taken to the nearest seaport and transported to their own country. I hope that your highness and your excellencies will be guided in this matter by humane motives and not allow your action to be influenced by feelings of bitterness toward Japan.

I avail, etc.,

CHAS. DENBY, JR.

Mr. Denby, chargé, to Mr. Gresham.

LEGATION OF THE UNITED STATES,
Peking, August 14, 1894. (Received October 1.)

SIR: In my dispatch of the 8th instant I inclosed a copy of a dispatch from the Yamén with reference to the treatment of Japanese spies seized in China, and a copy of my reply thereto in which I recommended that such spies be punished by being transported to Japan.

Under date of the 12th instant the Yamén writes, saying that the suggested punishment seems inadequate and that China will be obliged to act more severely for her own defense. The ministers renew their promise of protection of peaceable Japanese, and assert that they are not influenced by any feelings of bitterness toward Japan.

My motive in counseling leniency is to prevent conviction on insufficient evidence and to prevent unnecessarily cruel treatment of any Japanese, really guilty, who may be seized. This sentiment is a natural one, in view of the horrible cruelties and tortures recognized by the Chinese criminal code.

Some days ago at Tientsin, a Japanese, who was supposed to have left the city, was arrested under suspicious circumstances. He was coming at night from the house of the chief secretary of Director Chang, of the ordnance department. It is charged that he was in the habit of procuring military and naval intelligence by bribery. I advised the U. S. consul that it would be proper for him to request the Chinese authorities, as a courtesy, to inform him of such arrests and of the outcome of the examination.

I have, etc.,

CHAS. DENBY, JR.

Mr. Denby, chargé, to Mr. Gresham.

LEGATION OF THE UNITED STATES,

Peking, August 14, 1894.

SIR: I have the honor to report that at 1:30 a. m. on the 2d instant the British ship *Chungking*, trading between Tientsin and Shanghai, was boarded at Tongku, a coal wharf on the Peiho below Tientsin, by armed Chinese soldiers, some fifty in number, and all the Japanese passengers forcibly removed therefrom. These Japanese consisted of about twenty-four women, one man, and the wife and children of the Japanese consul at Tientsin. The wife and children of the consul were, fortunately, not seriously molested. The others were bound, hand and foot, and removed from the ship, the soldiers asserting that they were acting under orders. After being left upon the wharf for a time they were unbound and confined in a warehouse. At 5 o'clock in the morning, a superior Chinese officer arriving on the scene, they were replaced on board the ship, having been, however, robbed of about \$600 in money, besides some other property.

This disgraceful incident was at once reported to this legation by Consul Read, but the departure of the ship immediately after the event has rendered it difficult to obtain a detailed account thereof. An attempt was made to get a statement from the Japanese passengers at Chefoo, through our consular agent, but they preferred to make a statement at Shanghai.

Upon receipt of Consul Read's report, I wrote him requesting him to obtain from the viceroy—whose soldiers were the aggressors—an expression of regret at the unwarranted attack on defenseless Japanese and particularly for the violence threatened, though not executed, against the Japanese consul's wife. He was also instructed to induce the viceroy, if possible, to restore the money and property of which these people were robbed.

The viceroy's attitude was perfectly satisfactory. He expressed great grief at the assault, which he completely disavowed, and he expressed his apologies for the affront offered to the wife of the consul. He promised to punish the guilty parties and to recover the stolen goods. He further authorized me to convey to you this expression of his sentiments.

As soon as certified statements of the losses of the Japanese can be procured, they will be submitted by Mr. Read to the viceroy, and there will end all connection of this legation with the affair. The British authorities have energetically taken up the matter, in so far as it concerns the violation of the neutrality of their flag, and the Chinese authorities are prepared to make every concession to their demands.

United States Minister Dun, on the 7th instant, telegraphed me with reference to this affair as follows:

Japanese consul and other Japanese from Tientsin attacked, while on British vessel by Chinese soldiers at Tongku. Consul will send particulars. You are requested to investigate.

I received this telegram on the 8th instant and replied at once as follows:

The viceroy expressed grief affair Tongku; promises to punish guilty and recover stolen property. Japanese consul not aboard; no one seriously injured.

In compliance with the request to investigate, I have taken steps to obtain sworn statements of the affair from the captain of the ship and several foreign passengers, which will be forwarded to our minister at Tokyo.

I have, etc.,

CHARLES DENBY, JR.

Mr. Gresham to Mr. Denby, chargé.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 18, 1894.

Chinese minister complains that the U. S. consul at Shanghai is protecting Japanese spies. Report immediately and fully.

Mr. Jernigan to Mr. Uhl.

CONSULATE-GENERAL OF THE UNITED STATES,
Shanghai, China, August 21, 1894. (Received September 22.)

SIR: I have the honor to report that on the 2d I received from the legation at Peking a telegram of the 1st, informing me of the declaration of war between China and Japan, with instructions that the United States had undertaken the protection of Japanese interest in China.

On the same day the Japanese consul-general at this port addressed to me an official communication on the subject, and requested one of my flags to fly from his consular pole. He communicated to me that the request was made under instructions from his minister at Tokyo, Mr. Mutsu.

The wires from Shanghai to Peking had stopped working, and it requires about ten days for a letter to reach Peking, and this denied me the instructions of the legation for the time, and I answered without instructions.

I informed the Japanese consul-general that, upon general principles, I did not understand that the functions of his office would be continued in me; that I could not, in the absence of special instructions, assume to exercise any of his consular functions, for they ended with the declaration of war, and that the use of my flag, as proposed, could not be granted, for it might have the tendency of an unfriendly import to China, was unusual, and besides, it was not necessary for the United States to accent any declaration they might make, for it would be respected anyhow.

He then asked me what I conceived to be the character of the new duties devolved upon me.

I replied that such of his countrymen as desired to remain in China to pursue their peaceful business vocations would be protected by my Government, and if molested that I would feel it my duty to promptly bring the matter to the attention of the Chinese Government, and if charged with an offense to intervene to the extent of having the charges intelligently made before the proper court.

He asked me if his countrymen in China were under American law. I answered that they were not under American law as an American citizen would be, nor could Japanese be tried in the court of this consulate-general.

It was somewhat difficult to make the scope of my meaning clear, until I pointed out to the Japanese consul-general the inconsistency of taking down his flag and continuing the functions of his office under my flag.

Subsequently I have received the legation's circular, and was gratified that I had kept within instructions.

At the time of the declaration of war there were about one thousand

Japanese at this port, scattered over the city, and engaged in various business vocations. This number was greatly augmented by the coming here of nearly every Japanese at the other treaty ports. This being the larger and better protected, all came here.

Within the last two weeks many have returned to Japan, though there are still here as many as 800.

The intense bitterness between China and Japan emphasizes the complications that may arise here at any moment, and my first step was to invite to my office the manager of a branch of the Japan Bank and four other Japanese well known and respected in business circles. These readily agreed to constitute a consulting committee, through which I could reach their countrymen, and to aid me in getting as many of their countrymen to go to Japan as could without serious injury to their business.

Thus far the plan has worked favorably, but you will appreciate, with a knowledge of Asiatic races, the delicacy of my position.

I will do my best, believing that you will view liberally my mistakes.

The subtle diplomacy of Asia is more successfully opposed by simplicity and firmness.

I send our minister at Peking all the reliable war news I receive. China and Japan appear very determined.

I am, etc.,

T. R. JERNIGAN,
Consul-General.

Mr. Denby, chargé, to Mr. Gresham.

[Telegram.]

PEKING, August 21, 1894.

I have received your cipher telegram. According to the Yamèn statement, prefect of Shanghai on the 13th saw in the French concession two Japanese wearing Chinese clothing, and securing arrest by the French consul, plans were found upon them. French consul delivered them to the consul general of the United States, who refused to give them up without definite instructions of legation of the United States. Yamèn requested their delivery. I replied I could not act until the U. S. consul-general has reported. The U. S. consul-general telegraphs accused asked for asylum until the case investigated. Was granted with this understanding, that *status quo* shall be maintained. Accused papers safe. Important principle involved. The rights of China doubted. The U. S. consul-general urges the legation to await written report, expected to arrive to-morrow. I have assured Yamèn of impartiality and request delay. On receiving report of U. S. consul-general will telegraph.

Mr. Gresham to Mr. Denby, charge

[Telegram.]

WASHINGTON, August 21, 1894.

Telegram 21st received. Was French consul required to surrender the two Japanese in French concession at Shanghai on demand of Chinese authorities? If so, why did he deliver them to U. S. consul-general? Our legation and consulates in China are not authorized to hold Japanese accused of crime against the demand of Chinese authorities.

Mr. Gresham to Mr. Denby, chargé.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 23, 1894.

Anxiously awaiting reply to my telegram 21st. Are the two Japanese still held by our consul-general at Shanghai; and, if so, why?

Mr. Denby, chargé, to Mr. Gresham.

[Telegram.]

PEKING, August 26, 1894.

Received telegram 23d and 21st August, the latter one last. Under the international rule in the Shanghai settlements French consul had not the right to surrender Japanese to Chinese officials. Arrests can only be made on the concessions by order of consuls. Chinese arrested tried by the mixed court; foreigners delivered to their consuls. Japanese were delivered to the U. S. consul-general because the United States protects the interests of Japanese. The U. S. consul-general reports alleged spies mere school boys, peacefully and openly living at Shanghai. I request that I be directed to order examination by the U. S. consul-general with Chinese official present. China should not be allowed to inflict barbarous treatment, if guilty.

Mr. Denby, chargé, to Mr. Gresham.

LEGATION OF THE UNITED STATES,
Peking, August 27, 1894. (Received October 11.)

SIR: On the 26th instant I received from Mr. Fowler, U. S. consul at Ningpo, a telegram as follows:

Monday learned military arrested Sunday Chinhai as spy. Japanese dressed (as) priestly passenger. Morning wrote for facts. Taotai replied, giving circumstances and trial. Evidence weak and *ex parte*. Requested delay punishment few days. Just received reply—none of my business; will not answer further dispatches on subject. Shall demand delay. Await your instructions.

To this I replied in cipher as follows:

Gresham's orders positive. Consuls can not protect Japanese accused of crime. You may use friendly offices to secure a fair trial; if refused, no alternative.

Chinhai is a town at the mouth of the river leading to Ningpo, about 20 miles therefrom, and within the fortifications which guard the entrance. For a Japanese to present himself in disguise, in that locality, is a proof of illicit intentions or of extreme foolhardiness. The treaties between China and Japan provide that Japanese in this country shall not wear the Chinese dress. It would seem that what is unlawful in time of peace should be the more avoided in time of war.

The question of Japanese in China in disguise is a serious one. There are doubtless many of them. One has been seized at Tientsin, two at Shanghai, one at Nanking, and now one near Ningpo. Japanese engaged in making unlawful investigations in China can not occupy a better position than active belligerents. They can not claim the inter-

vention of the United States if seized by Chinese authorities, away from foreign concessions, upon reasonable grounds of suspicion. The duty of U. S. consuls can go no further than to make an effort to secure their fair trial. Humanity would also dictate that protest be made against torture or barbarous punishment.

If Japanese accused of crime take refuge with or are delivered to United States authorities, this legation will, until otherwise instructed, consider it lawful to retain possession of them until reasonable proofs of guilt have been adduced. Though China is at war with Japan, Japanese have the Chinese Government's express permission to reside here, and should be protected from causeless persecution at the hands of subordinate officials.

In this sense I have written to Mr. Fowler.

I have, etc.

CHAS. DENBY,
Chargé d'Affaires ad interim.

Mr. Denby, chargé, to Mr. Gresham.

[Telegram.]

PEKING, *August 27, 1894.*

The consul-general of the United States telegraphs alleged two spies have resided three years as students. The papers in their possession such as intelligent students might prepare for personal information. Suggest consuls of the United States shall act as arbitrators. I state many Japanese have worn Chinese clothing without objection, though contrary to treaty.

Mr. Gresham to Mr. Denby, chargé.

[Telegram.¹]

WASHINGTON, *August 29, 1894.*

You and consul-general at Shanghai seem to misapprehend nature of protection authorized. Lending good offices does not invest Japanese with extraterritoriality nor should legation or consulates be made asylum for Japanese who violate local laws or commit belligerent acts. Protection to be exercised unofficially and consistently with neutrality. Consul-general should not have received two Japanese, and is not authorized to hold them. Your suggestion that our consuls act as arbitrators not entertained.

Mr. Gresham to Mr. Denby, chargé.

DEPARTMENT OF STATE,
Washington, August 29, 1894.

SIR: The action of the Government of Japan, in committing the interests of its subjects in China to the care of the diplomatic representative of the United States during the existence of hostilities between

¹This was also sent by telegraph on August 29 to Minister Dun at Tokyo for his information.

China and Japan, renders it expedient that you should be instructed as to the nature of your duties in the delicate situation in which you are thus placed.

The Japanese Government, when it solicited the interposition of our diplomatic representative in China in behalf of Japanese subjects during hostilities, was informed that such interposition would be permitted with the consent of the Chinese Government. Such consent has been given. Moreover, the diplomatic representative of the United States at Tokyo has, at the request of the Chinese Government, and with the consent of the Government of Japan, been charged with the care of the interests of Chinese subjects in the latter country pending hostilities.

The function with which you are thus charged, with the consent of the Government to which you are accredited, is one that calls for the exercise of personal judgment and discretion. It is an unofficial, not an official, function. A minister of the United States can not act officially as the diplomatic representative of another power, such an official relation being prohibited by the Constitution of the United States. But, apart from this fact, the circumstances under which the function in question is to be discharged imply personal and unofficial action. The state of war into which China and Japan have entered is inconsistent with the continuance of diplomatic intercourse between them. Your position is that of the representative of a neutral power, whose attitude toward the parties to the conflict is that of impartial amity. Your interposition in behalf of the subjects of one of them is not to be considered as an act of partisanship, but as a friendly office performed in accordance with the wishes of both parties. This principle you are constantly to bear in mind, in order that, while doing what you can consistently with international law for the protection of the interests of Japanese subjects in China, you may not compromise our position as a neutral.

By consenting to lend its good offices in behalf of Japanese subjects in China, this Government can not assume to assimilate such subjects to citizens of the United States, and to invest them with an extraterritoriality which they do not enjoy as subjects of the Emperor of Japan. It can not assume to hold them amenable to the laws of the United States nor to the jurisdiction of our minister or consuls; nor can it permit our legation or our consulates to be made an asylum for offenders against the laws from the pursuit of the legitimate agents of justice. In a word, Japanese subjects in China continue to be the subjects of their own sovereign, and answerable to the local law to the same extent as heretofore. The employment of good offices in their behalf by another power can not alter their situation in this regard.

On several proper occasions the Government of the United States has permitted its diplomatic and consular representatives to exercise their good offices in behalf of the citizens or subjects of a third power, as in Mexico in 1867 and in the Franco-German war in 1870. For many years good offices have been exercised by our diplomatic and consular representatives in behalf of citizens of Switzerland in China, as well as in other countries, where the Swiss Republic is without such representatives. In this relation it is proper to refer to an instruction of this Department to its diplomatic representative in China, of July 25, 1872, in which the protection to be extended by our minister and consuls to Swiss citizens in that country is defined as follows:

The protection referred to must necessarily be confined to the personal and unofficial good offices of such functionaries. Although when exercised to this extent

merely, this can properly be done only with the consent of the Chinese Government, that consent must not be allowed to imply an obligation on the part of a diplomatic or consular officer of the United States in that country to assume criminal or civil jurisdiction over Swiss citizens, or to make himself or his Government accountable for their acts.

But, while you are to act unofficially, you will carefully examine any complaints that may be laid before you in behalf of Japanese subjects, and make such representations to the Chinese Government as the circumstances may be found to warrant; and in all ways you will do what you can, consistently with the principles heretofore stated, for the protection of Japanese subjects in China, and their interests.

I am, etc.,

W. Q. GRESHAM.

Mr. Denby, chargé, to Mr. Gresham.

[Telegram.]

PEKING, August 31, 1894.

I have received your cipher telegram, 29th. The U. S. minister to Japan telegraphs that Japanese Government assures two Japanese are not spies. Japanese Government requests China to take no action until Minister Denby arrives. Will you authorize me to make the proposition to the Chinese Government, or do you order immediate unconditional surrender to Chinese Government?

Mr. Gresham to Mr. Denby, chargé.

[Telegram.]

DEPARTMENT OF STATE,

Washington, August 31, 1894.

Your telegram this date received. My instructions 29th clear.

Mr. Denby, chargé, to Mr. Gresham.

LEGATION OF THE UNITED STATES,

Peking, September 1, 1894. (Received October 11.)

SIR: I have the honor to confirm your telegram of the 31st ultimo, as follows:

Your telegram this date received. My instructions 29th clear.

Immediately upon receipt of this telegram I wired the consul-general to deliver the alleged Japanese spies held by him to the taotai, and I notified the Yamên that this had been done. I have now the honor to submit some remarks in explanation of my action and of the action of the consul-general in this matter.

To the first demand of the Yamên, made on the 16th ultimo, that these Japanese be given up, I replied that I would be compelled to await the consul-general's report. This I telegraphed him to forward. Before Mr. Jernigan had reported the Yamên referred the case to you, and to

their subsequent demands I replied that they had put the matter in your hands and that I could now only act as ordered by you. It would have been manifestly improper for me to order Mr. Jernigan to give up these Japanese without hearing from him the reasons which had induced him to detain them. Subsequently, when the case had been appealed to you, it would have been equally improper to give them up without your orders.

Mr. Jernigan has not acted in this matter under a misapprehension as to his authority. Neither he nor I imagine that lending good offices invests Japanese in China with extraterritoriality, nor that the legation or the consuls have the right to shield Japanese who commit crimes. No attempt has been made to harbor Japanese in other parts of China, though many occasions for doing so have presented themselves. The case of the two Japanese arrested at Shanghai is an exceptional one. On two grounds I felt justified in asking your instructions.

In the first place, the exclusive jurisdiction of the Chinese authorities over subjects of a power at war with China resident in the foreign settlements at Shanghai is sufficiently in doubt to justify the foreign authorities in demanding proof of guilt and stipulating for a fair trial before giving up such subjects when accused. The custom in time of peace is for foreigners residing at Shanghai, subjects of a power having no treaty with China and hence not enjoying the privileges of extraterritoriality, to be tried when arrested for crime, by the "mixed court," that is, by a Chinese magistrate sitting with a foreign "assessor." On the French concession this assessor is always a French consular officer. On the Anglo-American settlement an English assessor sits with the Chinese official on Mondays, Wednesdays, and Fridays; an American assessor on Tuesdays and Thursdays, and a German assessor on Saturdays. Before this tribunal are brought all Chinese charged with crimes or misdemeanors in the settlement, and all foreigners so charged not protected by treaty. They are heard and their punishment determined by the Chinese and foreign officials acting together.

The foreigners at Shanghai wish to establish the principle that this procedure shall be followed in time of war against subjects of a belligerent power. They are strongly averse to establishing the precedent that China shall have exclusive jurisdiction over such persons. This aversion is based on a desire to preserve the neutrality of the settlements and on an abhorrence of the cruel barbarities of Chinese criminal procedure. They justly argue that if Japanese are allowed to be taken from the concession and dealt with at the will of China, then, in case of war between the United States and China, Americans may be similarly treated. So far as any precedent already exists, it is adverse to such right of China. During the Franco-Chinese war Russia used her good offices for the protection of the French in China and French subjects arrested at Shanghai were actually brought before the Russian consul for hearing. China made no effort to interfere with them in any way.

The second reason for which deliberation and caution seemed justified is based upon humanity. The two Japanese seized at Shanghai are school boys. For three years they have resided in the French concession peacefully and openly. They give the name of the school, the teacher, and the place of their residence with a minuteness which raises doubts in their favor. They are probably innocent. The Chinese authorities assert that their wearing the Chinese costume is a proof of guilt. To this it is only necessary to reply that they had been wear-

ing it for years. Japanese clad as Chinese have been living all over the Empire; I have met them in Peking. Though contrary to treaty no objection has been made thereto.

To give up these boys unconditionally is generally believed to be to, give them up to death. The viceroy at Nanking has, I am informed already demanded of the taotai of Shanghai why the heads of the two spies have not been sent to him. They are judged and condemned in advance. The governor of Formosa has posted a proclamation offering prizes for Japanese heads. In a country where such a thing is possible it is needless to inquire what chance a Japanese accused as a spy would have for his life.

It was never my intention to ultimately refuse to give up these Japanese. I only wished your authorization to stipulate for their examination in the presence of the consul-general, and an assurance that torture or excessive punishment should not be inflicted on them.

To demand from China these concessions from her legal rights seemed justifiable and if pressed she would have consented to them.

Such concessions would have been to her advantage. This case has attracted much attention in Japan. The American minister at Tokyo telegraphed this legation that these men were innocent. Should any harm befall them retaliation is inevitable. These young men have the fullest sympathy of all foreigners in China, and the advice of the high officials of all nationalities has been not to give them up without conditions. The knowledge of this fact may prevent their execution.

For the considerations above set forth, I did not presume to act without giving you the fullest information on the case and without your instructions. I have not acted with any partiality toward the Japanese, nor with any misapprehension as to my authority, but have tried, in a difficult emergency, to act as justice dictated.

I have, etc.,

CHAS. DENBY, JR.,
Chargé d'Affaires ad interim.

Mr. Denby, chargé, to Mr. Gresham.

LEGATION OF THE UNITED STATES,
Peking, September 4, 1894. (Received October 11.)

SIR: On the 31st ultimo the Tsung-li-Yamèn wrote this legation stating that the governor-general of Hukuang had telegraphed them that on the 24th ultimo a Japanese dressed as a Chinese had been seen without the foreign concession at Hankow; that some soldiers approached him for the purpose of arresting him; that he defended himself with a sword and escaped into the concession; that the American consul refused to give him up, stating that he was a peaceable person, and, on the contrary, put him on a steamer and sent him to Shanghai. The Yamèn then advances the usual argument—there are no other charges made against the man—that he wore Chinese clothes and hence he was “obviously engaged in an irregular occupation.” The fact is overlooked that a Japanese, dressed as a Japanese or as a foreigner, would be in constant danger of his life at any place in China except Shanghai.

The Yamèn make no demand as to this particular man, but request me to direct the consuls in future not to protect Japanese found in Chinese costume.

To this I replied, under date of to-day, that the U. S. consuls at Han-

kow and at the other ports will be instructed to afford no protection to Japanese acting as spies.

In a dispatch from Mr. Child, dated the 24th ultimo, he states that on that date, as the marshal of his consulate was escorting a Japanese to the steamer *Tai Wo*, about 2,000 Chinese surrounded him, and it was only by a show of force on the part of the municipal authorities that a riot was averted. As the date corresponds with the date of the incident complained of by the Yamên, the Japanese referred to in both communications is doubtless the same.

I have written to Mr. Child that he is not authorized to hold Japanese accused of crime against the demand of the Chinese authorities. A copy of this dispatch is inclosed herewith.

The action of the Chinese authorities with reference to alleged Japanese spies is far from just, and meets with the disapproval of the entire body of foreigners in China. Rewards for the capture of or information as to the whereabouts of Japanese spies have been advertised as follows:

For the capture of one Japanese spy, 100 taels.

For information as to the whereabouts of a Japanese spy, 40 taels.

To these offers are appended others of a more barbarous character, as an offer of 50 taels to any Chinese soldier who brings in the head of a Japanese after battle.

With the inducement to false accusation thus held out, no Japanese is safe. Many innocent people are sure to be accused, and accusation means conviction. Once in the hands of the Chinese, they will plead their innocence in vain.

I have, etc.,

CHAS. DENBY, JR.,
Chargé d'Affaires ad interim.

[Inclosure.]

Mr. Denby, chargé, to Mr. Child.

SEPTEMBER 4, 1894.

SIR: I have the honor to acknowledge the receipt of your dispatch No. 32, of the 24th ultimo, with reference to the assembling of a mob to prevent the escorting of a Japanese subject to the steamer by Mr. Child, marshal of your consulate.

On the 31st of August the Tsung-li-Yamên wrote me officially concerning this affair, stating that you had refused to give up a Japanese demanded by the authorities, and on the contrary had aided him to escape.

It is my duty to inform you that I am in receipt of telegraphic instructions from the honorable Secretary of State that the legation and consulate of the United States should not be made asylum for Japanese who violate local laws or commit belligerent acts. Protection, he states, is to be exercised unofficially and consistently with impartial neutrality. In another instruction he says:

Our legation and consulates in China are not authorized to hold Japanese accused of crime against the demand of Chinese authorities.

I call your attention again to my circular instruction of the 31st July, and request your strict conformity therewith.

I am, etc.,

CHAS. DENBY, JR.,
Chargé, etc.

Mr. Denby, chargé, to Mr. Gresham.

LEGATION OF THE UNITED STATES,
Peking, September 8, 1894. (Received October 27.)

SIR: I have the honor to inclose herewith a copy of a dispatch, dated the 18th ultimo, from the consul-general to this legation, with reference to the two alleged spies then held by him at Shanghai.

I inclose, also, copies of all the telegrams received by me from Mr. Jernigan on the subject, and of all the telegrams sent by me to him.

I inclose, also, a copy of a subsequent dispatch from Mr. Jernigan, which relates to the same matter.

I respectfully call attention to this correspondence. It will help to explain the action of this legation as to the rendition of the two Japanese, and the reluctance of the consul-general to give them up.

As to the action of the consul-general of France in the matter, I have the honor to state that his refusal to deliver the alleged spies to the Chinese authorities, and his surrender of them to the consul-general of the United States, met with the full approval of the minister of France at Peking. The French minister told me that the French consul-general not only was not required to surrender them to China, but that "he had not the right to do so." In replying to your telegraphic inquiry of the 21st August, I was guided by this assurance.

I have the honor to state, in conclusion, that the opinion of the foreign representatives at Peking was opposed to giving up the accused Japanese without a preliminary examination before a foreign official.

I have, etc.,

CHAS. DENBY, JR.,
Chargé d'Affaires ad interim.

[Inclosure 1.]

Mr. Jernigan to Mr. Denby.

AUGUST 18, 1894.

SIR: I have the honor to communicate that on Tuesday last the consul-general of France came to this office and informed me that two Japanese subjects, at the instance of the Chinese authorities, had been arrested by the French police, on the French concession, and that he had ordered them to be brought to me. Soon after, and before the French consul-general had left, the police arrived with the two Japanese in custody. I stated to the French consul-general that I was not empowered with any of the functions of the Japanese consul-general, although representing Japanese interests, and consequently could not try a Japanese for any offense he might commit, but that I understood that I could intervene in the interest of humanity and justice where the safety and interests of Japanese were involved.

The two Japanese are charged with being spies, and to have shut the door of the consulate in their faces would possibly have been equivalent to turning them over to the executioner.

There was no complaint before me of charges against these Japanese. The alleged offense against them had in no way been brought to my attention by any officer of China, either verbally or otherwise. So far as concerned China this consulate-general was in ignorance, having no record before it.

The two Japanese then stood before me as asking for an asylum in apprehension of danger to their lives. They asked to be allowed to

remain in this consulate-general until they could be made acquainted of any charge against them, and in order that any charge made against them might be heard before the proper tribunal.

The asylum thus asked for was granted, with the understanding that I would adopt the necessary precautions to repel any idea that I was protecting any enemy of China, and such as would enable me to preserve the status quo until the matter was fully understood.

On Thursday last I received a communication from the Taotai, requesting that the two Japanese be delivered to his officer, and charging that they were spies. I replied that I would lay the facts before you and obey your instructions.

This he understood and assented to.

Some of the papers found in the possession of the Japanese would naturally, in the state of war now existing, create a suspicion of a character tending to support the alleged charge, but they state that they had been students in Shanghai for several years, wearing Chinese clothes, giving the name of the school, the teacher, the place of their lodging, with other facts that give to their statement a minuteness which more than raises a reasonable doubt in their favor.

One of these young men especially has the appearance of being well raised. His deportment is that of a gentleman, and there is no doubt of his possessing more than ordinary intelligence.

The rule prevailing here is, when a foreigner has no consular representative, he is amenable for trial before the mixed court.

The arrest was made on the foreign concession, and I understand the Japanese have resided on the foreign concession, and were so residing in a lodging house on the same when taken in custody. I need not advance an opinion as to the summary proceedings of a native court, and a common feeling of humanity counsels the securement of a tribunal for their trial, the proceedings of which would be promotive of justice according to our idea, and whose judgment would be likewise accepted as righteous.

I may add that all foreigners here strongly approve of the course thus far taken by me, and this course also has the indorsement of the foreign press.

The case is one of great delicacy, and I have endeavored to use such "tact" as to maintain good feelings all around, assuring the Taotai that nothing should be done prejudicial to the rights of China, and that I would neither condemn nor defend, but remain impartial to the interests of all concerned.

I am, etc.,

T. R. JERNIGAN,
Consul-General.

P. S.—It appears to me that the tribunal before which Japanese, when charged with offenses, are to be tried should be determined without delay.

[Inclosure 2.—Copies of thirteen telegrams exchanged between the legation and the consul-general.]

Mr. Denby to Mr. Jernigan.

AUGUST 19, 1894.

Report case alleged spies. Await instructions.

DENBY.

Mr. Jernigan to Mr. Denby.

AUGUST 19, 1894.

Have written fully relative to alleged Japanese spies. They are secure.

JERNIGAN.

Mr. Denby to Mr. Jernigan.

AUGUST 20, 1894.

Telegraph report case of spies immediately. Yamên impatient.
DENBY.

Mr. Jernigan to Mr. Denby.

AUGUST 20, 1894.

Alleged Japanese spies arrested on French concession by French police, at instance of China. Delivered at this consulate by French consul-general. Disclaimed the right to exercise Japanese consular functions. Accused asked for asylum till case could be investigated. Granted, with understanding that I retain power to preserve status quo. They and papers secure; advise patience; important principle involved. Reasonable doubt China's rights. No danger of prejudice. Assure Yamên of my strict impartiality and my purpose to maintain status quo. Have written fully.

JERNIGAN.

Mr. Jernigan to Mr. Denby.

AUGUST 21, 1894.

Propose alleged spies remain in consular jail till close of war, and all papers given to China. In which court are Japanese to be tried?

JERNIGAN.

Mr. Denby to Mr. Jernigan.

AUGUST 25, 1894.

Dispatch concerning spies not received. Telegraph anything you have to add to previous telegrams.

DENBY.

Mr. Jernigan to Mr. Denby.

AUGUST 25, 1894.

Dispatch must reach you soon. Conservatism greatly beneficial to China. Am sending Japanese home. Managers of business houses only to remain. Suspects promptly deported.

JERNIGAN.

Mr. Jernigan to Mr. Denby.

AUGUST 25, 1894.

Arrested on concession, peacefully and openly engaged away from seat of war; not a Japanese soldier on Chinese soil at the time. Mere schoolboys. China can well afford to have us keep them secure.

JERNIGAN.

Mr. Jernigan to Mr. Denby.

AUGUST 27, 1894.

Cable Gresham asylum only granted. Suspected have resided here three years as students. Are boys. Papers in their possession such as intelligent students might prepare for personal information. Suggest American consuls act as arbitrators.

JERNIGAN.

Mr. Denby to Mr. Jernigan.

AUGUST 27, 1894.

Cabled Gresham fully. Your report not yet received.

DENBY.

Mr. Jernigan to Mr. Denby.

SEPTEMBER 1, 1894.

Instructions received. Hope position here fully understood.

JERNIGAN.

Mr. Denby to Mr. Jernigan.

SEPTEMBER 1, 1894.

Department instructs me that you had no power to receive, and are not authorized to hold, the alleged spies. Deliver to Taotai.

DENBY.

Mr. Jernigan to Mr. Denby.

SEPTEMBER 3, 1894.

Alleged spies delivered to-day, as instructed. Translation mailed not important now. You seem not to understand position here.

JERNIGAN.

[Inclosure 3.]

Mr. Jernigan to Mr. Denby.

SEPTEMBER 1, 1894.

SIR: I have the honor to verify the following telegram sent you in cipher on the 1st:

DENBY, *Peking*:

Seven Japanese students suspected; effects searched in my presence. Taotai's secretary present. Nothing suspicious found. Gone to Japan. Alleged spies same class of students residing here several years. Their papers only such as intelligent students would have. Believe them innocent. Try to arrange for their deportation.

JERNIGAN.

For two or three years there have been a number of Japanese youths attending school at Shanghai, and, to avoid the curious, it has been their custom to dress in Chinese clothes.

When war was declared this custom was not changed, and this is the ground of suspicion against these young men. Learning that I had advised them to return to Japan to avoid trouble, the Taotai sent his secretary to me with the request that their baggage be examined. No charge had been preferred, but, having in view the interest of the young men alleged to be spies, members of the same school, and believing that a failure to find anything suspicious would greatly tend to their acquittal, I took the chances and assented.

The examination could not hurt the young men owning the baggage, for they had gone to Japan, leaving a friend to superintend the shipping of their baggage. This friend was present at the examination with my marshal.

The result of the examination was a complete vindication of the students from all suspicion, and some of their papers were similar to the papers found with the effects of the alleged spies, and were nothing more than notes taken on geographical subjects.

I do not think the two now suspected are spies. Even if a reasonable suspicion attached, it would be cruel to behead mere boys for indiscretions which may have been committed in furtherance of their educational plans.

I am interested in their case, because I feel that to deliver them to a native court may be to deliver them to death, and this would lead to retaliation.

The barbarous proclamation of the governor of Formosa shocks civilization throughout the world, and it yet remains for China to disavow the prize money rescript for heads and ships issued here by a subordinate officer of her arsenal. When the barbarities and cruelties of the dark ages are sought to be utilized in modern warfare, it becomes the humane and patriotic of all climes and races to effectually protest.

I am, etc.,

THOMAS R. JERNIGAN,
Consul-General.

Mr. Gresham to Mr. Denby, chargé.

DEPARTMENT OF STATE,
Washington, September 18, 1894.

SIR: Referring to my instructions of the 29th ultimo, in relation to the exercise by our diplomatic and consular representatives in China of good offices in behalf of Japanese subjects in that country, I inclose herewith for your information a copy of an imperial ordinance promulgated at Tokyo on the 4th of August last, touching the status of Chinese subjects in Japan.

By the treaty between China and Japan, signed at Tientsin September 13, 1871, it is provided in article 13, which relates to the trial and punishment of offenses committed in the jurisdiction of one of the contracting parties by subjects of the other, that "when arrested and brought up for trial, the offender, if at a port, shall be tried by the local authority and the consul together. In the interior he shall be tried and dealt with by the local authority, who will officially communicate the facts of the case to the consul."

The treaties between China and Japan being abrogated by the state of war now existing between the two countries, the consuls of the one country no longer exercise the powers and the qualified jurisdictional intervention with which they were invested by the treaties in the territory of the other in time of peace. The Japanese Government, therefore, in the first article of the imperial ordinance, declares that Chinese subjects in Japan shall be wholly subject to the jurisdiction of the Japanese courts. The abrogation of the treaties is necessarily attended with the same effect upon the status of Japanese subjects in China as upon that of Chinese subjects in Japan; and this Government, as has heretofore been stated, can not invest Japanese subjects in China, or Chinese subjects in Japan, with an extraterritoriality which they do not possess as the subjects of their own sovereign.

The good offices, however, which this Government has granted are to be exercised on all proper occasions and to the full extent allowed by international law.

I am, etc.,

W. Q. GRESHAM.

[Inclosure.—The Japan Daily Mail.—Yokohama, Thursday, August 9, 1894.]

Imperial ordinance.

We publish below an authorized translation of the important imperial ordinance of the 4th instant.

We hereby sanction the present regulations relating to Chinese subjects residing in Japan, and order the same to be promulgated.

(Privy seal.)

(H. I. M.'s Sign Manual.)

The 4th day, the 8th month, the 27th year of *Meiji*.
(Countersigned)

COUNT ITO HIROBUMI,
Minister President of State.

COUNT INOUE KAORU,
Minister of State for Home Affairs.

MUTSU MUNEMITSU,
Minister of State for Foreign Affairs.

YOSHIKAWA AKIMASA,
Minister of State for Justice.

Imperial ordinance, No. 137.

ART. 1. Chinese subjects are authorized, subject to the provisions of this ordinance, to continue to reside in those places in Japan where they have hitherto been permitted to reside and there to engage in all peaceful and lawful occupations with due protection of life and property, and subject to the jurisdiction of Japanese courts.

ART. 2. Chinese subjects residing in Japan in accordance with the preceding article shall, within twenty days after the promulgation of this ordinance, apply to the governor of the prefecture where they reside to register their residences, occupations, and names.

ART. 3. Certificates of registration will be issued by the governors of prefectures to Chinese subjects who register themselves in pursuance of the preceding article.

ART. 4. Chinese subjects who register themselves according to article 2 shall be entitled to change their places of residence, provided they obtain from the governor of the prefecture where they are registered visés upon the certificates of registration and apply to the governor of the prefecture of their new residence within three days after arrival to be reregistered as prescribed by article 2.

ART. 5. The governors of prefectures may expel from the territories of Japan Chinese subjects who fail to register themselves as required by this ordinance.

ART. 6. Chinese subjects who injure the interests of Japan, commit offenses, or disturb order, or are suspected of any of the above acts, shall, in addition to the penalties denounced for such acts, be liable to expulsion by the governors of prefectures from the territories of Japan.

ART. 7. The present ordinance applies to Chinese subjects employed by the Japanese Government or subjects.

ART. 8. The present ordinance does not affect the orders and measures of the imperial military authorities which may be issued against Chinese subjects residing in Japan in connection with warlike matters.

ART. 9. Permissions to Chinese subjects to enter the territories of Japan after the promulgation of this ordinance shall be limited to those specially granted by the minister of home affairs through governors of prefectures.

ART. 10. The present ordinance shall be enforced from the date of promulgation.

Mr. Jernigan to Mr. Uhl.

[Extract.]

U. S. CONSULATE-GENERAL,
Shanghai, October 9, 1894. (Received November 13.)

SIR: * * * The two alleged Japanese spies are alive, and have all they need to eat and drink. Many of the reports in the home papers about them are so false as to be past finding out.

I am, etc.,

T. R. JERNIGAN.

Mr. Gresham to Mr. Denby, chargé.

DEPARTMENT OF STATE,
Washington, October 20, 1894.

SIR: I should have informed you earlier that before the instruction was sent to you directing that the two alleged Japanese spies at Shanghai be turned over to the Chinese authorities the Chinese minister at this capital gave me his positive assurance that they should be detained by his Government and not punished or otherwise dealt with until the arrival of Minister Denby at Peking. The minister has twice called at the Department and assured me that the reports in the American papers to the effect that the two alleged spies had been beheaded by the Chinese Government were untrue.

I am, sir, etc.,

W. Q. GRESHAM.

Mr. Denby, chargé, to Mr. Gresham.

LEGATION OF THE UNITED STATES,
Peking, October 22, 1894. (Received December 3.)

SIR: I regret to have to report that the two Japanese who were arrested in the French concession at Shanghai during the month of August, and subsequently delivered by the consul-general of the United States to the Chinese authorities, were decapitated at Nanking on the 8th instant. It is not known what proof of guilt was brought against them, nor what was the result of the repeated examinations to which they were subjected. The Yamên declined to accede to my informal request for information on the subject.

I have, etc.,

CHARLES DENBY, JR.

Mr. Gresham to Mr. Denby, chargé.

DEPARTMENT OF STATE,
Washington, October 23, 1894.

SIR: I have received your dispatches of August 8, 14, 27, and of the 4th ultimo, all relating to the presence of alleged Japanese spies in China and the proposed treatment of them by the Chinese Government.

While your request to the Tsung-li-Yamên that Japanese suspects should not be subjected to harsh treatment is approved, the Department is unable to concur in your recommendation that Japanese convicted of having acted as spies in China should simply be deported. It would seem to be expecting too much that China should so limit the punishment for an offense of this character.

I am, etc.,

W. Q. GRESHAM.

Mr. Gresham to Mr. Denby, chargé.

DEPARTMENT OF STATE,
Washington, October 30, 1894.

SIR: I have to acknowledge the receipt of dispatch of the 1st of September, from our chargé at Peking, in relation to the delivery of

the two alleged Japanese spies at Shanghai into the custody of the Chinese authorities.

As it is probable that you have already received the formal instructions of the Department in regard to the exercise of good offices in behalf of Japanese subjects in China, pending the war between that country and Japan, it is not necessary, in replying to the present dispatch, to amplify the views previously expressed on that subject.

In dealing with the case of the alleged spies at Shanghai, it has not been the purpose of the Department to prejudge any question that might arise in any other war than that now existing between China and Japan. The stipulations in the treaties between those countries on the subject of jurisdiction are reciprocal. As you will learn by the instructions of the Department heretofore sent to your legation, the Japanese Government, on the 4th of August, two days after the publication in the official gazette of its declaration of war against China, issued an imperial ordinance in which it was declared as one of the first results of the state of war that Chinese subjects in Japan should be wholly subject to the jurisdiction of the Japanese courts.

After the alleged spies at Shanghai were delivered over to the Chinese authorities, a report was published in the newspapers to the effect that they had been immediately beheaded. Referring to this report, the secretary of legation and chargé d'affaires ad interim of Japan in this city made, on the 5th of September, a statement which was published by the press on the following day, in which it was declared that the delivery of the two suspected Japanese into the hands of the Chinese authorities was entirely in conformity with the Japanese interpretation of the authority and power of neutral consuls. A copy of this statement is herewith inclosed. On the 10th of September a further statement from the same quarter, on the same subject, was published; a copy of this statement is also inclosed.

While holding that under the particular circumstances the alleged spies were not subject to the jurisdiction of the consul-general of the United States, and could not be given asylum by him, I took proper measures to prevent any summary action by the Chinese authorities, and, as the Department is at present advised, no such action was taken. When I informed the Chinese minister of the views of the Department touching the authority of the consul-general, I requested that the prisoners should not be tried until the return of the minister of the United States to his post. This specific time was suggested, as it afforded ample opportunity for investigation and deliberation. The Chinese minister agreed to my suggestion, and at once telegraphed to his Government in regard to our understanding.

I have no reason to suppose that this understanding has not been kept. On the 9th of October, more than a month after the first report of the execution of the alleged spies, the consul-general at Shanghai telegraphed to the Department that they were alive and had been well treated. I had already been assured by the Chinese minister of this fact, and he has also given me an assurance within the last few days of the groundlessness of the more recent report of their execution. The Department observes the statement made by our chargé that it never was his intention ultimately to refuse to give up the alleged spies, and appreciates the solicitude he felt to secure every possible guarantee of just and humane treatment for them; and it is gratifying to believe that the Chinese authorities have exhibited due appreciation of the circumstances.

This Government would be glad to see an arrangement made between

China and other interested powers which should define the jurisdictional rights of the foreign settlement at Shanghai, with respect to crimes charged to have been committed therein in time of war, as well as in time of peace. Whether China would be willing to yield her jurisdiction in respect to subjects of a belligerent charged with offenses against the laws of war, may be doubtful. It is not supposed that any of the French subjects to whom the dispatch of our legation refers as having been brought before the Russian consul at Shanghai for hearing, during the Tonquin war, were charged with offenses of that character. However this may be, the consuls of the United States in China, as has been pointed out in prior instructions of the Department, have never been invested with power to exercise jurisdiction over the citizens or subjects of another nation.

The Department had repeatedly so held, even in respect to citizens of Switzerland, who have for many years been under the protection of our ministers and consuls. It may also be noticed that Hall, in his recent work on Extraterritoriality in the East adverts to the fact that, while what is known as the doctrine of assimilation has prevailed in Turkey and certain other countries, the British orders in council touching consular jurisdiction in China do not purport to authorize the exercise of such jurisdiction by British consuls except in the case of British subjects.

I am, etc.,

W. Q. GRESHAM.

[Inclosure 1. United Press Dispatch.]

Statement of Japanese legation, September 5, 1894.

WASHINGTON, September 5.

Mr. Tsunejiro Miyaoka, Japanese secretary of legation, said this morning in relation to the reported action of United States Consul-General Jernigan at Shanghai, in delivering the two suspected Japanese into the hands of the Chinese authorities, that it was entirely in conformity with the Japanese interpretation of the authority and power of neutral consuls in a belligerent country, and that should Japan suspect any Chinese subject, resident in Japan, of being openly hostile to the Japanese Government, or believe that justice warranted their arrest, Japan would not recognize the jurisdiction of any neutral consul over the suspect.

The neutral consuls, while expected to exert their friendly offices to prevent as far as possible any injustice or undue severity being done the natives of one country while in the land of the other, had no actual jurisdiction whatever. Neither our consul's action nor the summary punishment meted out to the unfortunate Japanese by Chinese authorities, it was said, occasioned any surprise at the Japanese legation.

[Inclosure 2.]

Statement of Japanese secretary of legation and chargé d'affaires ad interim, New York Herald, September 10, 1894.

Speaking of the status of the Japanese and Chinese in their respective countries he said:

"One of the results of war between the Chinese and the Japanese was the abrogation of all treaties between the two Governments. One of these was in relation to the jurisdiction held by consular courts over the subjects of the two Governments in their respective jurisdictions.

"CONSULAR COURT JURISDICTION ABROGATED.

"Knowing what would be the result of a formal declaration of war, the Japanese Government, before making it, informed its consular officers in China of its intended action. The formal declaration of war, which it made in the imperial rescript of

August 1, was published in the official gazette of the Japanese Government on August 2. On August 4 an imperial ordinance was issued relating to the status of Chinese subjects residing within the territory of Japan. The ordinance prescribes regulations for the protection of the Chinese in my country, and consists of ten articles. The first article provides that Chinese subjects shall enjoy the protection of their persons and property, and shall continue to reside in those localities to which, under treaty stipulations, they have been permitted to come. The article also sets forth that they shall be permitted to continue their avocations which they were pursuing before the declaration of war, but shall be subject to the jurisdiction of the Japanese courts

"From this article you can see that Japan claims, in spite of the treaty stipulations, the right to exercise jurisdiction over all Chinese residing in her territory, and allows them to remain only under condition that they shall be amenable to our courts, giving them in return the entire protection of the law and administrative authority.

"So far as the United States is concerned, this much of its attitude toward the two countries is clear. The protection which the U. S. consular and diplomatic officers shall extend to Chinese in Japan and Japanese in China can not include consular jurisdiction."

Mr. Denby, minister, to Mr. Gresham.

[Extract.]

LEGATION OF THE UNITED STATES,
Peking, October 30, 1894. (Received December 10.)

SIR: When I arrived at Yokohama I intended to leave on the first ship that was bound for Shanghai. I was induced to delay my departure three days in order to see Viscount Mutsu, secretary for foreign affairs, who proposed to come up from Hiroshima to see me. My interview with the secretary was not important.

It soon appeared that he emphatically repudiated the idea that American consuls could exercise jurisdiction over Chinese in Japan. The whole question, therefore, both in China and Japan, remains exactly as ordered by you.

* * * * *

I have, etc.,

CHARLES DENBY.

Mr. Jernigan to Mr. Uhl.

U. S. CONSULATE-GENERAL,
Shanghai, November 2, 1894. (Received December 3.)

SIR: I have had the honor to receive your instructions of September the 15th, in regard to the delegation of consular functions to Chinese subjects, with instructions that the Department respected the objection by the Chinese Government to such delegation, and that the consuls under my jurisdiction be so notified.

I have obeyed the instructions. No instance, however, of such delegation has been brought to my attention, or I would have promptly disapproved it.

I beg to state, in this connection, that the two alleged Japanese spies were not executed as soon as handed over, but that their cases were under investigation for nearly six weeks, and I am now assured that there was no unfairness practiced against them during the investigation.

I regret very much the incident, but the pressure of circumstances made it unavoidable, and the delay saved about thirty young Japa-

nese from arrest and probable decapitation. They were of the school of their unfortunate comrades, whose imprudent and thoughtless acts brought them, I fear under the just suspicion of the Chinese authorities.

I am, etc.,

R. JERNIGAN.

Mr. Denby, minister, to Mr. Gresham.

LEGATION OF THE UNITED STATES,
Peking, November 5, 1894. (Received December 20.)

SIR: I have the honor to acknowledge the receipt of yours of September 18, touching the status of Japanese subjects in China.

The correctness of the position taken by you was patent to me after my interview with the secretary for foreign affairs at Tokyo. This opinion has been confirmed by the perusal of the Japanese ordinance of August 4 last, and particularly by articles 6 and 8 thereof.

I have, etc.,

CHARLES DENBY.

Mr. Jernigan to Mr. Uhl.

[Telegram.]

SHANGHAI, *November 24, 1894.*

Two Japanese, four weeks' trial. Informed not tortured.

Mr. Jernigan to Mr. Uhl.

U. S. CONSULATE-GENERAL,
Shanghai, November 26, 1894. (Received December 28.)

SIR: On the afternoon of the 24th instant I had the honor to send you the cablegram which I now verify, as follows:

Two Japanese, four weeks' trial. Informed not tortured.

* * * * *

The cablegram was suggested by the variegated reports in the home papers about the subject.

Although the Chinese authorities have to date refused my request for information of proceedings against the two alleged Japanese spies, I believe that the trial was fully of the duration indicated, and was in conformity to the rules obtaining in Chinese courts. A letter from an intelligent foreigner residing at Nanking, where the two Japanese were executed, discredits the reports of their torture. Other letters from the same gentleman have proved so accurate that I am disposed to accept the reported torture as without substantial proof.

* * * * *

I am, sir, etc.,

T. R. JERNIGAN,
Consul-General.

Mr. Gresham to Mr. Yang Yü.

DEPARTMENT OF STATE,
Washington, November 30, 1894.

SIR: On the 18th of August last you complained to me that the U. S. consul at Shanghai was protecting two Japanese spies, who had been arrested in the French concession in that city, and whose surrender was demanded by the Chinese authorities in order that they might be dealt with in due course. After proper inquiry into the circumstances of the case, the demand of the Chinese authorities was recognized as lawful and the men were given up.

Of this decision the Japanese Government has made no complaint. On the contrary, that Government, as is well known, after its declaration of war, proclaimed that the treaties with China were no longer in force, and that the Chinese in Japan would thereafter be wholly subject to the local tribunals; and I am assured by the Japanese minister at this capital that, in the opinion of his Government, our consul at Shanghai could not, under the circumstances, have held the men against the demand of the authorities.

Nevertheless, when I informed you of the Department's decision, I requested that the men might not be tried till the return of the minister of the United States to Peking.

While it was not assumed that this Government had a right to exact a condition of this kind, the request was made with a view to prevent any precipitate or aggravated action, and you were so good as to comply with it at once. You subsequently informed me that your Government had acceded to it.

On the 13th day of November I received a dispatch from Mr. Dun, our minister at Tokyo, saying that the men had been beheaded. This information you subsequently confirmed in an interview at this Department, held at my request. You then stated not only that the men when arrested had in their possession maps describing military works in China—a fact which had previously been communicated to the Department—but also that it was found that they had sent military information to their Government by telegraph, and that the evidence that they were spies was so clear and strong that the death penalty was inflicted.

Without assuming to question the lawfulness of this sentence under the laws of war, as recognized in the United States as well as in other countries, I regret to say that there is reason to believe that the men were executed before the return of Colonel Denby to Peking, and, therefore, in derogation of the voluntary promise which you assured me your Government had made. If this belief should prove to be well founded, it is needless to point out to you the unfavorable effect which the action of the Chinese authorities can not fail to produce on public opinion, not only in this country but elsewhere.

Accept, sir, etc.,

W. Q. GRESHAM.

Mr. Yang Yü to Mr. Gresham.

CHINESE LEGATION,
Washington, December 6, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 30th ultimo, in which you refer to the interviews had between us respect-

ing two Japanese spies arrested in Shanghai a few months ago, and you particularly direct my attention to the fact that you requested me to ask that the two Japanese should not be tried till the return of United States Minister Denby to Peking, and that you understood me subsequently to have informed you that my Government had acceded to your request.

Your conduct, Mr. Secretary, in this whole transaction has been so just and impartial that I would deeply deplore any embarrassment which might even in an indirect way attach to you on account of it, and certainly nothing that I shall do or say shall in the slightest degree reflect upon you.

When I received from you the request above alluded to, I communicated it at once by cable to my Government at Peking, and expressed strongly my wish that action in the case of the Japanese prisoners should be delayed. Subsequently, when certain press dispatches reported the decapitation of said prisoners, I endeavored to obtain information by cabling directly to the taotai at Shanghai, into whose custody the U. S. consul-general had, by your direction, delivered them. In response, I received from the taotai a cablegram informing me that the prisoners had been forwarded to Nankin with his recommendation that they be punished by sentence of imprisonment, and that the report was without foundation. Upon receipt of this cablegram I had another interview with you, and, in explaining the purport of the telegram, I stated that you might rest assured the prisoners would not suffer harm before the arrival of Colonel Denby; but you must have misunderstood me if you received the impression that my Government had made any promise that the spies should not be tried before the arrival at Peking of Colonel Denby.

I gave you the assurance I did upon the information cabled me by the taotai at Shanghai and upon the belief on my part that his recommendation would be carried out. But when the prisoners were taken to Nankin, it was established by proof that they had furnished information to their Government by means of ciphers, in which seventy-six telegraphic messages in all were sent by them, giving reports of the movement of troops and of military matters in China of the gravest importance; all this in addition to the maps which had been found upon their persons in Shanghai. Further, when they were brought to trial they confessed these facts and boasted that they were serving their country as patriots. In the light of these undoubted proofs of guilt, the lenient recommendation of the taotai of Shanghai was set aside, and, in conformity with the laws of war, they were executed.

In our interviews you seemed to be impressed by the reports sent you from Shanghai that the prisoners were harmless students, and your desire appeared to be that in the excitement of war the forms of law and a fair trial should not be disregarded, and, in the belief that Colonel Denby's presence and the high estimate in which he was held in my country would secure these guarantees, you asked for delay till his arrival at Peking. In view, however, of the unmistakable proofs of guilt and the boasts of the prisoners in the trial, I feel sure you will not regard the course pursued by my Government as unwarranted, much less wanting in deference for you or the Government which you so worthily represent.

Accept, etc.,

YANG YÜ.

Mr. Gresham to Mr. Yang Yü.

DEPARTMENT OF STATE,
Washington, December 27, 1894.

SIR: I had the honor to receive your note of the 6th instant in relation to the interview between us in regard to the trial and execution of the two Japanese spies who were arrested at Shanghai.

If I have deferred my reply longer than I at first intended, it has been because of a disinclination to pursue a discussion on the personal lines which your note suggests.

In my note of the 30th ultimo I stated that there was "reason to believe that the men were executed before the return of Colonel Denby to Peking, and therefore in derogation of the voluntary promise which you assured me your Government had made." I fail to find in that statement, or in anything that I have said or written on the subject, any suggestion that "embarrassment might attach to anyone in consequence of the action of your Government." In the introduction, therefore, of such a suggestion into the correspondence, I can not hold myself responsible, and I am compelled to state the facts as I understand them, without regard to it.

As to the request I made, that the men might not be tried till the return of the minister of the United States to Peking, our understandings do not differ. You state that when the request was received you at once communicated it by cable to your Government, and strongly expressed the wish that it might be complied with. You also state that, after the early press reports that the men had been decapitated, you told me I might rest assured that the prisoners "would not suffer harm before the arrival of Colonel Denby." In this regard our understandings are not at variance. But we differ in regard to my statement that you informed me your Government had made such a promise.

In this particular I owe it to candor to say that my understanding is at variance with that expressed in your note of the 6th instant. Nor am I alone in this respect. At two of our interviews Mr. Rockhill, the Third Assistant Secretary of State, was, as you are aware, present, and his understanding clearly accords with mine as to what occurred. It is not my intention to intimate that your language was calculated to create an impression for which there was no actual foundation; but as your expressions were communicated to me, I am not at liberty to admit that they did not convey the meaning which I ascribed to them.

I should have been glad to refrain from any discussion of differences as to what occurred at our interview; but I can not permit to remain unanswered in the files of the Department a communication which might be thought to imply that I could have any motive other than those of delicacy and propriety for shrinking from such a discussion.

Accept, sir, etc.,

W. Q. GRESHAM.

Mr. Yang Yü to Mr. Gresham.

CHINESE LEGATION,
Washington, December 31, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 27th instant, in which you state your understanding of the interviews which took place between us respecting the Japanese spies arrested at Shanghai.

I must express to you my sincere regret if in my note of the 6th instant I used any expression which might be construed as an improper intimation. If my language expressed any such idea, it was a regrettable inadvertence on my part, as it was furthest from my intention so to do. I have no doubt you have correctly stated your understanding of the interviews as conveyed through the interpreters, and I have no disposition to raise any controversy on the subject. Your whole conduct in this matter has given evidence of such a high spirit of rectitude and friendship for my Government that it would be ingratitude on my part to raise any issue of fact with you.

With this opportunity I desire to recognize the frankness and cordiality which has at all times marked your intercourse with me, and to assure you that it will always be my earnest desire to merit your confidence and esteem.

Accept, etc.,

YANG YÜ.

PROTECTION OF FOREIGNERS.

Mr. Denby to Mr. Gresham.

No. 1915.]

LEGATION OF THE UNITED STATES,
Peking, August 6, 1894.

SIR: On the 3d instant I received from the Tsung-li-Yamèn a dispatch stating that China is at peace with all the world except Japan; that she undertakes the protection of missionaries and merchants within her borders, and asking me to inform the merchants and missionaries of American nationality that they are at liberty to pursue their usual avocations without anxiety because of the hostilities being carried on against Japan.

In a circular dated the 4th instant I requested the consuls to bring this announcement to the notice of the citizens of the United States within their jurisdictions.

In making acknowledgment to the Yamèn of the receipt of this dispatch I considered it my duty to state to them that the obligation upon the Chinese authorities to protect peaceable Japanese, within their territory, was as great as that to protect other foreigners. Any reference to this obligation is pointedly omitted in the dispatch referred to. There were in China before the war 1,017 Japanese residents, while the Chinese in Japan numbered 5,540. Interest as well as duty dictates to China the protection of these Japanese. It is certain that outrages against them will lead to retaliation.

There are two places at which attacks upon Japanese were chiefly to be feared, viz, Tientsin and Chefoo. So strong was the feeling against them at the former place that the Japanese chargé d'affaires, who left there on the 4th instant, ordered them to leave with him. Not one now remains. I telegraphed yesterday to Chefoo advising all Japanese to leave that port also. Chefoo is a port on the direct line of communication between Korea and Tientsin. In case the Chinese experience a defeat at sea, fugitives will put into this harbor and it would be difficult to secure the safety of the Japanese against them.

The proclamation which I ask the Yamèn to issue will be useful at Shanghai and other places, from which it is not practicable to advise the Japanese to depart.

I have, etc.,

CHAS. DENBY, JR.,
Chargé d'Affaires ad interim.

[Inclosure 1 in No. 1915.]

The Foreign Office to Mr. Charles Denby, Jr.

No. 24.]

PEKING, August 3, 1894.

With reference to the circumstances attending the commencement of hostilities on the part of Japan, the Yamèn, acting under the rule laid down in international law to give due information thereof to friendly powers, had already addressed a communication to the chargé d'affaires of the United States upon the subject, which is a matter of record.

With the exception of Japan alone, who is at war with her, China and all the other treaty powers are on terms of friendly intercourse as usual.

With regard to merchants and missionaries of all foreign countries resident in China they will all be protected as provided by treaty, and to this end the Yamèn has telegraphed to the minister superintendent of northern trade to wire all the Tartar generals, governors-general, and governors of the various provinces to take precautionary measures and issue warning instructions that the common people must be ordered not, by mistake, to create any trouble or disturbance.

The prince and ministers beg that the chargé d'affaires of the United States will instruct the U. S. consuls at the treaty ports to inform American merchants and missionaries that they are to continue to carry on their vocations as usual, and that on account of the hostilities with Japan they need not be in fear and doubt.

A necessary communication addressed to Charles Denby, jr., esq., etc.

[Inclosure 2 in No. 1915.]

CIRCULAR.

LEGATION OF THE UNITED STATES,

Peking, August 4, 1894.

THOS. R. JERNIGAN, ESQ.,

United States Consul-General, Shanghai:

SIR: I have the honor to inform you that this legation is in receipt of a dispatch from the Tsung-li-Yamèn, dated the 3d instant, stating that the merchants and missionaries of foreign countries, wherever residing in China, will be protected, and that the high provincial authorities have been ordered to issue proclamations warning the people in no manner to disturb them.

The Yamèn asks this legation to inform the American merchants and missionaries that they are at liberty to pursue their avocations as usual, and requests them to be under no fear or anxiety because of the hostilities now being carried on against Japan.

You are requested to bring this announcement to the notice of the citizens of the United States within your jurisdiction.

I am, sir, your obedient servant,

CHAS. DENBY, JR.,
Chargé d'Affaires ad interim.

(Mutatis mutandis to all U. S. consuls in China.)

[Inclosure 3 in No. 1915.]

Mr. Denby to the Tsung-li-Yamén.

No. 27.]

AUGUST 6, 1894.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to acknowledge the receipt of your dispatch of the 3d instant, stating that China is at peace with all treaty powers except Japan, and asking me to inform the American merchants and missionaries in this country that they may continue to pursue their vocations as usual, without anxiety because of the hostilities now existing with Japan.

While thanking you for your praiseworthy efforts to secure the protection of the citizens of those countries with which you are at peace, I have the honor to point out to you that it is in a greater degree your duty, in accordance with the precepts of international law and the dictates of humanity, to make every effort to guarantee from molestation or injury peaceable subjects of Japan within your territory. This is all the more important because there are more than five times as many Chinese in Japan as there are Japanese in China. Your highness and your excellencies will readily see that just treatment and protection of the subjects of Japan in this country will be the surest guarantee of the just treatment and protection of your subjects in Japan.

There are two courses which your highness and your excellencies may pursue. You may announce that the Japanese will not be protected and order their departure from the treaty ports, or you may announce that they are at liberty to stay, and that you undertake to guarantee their safety.

I strongly recommend you to adopt this latter course, and I request that proclamations be immediately posted in all localities where Japanese reside, informing the people that they remain in China with your consent, and enjoining that they be in no way interfered with.

I request your highness and your excellencies to give me an early reply to this dispatch, and I await, etc.,

CHARLES DENBY.

Mr. Gresham to Mr. Denby, chargé.

No. 950.]

DEPARTMENT OF STATE,
Washington, September 28, 1894.

SIR: I have to acknowledge receipt of your 1915 of the 6th ultimo, with which you inclose a copy of a note of the Tsung-li-Yamén of the 3d of August last, and of your reply thereto of the 6th of that month, together with a copy of a circular issued by you on the 4th of August, in which, in accordance with the request made in the note of the Yamén, you inform our consuls of the purpose of the Chinese Government to protect foreign merchants and missionaries, wherever residing in China, during the war between that country and Japan.

In your reply to the Yamén you advert to the fact that their note makes no reference to Japanese subjects peaceably residing in China, and recommend that a proclamation be issued with a view to assure them protection. This recommendation appears to have been opportune, and its adoption by the Chinese Government would be responsive to the action of the Government of Japan in respect to Chinese subjects peaceably residing in that country. The Department, however,

assumes that when, in your reply to the Yamèn, you say that it is in a greater degree their "duty" to make every effort to assure protection in the case of peaceable Japanese than of other foreigners, you refer to the occasion now existing for such efforts, rather than to the extent or the obligation of protection, which can not be less in the case of citizens or subjects of a neutral and friendly power than in that of subjects of a belligerent.

I am, etc.,

W. Q. GRESHAM.

Mr. Denby to Mr. Gresham.

No. 1986.]

LEGATION OF THE UNITED STATES,
Peking, September 30, 1894.

SIR: I have the honor to state that there has recently existed in Peking such a feeling of uneasiness among the American missionaries, in view of possible popular disturbances on account of the war, that I felt it my duty to obtain from the Yamèn some assurances of their safety.

On the 19th instant, in a personal interview, I stated to the Yamèn that there prevailed among the people many rumors of an antiforeign character; that hostility to Japanese seemed inclined to become hostility to foreigners in general. I told them that if they considered it advisable, I would recommend all the American residents to leave the city and take refuge at Tien-Tsin or Shanghai, but that if they remain here it must be with an understanding that their protection was accepted by the Yamèn as a responsibility.

The minister promptly replied, accepting the responsibility of the protection of all Americans in the city, and urging them to remain at their posts. They promised to give additional orders to the police in the matter, and to post proclamations at all American mission chapels, of which a list was given them.

It is to be hoped that these measures will guard us against any local disturbances.

I have, etc.,

CHAS. DENBY, Jr.,
Chargé d'Affaires ad interim.

Mr. Denby to Mr. Gresham.

No. 1987.]

LEGATION OF THE UNITED STATES,
Peking, October 3, 1894.

SIR: I have the honor to state that this legation, more than fully occupied in the management of particular matters of business, and having so small a staff, consisting only of Mr. Cheshire and myself, has been unable to enter, in correspondence with the Department, as fully as desirable upon some of the general aspects of the war.

* * * * *

At the outbreak of hostilities the statesmen of China manifested a laudable intention to gain the approval of foreign powers. They have shown themselves willing to accede to any reasonable demands, and have made every effort to inflict as little inconvenience as possible upon the neutrals in their borders and upon neutral shipping. Those defen-

sive measures of which we have had to complain, as the blockade of Ningpo and Shanghai and the proposed examination of men-of-war, were dictated by fear, and were not put forward in any spirit of disregard of neutral rights.

The present crisis has already had a good effect on the status of foreigners in the official and popular estimation. We are often appealed to for information and advice, and our superiority in all practical matters is freely recognized. A significant instance of the changed attitude toward us was shown in a recent imperial decree removing an official from office at Tientsin, in which, amongst other charges against him, he is said by the Emperor "to have made himself ridiculous to foreigners." Such a statement would never have appeared in an official paper a few months ago.

Everything needful has been done for our security here and elsewhere. Two attacks by rowdies have been made recently on American missionaries in this city, but no injury was suffered, and measures have been taken to prevent the recurrence of such events. The recent examinations, in which 17,000 students took part, passed off without any anti-foreign demonstration whatever.

* * * * *

The effect of this war, except in the remote contingency of dissolution of the Empire, must be beneficial to China. The foremost minds already see the necessity for a renovation of her methods and the desirability of entering on the path of Western civilization. Such a step on her part will benefit not only herself, but the whole world.

I have, etc.,

CHAS. DENBY, Jr.,
Chargé d'Affaires ad interim.

Mr. Denby to Mr. Gresham.

No. 1992.]

LEGATION OF THE UNITED STATES,
Peking, October 8, 1894.

SIR: In my dispatch, No. 1986, of the 30th ultimo, I had the honor to inform you of the steps taken to impress upon the Yamèn their responsibility for the protection of foreigners in Peking and the acceptance of this responsibility by them.

I have the honor to state that the proclamations which they promised to issue have now appeared. These proclamations, a translation of which is inclosed, are couched in language most calculated to have a beneficial influence on the populace. They are of enormous size and are stamped with the seal of the commandant of the gendarmerie. One or more copies have been posted on the walls of every missionary establishment, every legation, and every foreign residence in the city.

I inclose herewith a translation of a note from the ministers in which they forward me a copy of the proclamation. In this note they refer to the punishment which has been inflicted on the assailant of two American missionaries in a street disturbance, which it was recently necessary to bring to their attention.

A copy of a note, expressing the gratitude of this legation for the Yamèn's action in these matters, is inclosed.

I have, etc.,

CHAS. DENBY, Jr.,
Chargé d'Affaires ad interim.

[Inclosure 1 in No. 1992.]

Proclamation issued by the Yamén of the general commandant of the gendarmerie for general information.

Whereas since the treaties of commerce between China and foreign countries were entered into peace has long continued to reign, the reigning dynasty has regarded all foreigners with equal kindness, making no discrimination against any.

The Japanese, however, have now abrogated their treaty and commenced hostilities. They are employing their forces on our coasts. This, however, is a matter that does not involve foreigners of other nationalities. It is China's duty to take special care in giving protection to missionaries and their churches in Peking. But there have been loafers who have circulated rumors for the purpose of creating trouble in the vicinity of the Erh Tiao lane, inside the Anting gate, where there is an American missionary establishment. There has been much improper talking, which has put the missionaries in a state of apprehension and fear, and has decidedly affected the friendly relations existing. If such things occur in this locality other localities will not be free from similar rumors, and it is necessary that proclamations be issued strenuously warning the soldiery and people that they must continue to live quietly and peacefully, to attend to their own affairs, and not foolishly listen to wild and unfounded stories, thus taking part in their circulation.

If there be rowdies who outrage all propriety, and have no respect for anyone, and stir up a row and excite people to creating a disturbance at any missionary establishment, the police authorities of the places concerned are hereby ordered to suppress them. Any who dare to act in disobedience of orders issued are at once to be put into fetters and brought to the gendarmerie to be rigorously punished. No leniency whatever will be shown.

Strenuous instructions were issued to the police authorities for the arrest of the rowdies who insulted and attacked the Reverend Mr. Headland and wife outside the Chi Hua Gate. The vagabond who committed the outrage, Wang Tao-erh, has been arrested, and the Yamén will administer to him vigorous punishment for the offense committed.

Let this official notice be given to all, in the hope that a state of peace and mutual good feeling may continue to prevail. The police authorities of all the wards are to take action in earnest and to zealously investigate all cases. If any dare to be idle or remiss in their duty and connive at offenses committed, on ascertaining such to be the case, they will be reported for impeachment.

Let all tremblingly obey and not disregard this special proclamation.

Kuang Hsii 20 year 9 month 6 day. (October 4, 1894.)

[Inclosure 2 in No. 1992.]

The Tsung-li-Yamén to Mr. Denby.

Note.]

OCTOBER 6, 1894.

SIR: Some time since we had the honor to receive your note with reference to the assault made upon the Reverend Mr. Headland and wife outside the Chi Hua Gate, wherein you stated that the Yamén had promised to cause the arrest and punishment of the leader in the affair, and also to put out proclamations, but that, up to the present time, you had not been informed what had been done, and you requested that the gendarmerie be urged to take action in these matters.

The Yamén were about to address the gendarmerie, urging that these matters be dealt with, when the minister received a communication from that office stating that, in regard to the assault made upon the Reverend Mr. Headland and wife by rowdies outside the Chi Hua Gate, and the rumors that had been circulated around the missionary establishment at the Erh Tiao Hu-tung, whereupon the issuance of proclamations has been requested, the police officers, in obedience to instructions, had apprehended one Wang Tao-erh, a rowdy, who had assaulted the missionary, and he has been severely punished and ordered to wear the cangue so that his offenses may be made known to the public. Proclamations also have been cut and issued and sent to the local authorities concerned, with instructions to have them posted at the foreign legations and the missionary residences as a means of repressing evil doers.

The man Wang Tao-erh, above referred to, is an inexperienced, stupid fellow, and the severe punishment, besides being cangued, meted out to him by the gendarmerie should be sufficient warning to other foolish men like himself, and cause the laws to be respected.

The posting of proclamations at the various missionary establishments and other places should be sufficient to cause the people to know that they should observe the

injunctions therein contained, as well as to remove all doubts and misgivings and prevent the circulation of all false rumors.

The action taken we regard as very satisfactory and proper.

We inclose herewith a copy in Chinese of the proclamation, and request you to transmit it for the perusal and information of the foreign representatives at Peking. Cards of ministers inclosed.

[Inclosure 3 in No. 1992.]

Mr. Denby to the Tsung-li-Yamen.

OCTOBER 8, 1894.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to acknowledge the receipt of your note of the 6th instant inclosing a copy of a proclamation posted by the general commandant of the gendarmerie at the various American missionary establishments and at other places in this city.

This legation is deeply grateful for the efforts of your highness and your excellencies to prevent any trouble befalling the citizens of the United States who are under your protection, and for the punishment of the rowdies who recently made an attack upon them.

A translation of your note and of the proclamation inclosed has been sent to the honorable Secretary of State for his information.

I have, etc.,

CHAS. DENBY, Jr.,
Chargé d'Affaires ad interim.

Mr. Denby to Mr. Gresham.

No. 2000.]

LEGATION OF THE UNITED STATES,
Peking, October 14, 1894.

SIR: I have the honor to inclose herewith a translation of a decree which appeared in the Gazette of the 12th instant, forcibly enjoining the protection of the missionaries in this city.

The Chinese Government is making commendable efforts to guarantee foreigners from molestation or injury. In addition to the proclamations recently posted and this decree, other measures have been taken, such as the placing of small companies of soldiers in the vicinity of foreign residences. We are also said to be under the friendly surveillance of secret police.

The city at present seems more than usually tranquil.

I have, etc.,

CHAS. DENBY, Jr.,
Chargé d'Affaires ad interim.

[Inclosure in No. 2000.]

Decree issued by His Majesty, the Emperor, published in the Manuscript Gazette, October 12, 1894.

The foreign missionary establishments situated in Peking have long enjoyed peace and quiet and it is right, should necessity arise, that every protection should be extended to them.

The Japanese have engaged in war with China, but this does not in the least involve foreigners of western countries. During the present year there has been a large influx of peons from the various provinces into Peking. It is to be feared that there may be among them some ignorant fellows who may recklessly excite the people. There is a still worse class of cruel and unscrupulous rowdies who will avail of rumors to create disturbances.

It is therefore urgently necessary that measures should be taken to guard against such acts. To this end let the office of the gendarmerie and the police censors of the five cities issue instructions to their subordinate officers that they must earnestly act to suppress disturbances and give special care to the protection of the missionaries. Any one who violates the law and creates trouble must be immediately arrested and severely punished. Not the least leniency is to be shown.

Mr. Denby to Mr. Gresham.

No. 2002.]

LEGATION OF THE UNITED STATES,

Peking, October 15, 1894.

SIR: I have the honor to confirm my telegram of this date, as follows:

OCTOBER 15.

Reports of danger of residence Peking exaggerated. Only one attack on Americans; insignificant; promptly punished. Excellent proclamations enjoining the protection of foreigners issued at my request.

There have been repeated back to Peking recently several telegrams, sent to London and elsewhere, reporting the danger of residence in this city. The alarm expressed in them is not shared by well-informed residents. It is my impression that these telegrams originated at other points and did not proceed from Peking. Whatever their object, whether to justify foreign interference or to serve other purposes, they will cause groundless anxiety in Europe and America, which it is to be hoped the above telegram may help to allay.

The fact of the matter is that, while the excitement caused by the threatened Japanese invasion justified the precautions reported in my dispatch No. 1988, of the 3d instant, that excitement has now subsided, and there is no reason at present to regard ourselves as unsafe.

I have, etc.,

CHAS. DENBY, Jr.,
Chargé d'Affaires ad interim.

Mr. Gresham to Mr. Denby.

No. 972.]

DEPARTMENT OF STATE,

Washington, November 8, 1894.

SIR: If it has not already occurred to you to do so, I would suggest that you advise American missionaries and other Americans residing at a distance from the treaty ports that it will be out of the power of our naval officers on the Asiatic station to protect them in case of sudden outbreaks, and that upon the manifestation of symptoms of violence it would be well for them to remove to or near the treaty ports.

I am, etc.,

W. Q. GRESHAM.

IMITATION OF TRADE-MARKS.

Mr. Denby to Mr. Gresham.

No. 1784.]

LEGATION OF THE UNITED STATES,

Peking, January 9, 1894. (Received February 28, 1894.)

SIR: I have the honor to inclose herewith a copy of a communication sent by me to the Tsung-li-Yamèn, asking that a proclamation be issued reprobating the practice of counterfeiting or fraudulently imitating trade-marks on American piece goods, and directing all officials to arrest and punish all persons who are found guilty of this offense.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 1784.]

Mr. Denby to the Tsung-li-Yamén.

JANUARY 9, 1893.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to address you on the subject of the counterfeiting or fraudulent imitation in China of trade-marks on American piece goods.

It is plain that to place on goods manufactured in China a foreign trade-mark is injurious both to the purchaser of such goods and to the manufacturer thereof. The purchaser is deceived into buying an inferior article and one different from what he intended to buy, and the manufacturer loses the sale of his own honest goods.

In western countries it is competent for any manufacturer to adopt and register any trade-mark and appropriate it to his own use, and thereafter it is both a crime and a civil injury to counterfeit or fraudulently imitate such device. It is believed that no such law exists in China, but that such practices are, nevertheless, reprobated by Chinese officials and are inhibited and punished when brought to their attention.

As an example of such action I call your attention to the copy of a proclamation recently issued by the Tientsin customs taotai which is inclosed herewith. I am informed that the practice of counterfeiting trade-marks exists in other places besides Tientsin. My object in addressing your highness and your excellencies on the subject is to request that you will instruct the officials of the various provinces to issue proclamations reprobating this injurious practice and directing them generally to arrest and punish all persons who are found guilty of engaging therein.

I have, etc.,

CHARLES DENBY.

[Inclosure 2 in No. 1784.—Translation.]

Proclamation of the Tientsin customs Taotai.

Acting United States Consul C. D. Tenney has sent a dispatch to the Tientsin customs Taotai, in which he states that Mr. W. R. Eastlack, of the China and Japan Trading Company, of Shanghai, has complained that the business of the said company has been injured by the fraudulent practices of the Tientsin piece-goods dealers in counterfeiting the "Indian Head" trade-mark. On receipt of this information the acting consul sent a man to purchase cloth at various native hong in Tientsin, and thus succeeded in obtaining from "Ch'un Hua Fai," "Heng Fai Ho," "Yung Hsung Ch'eng," and "Yung Shun Ho" sheetings which on comparison with the genuine "Indian Head" sheeting furnished by Mr. Eastlack proved to be, as charged, fraudulent imitations. The acting consul therefore requests the customs Taotai to take action accordingly.

In response to the foregoing dispatch the customs Taotai summoned the managers of the four hong above mentioned and warned them to discontinue the sale of the falsely marked "Indian Head" sheetings, and commanded them to dye all such goods as might be in stock before they offered them for sale, at the same time threatening them with severe punishment if they failed to comply with the order.

The said hong agreed to obey and filed a bond as security.

This proclamation is now issued to warn all the wholesale and retail piece-goods dealers of Tientsin not to change the trade-marks on cotton

piece goods and not to deal in falsely marked goods. In future if anyone is discovered breaking this regulation his goods will be confiscated and in addition the offender will be severely dealt with.

Let everyone concerned take notice.

Mr. Uhl to Mr. Denby.

No. 860.]

DEPARTMENT OF STATE,
Washington, March 1, 1894.

SIR: I have received your No. 1784 of 9th ultimo, and the copy which you inclose of a note to the Yamèn on the "fraudulent imitation in China of trade-marks on American piece goods;" also the transcript therewith of a proclamation on the subject by the Tientsin customs taotai.

It would seem desirable that the measures adopted at Tientsin by the customs Taotai should be generally enforced at the treaty ports as an equitable remedy for the abuse complained of, and your representations to that end are approved.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

TRANSPORTATION OF COOLIES TO BRAZIL.

Mr. Denby to Mr. Gresham

No. 1794.]

LEGATION OF THE UNITED STATES,
Peking, January 24, 1894. (Received March 15, 1894.)

SIR: I have the honor to inclose herewith a translation of a communication received from the Tsung-li-Yamèn, wherein I am requested to instruct the consuls at the various Chinese ports to prohibit vessels of the United States from transporting coolies to Brazil. I inclose, also, a copy of my reply thereto.

Formerly this subject was specifically treated in the Consular Regulations. (*See Consular Regulations, 1881, p. 115, par. 347 et seq.*) These sections were omitted from the Consular Regulations of 1888. On page 109 of these regulations it is stated that the provisions of the acts of Congress, Revised Statutes, sections 2158-2162, relating to the importation of coolies, are practically suspended by the act of July 5, 1884, and for that reason they are not reproduced.

This construction is rather narrow, and should not, in my opinion, find a place in any new edition of the regulations. It is true that sections 2158-2162, Revised Statutes, 1878, are superseded by the act of July 5, 1884, and later acts, so far as transportation of coolies to the United States is affected, but the said sections are not limited in their scope to the question of transportation to the United States alone. Section 2158 is applicable to the transportation of coolies "subjects of China or Japan or any other oriental country, from any port or place to any foreign port or place."

The general subject of transporting coolies was discussed by this legation as early as 1871.

I have the honor, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 1794.]

The Tsung-li-Yamên to Mr. Denby.

JANUARY 21, 1894.

The prince and ministers have the honor to state that they have recently received a communication from the governor-general of the two Kuang provinces to effect that the advertisement for coolies at Macao for foreign countries has for years been distinctly prohibited.

During the month of September last certain persons had posters put up on the streets inviting coolies to embark for Brazil, that the German steamer *Tetartos* had been chartered for the purpose of carrying them thither, and the governor-general requested the Yamên to investigate the matter and have instructions issued prohibiting this traffic.

The Yamên would observe that no rules have been arrived at between Brazil and the Chinese Government in the matter of the exportation of coolies to Brazil, and the Brazilians have no right to privately seek the employment of coolies at Macao. Furthermore, steamers of all nations have no right to be engaged in carrying coolies to Brazil. The Yamên has written to Baron Schenck, the German minister, requesting him to instruct the German consuls at the treaty ports to prohibit the carrying on (by German vessels) of this traffic.

The Yamên has further received a note from the inspector-general of customs stating that he has heard that there are one or two vessels at Macao for the purpose of transporting coolies abroad.

The Yamên now, besides having addressed his excellency the Portuguese minister on the subject, as in duty bound, addresses this communication to the minister of the United States, requesting him to instruct the U. S. consuls at the various ports to look into this matter and prohibit the vessels of the United States from engaging in the transportation of coolies to Brazil, thus consolidating the friendly relations between the two countries, which is a matter of importance.

A necessary communication addressed to His Excellency Charles Denby, U. S. minister.

[Inclosure 2 in No. 1794.]

Mr. Denby to the Tsung-li-Yamên.

JANUARY 23, 1894.

The minister of the United States has the honor to acknowledge the receipt of the communication of the prince and ministers of the 21st instant. The prince and ministers therein request the minister of the United States to instruct the U. S. consuls at the various ports to look into this matter and prohibit the vessels of the United States from engaging in the transportation of coolies to Brazil.

The minister of the United States, in reply, takes pleasure in stating that the laws of the United States prohibit, under heavy penalties, the use of American vessels for the transportation of coolies from China, or any other place, to be held to service or labor in any other country. Such transportation is permissible only when the emigration is voluntary, and the consuls must give certificates stating that fact. The attention of the consuls will be called to this law and they will be directed to enforce it strictly.

The minister of the United States avails, etc.

CHARLES DENBY.

Mr. Uhl to Mr. Denby, chargé.

No. 884.]

DEPARTMENT OF STATE,
Washington, May 21, 1894.

SIR: I have to acknowledge the receipt of the minister's dispatch No. 1794, of January 24, 1894, by which it appears that the Tsung-li-Yamên has requested him to instruct the U. S. consuls at the various ports in China to prohibit United States vessels from transporting coolies to Brazil. Mr. Denby's reply states that the laws of this country prohibit, under heavy penalties, the use of American vessels (except where the emigration is voluntary, and the consul must so certify) for the transportation of coolies from China or any other other place, to be held to service or labor in any other country. Mr. Denby added that the attention of the consuls would be called to the law and they directed to enforce it.

The minister's dispatch has been examined with care. Sections 2158 to 2162 of the Revised Statutes, taken in conjunction with subsequent legislation restricting Chinese immigration to the United States, clearly support the opinion that the subsequent legislation does not affect the operation of the sections named upon the coolie trade, carried on by American citizens or in American vessels between China and other foreign countries.

Mr. Denby's note to the Chinese foreign office of January 23, 1894, is accordingly approved.

A copy of Mr. Denby's dispatch was transmitted to the Secretary of the Treasury, with this Department's opinion substantially as herein set forth, for an expression of its views; but a reply from the Acting Secretary of the 17th instant only forwarded one from the Attorney-General, whose conclusion is as follows:

As it does not appear that any question has arisen in the administration of the Department of the Treasury involving the legal validity or invalidity of the result reached by the Department of State as above set forth, I [Mr. Olney] am not at liberty to give an opinion on the subject.

The misleading note on page 109 of the Consular Regulations of 1888, to which Mr. Denby refers, will be omitted in the future editions of that volume and specific instructions on the subject given to the consuls, as was done in the edition of 1881.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

CITIZENSHIP.

Mr. Denby to Mr. Gresham.

No. 1800.]

LEGATION OF THE UNITED STATES,
Peking, January 30, 1894. (Received March 15, 1894.)

SIR: I have the honor to report a question of citizenship that has arisen in China and has been sent to me by the consul at Canton for advice.

Mrs. Lester Lawrence lately went to Swatow and opened a hotel and barroom. Under British regulations she is subject to a fine of \$250 for opening the hotel and \$50 per day unless she takes out a license. There is no such American regulation. Mrs. Lawrence claims to be a

citizen of the United States, on the ground that she was originally a British subject, that she might have been naturalized and that she married a citizen of the United States, under paragraph 1994, Revised Statutes United States, 1878, which reads as follows:

Any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen.

As construed by the Supreme Court in *Kelley v. Owen* (7 Wall, 496), her marriage made her a citizen. Recently she was divorced by the judgment of the court of the U. S. consulate at Niuchwang from her American husband.

The consul seems inclined to the opinion that Mrs. Lawrence, by the divorce, lost her citizenship. I have advised him that the decree of divorce simply dissolved the marital relation, did not affect citizenship, and, in my opinion, based on the facts stated, Mrs. Lawrence remains a citizen.

All of which is respectfully submitted.

I have, etc.

CHARLES DENBY.

Mr. Uhl to Mr. Denby.

No. 867.]

DEPARTMENT OF STATE,
Washington, March 17, 1894.

SIR: I have received your No. 1800, of January 30, 1894, stating the circumstances under which a question has arisen as to the nationality of Mrs. Lester Lawrence, who has opened a hotel at Swatow.

You state that Mrs. Lawrence was originally a British subject, that she married a citizen of the United States, and has since been divorced.

Mrs. Lawrence, by her marriage, became an American citizen, both by British and American law; she is undoubtedly still an American citizen, viewed either from the American or from the English standpoint. She has not lost her American nationality by any method recognized by our law; and, according to British law, an English woman, who by marriage acquires foreign citizenship, must, in order to reacquire her original nationality upon her husband's death, obtain a certificate therefor from the British authorities. It is not believed that any different rule would be applied where the parties are divorced. As Mrs. Lawrence claims American citizenship, it is assumed that she has not taken any steps to reacquire British nationality. It is not understood, either, that there is any conflicting claim to her allegiance. Your conclusions are, therefore, approved.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

JUDICIAL FUNCTIONS DISCHARGED BY ACTING CONSULS.

Mr. Denby to Mr. Gresham.

No. 1802.]

LEGATION OF THE UNITED STATES,
Peking, January 31, 1894. (Received March 15, 1894.)

SIR: I have the honor to present for your decision the important question, Can an acting consul perform judicial functions in China?

It is matter of common occurrence in all nationalities that a consul

intending to be absent turns over the business of his consulate to a colleague. Mr. Bedloe, being about to leave Amoy, transferred the interests of the United States to Dr. Franz Grunenwald, the acting German consul. The selection of Dr. Grunenwald to take charge of American interests was approved by this legation. While thus acting as consul of the United States, Dr. Grunenwald tried St. J. H. Edwards, an American citizen, for forgery, found him guilty and sentenced him to pay \$100 fine and costs or to go to jail for one month.

The defendant appealed to the court of the minister at Peking. The appeal was dismissed, under section 4106, page 790, Revised Statutes United States, 1878, because no appeal lies in any case in which the assessors have concurred in the judgment.

On the trial the defendant made the point that the acting consul could not exercise judicial functions. I dismissed the appeal because I had no jurisdiction, but I entertained serious doubts as to whether the acting consul was clothed with judicial power. I therefore advised Mr. Ch. Feindel, the present German consul, acting for the United States, to suspend all proceedings in the case until the question shall have been decided by the Department.

The case is in a nutshell. Section 4083, page 787, Revised Statutes United States, second edition, 1878, confers judicial authority on consuls in China. Section 4130, page 793, same book, defines what officials shall be held to be consuls. It provides that "the word consul shall be understood to mean any person invested by the United States with, and exercising the functions of consul-general, vice-consul-general, consul, or vice-consul."

Because the words "vice-consul-general" were formerly omitted from the revision, and because consular agents were not mentioned, the Department, in Mr. Fish to Mr. Seward, No. 10, January 19, 1876, held that neither of these officers could exercise judicial functions. In that dispatch the Department holds that "no person or officer, except those expressly named or fairly included within the terms of the law, can exercise the powers or functions of a judge."

It seems logically to follow that an acting consul can not exercise judicial functions:

(See, as bearing generally on this subject, the opinion of Attorney-General Cushing of September 19, 1855, construing section 23, act August 11, 1848, which is nearly identical with section 4130, above cited. See also, Wharton's Dig. Int. Law, vol. 1, par. 119-125.)

A plain way out of the difficulty suggested would be to appoint a vice-consul in every consulate. It happens, however, at some of the ports, that no proper person can be found to fill that office.

I have, etc.,

CHARLES DENBY.

Mr. Adee to Mr. Denby, chargé.

No. 869.]

DEPARTMENT OF STATE,
Washington, March 22, 1894.

SIR: I am in receipt of a dispatch, No. 1802, of the 31st of January last, from Minister Denby, in which he presents for the decision of the Department the question whether an acting consul can perform judicial functions in China.

There is no such office known to our law as an acting-consul and there is, of course, no authority whatever for the exercise by such person of any consular position as pointed out in your dispatch. Section 4130 of the Revised Statutes expressly limits the exercise of judicial functions conferred upon consuls by section 4083 to "persons invested with, and exercising the functions of consul-general, vice-consul-general, consul, or vice-consul."

As bearing directly upon this matter, - would call your attention to the opinion of the Attorney-General, rendered under date of May 7, 1891, in response to the following query of this Department:

Can a person placed in charge of a consular office by the incumbent of the consulate, but without appointment and qualification as prescribed by the Constitution and laws of the United States, perform (1) the regular official duties of the post and (2) notarial and other unofficial services?

The Attorney-General replied:

I am unable to see how a person can lawfully execute the duties of a public office of the United States who has not been clothed with authority to do so by the appointing power of the United States. Such a person can not possibly have any virtue in him as a public officer.

As to the second question the Attorney-General held that the value of such services depends entirely on the fact that the person rendering them is a consular officer, that the United States would seem to be in duty bound to protect the public, so far as it may be reasonably expected to do so, against the exercise of even merely voluntary consular functions by persons not regularly appointed consuls, and that it therefore clearly concerns the United States that no person shall be permitted to exercise the office of consul of the United States in any way who has not been authorized by Congress to do so.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Denby, chargé, to Mr. Gresham.

No. 1844.]

LEGATION OF THE UNITED STATES,
Peking, April 28, 1894. (Received June 1, 1894.)

SIR: I have the honor to acknowledge the receipt of your dispatch No. 869, of the 22d ultimo, with reference to the performance of judicial functions by acting consuls.

I have the honor to state that a copy of your dispatch has been sent to the U. S. consul at Amoy for his instruction. He has been advised that the proceedings in the United States *v. Edwards*, heard at Amoy before Dr. Grunenwald, acting U. S. consul, are void.

I have, etc.,

CHAS. DENBY, JR.

SUBURBAN RESIDENCE OF MISSIONARIES.

Mr. Denby, chargé, to Mr. Gresham,

No. 1839.]

LEGATION OF THE UNITED STATES,
Peking, April 23, 1894. (Received June 1, 1894.)

SIR: I have the honor to report to you a difficulty in which the American missionaries at Nanking find themselves as to the privilege of residing during the summer at the hills adjacent to that city.

In a petition to me they represent that they number over fifty persons, among whom are many women and children. They state that to remain during the summer months within the city walls is dangerous to their health, but that the hills in the immediate neighborhood afford a convenient and suitable resort. During the summer of 1893 they constructed huts in this locality, with the consent of the owners of the soil, and prepared to live there, but the viceroy at Nanking, hearing of this intention, refused his assent, claiming that outside the city their lives would be in danger and that they would be beyond the reach of his protection. Constrained by his orders and threats, they abandoned their summer houses and returned to the city. This year they asked again to be allowed to go the hills and were again refused. The intervention of the U. S. consul at Chinkiang in their behalf was fruitless, his notes on the subject not even having been answered. Under these circumstances they appeal to me.

The facts of this case seem to be as follows:

It is certainly true that continued residence within the walls of Chinese cities during the heated season is accompanied with great discomfort and some danger to health. The proprietors of the hillside which the Nanking missionaries wish to occupy are willing to rent to them, and the people in the vicinity would gladly have them come because of the small trade that they bring with them. The assertion that they would be in danger is a mere pretext. Should, however, actual danger threaten, the hill is only 3 miles distant from the viceroy's yamèn, and protection could easily be extended. The missionaries assert that, under any circumstances, a tent of four soldiers would guarantee their safety and the cost of these they are prepared to pay.

In view of these circumstances, and in view of the fact that throughout China foreigners are allowed to resort at pleasure to the hills adjacent to the cities where they live, I have asked the Yamèn to extend this privilege to the missionaries at Nanking and to post a proclamation in the locality for their protection while there.

The general right of the missionaries to reside at Nanking is not involved in this dispute. Their residence there has long been uncontested and they have as good a prescriptive right to remain there as at any place in China. * * *

I hope, however, that the Yamèn will overcome the viceroy's opposition. The Yamèn has referred the case to him and upon receipt of his reply the matter will be further reported to you with copies of the correspondence.

I have, etc.,

CHARLES DENBY, JR.

Mr. Denby, chargé, to Mr. Gresham.

No. 1856.]

LEGATION OF THE UNITED STATES,
Peking, May 23, 1894. (Received July 18, 1894.)

SIR: Referring to my dispatch No. 1839 of the 23d ultimo, regarding the refusal of the authorities at Nanking to permit the American missionaries to reside during the summer at the hills, I have the honor to inclose a translation of the Yamèn's reply to my dispatch.

It will be seen that the viceroy at Nanking reasserts the danger to missionaries of residence without the city, and on this ground alone bases his refusal. I do not believe, nor do the missionaries themselves,

that any such danger exists, and I will again address the Yamên, urging that they be authorized to make a trial of hill residence to show that their fears are without foundation.

I have, etc.,

CHAS. DENBY, JR.

[Inclosure in No. 1856.]

The Tsung-li-Yamên to Mr. Denby, jr.

MAY 21, 1894.

SIR: Upon the receipt of your note with reference to the desire of the missionaries at Naking to resort, during the heated season, to Hsi Hsia Shan (hills near Nanking), this Yamên forwarded a copy of the list of names inclosed by you to the southern superintendent of trade that he, being informed thereof, might take proper action in the matter. Now we have received a reply from him as follows:

As China has authorized the building of churches and the propagation of Christianity in the interior, there would seem to be no reason in prohibiting to missionaries the simple privilege of resorting to certain places to escape the heat. The real reason therefor is to be found in the fact that the conditions are not the same within and without the capital. The mountain to which the missionaries wish to resort is desolate and retired and few people live there. Since the building of churches at Nanking to the present time missionaries have never repaired to the mountains during the summer, and there is no provision in the treaties authorizing them to do so. Throughout the Yangtzu Valley the popular mind is in an unsettled condition. Between the populace and the missionaries exists a great antipathy. Even within the cities where churches are protected by the magistrates, the suspicions of the people sometimes lead to trouble. If at some remote locality in the hills, the local officials would with difficulty learn of such troubles and would more than ever be unable to afford protection.

In the ninth year of Kuang Hsü (1883) the consul and merchants at Chinkiang wished to build summer residences at the Wu Chou Mountains. The literati and the people were opposed, however, and it was difficult to accord permission. Hence the project came to an end.

Now it is to be remarked that the missionaries in this case live in a locality in the northern part of Nanking which is half city, half suburb. It is quiet and pleasant to live in, not crowded and confused, and free from turmoil. Why should they, under these circumstances, search for other summer residences in the hills, causing endless trouble?

This Yamên begs to observe that the argument of the southern superintendent of trade is reasonable and his statements are true. It is, therefore, our duty to request you to direct the said missionaries to abandon their project and thus avoid giving rise to trouble.

We have, etc.

ACQUISITION OF MISSION SITE IN HAINAN.

Mr. Denby, chargé, to Mr. Gresham.

No. 1861.]

LEGATION OF THE UNITED STATES,
Peking, June 8, 1894. (Received July 18, 1894.)

SIR: I have been advised by the U. S. consul at Canton, under date of the 21st ultimo, that the long-standing trouble between the missionaries and the local authorities at Kiungchow, in the island of Hainan, over a piece of property, has culminated in the seizure of the land in dispute by the authorities and the forcible ejection of the missionaries therefrom.

The gravity of this case has been, the consul assures me, greatly exaggerated and the difficulties of it have been largely due to the indiscreet conduct of the members of the mission. He hopes to arrive by patience at a satisfactory arrangement of the dispute, and to this end has asked me to bring the matter to the attention of the Yamên.

The circumstances of this case are as follows:

Eight or nine years ago Mr. Jeremiassen, a Danish subject belonging to the American Presbyterian Mission, brought about the purchase of a piece of land at Kiungchow by a native Christian. This land was then conveyed by the native Christian to Mr. Jeremiassen, and by him to the American Presbyterian Mission. The deeds were recorded in the U. S. consulate at Canton. In September, 1886, this last deed and six antecedent deeds were sent by the consul to the taotai for authentication, in accordance with Chinese custom. These deeds have never been authenticated nor returned and they remain to this day in the possession of the authorities. To demands for their restoration, the authorities reply that the seller had no right to sell without the consent of others; that the Chinese buyer was a fictitious personage (the mission dares not produce him for fear of persecution), and that the ground is unsuitable for missionary purposes, as it adjoins a spot where the Chinese have, or will soon have, a powder magazine. They offer to return the \$800 of purchase money to the mission. In the meantime the property has remained in the possession of the missionaries, who have used a small building on it as a dispensary.

The consul has been trying to induce the authorities to assist in procuring another site, and in April last the viceroy at Canton offered to instruct the local officials to consult with the missionaries on this question. But, as a preliminary to these negotiations, he insisted that the missionaries should receive the purchase money back, thus giving up all claim to the land which has been, until its recent seizure, in their possession. This the missionaries refuse, and demand on their part the issuing of a proclamation informing the people that no one will be punished for selling land to foreigners or Christians, which, they say, would remove all difficulty as to securing another site. To this the viceroy does not consent.

In this deadlock matters remained until very recently. A few weeks ago the missionaries, impatient of delay, prepared building materials for the construction of houses on the disputed ground. They appealed to the consul at Canton for protection in this operation. To his representations to the viceroy on the subject he received a reply that no harm should come to anyone, but that no building on the land would be permitted. Affairs came to a crisis on the 13th ultimo.

On the evening of that day some officers of the district magistrate's Yamên, accompanied by three literati and some employés, removed the contents of the building on the ground in dispute, affixed another lock to it, closed it and locked it, and thus practically ejected the mission from the premises.

The lack of judgment displayed by the missionaries in attempting to build in the face of decided official opposition constitutes no justification for such arbitrary proceedings. The consul at Canton took up the case, and, after consultation with the more experienced missionaries of that locality, decided to recommend the missionaries not to attempt to erect buildings at present, and in the meantime to urge the viceroy to cooperate in the selection of another site, and to issue a proclamation assuring immunity from persecution of Chinese who may propose to sell land to foreigners. He also requests this legation to bring before

the Yamên (1) the unjustifiable proceedings of the officials in retaining possession of the deeds; (2) the recent arbitrary ejection of the mission from its property; (3) compliance with the missionaries' reasonable request for a proclamation.

I have complied with this request and have this date forwarded to the Yamên a dispatch, of which I inclose a copy.

It remains to be said that the missionaries in Hainan do not seem to have considered the action of the consul in their behalf as sufficient. They cabled to their board in New York to notify the U. S. Government of the seizure of their property. Mr. Jeremiassen also availed of his Danish citizenship to wire the Russian minister, who represents Denmark here, that his life was in danger. The minister sent his interpreter to the Yamên to demand Mr. Jeremiassen's protection, and the Yamên telegraphed the viceroy at Canton giving orders to that effect. In a note of the 1st instant, communicated to me by the Russian minister, the Yamên reported that they had received telegraphic assurances from the Hainan officials that there was absolutely no danger; that the populace was favorably disposed to the missionaries, and that the sole dispute was an unsettled lawsuit with reference to a piece of land. They accused Mr. Jeremiassen of willfully stirring up trouble, and requested that he be ordered to peacefully pursue his missionary calling.

The difficulties of acquiring land in Hainan have not been experienced by Americans alone. The British Government has for many years been trying to secure a suitable site for a consulate, and the foreign customs were long unable to buy property at Kiungchow. The viceroy at Canton and the Government at Peking do not always exercise supreme control in the island. I hope, however, that patience and reasonable conduct may ultimately obtain for our missionaries another suitable site in lieu of the one of which they have been deprived.

I have, etc..

CHARLES DENBY, JR.

[Inclosure in No. 1861.]

Mr. Denby, jr., to the Tsung-li Yamên.

JUNE 8, 1894.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to bring to your notice the unlawful conduct of certain officials in the island of Hainan with reference to a piece of land belonging to the American Presbyterian Mission. The circumstances of this case are as follows:

In the year 1886, Mr. Jeremiassen, a Danish subject, bought a piece of land in the city of Kiungchow, in Hainan, and then sold it to the American Presbyterian Mission. This sale was recorded in the U. S. consulate at Canton. The deeds making this transfer and six antecedent deeds were sent in September, 1886, to the taotai at Kiungchow for examination and authentication. These deeds have remained in the hands of the Chinese authorities, who have persistently refused all demands for their delivery. In the meantime the American missionaries have remained in possession of the property and have used a small house situated thereon as a dispensary. Objections existed on the part of the officials to the possession by the missionaries of this particular piece of land, and the missionaries, on their part, were willing to receive

another in place of it if some suitable site were offered them. Though often appealed to by the consul, the viceroy at Canton and the Hainan officials took no steps for making such an exchange.

Some weeks ago the missionaries, wearied by this delay, resolved to build upon the land in their possession and prepared materials for the purpose. To this proceeding strenuous opposition was manifested by the authorities.

On the 13th of last month some officers of the district magistrate's Yamèn, accompanied by three literati and some employés, proceeded in the evening to the disputed land. The house situated thereon was guarded by a watchman. This man they drove away, and, removing the contents of the house, they placed another lock upon it, locked it, and thus turned the mission out of its own property.

I have to remark to your highness and your excellencies that such a proceeding is entirely unlawful and inadmissible. The missionaries were willing and are now willing to take another piece of property in exchange for the site to which the officials objected. Until such a change had been effected the property in dispute remained the property of the missionaries and the taotai had no authority to enter upon it.

The conduct of the officials throughout this affair is of a most remarkable character. During eight years they have arbitrarily retained possession of deeds sent them by an official of the United States for official purposes and now they forcibly take possession of property belonging to American citizens. I ask your highness and your excellencies if such flagrant disregard of the rights of foreigners is to be permitted on the part of officials under your control?

The manner of acquisition of land by Americans in China is set forth in Article XVII of the treaty with the United States executed in 1844. If the officials in Hainan will comply therewith, this affair can be speedily arranged.

The U. S. consul at Canton has asked the viceroy to issue a proclamation stating that, under the treaties, foreigners are entitled to buy land for missionary purposes, and that no native selling or leasing to them will incur punishment or persecution therefor. This is a reasonable request, and it is to be hoped that your highness and your excellencies will direct the viceroy to comply with it. There is no reason why further delay should occur in the settlement of this difficulty in Hainan, and I respectfully request that proper measures be taken to have it dealt with promptly, and in a spirit of justice.

Mr. Denby, chargé, to Mr. Gresham.

No. 1868.]

LEGATION OF THE UNITED STATES,
Peking, June 18, 1894. (Received August 6, 1894.)

SIR: Referring to my dispatch No. 1861, of the 8th instant, I have the honor to inclose herewith the Yamèn's reply concerning the seizure of land belonging to the American Presbyterian Mission in Hainan.

This dispatch gives a long account of the official investigation which followed the purchase of this land. The Yamèn asserts that the missionaries acquired the land by fraud, and states that the purchase money should be refunded them and the land revert to its original owners. In compliance with my request, however, the viceroy at Canton has been directed to investigate and report upon the case. I shall make no fur-

ther representations to the Yamén in the premises until the viceroy's report shall have been received. Before that time, it is to be hoped, the case will have been brought to a satisfactory conclusion.

I have forwarded a copy of the Yamén's dispatch to the U. S. consul at Canton, and have written him as follows:

Without putting faith in the Chinese authorities' charges of fraud in the acquisition of this land, I am of opinion that it would be advisable for the mission to give up the land in dispute, take back their purchase money, and agree with the authorities on another site of which they may have peaceable possession. Article xvii of the treaty of 1844 provides that Americans, in acquiring land, shall not unreasonably insist on particular spots. Article xii of the treaty of 1858 contains the same provision.

The viceroy being now directed to investigate this case, the time seems favorable for you to cooperate with him in bringing it to a conclusion. I hope you will be successful in inducing the Chinese authorities and the members of the mission to agree upon a site which may be acquired without opposition and held in peaceful possession.

I have, etc.,

CHAS. DENBY, JR.

[Inclosure in No. 1868.]

The Tsung-li-Yamén to Mr. Denby, chargé.

Note.]

JUNE 13, 1894.

MR. CHARGÉ D'AFFAIRES: We have had the honor to receive your note wherein you bring to our notice the unlawful conduct of certain officials in the island of Hainan, with reference to a piece of land belonging to the American Presbyterian Mission, and you requested that proper measures be taken to have the matter dealt with promptly, and in a spirit of justice.

With regard to this case, we may observe that in the years 1886-'87 His Excellency M. Coumany, Russian minister at that time, addressed the Yamén in reference thereto, and the Yamén in turn wrote to the viceroy at Canton to examine and deal with it accordingly.

In 1888, the viceroy at Canton reported as follows:

Mr. Lin, magistrate of Chiung Shan district, presented a petition to effect that in this case, on the 5th of May, 1886, the literati, Cheng Tien-chang and others, lodged a joint complaint against Wang Ting-mu and others of having privately sold to foreigners the piece of land, outside of the west gate, known as Kan che Yuan, for the purpose of erecting buildings thereon. The said land is close to the city wall; it is on the west gate thoroughfare, where people are living scattered about, and it would not be convenient for foreigners to locate there, and the complainants, therefore, begged that the matter be investigated.

The former magistrate, Chen, deputed policemen to arrest Wang Ting-mu and the other men. Upon the 11th of May the magistrate heard their evidence, which was to effect that the piece of land outside of the west gate, known as the Kan che Yuan, was bought by them in 1879. In 1891 or 1892 [this is a mistake in the Chinese text. It was in 1886 or 1887] Wu Tse-chun, alias Wu Hung-chun, alias Wu Cho-chi, residing at the east gate of the prefectural city, suddenly appeared and stated that Wang I-cheng and Wang Ting-cheng, of a place called Fing An, wished to buy the land in question for the purpose of establishing a bookstore there. The price fixed upon was 600,000 cash, and they agreed to take the place. Deeds were made out and the purchase money paid. Nothing was said about the place being bought by foreigners. Cheng Hsien-lien, a licentiate of Chiung Shan district, was present and knows all about the proceedings. Wu Hsien-chi made out the deeds. Suddenly there appeared a Dane, called Yeh-Chi-shan (Jeremiassen), who falsely claimed that he had purchased the property and was to erect a foreign building on it. This led to the literati lodging a complaint and asking their (Wang Ting-mu and others) arrest and examination. Further, a dispatch was sent to the foreign official concerned requesting him to look into the matter. The men were willing to return the money and thus avoid popular indignation among the people.

After Mr. Magistrate Chen had vacated his office, his successor, Magistrate Jao, had the parties to the case brought before him. The acting British consul, Mr. Brown, called on the Taotai and discussed the matter with him. He set forth that Chiung Chow prefectural city was a treaty port; that the position assumed by Mr. Chen, former magistrate, in his communication that it was in the interior, was inadmissible. At the time, the acting Taotai issued instructions to have the boundaries surveyed, decide the question upon treaty basis, and report. The magistrate, Mr. Jao, had a survey made.

As to the treaty port of Chiung Chow, in the second moon of the third year of Kuang Hsu (about the beginning of 1877), the viceroy of Canton at that time ordered the taotai of Lei-chou and Chiung Chow to confer with the acting British consul, Mr. Bullock, and they agreed upon the following as the boundaries of the port: East, to the Pai-sha village; west, to the Yen-tsao village; south, to the Yieng-en bridge; north, to the Pei-sha Chiang or creek on the seacoast.

Land outside of the above boundaries is to be regarded as in the interior. A plan was made out and submitted, to be placed on file, and a communication, embodying the result of the survey arrived at, was sent to the British consul and is a matter of record.

After taking charge of his office, Magistrate Jao again had Wu Cho-chi brought before him by his police and examined him. He stated that, at the time when he was in league with others to buy the Kan che garden, Wang Ting-cheng and Wang I-cheng were not at all connected with the transaction. It was a workman employed by the Danish Dr. Jeremiassen, named Chen Pu-hsuan, who approached and consulted with him, as he was afraid the owner would not like to sell the land to a foreigner. Therefore the names of Wang Ting-cheng and Wang I-cheng were falsely represented as the buyers and the names of Wang Sheng-chi and others were falsely represented as the sellers. The price, 600,000 cash, was agreed upon with Wang Sheng-chi and others. But Chen Pu-hsuan misappropriated or added for himself \$200 and explained to the doctor that the purchase money would be \$800. In addition, Wu Cho-chi got \$50 as present money—making the total price of the land \$850.

Chen Chuan-yen's name as writer of the deed was also a counterfeit and fabrication, and the evidence produced went to substantiate this fact.

At the time, a communication was sent to the British Consul, requesting him to instruct Mr. Jeremiassen to send Chen Pu-hsuan to court so that he could confront the other witnesses in evidence. Further, a summons was issued for Wang Sheng-chi to again appear in court for further examination. He testified that at the time the said flower garden was sold the transaction was in the hands of Wu Cho-chi and the only thing represented was that the place was sold to Wang Ting-cheng and Wang I-cheng for the purpose of erecting buildings thereon. No mention was made that the place was sold to a foreign doctor. Wu Cho-chi's having played a double part, a trick, in the transaction was not known to him. Since there had been a treacherous scheme in league with others to buy the land in question, he is willing to refund the \$800 and cancel the sale. The amount received by Wu Cho-chi (\$50) he is also willing to return himself to the foreign missionaries and requests that Wu Cho-chi be incarcerated and steps be taken to recover the said sum.

The evidence of the middle men, Cheng Chuan-yen and others, coincided with the above.

It appears that foreigners have never been prohibited from acquiring property at the treaty ports, but the land in question is situate outside of the four boundaries of the port originally agreed upon. It necessarily rests with the owner of the land to say whether he is willing to part with it or not. The middleman Wu-cho-chi knew well that Wang Sheng-chi and others were not willing to sell the property to the foreign doctor, and the names Wang Ting-cheng and Wang I-cheng were a mere fabrication for the purpose of accomplishing the fraudulent purchase of it.

According to Chinese law the money paid for land fraudulently obtained should be confiscated, but considering that Mr. Jeremiassen is a Danish doctor, it would not be convenient to restrain him by this law.

Now, according to the representations of Wang Sheng-chi and others, they are willing to return the purchase money, as well as the money squeezed by Chen Pu-hsuan and the present money of Wu Cho-chi, and thus settle the case and avoid further litigation and trouble.

In accordance with their wish the deeds should be canceled, the purchase money sent to the Taotai, to be temporarily retained by him in his treasury until it can be handed over to the foreigners and the property revert to the original owners. The viceroy is requested to address the Tsung-li-Yamén to have the case in question canceled, which would be just and equitable.

The Yamén, having received the foregoing representations, would observe that with reference to the said doctor, Yeh Chi Shan, in the communication sent, he is styled Yeh-li-mi-sen, a Dane.

A workman in said doctor's employ, one Chen Pu-hsuan, in league with Wu Cho-chi, by the use of false names, fraudulently purchased the land of Wang Ting-mu and others. The magistrate tried the case in court and took the evidence of witnesses. He decided that the money should be returned, the case brought to a close, and the property revert to the original owner. The action thus taken is in accordance with law. The said doctor did not actually come into full possession of the property; hence how could he lease or sell property of another man to the American Presbyterian Mission?

Further, the matter has been pending eight years, and if the case was one *bona fide* in its nature how is it that the missionaries formerly had nothing to say about it?

Further, it appears that in 1889 Minister Denby, on his return to Peking from Canton, addressed the Yamèn in regard to the American missionary cases at Canton, in all five, requesting that no time be lost in bringing them to a termination. Nothing was said about the land question now under discussion. It would, therefore, seem that the representations made by the missionaries are not real and well founded. But as you have asked that the matter be looked into and dealt with accordingly, the Yamèn has addressed the viceroy at Canton to clearly investigate it and transmit a report thereon, on receipt of which we will communicate the same to you. In the meantime we send this note for your information.

[Cards of ministers with compliments.]

Mr. Adee to Mr. Denby, chargé.

No. 912.]

DEPARTMENT OF STATE,

Washington, August 8, 1894.

SIR: I have to acknowledge the receipt of your No. 1868, of June 18 last, in regard to the seizure of land belonging to the American Presbyterian Mission in Hainan.

The opinion expressed in your communication to the consul at Canton is judicious and in the line of the treaty stipulation requiring mutual agreement as to mission sites.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Denby, chargé, to Mr. Gresham.

No. 1872.]

LEGATION OF THE UNITED STATES,

Peking, June 29, 1894. (Received August 16, 1894.)

SIR: Referring to my dispatch No. 1868, of the 18th instant, concerning the dispute in the island of Hainan over the choice of a mission site, I have the honor to report that the viceroy has consented to the selection of such a site in cooperation with the missionaries.

I have expressed to the U. S. consul at Canton a hope that this consent will be availed of to bring this dispute to a termination.

I have, etc.,

CHAS. DENBY, JR.

ANTIFOREIGN PLACARDS.

Mr. Denby, chargé, to Mr. Gresham.

No. 1867.]

LEGATION OF THE UNITED STATES,
Peking, June 15, 1894. (Received July 27, 1894.)

SIR: I have the honor to inclose herewith copies of a note addressed by the Russian minister, dean of the diplomatic body, to the Yamên, and of the Yamên's reply, with reference to antiforeign placards which have again appeared in the province of Hu-peï.

Copies of these placards were forwarded by the consular corps at Hankow to the diplomatic body at Peking, and a protest against them was placed before the viceroy at Hankow.

These placards at present complained of differ from previous attacks on foreigners in that they do not advocate their abuse and ill treatment directly, but denounce and threaten vengeance on all Chinese who may have relations with "the barbarians," and particularly those who may sell or lease them land. In a handbill posted up in the Sung-pu district it is stated that "foreigners may, in accordance with the laws of hospitality, be boarded and lodged, but any innkeeper who dares to keep them more than a few days will, on discovery, have his house razed to the ground and his land converted to the public use."

It is also directed that foreigners' books must not be bought, and that those who buy them shall "be dealt with by the people."

This handbill threatens with death anyone who sells land to foreigners. It closes with the announcement, "If anyone in his greed for gain permits a foreigner to build other houses, the headman is to inform us; we will destroy them and thus prevent future calamities."

The proclamations in the other localities are of the same character.

The people of Sung-pu and vicinity, frightened by the terrible calamities which the official investigation of the murder of the Swedish missionaries last year brought upon them, seem determined on a policy of absolute nonintercourse with foreigners. They regard the presence of a missionary or a chapel as a source from which at any moment great disasters may arise, and there can be no doubt of the efficacy of their preventive measures. These proclamations, however, tend directly to excite active hostility to foreigners, and it is to be hoped that the authorities will use vigorous means to suppress them.

I have, etc.,

CHARLES DENBY, JR.

[Inclosure 1 in No. 1867.]

Count Cassini to the Tsung-li-Yamên.

JUNE 1, 1894.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I learn that placards extremely hostile to foreigners, of which you will find inclosed several specimens, have been again posted in different localities of Hu-kuang, and noticeably at Sung-pu itself, where last year two unfortunate Swedish missionaries were traitorously massacred, and at Huang-chou.

In the presence of these facts and others, as that of the outrages of which a Russian subject at Hankow, Mr. Daniloff, was recently the victim, which prove once more that the hostility of the people along the Yangtze toward peaceable foreigners has in no respect diminished, the foreign representatives believe it to be their duty to insist in the most energetic manner that the Tsung-li-Yamên give the most severe

orders to the provincial authorities in order to prevent the recurrence of events so sincerely to be regretted, and in order to assure to foreigners the liberty and security which the treaties guarantee them.

While recognizing that the Tsung-li-Yamên has, to a certain degree, complied with the demands formulated by Colonel Denby in the name of the diplomatic body in his letter of the 2d February last, in having posted anew in certain localities along the Yangtze the important imperial edict of the 13th June, 1891, it is greatly to be regretted, firstly, that the Imperial Government has not given it greater publicity, and, above all, that the Government has not considered it its duty to have this edict preceded or followed by a sentence with reference to what occurred at Sung-pu, and that this edict has not, therefore, produced the effect which was to be expected of it.

The foreign representatives accredited to Peking expect that your imperial highness and your excellencies will not fail to take the necessary steps in order that these placards, which they (?) have had the audacity to post beside the imperial edict of 1891, be removed, their authors punished, and that, finally, the most severe oversight be exercised to put an end to this excitement of the people against foreigners, which might lead to a recurrence of the melancholy events of last year.

I am charged to make this communication in the name of my colleagues of the diplomatic corps, and I seize this occasion to renew to your imperial highness and your excellencies the assurances, etc.

COUNT CASSINI.

[Inclosure 2 in No. 1867.]

The Tsung-li-Yamên to Count Cassini.

JUNE 9, 1894.

On the 28th day of the fourth moon of the twentieth year of Kuang Hsi (1st June, 1894) we received from your excellency a dispatch under cover of which you sent us two anonymous placards coming from Ma-Ch'eng (department of Huang-chou), and in which you asked us to give orders to the high authorities of the said province in order to secure the exercise of such protection as the treaties provide.

This Yamên, having telegraphed to the province of Hupei that the facts be ascertained and preventive measures taken, received from the viceroy of Hu-kuang the following telegraphic reply:

In the matter of placards at Sung-pu and other localities in the subprefecture of Ma-ch'eng, I had previously received dispatches from several consuls at Hankow, and I have already ordered the local authorities to actively search for such placards and to forbid and to destroy them. The people of Sung-pu, fearing that some affair similar to that of last year might occur, have joined together and exercise themselves supervision. This causes no harm to foreigners. If one considers attentively the sentiments of the people at this hour one can not fail to give secret and severe orders of a preventive character, but one can not act with too great precipitation lest disorder might ensue.

This Yamên has again ordered the local authorities to continue their investigations, and in case placards are found they will prohibit them; we also send a copy of your excellency's dispatch to the viceroy of Hu-kuang that he may reply in detail. We consider it also our duty to address to your excellency this reply for your information.

Mr. Denby, chargé, to Mr. Gresham.

No. 1869.]

LEGATION OF THE UNITED STATES,
Peking, June 19, 1894. (Received August 6, 1894.)

SIR: I have the honor to state that, on the 15th instant, I received, from the consul-general of the United States at Shanghai, a telegram stating that the consul at Canton had wired him that antiforeign placards were posted at that city, that serious trouble was expected, and asking protection.

Immediately upon the receipt thereof, I sent a note to the Tsung-li-Yamèn requesting that telegraphic orders be sent to Canton enjoining the protection of foreigners.

The Yamèn states to me, in reply, that the viceroy telegraphs them that "the Hongkong authorities were burning the houses of Chinese in order to drive out the plague, and under foreign medical treatment many Chinese have died. Further, the Hongkong authorities have refused to allow Chinese to return to Canton by steamer, and all this has led to disturbing the minds of the people at Canton; hence the placards that have been posted."

The viceroy further says that he has issued orders prohibiting the posting of placards, and that he has sent vessels to Hongkong to bring to Canton those Chinese rendered homeless by the Hongkong officials.

The Yamèn assures me, in conclusion, that the viceroy has been again ordered, in compliance with my request, to take "earnest action" to protect foreigners.

From other sources I learn that the Hongkong government has been driven to the use of the most drastic measures for the suppression of the plague, even to the destruction of part of the city. The prohibition to return to Canton by steamer has, however, been removed, and the Chinese are leaving Hongkong in enormous numbers. It is said that 120,000 of them have already departed, carrying into Canton and other cities their dead and plague-stricken countrymen.

Quarantine against the southern ports has been declared at Shanghai and Tientsin, which cities, happily, have so far escaped a visitation of this malady. It is to be hoped it will not make its appearance at Peking, the foulness of whose streets would present every encouragement to its ravages.

I have, etc.,

CHAS. DENBY, JR.

PROPOSED REGULATIONS FOR FOREIGNERS TRAVELING IN CHINA.

Mr. Denby to Mr. Gresham.

No. 1764.]

LEGATION OF THE UNITED STATES,
Peking, December 6, 1893. (Received January 19, 1894.)

SIR: In my dispatch No. 1758,* of the 15th of November, I had the honor to transmit a translation of a communication from the Yamèn, wherein it requested the foreign representatives to devise a plan by which foreigners traveling in China should be required to report in person to the magistrates through whose jurisdiction they might pass.

* See Foreign Relations, 1893, p. 241.

I inclose a copy of my answer, as dean, to that communication. It will be seen that the foreign representatives found themselves unable to agree to the proposed plan. I thoroughly concur in the conclusion arrived at.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 1764.]

Mr. Denby to the Tsung-li-Yamén.

DECEMBER 5, 1893.

YOUR HIGHNESS AND YOUR EXCELLENCIES: On the 10th of November the minister of the United States had the honor to receive from your highness and your excellencies a communication which set forth a communication from the governor-general of Hu-kuang to the Tsung-li-Yamén and one from the taotai of Ching Chow, Ichang, and Shihnan to the governor-general.

The purport of these papers was that foreigners traveling in China should be required, when applying for passports, either at Peking or in the provinces, to report their intended movements, and while traveling should report in person to the subprefects or magistrates found en route, their arrival as well as their intended movements.

After setting forth these two communications, your highness and your excellencies conclude by requesting the minister of the United States "to communicate with his colleagues, consider the question presented, and try to adopt, as quickly as practicable, a feasible plan of action, and inform the prince and ministers thereof, so that they may instruct the high authorities of the provinces to act accordingly." And your highness and your excellencies further say, "The Yamén is, in this matter, actuated by a sincere desire to give protection to foreigners traveling under passports."

The minister of the United States duly transmitted to his colleagues the original and an English translation of this important communication. Two meetings have been held by the foreign representatives to consider its contents, and after mature deliberation, they have instructed the minister of the United States to transmit to the prince and ministers the following answer thereto:

The foreign representatives appreciate the honorable and praiseworthy motive that produced the paper under consideration, it being, as stated by the prince and ministers, to insure the protection of foreigners when traveling. They find themselves, however, unable to assent to the proposition that all foreigners, when traveling in China, shall report in person to the magistrates through whose jurisdiction they happen to pass. To do so would be impracticable. A heavy burden would be laid upon foreigners by such a rule, and the penalty suggested by the taotai for failure to comply with it, to wit, the forfeiture of protection, is by no means admissible.

A more serious objection, and one which is, to the minds of the foreign representatives, insuperable, is that the proposed rule would materially change the purport of the treaties. To make this apparent, the minister of the United States calls attention to the provisions of the British treaty with China, signed at Tientsin, 26th June, 1858, which have been, in substance, incorporated in every treaty that has been made with China since that date.

Article IX of that treaty reads as follows:

British subjects are hereby authorized to travel, for their pleasure or for purposes of trade, to all parts of the interior under passports which will be issued by their consuls and countersigned by the local authorities. These passports, *if demanded*, must be produced for examination in the localities passed through. If the passport be not irregular the bearer will be allowed to proceed. * * *

Article XVIII of the same treaty contains this language:

The Chinese authorities shall, at all times, afford the fullest protection to the persons and property of British subjects. * * *

It will be seen from the first article quoted that travelers are not required to report to officials en route, but are only required to exhibit their passports when a demand to do so is made. Such, the minister of the United States believes, is the rule existing in all countries where the system of passports prevails.

The prince and ministers will readily admit that it is not in the power of any foreign representative to add to or take from a treaty any material clause, and that their request can not, therefore, be complied with.

It is questionable, also, whether the proposed rule would accomplish any good purpose. The presence of foreigners in any locality in the interior is immediately known to all the population, the officials included, and travelers perfectly understand that, in case of trouble, they have the right to apply to the officials for protection and that it is the duty of the local authorities to protect him.

The minister of the United States takes this occasion to renew, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Gresham.

No. 1770.]

LEGATION OF THE UNITED STATES,
Peking, December 20, 1893. (Received February 13.,

SIR: In my dispatch No. 1764, of the 6th instant, I inclosed a copy of a dispatch sent by me, as dean of the diplomatic body, to the Tsung-li-Yamên, relating to the request of the Yamên that foreigners traveling in China should be required to report to the local authorities, found en route, their arrival and intended movements.

I have now the honor to inclose a translation of the Yamên's answer to that dispatch. The diplomatic body has not taken any action as yet on this paper.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 1770.]

The Tsung-li-Yamên to Mr. Denby.

DECEMBER 15, 1893.

YOUR EXCELLENCY: Upon the 5th of December the prince and ministers had the honor to receive a communication from the minister of the United States, acknowledging receipt of the Yamên's communication (of the 10th November last), setting forth a dispatch from the governor-general of Hu-kuang to the Yamên and a report from the taotai of Ching Chow, Ichang, and Shihnan to the governor-general, to the effect that foreigners traveling in China should be required, when

applying for passports, either at Peking or in the provinces, to report in person to the local officials en route their arrival as well as their intended movements, wherein the minister of the United States was requested to communicate with his colleagues, consider the question presented, and try to adopt, as quickly as possible, a feasible plan of action and inform the prince and ministers thereof.

The minister of the United States stated that he had transmitted to his colleagues the original and an English translation of the Yamèn's communication; that two meetings had been held by the foreign representatives to consider its contents; but, while they appreciate the honorable and praiseworthy motives that produced the paper, they find themselves unable to assent to the proposition that all foreigners, when traveling in China under passport, should report in person to the local officials, for to do so would be impracticable, and for failure to comply with it the forfeiture of protection is by no means admissible; that a more serious objection and one which, to the minds of the foreign representatives is insuperable, is that the proposed rule would materially change the purport of the treaties, and that it is not in the power of the foreign representatives to add to or take from a treaty any material point, and that the request can not therefore be complied with.

The prince and ministers would observe in reply that this question does not in any way involve the alteration of treaty stipulations, but it is one clearly provided for by treaty, which is to the effect that foreigners are allowed to travel to all parts of the interior under passports. "The passports, if demanded, must be produced for examination in the localities passed through. If the passport be not irregular the bearer will be allowed to proceed."

The examination of passports, as provided by treaty, is the same as reporting in person to the authorities. If foreigners will comply with the treaties, and on their arrival at any place in the interior will present their passports for examination, the local authorities will be in a position to afford them timely protection, and trouble may be avoided. Could such a course be regarded as impracticable?

It would seem that the foreign representatives have misunderstood the purpose and meaning of the Yamèn. It is stated in the communication of the minister of the United States that "it is questionable whether the proposed rule would accomplish any good purpose," also, that "the presence of foreigners in any locality in the interior is immediately known to all the population, the officials included."

The Yamèn is of the opinion that this is not the case, as the departments and districts of China embrace a large area of territory, the small covering about one hundred or more li, and the large over several hundred li in extent, and when foreigners are traveling, no matter in what place, if they fail to present their passports for examination, how can the local officials know of their presence within their jurisdictions? And not knowing this, how can they follow their movements, and in case of need render them necessary protection?

Further, it will be found that the populace of the places through which foreigners may pass consist of both good and bad, and if there should be a dispute between them and the Chinese how could the local authorities be in a position to take measures to guard against trouble arising therefrom? In such an event, to blame the officers of the departments and districts for failing to give full and adequate protection would be inconsiderate and show a want of feeling toward them.

The request of the governor-general of Hu-kuang, that foreign travelers should be instructed to report to the local authorities (on their

arrival within their jurisdictions), as well as report their intended movements, is not against the meaning and purport of the provisions of the treaty, which require that they should present their passports for examination to the local authorities. Besides, the responsibility would then rest on the officials of the departments and districts to see that timely protection was accorded them in case of need. Should trouble arise, they could not then shuffle off their responsibility and say we knew nothing about foreigners traveling within our jurisdictions. This would be a cautious rule to adopt in the matter of protecting foreign travelers and have for its aim the purpose of making them exert themselves to prevent trouble. This plan should not be regarded as having for its aim no good purpose, and further, as being an alteration of treaty stipulations.

The prince and ministers again request the minister of the United States to confer with his colleagues and consider, as soon as practicable, some feasible plan of action and to instruct foreign travelers to present their passports to the local officials for examination, to the end that they may give them timely protection, in accordance with treaty stipulations, which is a matter of importance.

In sending this communication to the minister of the United States they express the hope that action will be taken as requested.

Mr. Denby to Mr. Gresham.

No. 1775.]

LEGATION OF THE UNITED STATES,
Peking, December 30, 1893. (Received Feb. 28, 1894.)

SIR: In my dispatch No. 1770, of the 20th December, I forwarded a translation of a dispatch from the Tsung-li-Yamèn relating to reports proposed to be made by foreigners traveling in China. I have the honor to inclose a copy of my reply, as dean, thereto.

It will be seen that the foreign representatives still refuse to consent to the Yamèn's proposition. Owing to trouble still likely to grow out of the recent murder of the two Swedes at Sung-pu, this is an unfortunate time to present a proposition to restrict or obstruct foreign travel in China.

I have, etc.,

CHARLES DENBY.

[Inclosure in No. 1775.]

Mr. Denby to the Tsung-li-Yamèn.

DECEMBER 30, 1893.

The minister of the United States has the honor to acknowledge the receipt of the communication of the prince and ministers of the 15th instant, wherein they set forth the contents of his dispatch to them of the 5th instant, in answer to their first communication in which they requested that foreigners traveling in China with passports, whether issued at Peking or in the provinces, should be required to report in person to the local officials en route their arrival as well as their intended movements. The prince and ministers then proceed to say

that this question "does not in any way mean the alteration of treaty stipulations, but it is one clearly provided for by treaty, which is to the effect that foreigners are allowed to travel to all parts of the interior of China under passports. These passports if demanded must be produced for examination in the localities passed through * * *. The examination of passports as provided for by treaty is the same as the traveler reporting in person to the authorities."

The foreign representatives differ essentially from the prince and ministers on the proposition above stated. By the treaties, passports need only be shown when an examination thereof is properly demanded. Under the construction above set out travelers would be compelled to seek out the local authorities in every city and report to them. There would be considerable inconvenience and delay in the process. It is not always easy to gain access to a governor or prefect or taotai. These officials, on the other hand, can always approach foreigners. It often happens that foreigners traveling in the interior put up for the night in places in the suburbs and never go into the cities, and start on their journey early the next morning. Hence it would be inconvenient in such cases for them to report to the local authorities in person. It would be easy for the local authorities to know of the whereabouts of foreign travelers by instructing their subordinate officials to report to them the arrival and departure of foreigners at various places within their jurisdiction.

While the right of foreign governments to require passports from citizens of other countries traveling in their borders is not disputed, obstruction in the way of travelers is regarded as a proper matter of international complaint. The requiring of such continual and repeated reports in person, as is now suggested, is regarded as a serious and useless obstruction to the free travel for which the treaties with China provide. It is also beyond question true that to require such reports in person, while the treaties only require the exhibition of passports when demanded, would be adding new and material matter to the terms of the treaties. The foreign representatives find themselves unable to make such an addition to the plain stipulation of the treaties.

The prince and ministers inquire how the local authorities can know of the presence of foreigners in the interior unless they report personally to them. To this question it may be answered that when foreigners travel in the interior their movements attract great attention and their presence is known to all the people. Under such circumstances it is the duty of the officers of the departments and districts to see that protection is accorded to them. It is believed that no case has ever arisen in China, and that none will ever arise, wherein the officials in the interior can or could truthfully plead ignorance of the presence of foreigners in their jurisdictions. Riots take place ordinarily in cities or large towns, and hostile movements of the populace are usually known to the officials before any damage is done and in time to prevent it by proper exertion. To allow officials to plead absence or want of knowledge for not performing their duty is not in accordance with Chinese law in matters affecting Chinese subjects, and such excuses should not be received in cases in which foreigners are concerned.

The foreign representatives have, for these reasons, instructed the minister of the United States to say that the proposition to require travelers to report as stated can not be acceded to.

The minister of the United States avails, etc.,

CHARLES DENBY.

Mr. Denby to Mr. Gresham.

No. 1796.]

LEGATION OF THE UNITED STATES,
Peking, January 26, 1894. (Received March 15, 1894.)

SIR: I have the honor to inclose a translation of a communication received from the Tsung-li-Yamên on the subject of the exhibition of passports by foreigners traveling in China, together with a copy of my reply, as dean, thereto.

It will be seen that the Yamên has receded from its demand that travelers should search out the local authorities en route and exhibit their passports, and now proposes that passports shall be exhibited on demand made by certain local officials.

It is now probable that the matter will be satisfactorily arranged.

I have, etc.,

CHARLES DENBY.

[Inclosure 1 in No. 1796.]

The Tsung-li-Yamên to Mr. Denby.

JANUARY 20, 1894.

The prince and ministers, on the 30th of December, had the honor to receive a communication from the minister of the United States acknowledging receipt of the Yamên's communication setting forth that foreigners traveling in China should be required, when applying for passports, either at Peking or in the provinces, to report in person to the local officials en route their arrival as well as their intended movements.

In this communication it is stated that the foreign representatives, disagreeing with the views of the Yamên, can not accede to the proposition made, etc.

The prince and ministers would observe that the object of the viceroy in having the question of the examination of passports considered was to know of the movements of foreign travelers to the end that the necessary measures could be taken to give them adequate protection; and this is not at variance with existing treaty stipulations.

The authority for traveling (in the interior) is the passport. If there be no examination, how will it be possible to know whether the foreign traveler is armed with a passport or not?

Hitherto there have been many passports applied for, the holders of which, on arriving at a place, have secretly withheld them from examination. There are also those who have recklessly gone into the interior of China without passports and who have been unwilling to be interrogated, and, as their intended movements can not be traced, how is it possible for the local officials to know anything about them?

It would in such cases be impossible for the local officials to take timely action to guard against their being robbed or plundered, and the offenders could only be arrested and punished after the offense had been committed, and this would be too late.

In the communication of the minister of the United States it is pointed out that for travelers to report to the officials would be inconvenient. This there is no necessity of insisting on. And it is not impracticable for the local officials to instruct their subordinates, as suggested in the communication under acknowledgment, to report the arrival of foreign travelers within their jurisdiction. But it would be necessary for the foreign travelers to show their passports to the subordinate officials

(village headmen and elders) in order that they would have some authority for making a report to the magistrates. If their passports are secretly withheld then this would be the same as the traveler being without a passport, and the local officials could not bear the responsibility of providing protection.

It is further remarked in the communication under review that to allow officials to plead absence or want of knowledge for not performing their duty is not in accordance with Chinese law in matters affecting Chinese subjects, and such excuses should not be received in cases in which foreigners are concerned. To this the prince and ministers would observe, How can the local officials know beforehand that trouble is to occur between Chinese subjects? In cases of murder it is only after the deed has been committed that punishment is inflicted on the guilty according to the code, and in cases where foreigners are concerned the local authorities naturally could only take similar action according to law.

If passports are not examined, the local officials will not be in a position to know and keep track of the foreign traveler's movements, and will not be able to guarantee that trouble may not occur, which would be a matter to be regretted.

As in duty bound, the prince and ministers send this communication in reply for the information of the minister of the United States.

[Inclosure 2 in No. 1796.]

Mr. Denby to the Tsung-li-Yamén.

JANUARY 26, 1894.

The minister of the United States, as dean of the diplomatic body, on the 20th instant had the honor to receive from the prince and ministers a communication relating to the matter of foreigners when traveling in China reporting in person to the local officials en route their arrival as well as their intended movements.

This paper has been submitted to the foreign representatives, who have requested the minister of the United States to return the following answer:

The foreign representatives do not in anywise dispute the statement made by the prince and ministers that their purpose is to furnish to travelers adequate protection, nor do they dispute the proposition that China has the right, in accordance with the treaties, to require travelers to exhibit their passports when such exhibition is demanded by an official thereto duly authorized.

If travelers have, as stated by the prince and ministers, secretly withheld their passports from examination after having been applied to to show them, such action is not approved by the foreign representatives. If travelers have, as stated, recklessly gone into the interior without passports, such conduct is also disapproved of.

In the communication under acknowledgment the prince and ministers distinctly concede that there is no necessity for travelers to report to the officials, and that it is practicable for the local officials to instruct their subordinates to report the arrival of foreign travelers within their jurisdiction. As these were the exact points of difference between the prince and ministers and the foreign representatives, it would seem that there is no need for further discussion thereof.

The prince and ministers say, "but it would be necessary for the foreign travelers to show their passports to the subordinate officials (village headmen and elders) in order that they would have some authority for making a report to the magistrates."

The treaties provide that "passports, if demanded, must be produced for examination in the localities passed through." How or by what official this demand shall be made is not distinctly stated.

It seems to the foreign representatives that the power or duty of demanding the exhibition of passports for examination should not be given to "village headmen and elders" or other numerous bodies of men. Such a practice would, or might, lead to abuses and perhaps to disturbances. It can serve no good purpose for foreigners to exhibit their passports to the headmen of every village through which they pass. On the other hand, it may be advantageous to exhibit passports to the principal authorities on demand in district or prefectural cities.

If it pleases the prince and ministers to adopt some regulation on the subject, the foreign representatives will consider it carefully, and, if it is approved, they will make it known to travelers through the consuls and will enjoin compliance therewith.

The minister of the United States avails, etc.

CHAS. DENBY.

Mr. Uhl to Mr. Denby.

No. 865.]

DEPARTMENT OF STATE,
Washington, March 8, 1894.

SIR: I have received your No. 1775, of the 30th December last, and the copy which you inclosed of your reply to the Yamên on the subject of travelers reporting en route to the local authorities. The views of the Department, which accord with your own, were contained in an instruction (No. 852* of 27th December last) sent you at or near the date of your dispatch.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

REGISTRATION OF CHINESE IN THE UNITED STATES.

Mr. Yang Yü to Mr. Gresham.

CHINESE LEGATION,
Washington, March 12, 1894. (Received March 12.)

SIR: I have the honor to inform you that I am in receipt of a communication from the Chinese consul-general at San Francisco, upon the subject of the progress of registration under the McCreary law and the status of Chinese persons who are entitled to invoke its provisions, from which it appears that many of these persons are required to travel with their witnesses long distances to the registration office at great expense, and upon their arrival additional expenses are incurred by the unavoidable delay at the office in consequence of the numerous applicants for certificates. I am likewise reliably informed that upon

* Printed in Foreign Relations, 1893, p. 244.

estimates already made it will be impossible for all Chinese persons entitled to the privileges of the law to be registered before the 3d day of May next.

From the above it appears that great readiness is manifested by my people in this country to comply with the provisions of the registration laws, and that the number of applications for registration so far exceeds the progress of the work of the registration office that much delay and extra expense are caused to the applicants. Should the six months' extension of time expire before the work of registration be completed, it would be reasonable to conclude that the fault, if any, would not be due to any disinclination on the part of my people to comply with the laws.

I have the honor, therefore, to request that you would give the matter due consideration and take timely steps to devise a suitable remedy, thus removing any uneasiness felt by my people and further manifesting the friendliness between the two nations.

Accept, etc.,

YANG YÜ.

Mr. Gresham to Mr. Yang Yü.

DEPARTMENT OF STATE,
Washington, March 15, 1894.

SIR: In reply to your note of the 12th instant, I have the honor to inclose for your information copy of a letter which I addressed to the Secretary of the Treasury on the same date, and a copy of his reply thereto, transmitting copy of a report upon the subject of registration of Chinese laborers by the Commissioner of Internal Revenue.

W. Q. GRESHAM.

[Inclosure 1.]

Mr. Gresham to Mr. Carlisle.

DEPARTMENT OF STATE,
Washington, March 12, 1894.

SIR: I have the honor to send you for your information copy of a note just received from the Chinese minister at this capital relative to difficulties encountered by his countrymen in registering under the Geary law. If the statements in this note are correct, and I have no knowledge tending to show that they are not, would it not be well to increase the facilities for registering? I venture to suggest further the propriety of sending officers to the Chinese camps in the mountains that they need not be required to incur the heavy expense of traveling to some distant point and remaining there indefinitely for an opportunity to register.

You will oblige me by replying to this letter at your early convenience, in order that I may make proper acknowledgment of the communication just received.

I have, etc.,

W. Q. GRESHAM.

[Inclosure 2.]

Mr. Carlisle to Mr. Gresham.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., March 15, 1894.

SIR: I have the honor to acknowledge the receipt of your communication of the 12th instant, inclosing a letter from His Excellency Yang Yü, minister of China, upon the subject of Chinese registration, and in response, I beg leave to transmit herewith a letter from the honorable Commissioner of Internal Revenue, which explains the situation.

This Department is anxious to afford every possible facility for the registration of the Chinese under the recent act of Congress, and I have caused communications to be addressed to the collectors, who have charge of that work, for the purpose of ascertaining whether additional official force is necessary, and whether or not any other measures than those heretofore taken can be adopted which will afford better accommodations for those who desire to register.

Very respectfully,

J. G. CARLISLE, *Secretary.*

[Inclosure A.]

Mr. Miller to Mr. Carlisle.

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, D. C., March 13, 1894.

SIR: Referring to letter of the Chinese minister of the 12th instant, on the subject of Chinese registration at San Francisco, transmitted to you by Hon. Walter Q. Gresham, Secretary of State, in letter of even date, which you handed me this morning for reply, I have the honor to state in reference to the complaint that many of the applicants are compelled to travel a long distance to register and are delayed at the registry station because of the number of applicants being greater than the facilities furnished for serving applicants, thus incurring great expense, that it is believed the facilities furnished for registration will prove to be ample to accomplish the purpose by the time the law expires, namely, May 3, 1894.

In addition to the regular field and office force employed in the internal revenue service throughout the United States, ninety-six special deputies for Chinese registration have been provided for in the first and fourth districts of California, and the districts of Oregon and Montana. Sixty-four of the number are employed in the first district of California, embracing the city of San Francisco. It will be seen, therefore, that two-thirds of the force have been assigned to territory which is estimated to contain much less than one-half of the whole number of Chinese to be registered in the United States. Facilities and accommodations were provided for registering and made available on the 1st of January last, but for some reason, unknown to this office, but little attention was paid by the parties interested to the matter until about the 1st of February, since which date a very lively interest has been manifested with reference to the subject.

This office is not fully advised as to the number of stations provided by Collector Welborn, of the first district of California, for receiving applications for certificates. The information will be called for by telegraph and transmitted as soon as received. It is proper to state, however, that it was not practicable to provide sufficient deputies to cover the territory so completely as to relieve applicants from all expense of travel and delay, but it is believed that the requirements of the law in this behalf have been met to a reasonable degree.

It is suggested that possibly less complaint would have been found to exist had those requiring certificates been prompt in making application when opportunity was offered them. While upon this subject, it may be well to observe that the collector at Chicago, where there are supposed to be between 3,000 and 4,000 Chinese subject to registration, reports that up to the 1st of March little or no interest was

manifested by them, but since that date they have been coming forward for registry in such numbers and at such times as to embarrass the regular work of the office and cause the applicants considerable delay in waiting their turn to be registered by the restricted force assigned to that duty. It would seem, therefore, that if cause for complaint exists in this respect it is the applicants themselves who are somewhat to blame for delaying action.

The fact referred to by the Chinese minister that applications for registry far exceed the progress of the work is due to the fact that the collector was instructed by this office not to delay the receipt of applications for the purpose of issuing certificates, as the certificates could be transmitted by mail and through deputies at a later date. This action was taken with a view of furnishing applicants the promptest service possible with the means afforded this office for that purpose.

Advices received by this office from the several collectors throughout the country, where any considerable number of Chinese are to be registered, are to the effect that in their opinion ample facilities have been provided for accomplishing the work within the time fixed by law, provided those interested will make prompt application, and as above stated it is believed the work will be done within that time, with the exception possibly that some of the certificates for which applications are received before that date will be sent after that date.

A report has been called for from each collection district, showing the progress of the work up to the 15th instant, the estimated number to be registered, the number of applications received up to that date, the number of certificates issued, and the estimated number of applications yet to be received. As soon as this information is received it will be placed in proper shape and transmitted for your further advice and consideration.

If upon investigation it is found that the facilities already furnished are inadequate to the completion of the work, further facilities and accommodations will be provided to that end.

Very respectfully,

JOS. S. MILLER,
Commissioner.

Mr. Yang Yü to Mr. Gresham.

CHINESE LEGATION,
Washington, April 11, 1894. (Received April 11.)

SIR: I have the honor to inform you that communications have been received from the consul-general at San Francisco to the effect that he has received a petition from the Chinese residents of El Paso and San Antonio, Tex., stating that the registration officers in those districts refuse to admit Chinese testimony in behalf of Chinese applicants for registration, thereby rendering it difficult to obtain certificates; that there are persons of questionable character, it is alleged, who acting in collusion with certain registration clerks demand a payment of \$7 for each certificate issued. Information has also been received that attempts are made by unprincipled men to extort money from the Chinese and to otherwise put obstacles in the way of registration. The places referred to are mentioned in the original dispatch inclosed herewith.

It is learned that of the 70,000 Chinese residing in the State of California, only 24,000 or more have been registered and much anxiety is felt that the work of registration will not be completed within the short period remaining and that trouble may arise on that account.

I have the honor therefore to request that the matter be communicated to the Secretary of the Treasury and that he may be requested to remove, as far as possible, all such obstacles to the progress of registration.

Accept, etc.,

YANG YÜ.

[Inclosure.—Telegram.]

The Chinese Consul-General at San Francisco to Mr. Yang Yü.

SAN FRANCISCO, April 10, 1894.

The names mentioned in petition are Portland, Oreg.; El Paso and San Antonio, of Texas; Los Angeles, Stanford, Marysville, and Santa Rosa, of California; Denver, Colo., and Boston, Mass. Letters of complaint are still coming from El Paso and San Antonio, of Texas, saying that the collectors there still refuse to register Chinese unless they furnish at least one witness other than Chinese who has known applicant for at least twelve years. Besides the above, letters have been received from Marshfield, Oreg.; Rocky Bar, Elmore County, Idaho; Palmetto, Esmeralda County, Nev.; Hot Springs, Ark.; Mountain City, Nev.; Union City, Tenn.; Willcox, Ariz.; Burns, Harney County, Oreg.; and Eureka Mills, Cal., all complaining that there is no one at these places to register them.

LI YUNG YEW.
CHANG TING CHIP.

Mr. Gresham to Mr. Yang Yü.

DEPARTMENT OF STATE,
Washington, April 14, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 11th instant, reporting the difficulties that beset Chinese subjects in certain quarters in obtaining certificates of registration. I at once brought a copy of your note to the attention of the Secretary of the Treasury with a request that the same be given prompt consideration, and inclose for your information a copy of Mr. Carlisle's reply of the 13th instant, from which it will be observed that his Department is making extraordinary efforts to secure, within the time fixed by law, the registration of all Chinese laborers who are entitled to registration, and that he has no reason to believe that any considerable number will fail to procure certificates on account of the want of time.

In the matter of the charge that persons of questionable character are acting in collusion with certain registering clerks and demanding payment of a fee of \$7 for each certificate, I may add that the Treasury Department has no information tending to warrant the belief that any of its officers are engaged in such unlawful practices. The charges will, however, be fully investigated, and should it be found that registering officers have been guilty of any wrongdoing in this relation, the promise is made that they will be summarily dealt with and promptly dismissed from the service.

Accept, etc.,

W. Q. GRESHAM.

[Inclosure.]

Mr. Carlisle to Mr. Gresham.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, April 13, 1894. (Received April 14.)

SIR: I have the honor to acknowledge the receipt of your favor of the 11th instant, transmitting a copy of a note from the Chinese minister in relation to the alleged difficulties experienced in certain quarters

by Chinese applicants for registration certificates, and in response thereto I forward herewith a letter from Hon. J. S. Miller, Commissioner of Internal Revenue, whose Bureau has charge of this matter.

The Department is making extraordinary efforts to secure, within the time fixed by the law, the registration of all Chinese laborers who are entitled to registration, and I have no reason to believe that any considerable number will fail to procure certificates on account of the want of time.

In order to facilitate the registration of those who are unable to appear personally before the collectors or deputy collectors of internal revenue, the revised regulations, which were promulgated on the 25th of November last, contained a provision which permitted deputy collectors to receive applications and affidavits of witnesses, sworn to at the applicant's expense before a clerk of the court, notary public, or other officer, with his seal attached, qualified to administer oaths, accompanied by a certificate of the officer who administered the oath, that the descriptive list in the application is in all respects correct and complete, and that the photographs submitted are correct likenesses of the applicant.

It is believed that there are very few, if any, Chinese laborers so located that they can not, without inconvenience to themselves, appear before one of these officers, make his application, and furnish the evidence required by the law.

I inclose herewith copies of the statutes, revised regulations, and forms of application and evidence required.

Very respectfully,

J. G. CARLISLE,
Secretary.

[Subinclosure.]

Mr. Miller to Mr. Carlisle.

TREASURY DEPARTMENT,
OFFICE OF THE COMMISSIONER OF INTERNAL REVENUE,
Washington, April 12, 1894.

SIR: Referring to the letter of the Chinese minister of the 11th instant, addressed to you and by you referred to this office, in which it is stated that complaints have been received from certain portions of this country that inadequate accommodations are being furnished for the registering of Chinese laborers, I beg to say, with reference to the complaints from El Paso and San Antonio, Tex., to the effect that registering officers at those points are refusing to accept Chinese testimony in behalf of applicants, that on the 28th ultimo the attention of Collector Kauffman was called to this matter, and on the 29th he advised this office by telegraph as follows:

"Have wired deputy at El Paso to accept any creditable Chinaman of good character as witness. Applications now at this office show that he has accepted such witnesses heretofore."

Complaints similar to the above have come from other sections of the country, and in each instance collectors have been instructed to accept creditable Chinamen as witnesses, no discrimination being made on account of the color or nationality of a witness.

Only a simple compliance with the law, which requires a creditable witness, has been exacted.

As to the charge that persons of questionable character are alleged to be acting in collusion with certain registering clerks and demanding a payment of \$7 for each certificate, this office has no information to warrant the belief that deputy collectors have had any knowledge of, connived at, or been a party to any such unlawful practices, nor has this office any information that unprincipled men are placing obstacles in the way of registration unless they are paid a fee for procuring the same. It is possible that persons serving as witnesses for applicants have charged a fee for so

doing, but if this has been done at all it is a matter entirely between the applicant and the witness, and this office has no information that any of its subordinates have been parties to any such transaction.

The charges recounted in the letter of the minister will be thoroughly investigated, and if it is found that registering officers have been guilty of any wrongdoing in this connection they will be summarily dealt with and promptly dismissed from the service.

As to the complaint that there are about 70,000 Chinese in the State of California, only 24,000 of whom have been registered, and that on account of the limited registration much anxiety is felt, and it is feared that the work can not be completed within the short time remaining for the execution of the law, I beg to state that telegraphic information received from the collectors in California reports that at the close of business on the 6th instant the total number of applications received in the first and fourth collection districts was 43,344, in the district of Oregon, 8,000, and in the district of Montana, 3,000, making an aggregate of 54,344. About 6,000 applications had been received in other districts throughout the country up to the close of business on the 15th ultimo, which makes an aggregate of about 60,000 applications.

Information received very recently from all collectors in whose districts there are any considerable number of Chinamen is to the effect that the work of registration is progressing satisfactorily, and that it would be completed in the time prescribed by the law; that is, all Chinamen entitled to registration will have applied for certificates.

In some of the districts there will be a considerable number of certificates still to be issued after the close of business of the 3d of May, but a sufficient force will be employed in each of the districts where such a condition prevails to issue and furnish the certificates to applicants within a brief time after that date.

In regard to the complaints made from certain points throughout the country that there are no officers present to receive applications for certificates, it is believed that in most of these cases, as at Union City, Tenn., investigation will develop the fact that there are but few Chinamen at these points, possibly not more than one or two. There are many such places where it is entirely impracticable to send a deputy collector to receive applications.

In all such cases it is the privilege of a Chinaman to go before the clerk of a court, a notary public, or a justice of the peace, or any municipal or State officer authorized to administer oaths. (See p. 7, series 7, No. 8, revised.)

This concession was made in the regulations for the purpose of meeting emergencies of this kind, and it would seem but just and reasonable that the applicant should be satisfied with this liberal provision for his accommodation. But, in order to eliminate as far as possible all cause for complaint upon this subject, the collectors of the several districts embracing the points referred to have been advised to extend accommodations to applicants by sending deputies to those points named wherever their means will permit it, and where this can not be done to call the attention of all who complain to the privilege accorded them of registering before the local officers, as above stated.

I am, very respectfully,

J. S. MILLER,
Commissioner.

Mr. Yang Yü to Mr. Gresham.

CHINESE LEGATION,
Washington, April 24, 1894. (Received April 24.)

SIR: I have the honor to request your attention to the opinion of the Attorney-General addressed to the Secretary of the Treasury, dated 6th April, 1894, upon the question of the definition of "merchant," contained in the second section of an act approved November 3, 1893, to amend an act entitled "An act to prohibit the coming of Chinese persons into the United States," approved May 5, 1892, and also to the orders issued pursuant thereto by the Secretary of the Treasury to collectors and other officers of the customs, dated the 10th and 19th days of April, respectively. In the opinion the Attorney-General concludes "that a Chinese person does not bring himself within the statutory definition of merchant unless he conducts his business either in his own name or in a firm name of which his own is a part." By the terms of

the order of the Secretary of the Treasury of April 10, 1894, the customs officers are instructed to follow this opinion as a guide in the enforcement of the Chinese exclusion laws. Subsequently, however, to wit, on the 19th day of April, the Secretary of the Treasury ruled that Chinese merchants domiciled in the United States, and who departed therefrom prior to November 3 last, may be permitted to land upon submission to the collector of customs at the port of first arrival of evidence sufficient to satisfy him of their identity as such returning merchants.

If this ruling against the return of Chinese merchants to the United States shall be enforced, great injustice will result to many of those persons who are bona fide entitled to reënter the United States and continue the pursuit of their legitimate business, and it may be remarked that, if a similar ruling should be enforced against American merchants in China, a like injustice would be inflicted upon such merchants and their business in that country. I shall not readily believe, therefore, that it is the intention of the U. S. Government, by following the letter of the law, instead of its spirit, to thus destroy, to any extent, the business of this class of Chinese persons, and also to visit upon them at the same time this great personal injustice.

The Chinese merchants in the United States have, for many years, carried on their partnerships in a manner peculiar to their own notions and customs. These partnerships and business relations existed throughout the United States on November 3, 1893. It will scarcely be contended, therefore, that it was the intention of the law in defining "merchant" to destroy, in whole or in part, such business relations of the Chinese merchants by abridging their right to go to China and to return to the United States.

It is a well-known fact that the Chinese mercantile establishments in the United States consist of many members, who, under some fictitious name, carry on their business regardless of the names of the members. The names of the members of these firms can, no doubt, in each instance be readily ascertained and furnished, but not in all probability within the strict terms of the opinion of the Attorney-General.

It is the object of this note, therefore, to bring this important question to your careful consideration for the purpose of adopting if possible some method of protecting the rights of Chinese merchants to return to the United States and pursue their mercantile business, and I wish it distinctly understood that I disclaim all desire to protect any Chinese persons of any class who may attempt by fraud to enter into the United States in violation of law.

In conclusion I will suggest that the names of all Chinese merchants, who are members of firms in the United States, and who are at present in the United States, or absent therefrom and entitled to return thereto, could easily be ascertained through the Chinese consular officers in the United States and furnished to your Government, if by this method the rights of such Chinese merchants could be better protected from the great wrong that is now about to be done toward them.

Hoping that some course may be adopted that will prove satisfactory upon this subject,

Accept, etc.,

YANG YÜ.

[Inclosure—Circular.]

Admission of Chinese claiming to be merchants.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, April 10, 1894.

To Collectors and other Officers of the Customs:

A question having arisen as to the right of persons claiming to be members of Chinese mercantile firms, but whose names do not appear in the firm name, to leave the United States and return thereto as merchants, an opinion was requested from the honorable the Attorney-General as to such right, in view of the provision in section 2 of the act approved November 3, 1893, amending the act approved May 5, 1892, entitled "An act to prohibit the coming of Chinese persons into the United States," viz:

The term "merchant" as employed herein, and in the acts of which this is amendatory, shall have the following meaning and none other: A merchant is a person engaged in buying and selling merchandise at a fixed place of business, which business is conducted in his name, etc.

In reply, under date of the 6th instant, the opinion was rendered, copy of which is hereunto appended for the information and guidance of all officers of this Department charged with the enforcement of the Chinese exclusion laws.

C. S. HAMLIN,
Assistant Secretary.

The following is a copy of the opinion above referred to:

DEPARTMENT OF JUSTICE,
Washington, D. C., April 6, 1894.

SIR: I have the honor to acknowledge yours of the 3d instant, in which my opinion is requested upon the question whether a member of a Chinese copartnership whose name does not form a part of the firm name under which the copartnership business is carried on can leave the United States and return thereto as a merchant under section 2 of the act approved November 3, 1893, amending the act approved May 5, 1892, entitled "An act to prohibit the coming of Chinese persons into the United States."

Section 2 of the act referred to defines a merchant in the following language: "A merchant is a person engaged in buying and selling merchandise at a fixed place of business, which business is conducted in his name, and who, during the time he claims to be engaged as a merchant, does not engage in the performance of any manual labor, except such as is necessary in the conduct of his business as such merchant."

This requirement that the merchant must conduct the business in his own name can have but one purpose, to wit, that he who is a merchant in fact shall also be known to be such by the parties with whom he deals, and by the public generally. That purpose could readily be defeated if it were permissible to conceal his identity by trading under an assumed name or under the disguise of a "Co."

I am, therefore, of the opinion that a Chinese person does not bring himself within the statutory definition of merchant unless he conducts his business either in his own name or in a firm name of which his own is a part.

Respectfully, yours,

RICHARD OLNEY,
Attorney-General.

HON. SECRETARY OF THE TREASURY.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., April 19, 1894.

COLLECTOR OF CUSTOMS, Astoria, Oreg.:

Chinese merchants domiciled in the United States, and who departed prior to November 3 last, when act amending act approved May 5, 1892, entitled "An act to prohibit the coming of Chinese persons into the United States" was approved, may

be permitted to land upon evidence sufficient to satisfy you of their identity as returning merchants. Those who left the United States since November last, and whose names do not appear in firm name, must be excluded under opinion of Attorney-General of 6th instant.

J. G. CARLISLE,
Secretary.

Similar telegram sent to collectors of customs at the following ports: Burlington, Vt.; Portland, Oreg.; Port Townsend, Wash.; Suspension Bridge, N. Y.; San Francisco, Cal.

EXEMPTION OF MERCHANT SHIPPING.

Mr. Denby to Mr. Gresham.

No. 1921.]

LEGATION OF THE UNITED STATES,
Peking, August 11, 1894. (Received September 22.)

SIR: I have the honor to state that the U. S. consul at Tientsin has reported to me that on the 2d instant a Japanese bark, the *Tenkio Maru*, arrived at Taku, and was at once seized by the Chinese. She is a ship of 1,200 tons, having a crew of 25 Japanese, and was loaded with railway sleepers and timber consigned to the Chinese Railway Company, but hypothecated to the Hongkong and Shanghai Banking Corporation for about 12,000 taels.

Upon being informed of this seizure, Mr. Read, U. S. consul at Tientsin, expressed to the viceroy a hope that he would see his way to release this ship. On the 4th instant Mr. Read telegraphed to me that the "Chinese authorities will release *Tenkio Maru*," and asked if Japan would consent to refrain from molesting Chinese merchant vessels. I at once (August 5) telegraphed to the U. S. minister at Tokio as follows:

Chinese have captured Japanese bark; have consented to allow to discharge cargo and to depart. Chinese Government wishes to know if Japan will refrain from molesting Chinese merchant vessels.

On the 6th instant Mr. Dun replied to this as follows:

Japanese Government would be willing to consent to exempt Chinese ships from capture, except ships carrying troops, or other contrabands of war, or attempting to break blockade, provided Chinese Government guarantees like immunity in favor of private Japanese ships.

Both the Tsung-li-Yamén and the Viceroy Li expressed themselves as prepared to accept these terms. They wish, however, to have a statement from Japan as to what will be considered contraband of war. Upon receipt of this statement the negotiations will probably be brought to a favorable conclusion.

In view of the fact that the United States have long favored the exemption from attack of private property on the sea, I urged the ministers of the Yamén to enter into such an agreement as proposed. The present war presents few difficulties for the application of this exemption. The neutral shipping engaged in the carrying trade of China is so great that every ship flying the Chinese flag might be destroyed without seriously deranging commerce or having any practical influence on the result of the war. The same remarks apply almost as well to Japan. As, therefore, attacks upon the merchant vessels of one another would be useless in bringing the war to a conclusion, and would be a needless interference with peaceful private enterprise, it seems to be desirable that the two powers should be encouraged to expressly exempt such vessels from attack.

On the 5th instant I telegraphed you as follows:

China proposes to Japan mutually to abstain from molesting merchant vessels. Have telegraphed the U. S. minister to Japan.

Should the proposed arrangement be definitely concluded, I shall promptly advise you.

I have, etc.,

CHAS. DENBY, JR.,
Chargé d'Affaires ad interim.

Mr. Denby to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
Peking, August 20, 1894. (Received August 21.)

China and Japan were both willing to exempt merchant vessels of the other from seizure, but the negotiations have failed because Japan wished her merchant vessels to continue coming to China, and the Yamên could not revoke imperial order to destroy Japanese ships entering Chinese ports.

Mr. Denby to Mr. Gresham.

No. 1938.]

LEGATION OF THE UNITED STATES,
Peking, August 22, 1894. (Received October 1.)

SIR: Referring to my dispatch No. 1921, of the 11th instant, I have the honor to report that the negotiations between China and Japan for the exemption from seizure of the private ships of one another, which were being conducted through this legation and the U. S. legation at Tokyo, and which promised to be successful, have failed.

As stated in my dispatch above referred to, the suggestion to exempt merchant vessels from attack originated with China. The Japanese Government consented thereto, excepting vessels bearing troops or contraband of war and vessels attempting to break blockade. These terms were acceptable to the Viceroy Li, to whom I submitted them through the consul at Tientsin.

On the 7th instant the viceroy asked Mr. Read to telegraph me as follows:

Agree. Understanding China merchant's¹ steamers and Japanese subsidized lines as private vessels, but Japan must first define contraband of war.

Japan, however, refused to define contraband of war, and inquired whether the exemption would include Japanese vessels visiting Chinese ports. The edict of the Emperor of China of the 1st of August, declaring war, orders that Japanese ships entering Chinese ports shall be destroyed, and the Japanese Government asked whether this order would be revoked.

On the 14th instant I visited the Yamên for the purpose of ascertaining the views of the Chinese ministers on these questions. They

¹ A large Chinese steamship company.

stated that they were willing to consent to the proposed exemption without a definition of contraband of war, but that they could not consent to admit Japanese vessels into Chinese ports, nor could any part of the imperial edict be revoked. They asked this legation to try to induce the Government of Japan to come to an agreement upon these terms. I asked them to put their statement into the form of an official dispatch, which they did, on the 17th instant. A copy of this dispatch I inclose herewith.

The day after this interview, viz, on the 15th instant, I telegraphed to Mr. Dun, United States minister at Tokyo, as follows:

Chinese Government consents exemption without defining contraband of war for coasting trade and foreign neutral ports. Japanese vessels will not be allowed to visit Chinese ports.

To this telegram Mr. Dun replied, under daté of the 19th, as follows:

Government of Japan refuse proposals relative to exemption of private vessels from capture and withdraw from negotiations.

I communicated this answer, which puts an end to all negotiations, to the Viceroy Li, through the U. S. consul at Tientsin, and to the Tsung-li-Yamén in a dispatch, of which I inclose a copy herewith.

In the interview of the 14th instant with the Yamén, I stated, in reply to an inquiry, that it was not reasonable to expect Japan to undertake not to search Chinese ships for contraband of war in case the proposed agreement was made. The Chinese ministers, however, thinking that they had gained exemption of their merchant ships from capture, wished to go a step further and to be permitted to use them to carry munitions of war. The subject will be found referred to in the Yamén's dispatch inclosed herewith. I refused to submit such a proposition to the Japanese Government.

The ministers of the Yamén gave two reasons for refusing to admit Japanese ships to their ports. Firstly, they asserted that the Emperor's decree ordering their destruction was irrevocable, and that the national dignity would be compromised should any part of it be withdrawn. Being asked to explain why vessels at sea might be spared and those coming on peaceful errands to their ports should be destroyed, they said that this decree did not mention Japanese vessels at sea and that they might be exempted without disobedience to it.

Secondly, they expressed fear of treachery, and said that Japanese men-of-war, disguised as merchantmen, might steal past their forts.

After this decision of the Chinese Government an agreement became impossible. The only advantage Japan would have derived from it would have been the continuance of her steamship lines to Shanghai and Tientsin. This being refused, the agreement would have profited only her enemy. Under these circumstances her withdrawal from further negotiations was only to be anticipated.

I hope the Department will not disapprove my having consented to act as a means of communication in this matter. The Chinese Government naturally turned to this legation for the performance of a friendly act, and a refusal would have been misunderstood and would have caused much embarrassment.

I have, etc.,

CHAS. DENBY, JR.,
Chargé d'Affaires ad interim.

[Inclosure 1 in No. 1938.]

The Tsungli-li-Yamén to Mr. Denby, Jr.

No. 33.]

PEKING, August 17, 1894.

YOUR EXCELLENCY: Upon the 7th of August the prince and minister had the honor to receive a communication from the chargé d'affaires of the United States (with reference to the exemption of Japanese and Chinese merchant vessels from seizure), wherein he stated that on the 5th instant he telegraphed to the American minister at Tokyo asking whether Japan would enter into an agreement in the matter, and that he had this morning (7th August) received a reply from Tokyo saying that the Japanese Government would be willing to consent to exempt Chinese merchant ships from capture, except ships carrying troops, contraband of war, or attempting to break blockade, provided the Chinese Government would guarantee like immunity to vessels of Japan, etc.

The Yamén telegraphed the minister superintendent of northern trade, asking him to consider the question. A reply has now been received in which the minister superintendent states that "the exemption from seizure of merchant vessels of China and Japan would refer to those met at sea, but to allow Japanese vessels to enter Chinese ports free from attack can not under any circumstances be sanctioned. The Japanese propose that while merchant vessels at sea will be exempt from seizure, still the right to search them for contraband of war must be permitted. They refuse to clearly define what articles should be regarded as contraband, and this being the case merchant vessels would still have many doubts and misgivings in the matter."

In the communication under review there are three conditions specified. So far as merchant vessels engaged in carrying troops or breaking the blockade [are concerned] both powers would have a perfect right to seize them, but with regard to the condition having reference to contraband of war, since it is not defined as to what articles should come under this heading, it would seem right and proper for both China and Japan to exempt merchant vessels from being searched.

As to the telegram received from the U. S. minister at Tokyo, particulars of which were left at the Yamén by the chargé d'affaires on the 14th instant, wherein the request is made that Japanese merchant vessels be allowed to enter the ports of Shanghai and Tientsin, and also that the Emperor's commands in the decree (of August 1, 1894) to attack Japanese vessels entering Chinese ports be revoked, the prince and ministers have to say that such a proposition can not under any circumstances whatever be acceded to. The Yamén clearly explained this to the chargé d'affaires of the United States at the interview.

The views expressed by the minister superintendent of northern trade in his telegraphic reply are the same as those held by the Yamén. But as to the question of the merchant vessels of China and Japan being exempt from seizure at sea, an arrangement may be clearly settled or drawn up and action taken in accordance therewith.

In addressing this communication for the information of the chargé d'affaires of the United States, the prince and ministers would ask him to consult with the Japanese Government upon the subject.

A necessary communication addressed to Charles Denby, jr., esq.

[Inclosure 2 in 1938.]

Mr. Denby to the Tsung-li-Yamén.

No. 32.]

AUGUST 20, 1894.

YOUR HIGHNESS AND YOUR EXCELLENCIES: I have the honor to acknowledge the receipt of your dispatch of the 17th instant with reference to the exemption from capture of the private vessels of China and Japan. On the 15th instant I received a telegram from the U. S. consul at Tientsin, stating that the Viceroy Li consented to the proposals of Japan, except that Japanese vessels would not be allowed to visit Chinese ports. This statement coincides with the position assumed by you at our interview on the 14th instant. Accordingly, on the 15th, I telegraphed to this effect to the minister of the United States at Tokyo. I have now received a reply from him in which he states that Japan refuses these terms and withdraws from the negotiation. This result is much to be regretted.

I have, etc.,

CHAS. DENBY, JR.,
Chargé, etc.

Mr. Denby to Mr. Gresham.

No. 1999.]

LEGATION OF THE UNITED STATES,
Peking, October 14, 1894. (Received November 19.)

SIR: In my dispatch No. 1921, of the 11th August, I had the honor to report to you the seizure of the Japanese bark *Tenkio Maru* by the Chinese authorities at Taku. The proposed release of this vessel was put forward by the Viceroy Li as the basis of negotiations looking toward the exemption from capture of Chinese and Japanese merchant vessels. The history of these negotiations and their failure were reported to you in my dispatch No. 1938, of the 22d August.

When these negotiations failed, it was not supposed that any action with reference to this bark would be taken. It seems, however, that either from a recognition by China of the extreme harshness of her seizure, she having cleared before war was declared and having been laden with materials consigned to the Chinese Government railways, or in fulfillment of an implied obligation arising from China's original proposal, or for some other reason, the Chinese authorities finally decided to return her to her owners. It was proposed by the Viceroy Li that the vessel be sent to Nagasaki, with a Chinese crew and foreign captain. This proposal was accepted by Japan, and notice of such acceptance given through the legations of the United States at Tokyo and Peking.

On the 11th instant the *Tenkio* set sail from Taku. At the request of the Japanese Government, I telegraphed the American minister at Tokyo the date of her departure. She flies the Japanese flag and carries her original ship's papers. Her captain is also provided with a certificate, in the nature of a safe-conduct by Consul Read at Tientsin.

During her captivity the *Tenkio* became indebted to the Chinese authorities for certain sums of money expended on her maintenance. Advances for the payment of these sums, as well as for the expenses of her temporary captain and crew, in going to and returning from Japan, were made by the Hongkong and Shanghai Banking Corporation, at Tientsin. These advances were made without any assurance

of repayment, but with the faith that they would be promptly liquidated by the owners of the ship or by the Japanese Government. At the request of the Chinese authorities, I telegraphed Mr. Dun at Tokyo, asking an assurance to this effect.

The return of the *Tenkio* was a voluntary act on the part of China, as, notwithstanding the hardship of her seizure, I did not feel at liberty to make any protest in the matter.

I have, etc.,

CHAS. DENBY.

Mr. Gresham to Mr. Denby, chargé.

No. 960.]

DEPARTMENT OF STATE,
Washington, October 20, 1894.

SIR: I have to acknowledge the receipt of your No. 1938, of August 22, last, and to approve your action in using your friendly offices to effect an understanding between China and Japan, exempting from seizure the merchant vessels of the two countries.

It is to be regretted that an agreement was not reached by the belligerent powers on the important question of defining what should be considered as contraband of war on the high seas.

I am, etc.,

W. Q. GRESHAM.

Mr. Denby to Mr. Gresham.

No. 1960.]

LEGATION OF THE UNITED STATES,
Peking, September 10, 1894. (Received October 27.)

SIR: I have the honor to inclose herewith a copy of a dispatch from the Japanese minister for foreign affairs to Mr. Dun, U. S. minister at Tokyo, explanatory of Japan's withdrawal from negotiations concerning the exemption of private ships from capture.

I also inclose herewith a copy of another dispatch from the same to the same, in explanation of the refusal of Japan to grant safe conducts to the vessels of the Chinese foreign customs service employed as light-house tenders.

I have, etc.,

CHAS. DENBY, JR.,
Chargé d' Affaires ad interim.

[Inclosure 1 in No. 1960.]

Viscount Mutsu Munemitsu to Mr. Dun.

DEPARTMENT OF FOREIGN AFFAIRS,
Tokyo, August 18, 1894.

SIR: I have had the honor to receive your excellency's note of the 15th instant inclosing a further telegram from the U. S. chargé d'affaires at Peking.

I beg to request that your excellency will have the kindness to inform Mr. Denby by wire that the Imperial Government definitely withdraw from the negotiations regarding the proposed exemption of private ships from capture.

The Imperial Government do not feel called upon to explain to the Chinese Government the reasons underlying their resolution, but the courteous action of your excellency and Mr. Denby makes them especially anxious that you should not remain in ignorance of the actual grounds upon which their determination rests.

The position in which Mr. Denby's last telegram placed the question left, in the estimation of the Imperial Government, no room for hope that a satisfactory accommodation on the subject was possible, and a no less serious obstacle to the conclusion of an arrangement is the fact, which has but recently come to the knowledge of the Imperial Government, that the Chinese Government is still holding the vessel, the alleged unconditional release of which was advanced as the pretext for the proposed general understanding.

Thanking your excellency for your courtesy in this matter, and requesting you to convey to Mr. Denby the expression of my high appreciation of his kindness, I beg to renew, etc.,

MUTSU MUNEMITSU,
Minister for Foreign Affairs.

[Inclosure 2 in No. 1960.]

Viscount Mutsu Munemitsu to Mr. Dun.

DEPARTMENT FOR FOREIGN AFFAIRS,
Tokyo, August 23, 1894.

SIR: I have the honor to acknowledge the receipt of your excellency's note of the 18th instant, communicating the copy of a telegram from the U. S. chargé d'affaires at Peking.

While the Imperial Government are disposed to do everything in their power to protect neutral commerce, they do not think they can reasonably be expected, in the direction indicated, to relax to any extent their belligerent rights, since it would be impossible for them to secure any satisfactory guarantee that the vessels in question might not be employed in conveying contraband of war. Besides, by having recourse to the expedient of extinguishing established lights along her coast, China has clearly deprived herself of the right, even if her motives were wholly disinterested, to ask Japan's indulgence in the matter of Chinese light-house tenders.

I beg, therefore, to ask your excellency to have the kindness to inform Mr. Denby that the Imperial Government can not grant the request preferred through the inspector-general of the Chinese customs.

I avail, etc.,

MUTSU MUNEMITSU,
Minister for Foreign Affairs.

PROTECTION OF CHINESE IN GUATEMALA.*

Mr. Yang Yü to Mr. Gresham.

CHINESE LEGATION,
Washington, August 16, 1894. (Received August 16.)

SIR: I have the honor to acknowledge with sincere thanks the receipt of your note of the 11th instant, in which you kindly transmitted to me a sealed envelope, received through the minister of the

* See Guatemala, *post*, "Good Offices on Behalf of Chinese."

United States to Guatemala. The said envelope was found to contain a joint petition addressed to me by the Chinese subjects residing in the country of Guatemala. It appears that there are perhaps one hundred Chinese residing in that Republic, where our Government has no accredited representative to whom our people can look for protection. The petitioners pray that some expedient may be found by which the interests of the Chinese residents may be cared for and protection secured to them.

Inasmuch as China has no treaty relations with the Republic of Guatemala, no representative can be properly appointed by our Government to that country. This being the case, the suggestion presents itself that the good offices of the U. S. Government may be invoked, by which the minister and consular representatives of the United States to Guatemala may be duly invested with the proper authority to afford protection to those Chinese who may reside in that country.

I shall be glad to be informed, in due course, whether or not the U. S. Government can see its way to entertain favorably the proposal as stated above.

Accept, etc.,

YANG YÜ.

TREATY REGULATING EMIGRATION.

Mr. Gresham to Mr. Denby, Chargé.

No. 925.]

DEPARTMENT OF STATE,
Washington, August 25, 1894.

SIR: I transmit herewith for your information a copy of the convention signed in this capital on March 17, 1894, by the plenipotentiary of China and myself, for the regulation of emigration between the United States and China.

This convention was advised and consented to by the Senate on the 13th instant, and I have notified the Chinese minister of the fact and of my readiness to exchange ratifications as soon as he shall have received the necessary ratification copy and powers from his Government.

As the convention is to take effect upon such exchange you are expected, upon receiving advice to that effect, to bring the treaty to the knowledge of citizens of the United States in China, through the consulate-general and the several consulates, inviting attention to the reciprocal provisions of Article VI concerning registration and advising all American citizens in China being "laborers, skilled, or unskilled," as defined in the convention, of their obligation to conform to such laws or regulations as the Government of China may enact, similar to the registration act of May 5, 1892, for the registration of such American laborers in China.

You will also take steps to cause notification to be made to all other citizens of this country, including missionaries, residing both within and without the treaty ports of China (but not diplomatic and other officers of the United States residing or traveling in China upon official business, together with their body and household servants), of their obligation to make due registration in the nearest consulate of the United States, or at the legation, within a date to be announced, and annually thereafter, in order that the legation may seasonably be in a

position to fulfill, on behalf of this Government, the stipulated obligation to furnish to the Government of China registers or reports showing the full name, age, occupation, and number or place of residence of all such American citizens.

I am, etc.,

W. Q. GRESHAM.

[Inclosure in No. 925.]

Convention between the United States of America and the Empire of China.

[Emigration between the two countries.]

Signed at Washington March 17, 1894. Ratification advised by the Senate August 13, 1894. Ratified by the President August 22, 1894. Ratified by the Emperor of China in due form. Ratifications exchanged at Washington December 7, 1894. Proclaimed December 8, 1894.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas a convention between the United States of America and China, concerning the subject of emigration between those two countries, was concluded and signed by their respective plenipotentiaries at the city of Washington on the 17th day of March, one thousand eight hundred and ninety-four, which convention is word for word as follows:

Whereas, on the 17th day of November A. D. 1880, and of Kwanghsü, the sixth year, tenth moon, fifteenth day, a treaty was concluded between the United States and China, for the purpose of regulating, limiting, or suspending the coming of Chinese laborers to, and their residence in, the United States;

And whereas the Government of China, in view of the antagonism and much depressed and serious disorders to which the presence of Chinese laborers has given rise in certain parts of the United States, desires to prohibit the emigration of such laborers from China to the United States;

And whereas the two Governments desire to coöperate in prohibiting such emigration, and to strengthen in other ways the bonds of friendship between the two countries;

And whereas the two Governments are desirous of adopting reciprocal measures for the better protection of the citizens or subjects of each within the jurisdiction of the other;

Now, therefore, the President of the United States has appointed Walter Q. Gresham, Secretary of State of the United States, as his plenipotentiary, and His Imperial Majesty, the Emperor of China, has appointed Yang Yü, officer of the second rank, subdirector of the court of sacrificial worship, and envoy extraordinary and minister plenipotentiary to the United States of America, as his plenipotentiary; and the said plenipotentiaries having exhibited their respective full powers, found to be in due and good form, have agreed upon the following articles:

ARTICLE I.

The high contracting parties agree that for a period of ten years, beginning with the date of the exchange of the ratifications of this convention, the coming, except under the conditions hereinafter specified, of Chinese laborers to the United States shall be absolutely prohibited.

ARTICLE II.

The preceding article shall not apply to the return to the United States of any registered Chinese laborer who has a lawful wife, child, or parent in the United States, or property therein of the value of one thousand dollars, or debts of like amount due him and pending settlement. Nevertheless every such Chinese laborer shall, before leaving the United States, deposit, as a condition of his return, with

the collector of customs of the district from which he departs, a full description in writing of his family, or property, or debts, as aforesaid, and shall be furnished by said collector with such certificate of his right to return under this treaty as the laws of the United States may now or hereafter prescribe and not inconsistent with the provisions of this treaty; and should the written description aforesaid be proved to be false, the right of return thereunder, or of continued residence after return, shall in each case be forfeited. And such right of return to the United States shall be exercised within one year from the date of leaving the United States; but such right of return to the United States may be extended for an additional period, not to exceed one year, in cases where by reason of sickness or other cause of disability beyond his control such Chinese laborer shall be rendered unable sooner to return, which facts shall be fully reported to the Chinese consul at the port of departure, and by him certified, to the satisfaction of the collector of the port at which such Chinese subject shall land in the United States. And no such Chinese laborer shall be permitted to enter the United States by land or sea without producing to the proper officer of the customs the return certificate herein required.

ARTICLE III.

The provisions of this convention shall not affect the right at present enjoyed of Chinese subjects, being officials, teachers, students, merchants or travellers for curiosity or pleasure, but not laborers, of coming to the United States and residing therein. To entitle such Chinese subjects as are above described to admission into the United States, they may produce a certificate from their Government or the Government where they last resided, viséd by the diplomatic or consular representative of the United States in the country or port whence they depart.

It is also agreed that Chinese laborers shall continue to enjoy the privilege of transit across the territory of the United States in the course of their journey to or from other countries, subject to such regulations by the Government of the United States as may be necessary to prevent said privilege of transit from being abused.

ARTICLE IV.

In pursuance of Article III of the immigration treaty between the United States and China, signed at Peking on the 17th day of November, 1880 (the 15th day of the tenth month of Kwanghsii, sixth year), it is hereby understood and agreed that Chinese laborers or Chinese of any other class, either permanently or temporarily residing in the United States, shall have for the protection of their persons and property all rights that are given by the laws of the United States to citizens of the most favored nation, excepting the right to become naturalized citizens. And the Government of the United States reaffirms its obligation, as stated in said Article III, to exert all its power to secure protection to the persons and property of all Chinese subjects in the United States.

ARTICLE V.

The Government of the United States, having by an act of the Congress, approved May 5, 1892, as amended by an act approved November 3, 1893, required all Chinese laborers lawfully within the limits of the United States before the passage of the first named act to be registered as in said acts provided, with a view of affording them better protection, the Chinese Government will not object to the enforcement of such acts, and reciprocally the Government of the United States recognizes the right of the Government of China to enact and enforce similar laws or regulations for the registration, free of charge, of all laborers, skilled or unskilled (not merchants as defined by said acts of Congress), citizens of the United States in China, whether residing within or without the treaty ports.

And the Government of the United States agrees that within twelve months from the date of the exchange of the ratifications of this convention, and annually thereafter, it will furnish to the Government of China registers or reports showing the full name, age, occupation, and number or place of residence of all other citizens of the United States, including missionaries, residing both within and without the treaty ports of China, not including, however, diplomatic and other officers of the United States residing or traveling in China upon official business, together with their body and household servants.

ARTICLE VI.

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.

In faith whereof, we, the respective plenipotentiaries, have signed this convention and have hereunto affixed our seals.

Done, in duplicate, at Washington, the 17th day of March, A. D. 1894.

WALTER Q. GRESHAM. [SEAL.]
(Chinese signature.) [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 7th day of December one thousand eight hundred and ninety-four.

Now, therefore, be it known that I, Grover Cleveland, President of the United States of America, have caused the said convention to be made public to the end that the same and every article and clause thereof may be observed and fulfilled with good faith by the United States and the citizens thereof.

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

Done at the city of Washington this 8th day of December, in the year of our Lord one thousand eight hundred and ninety-four, and of the Independence of the United States the one hundred and nineteenth.

[SEAL.]

GROVER CLEVELAND.

By the President:

W. Q. GRESHAM,
Secretary of State.

COLOMBIA.

COSTA RICAN-COLOMBIAN BOUNDARY.¹

Mr. McKinney to Mr. Gresham.

No. 34.]

LEGATION OF THE UNITED STATES,
Bogota, January 12, 1894. (Received February 6.)

SIR: I have the honor to acknowledge the receipt of your No. 32, of November 27, regarding the complaint of the Colombian minister that the tone of my communication, by which I transmitted your desire regarding the Costa Rica boundary question to the Colombian Government, was not in harmony with the spirit of the friendly relations existing between the two Governments. In communicating your instructions, I followed very closely the language of your letter, as you will see by the copy I inclose. I withdrew this letter at the request of the minister of foreign affairs, because he said he preferred to deal with the American legation on questions of this kind by private interviews. He said they were preparing a proposition to Costa Rica for a treaty; that they desired the good services of the United States in urging Costa Rica to accept it, and promised to send a copy of the proposition to this legation before it should be forwarded to Costa Rica.

They failed to comply with this seeming friendly promise, and we did not receive a copy until two weeks after its transmission to Costa Rica, when it had been published in the official organ of the Government.

I learned then that the Colombian Government did not wish to acknowledge the right of our Government to interfere in any way between two South American governments. I called the attention of the minister of foreign affairs to his failure to fulfill his promise, and politely intimated to him that his action in the matter, under the circumstances, was in the nature of a slight to the United States. He disclaimed any such intentions, and explained that on account of the great length of the document, and the time required to copy it, they had decided to wait for its publication before transmitting it to this legation. I am now convinced that his request for the withdrawal of my note was not inspired by the strong spirit of friendship which he professed, but through a desire to prevent any record being made of interference by the Department at Washington.

If there is any cause of complaint in this matter, it seems to me it should come from the Government of the United States.

I am, etc.,

L. F. MCKINNEY.

[Inclosure in No. 34.]

Mr. McKinney to Mr. Suárez.

LEGATION OF THE UNITED STATES,
Bogota, August 21, 1893.

SIR: I am instructed by the Department of State at Washington, to communicate to you the earnest desire of the Government of the United States for the settlement of the boundary dispute between

¹ See Foreign Relations, 1893, pp. 266, 270, 281, 286, 287, 289, 294

Colombia and Costa Rica, as agreed in the convention between the two States, of December 25, 1880, and the additional convention signed at Paris, January 20, 1886.

The Government of the United States, maintaining friendly relations with both the parties to the dispute, is as indisposed to support the claim of Costa Rica, that the arbitration is still validly open, as it is to accept the converse claim of Colombia, that it has lapsed.

Not being in any sense a party to the arbitration, it is moved only by the desire to preserve the rights of its citizens in the territory in dispute, and to fulfill the international obligations of existing treaties.

The United States are by the treaty of 1846 with New Grenada, now Colombia, guarantors of the rights of sovereignty and property which Colombia has and possesses over the territory of the Isthmus of Panama, "from its southern extremity until the boundary of Costa Rica."

The Government is therefore interested in knowing the limits of the guaranty it has assumed, and regards it as a duty of friendship to do what it can toward the determination of its own rights and duties in respect to a territory the bounds of which are unsettled and in controversy.

Without therefore expressing any opinion touching the merits of the dispute now pending between Colombia and Costa Rica, the United States, in a spirit of complete disinterestedness, feels constrained to represent to the Government of Colombia, as also of Costa Rica, its earnest desire and hope that they shall waive the comparatively trivial obstacle to the accomplishment of the larger purpose of amicable arbitration, which they have both advocated, and that they shall come to an understanding whereby that high aim shall be realized either by the continuance of the arbitration under Her Majesty the Queen Regent of Spain, or if Her Majesty be indisposed to renew the functions, then by the alternative method already agreed upon, or by resort to any impartial arbitrator.

The President, in directing me to convey these views to the Government of Colombia, desires me to impress upon your excellency his sincere conviction "that the agreement of arbitration entered into by the two nations constitute an obligation between them which neither is morally free to disregard on grounds of technical formality, and his confidence that both Governments will endeavor to promote its successful issue."

I avail, etc.,

LUTHER F. MCKINNEY.

Mr. McKinney to Mr. Gresham.

No. 38.]

LEGATION OF THE UNITED STATES,
Bogota, February 10, 1894. (Received March 9.)

SIR: I have the honor to inclose herewith further correspondence in regard to the boundary question between Colombia and Costa Rica.

The Colombian minister of foreign affairs is opposed to the appointment of a Colombian or Costa Rican legation to treat about the matter on account of the expense.

He sees no reason why the legations of their respective countries, at either Washington or Madrid, should not arrange this matter.

I am, etc.,

LUTHER F. MCKINNEY.

[Inclosure 1 in No. 38.—Boundaries between Colombia and Costa Rica.—Taken from the *Diario Oficial*, 9-267.]

Mr. Jiménez to Mr. Suárez.

DEPARTMENT OF FOREIGN AFFAIRS,
Costa Rica, San Jose, November 18, 1893.

MR. MINISTER: The Government of Costa Rica has always desired, and still desires, to put a just and decisive end to the boundary dispute between the two Republics.

Urged not only by motives of mutual advantage to two neighboring states of common origin and of the same historical aspirations, but also by reasons of great economical importance, such as the removal of the obstacles which, on account of the existence of the dispute, drive away, up to a certain point, moral and material progress in the zones of the Atlantic and Pacific of both countries. To this end, every means compatible with the national honor has been tried. Its boundary treaties, its arbitration conventions, and its diplomatic correspondence prove my words.

With this understanding, and based upon the principles of justice which determine the validity of international acts, it has supported, in accordance also with the opinion of the Spanish Government, the judge of this lawsuit, the noncaducity of the arbitration convention celebrated by both States the 25th of December, 1880, and the additional convention of Paris dated January 20, 1886, in regard to which your excellency's Government unexpectedly declared the authority of the arbitrator instable, when the decision, it may be said, was on the point of being given. Having stated my Government's wishes, wishes which I sincerely trust are also your excellency's, and the powerful reasons which led to them, I have thought it opportune to reply thus to the communications of your department of March 16, 1891, and September 6th of the present year, for any other reply could but give rise to long, and useless discussions between the two cabinets, without obtaining any practical results, or one mutually satisfactory.

In accordance, therefore, with these aspirations, the principal object of the present dispatch, the President of the Republic has instructed me to propose to the honorable and just Government of Colombia that the validity or nonvalidity of the above mentioned conventions be submitted to arbitration, during which time there is no objection to the appointment of a Costa Rican or Colombian legation, which, with the delegates of the respective Governments, shall try to draw up a boundary treaty, or an arbitration convention, and to decide upon the temporary frontiers of the two countries. With sentiments of high esteem and distinguished consideration, and awaiting your reply, in regard to the proposed point,

I have, etc.,

MANUEL V. JIMÉNEZ.

[Inclosure 2 in No. 38.]

Mr. Jiménez to Mr. Suárez.

DEPARTMENT OF FOREIGN AFFAIRS,
Costa Rica, San Jose, November 20, 1893.

MR. MINISTER: Amplifying the ideas contained in my note of the 18th of the present month, I have the honor to tell your excellency that this department has just received your excellency's dispatch of March 16,

1891, in reply to my Government's note proposing the adoption of a provisional frontier between Colombia and Costa Rica. Your excellency manifests in your letter the satisfaction with which your Government embraces the idea, but you state that the line which the "Castro Valenzuela" treaty established is not acceptable to Colombia; and propose in its stead the river "Doraces," the mountain chain "Las Cruces," and the river "Golfito."

I have the honor to tell your excellency that the proposition which you make is full of obstacles which render it entirely unacceptable, for it would leave on the side of Colombia territories which belong to Costa Rica not only by right, but by act. Moreover, the question would still remain in regard to the great extension of territory, referring, as the said limit line does, to places about which no two maps agree. The circumstance that the proposition of your excellency's Government was not acceptable to Costa Rica, and that, shortly after the receipt of your note of March 16, my Government learned that the "Colombian Venezolana" boundary question had been settled by the Spanish Government, and that the said Government would immediately take up the boundary question between Colombia and Costa Rica, led my Government to suspend, as unnecessary, the discussion in regard to an agreement of a statu quo.

As the decision had almost been rendered, which would have definitely established the frontier line of our two countries, it was unnecessary to discuss longer a provisional arrangement which had only been commenced in the belief that the date of the final decision was exceedingly remote. Moreover, as the incident in regard to the validity of the time limit within which the Government of His Catholic Majesty was to try the boundary question between the two States according to the treaties in force, serves to prolong the decision in regard to the principal matter, my Government thinks that it would be very acceptable to appoint a Costa Rican or Colombian legation which could proceed to the business mentioned in my dispatch of the 18th of the present month.

I am, etc.,

MANUEL V. JIMÉNEZ.

[Inclosure 3 in No. 38.]

Mr. Suárez to Mr. Jiménez.

REPUBLIC OF COLOMBIA,
DEPARTMENT OF FOREIGN AFFAIRS,
Bogota, January 4, 1894.

MR. MINISTER: I have the honor to acknowledge the receipt of your excellency's note of November 18, 1893, regarding the boundary question between Colombia and Costa Rica, a matter which has for some time occupied the attention of our two Governments. The Government of Colombia, as well as that of Costa Rica, has always desired and still desires to settle this matter in a just and decisive way. The same motives which animate your excellency's Government in this matter, impel also the Colombian Government, for it is urged not only by motives of mutual convenience to the two States, but also by considerations of economical importance such as your excellency mentioned in the note which I now have the honor to answer. The Colombian Government finds itself in similar circumstances as regards Costa Rica, in all that relates to the means of accomplishing its wishes, in a friendly

and just way, as is proved by the treaties and conventions concluded with this intention, and the correspondence exchanged with your excellency's Government.

This correspondence, from its beginning up to the last notes addressed by this department to that under your excellency's charge, evidently shows a desire to have the boundary question definitely and bindingly settled. For as soon as it became evident that the validity of the treaties was doubtful, the Government of the Republic hastened to mention it, at the same time inviting Costa Rica to renew the said compacts, and giving a practical proof of its desire to prevent the boundary decision from being null and void. Therefore, my Government is certain it has given the best practical proof of its desire for the settlement of this matter, for it has prevented useless work in the accomplishment of this settlement, and at the same time has invited Costa Rica, with the greatest good will, to remove in good time any cause of failure in the laborious work of the arbitrator and of the interested parties.

As these sentiments exist, and as it is not to be supposed that the Government and people of Costa Rica fail to respond to this friendly and loyal conduct, or willfully misinterpret it, this department thought that the governments were in perfect accord, as regards the ideas (and propositions) referring to the conclusion of a new treaty, and to the establishment of a provisional boundary which would enable the final decision to be calmly awaited. This belief has been confirmed by your excellency's letter, which I now answer; and in consequence, and according to the instructions of the vice-president of the Republic, I take pleasure in renewing to your excellency the invitation contained in my preceding note, as the Colombian Government desires the renewal of the treaties and the establishment of a provisional boundary.

As the two governments agree upon this point, there is absolutely no necessity for wasting time and money in concluding an arbitration treaty referring to the validity of former treaties, a thing entirely unnecessary, inasmuch as the Governments of Colombia and Costa Rica desire to ratify, without loss of time, those treaties.

Once ratified, there would be no object in discussing the theoretical question of the value of the renewed treaties.

Accept, etc.,

MARCO F. SUÁREZ.

[Inclosure 4 in No. 38.]

Mr. Suárez to Mr. Jiménez.

REPUBLIC OF COLOMBIA,
DEPARTMENT OF FOREIGN AFFAIRS,
Bogota, January 12, 1894.

MR. MINISTER: Once more, and obliged by recent reports received by the Colombian Government, I have the honor earnestly to call your excellency's attention to the grave fact that Costa Rica, as is asserted, is performing jurisdictional acts on the right bank of the river Sixaola, which river, as that Government has admitted, is to mark the border line of the present possession of our two countries. If this fact is so, the Colombian Government, making use of the right which is conferred upon it by the said admission, and complying with the common obligation which has for some time bound the two republics, namely, to respect the status quo of the international possession, will be obliged to proceed to positive acts in the defense of the inviolability of the

said territory. It is not to be supposed, however, in view of the wisdom and fairness which distinguish your excellency's Government, that it will be necessary to proceed to such extremes. Wherefore, once again, I beg your excellency to do all in your power to stop that occupation, against which, to protect the interests of Colombia, I solemnly protest.

I also avail myself of this opportunity, Mr. Minister, to again call your excellency's attention to the need of completing as soon as possible as a practical demonstration of incontestable force the adjustment of the provisional boundary between Colombia and Costa Rica. The mutual relations of the two States being so cordial, and the inclinations being so sincere in favor of a final settlement of the boundary question by means of arbitration, it is evident that the complaints arising from the want of such temporary arrangement may have a pernicious effect upon these kind feelings.

I beg, etc.,

MARCO F. SUÁREZ.

Mr. Rengifo to Mr. Gresham.

[Translation.]

LEGATION OF COLOMBIA,

Washington, February 22, 1894. (Received February 23.)

SIR: When, in pursuance of the express instructions of my Government, I intended to make certain statements to the honorable Secretary of State relative to the boundary question pending between Colombia and Costa Rica, I learned with surprise that the U. S. Government was under the impression that my Government had not accepted the kind assurance of its friendly desire for the settlement of that dispute in accordance with the spirit of the treaty that was concluded to this effect, some years ago by the two countries, and I deem it my duty to dispel that erroneous impression, which the course actually pursued by my Government is very far from justifying, as I hope to have the honor to show by means of a simple statement of what has taken place in connection with this matter.

The honorable American minister at Bogota addressed to the minister of foreign relations of the Republic a communication, with the precise contents of which I am not familiar, but which I have good reason to presume contained an expression of the friendly desire of the U. S. Government for a settlement, by arbitration, of the differences in respect to boundaries which have existed for some time between my Government and that of Costa Rica. The aforesaid high Colombian functionary, being influenced by the most cordial feelings, personally solicited the Honorable Mr. McKinney to withdraw that note, it being his intention to discuss the case privately and confidentially, and by no means to act in a way that could offend a nation upon whose friendship the Government of Colombia places the high value which it deserves, and with which nation it earnestly desires to draw its relations constantly closer. The honorable American minister complied with the desire that had been expressed to him, and the point was taken into consideration in the manner proposed, to the satisfaction of both parties, its result having been an additional evidence of the special regard felt by my Government for that of the United States. In proof of this

assertion I take the liberty to quote the very language used by the Honorable Mr. McKinney in his note of October 2 to the minister of foreign relations. He therein said:

You will remember that some time ago I wrote you in regard to the Costa Rican boundary question. You personally requested that I withdraw my official letter, as you preferred to talk that question over privately. In deference to your wish I did so, and offered to ask the good services of my Government to urge the acceptance of your proposition by Costa Rica. You thanked me for my good will, and promised to send me an abstract of your proposition to Costa Rica before you transmitted a copy to the Government of Costa Rica, that I might present my Government with the same.

I also quote the exact language used by the minister of foreign relations in replying to the Honorable Mr. McKinney in the memorandum which accompanied his conversation of the 9th of the month aforesaid:

On the 3d of August last the Government of Colombia received a note from the Government of Costa Rica, expressing the desire of that Government to conclude a new arrangement for the determination, by arbitration, of their common frontier. Some time afterwards the honorable legation of the United States expressed, in the name of its Government, a desire that the request of Costa Rica should be complied with. The Government, being influenced by its constant friendship for the United States, complied immediately and spontaneously with the desire expressed by the honorable legation. It was consequently verbally informed that Colombia would apprise Costa Rica that it was prepared to revive the treaty of arbitration, and it was likewise informed that this step was due in a great measure to the friendship of the Colombian Government for that of the United States. A promise was also made to the honorable legation to send it the written bases of the Colombian draft.

As is seen, the agreement could not have been more complete, nor could the friendly offer of the U. S. Government have been more frankly and sincerely accepted; and if the bases of the Colombian draft were afterwards not sent to the honorable American minister before they were transmitted to Costa Rica, this was due to the fact that, as was remarked by the minister of foreign relations in the document referred to, "the principal effort was made by the Government of Costa Rica, and the collaboration by the U. S. Government. The natural course was to reply to Costa Rica, and send to the U. S. Government a copy of that reply, because a contrary course would have inverted the natural order of things." This proceeding, which was fully justified, did, it is true, induce the honorable American minister to charge the minister of foreign relations with insincerity, the justice of which charge, in view of what has been stated, I leave to the consideration of the honorable Secretary of State. It is, however, to be remarked that the Honorable Mr. McKinney has never told the Government of Colombia that he considered the good offices of the United States as not having been accepted. He has, on the contrary, admitted that they were accepted, as appears from his aforesaid note, although a change in the form of the offer was requested, which, if thoroughly examined, is rather an evidence of kindly cordiality, since the discussion of a case on intimate and confidential ground can not be regarded otherwise than as an indication of deference.

To the foregoing statement, which places the facts in their true light, I must add the most positive and solemn declaration that the Government of Colombia has gladly accepted the friendly offer of the United States in its boundary question with Costa Rica; that it regards this offer as being as important as it really is, and still further, that its consent to conclude a new treaty with that Republic for the determination of their common frontier by means of arbitration is due in a great measure to the feeling of special consideration and regard which it entertains for the United States.

I beg the honorable Secretary of State to permit me to avail myself of this occasion to remind him of the correctness of the attitude assumed by Colombia in its differences with Costa Rica, for my Government, which duly appreciates the moral value of the judgment of the United States, has specially instructed me to do so, and I will do it in very general terms, in order not to encroach too much upon your valuable time.

The Government of Colombia and that of Costa Rica, by the treaty of arbitration concluded between them December 25, 1880, and the additional treaty of January 20, 1886, agreed to settle their boundary dispute by arbitration, and to this end they appointed, in the first place, His Majesty Alfonso XII, and afterwards Her Majesty the present Queen Regent of Spain, as arbitrators. According to the treaties referred to, decision was to be pronounced within twenty months from the date of the acceptance of the office by the arbitrator, which acceptance took place on the 19th day of June, 1887, so that, according to the express letter of the agreement, his jurisdiction was to terminate February 19, 1889. The last-named day arrived, and the decision had not been pronounced, and the Government of Colombia informed that of Spain, through the Spanish representative at Bogota, under date of October 9, 1891, that, since the term fixed for pronouncing a decision had long since expired, its jurisdiction was ended, in consequence of which the Government of Her Majesty the Queen Regent of Spain declined to have anything further to do with the matter.

The Government of Colombia was induced to take this step by its sincere desire to prevent so important a decision from being rendered null and void, and from giving occasion to the party that might deem itself injured for declining to accept it. It moreover desired to prevent the great labor which had been so kindly performed by the arbitrator from being wasted, which would doubtless have been a source of mortification to the latter. The uprightness of the purpose of the Government of Colombia is still further shown by the fact that it proposed, at the very outset, the revival of the lapsed conventions, its sole desire being that the boundary dispute should be finally settled, and that the decision by which it should be settled should be unassailable. My Government has been consistent in the view thus taken, in proof of which reference may be made to the correspondence between it and that of Costa Rica since the month of October, 1891, and it has constantly sought to bring about arrangements for the determination of a provisional boundary whereby conflicts of jurisdiction might be avoided.

If a final arrangement on this subject has not been reached sooner, this is the fault of Costa Rica, which has claimed that that boundary should be extended until it encroached upon the region to which Colombia has a very ancient right of possession, and which is governed by its laws. The contrast between the course pursued by each country is very noteworthy: Colombia, acting uprightly, keeps within the limits of its right; Costa Rica, on the other hand, constantly provokes dissensions by attempting to extend its jurisdiction farther than it is now authorized to do. Both nations should respect the statu quo established in 1881, which, for Colombia, is law, and for Costa Rica a dead letter. As a recent practical case, I may cite, in proof of the foregoing statement, the course pursued by the present Costa Rican minister of foreign affairs, Mr. Jiménez, who, four years ago, when he filled the same office, admitted that the river Sixaola was the dividing line between the possessions of Colombia and Costa Rica, so that the eastern bank of that river belongs, incontestably, to Colombia, not-

withstanding which, and in spite of the protests of the latter country, the Government of Costa Rica continues to place authorities in that region, thereby abusing the patient and upright attitude of my Government.

Fortunately, the time when these annoying differences must cease seems to be not far off. According to the last notes exchanged between the two Governments, there is a willingness on the part of both to conclude a new treaty, submitting their conflicting claims to arbitration, only that of Costa Rica desires that, when a new treaty is concluded, the validity of the old ones be submitted to arbitration, to which Colombia objects as being useless and illegal.

A new treaty is what the conditions of the dispute require, both because it is evident that the preceding ones have lapsed, and because provision may thereby be made that the decision that may be pronounced in consequence thereof shall be executed independently of the legislative action of each country, and that it shall determine what is necessary for the payment of the indispensable technical commissions that will have to trace the final boundary line. Recent and painful experience induces Colombia to pay special attention to these points, although they are apparently mere points of detail.

I will not close this note without declaring, in virtue of express authorization, that, if the decision of the arbitrator should adjudge to my Government control over the territories which it thinks belong to it, it would recognize the rights of private parties therein, and the transfers of actual ownership made by Costa Rica. Citizens of the United States or any other foreigners that have obtained concessions of unimproved lands, or who, for any other just cause, are the owners of lands, shall be maintained in possession thereof, since every valid title is to be respected.

Hoping that I have attained the friendly purposes which I had in view,

I have, etc.,

JULIO RENGIFO.

Mr. Uhl to Mr. Rengifo.

DEPARTMENT OF STATE,
Washington, March 14, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 22d ultimo in relation to the settlement of the pending boundary question between your country and Costa Rica.

It is very gratifying to be assured, as I now am by your note, that the Government of Colombia appreciates the friendly desires and earnest hopes of the United States for a speedy settlement of a controversy in which this Government can but feel a deep interest as the neighbor of the parties to the contention and in view of its existing treaty guarantees with respect to the territory of the Isthmus.

The withdrawal of the note which, following the President's direction, the U. S. minister at Bogota addressed to the Colombian Government simultaneously with a like communication made through our legation in Central America to the Government of Costa Rica may serve to explain the impression I discern in your note that Mr. McKinney's representation conveyed an offer of some sort looking to the mediation of this Government toward the adjustment of the matter, and this view is strengthened by the circumstance that the Colombian minister for foreign affairs asked the cooperation of this Government

to induce Costa Rica to accept the proposal for a new treaty negotiation for the revival of the arbitration. The withdrawn note of Mr. McKinney was careful, following my instruction, to make it clear that the Government of the United States expressed no opinion touching the question raised by Colombia in regard to the lapse of the Spanish arbitrators' powers, and limited itself to conveying to Colombia, as to Costa Rica, the President's sincere belief "that the agreement of arbitration entered into by the two nations constitutes an obligation between them which neither is morally free to disregard on grounds of technical formality, and his conviction that both governments will endeavor to promote its successful issue."

With cordial gratification I learn from your note that the Government of Colombia is inspired by the same high motives, and as the disinterested friend of both nations the United States trusts that an honorable adjustment of the dispute may be speedily reached.

Accept, sir, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Sleeper to Mr. Gresham.

No. 69.]

LEGATION OF THE UNITED STATES,
Bogota, September 13, 1894. (Received October 8.)

SIR: I have the honor to inclose herewith further correspondence between Colombia and Costa Rica, in regard to the boundary question.

I am, etc.,

JACOB SLEEPER,
Chargé d'Affaires ad interim.

[Inclosure 1 in No. 69.—Translation.]

Mr. Jiménez to Mr. Suárez.

REPUBLIC OF COSTA RICA,
DEPARTMENT OF FOREIGN AFFAIRS,
San Jose, February 12, 1894.

MR. MINISTER: I have had the honor to receive your excellency's letter, dated on the 4th of last January, in answer to the one sent by this department on the 18th of November, 1893, both referring to the boundaries between Colombia and Costa Rica, the solution of which matter would be of the greatest benefit to both States.

It was a great satisfaction to my Government to note in your excellency's letter that the illustrious Government of Colombia is animated by the same desires which that of Costa Rica has always entertained, in regard to the early termination of this matter in a just and decisive way, thus guaranteeing and strengthening more and more the friendly relations between the two countries, and at the same time eliminating obstacles which hinder the greater growth of their economical interests. It is likewise pleased that the Colombian Government agrees about the measures to be adopted, in order to realize in a just and friendly way that their common aspirations, viz, that the boundary question be settled by an arbitral decision; and in the meantime

that temporary limits be named, which will abolish all difficulties of jurisdiction which might cool the spirit of cordiality which inspires the people and Governments that are neighbors and brothers.

As both Governments therefore agree upon the fundamental points in regard to the proceedings necessary to decide their lawsuit, it would seem conducive that the said points be put into practice; wherefore, the President of the Republic has instructed me to propose to your excellency's Government that it authorize—which Costa Rica will likewise do—its diplomatic representative in Washington to renew the convention of arbitration in regard to the final boundaries, and while this is being perfected, to celebrate a provisional boundary convention.

This proposition from my Government, as your excellency well knows, does not signify that my Government acknowledges the invalidity of the former boundary conventions, whose force has always been upheld, as the correspondence between this department and that under the worthy charge of your excellency will show, but its constant eagerness to facilitate the prompt solution of a lawsuit, the definite end of which interests greatly both republics.

Accept, etc.,

MANUEL V. JIMÉNEZ.

[Inclosure 2 in No. 69.—Translation.]

Mr. Jiménez to Mr. Suárez.

REPUBLIC OF COSTA RICA,
DEPARTMENT OF FOREIGN AFFAIRS,
San Jose, February 13, 1894.

MR. MINISTER: I have had the honor to receive your excellency's communication of the 12th of last January, in which you call the attention of my Government to the fact that Costa Rica is committing jurisdictional acts upon the right margin of the "Sixaola," in violation of the statu quo in force between the two countries. Therefore, my Government, always jealous in regard to the fulfilment of its international duties, feels obliged to inform your excellency that it has not dictated any act in deterioration of the statu quo, and that in order to obtain the most accurate solution of this delicate matter, it has requested information from the respective authorities, and hopes that the Colombian Government will have the kindness to expressly state the acts which led to its reclamation, in order to proceed according to the dictates of justice and international law.

I have also the honor to inform your excellency that my Government has named two scientific commissions, one under the charge of Naval Capt. Don Eliseo Fradin, and the other under the charge of Don Enrique Pittier, the object of the first commission being to make a plan of the Sixaola Tarire, Tiliri or Tilorio, of the Yurquin, tributary of the latter, known in Colombia under the name of Dorado, or Doraces, aside from other rivers and places of that locality, situated in Costa Rican territory; and the object of the second commission being to astronomically establish the position of the Sixaola, or be it, the point at which the Tiliri or Tilorio flows into the Atlantic, and the spot at which the latter joins the Yurquin, whose right bank is considered as the limit of the statu quo; and also of the Lipurio or be it, San Bernardo, situated unquestionably in Costa Rican territory, and of other important places of that region.

The said commissions left this capital eight days before the receipt of your excellency's communication, I therefore do not believe that it could have referred to them; but I take this opportunity to inform your excellency that these commissions have been appointed for the study of the frontier territory. After the foregoing explanation, which is a guarantee of the fair dealing of my Government, I trust that the Colombian Government will be satisfied; and with the assurances of my high appreciation and distinguished consideration,
I remain, etc.,

MANUEL V. JIMÉNEZ.

[Inclosure 3 in No. 69.—Translation.]

Mr. Suárez to Mr. Jiménez.

REPUBLIC OF COLOMBIA,
DEPARTMENT OF FOREIGN AFFAIRS,
Bogota, May 18, 1894.

MR. MINISTER: I have the honor to refer to your excellency's notes of the 12th and 13th of last February, relative to the boundary controversy now pending between Colombia and Costa Rica.

In your first note your excellency accepts, in the name of your Government, this Government's proposal to renew the treaty in regard to the arbitration of the boundaries and to decide upon a provisional frontier; in your second letter your excellency explains certain acts touching the interruption of the statu quo, which has been in force since 1880, in regard to the zone of territory at present in dispute between Colombia and Costa Rica.

In regard to this last point, your excellency assures my Government that it duly appreciates the fact that Costa Rica has not performed, is not performing, and will not perform any act in deterioration of the statu quo—that is to say, it has not performed acts of dominion, jurisdiction, or occupation in the territory extending along the right bank of the river Sixaola.

This declaration is very welcome to the Colombian Government, which hopes that certain public acts, such as those referring to the succession of Temistocles Peñaranda, and others about which the authorities of Bocas del Toro have complained, committed by citizens of Costa Rica, will have been distinguished by the Government of San Jose; it also hopes that explicit instructions will be given the commission of engineers, about whom your excellency speaks in your note of February 13, not on any account to extend operations to the territory on this side of the said river, for such an act would violate the obligations of the two nations, and render impossible further negotiations, as I have already had the honor to inform your excellency.

I improve this opportunity to call your excellency's attention to an act which can also hinder the termination of the matter which occupies us, unless immediately rectified by the Costa Rican Government. I refer to a map published not long ago, in which, instead of continuing to designate the boundaries between the two countries by the line which marks the most extreme claims of Costa Rica, it has been advanced much more toward the east, so that not only the possible rights of each nation are not taken into consideration but an evident act of intrusion has been committed upon territory which has not been in dispute.

The Colombian Government hopes that your excellency's Government will rectify as soon as possible this error, and declare that it is without signification, not only in regard to the rights, but also the pretensions of Costa Rica respecting Colombian dominions. As soon as this has been rectified this ministry will be pleased to enter into negotiations with that under your excellency's worthy charge about the settlement of the provisional boundary, and the removal of the arbitration treaty in regard to definite frontiers, to which end the respective commission will shortly be given to the envoy extraordinary and minister plenipotentiary of Colombia in Washington.

I have, etc.,

MARCO F. SÚARES.

DEATH OF PRESIDENT NUÑEZ.

Mr. Rengifo to Mr. Gresham.

[Translation.]

LEGATION OF COLOMBIA,
Washington, September 21, 1894. (Received September 22.)

MR. SECRETARY: With deep grief I have the honor to inform you of the death of His Excellency Dr. Rafael Nuñez, titular President of the Republic of Colombia, which took place in the city of Cartagena on the 18th instant.

As your excellency is aware, His Excellency Dr. Nuñez did not discharge the duties of the executive office during his last term of office, which began in August, 1892, and the duties of the office of President of the Republic have been and will continue to be discharged by His Excellency Miguel Antonio Caro, the vice-president, who is the person designated by the constitution to succeed Dr. Nuñez.

With sentiments, etc.,

JULIO RENGIFO,
Chargé d'Affaires ad interim.

Mr. Gresham to Mr. Rengifo.

DEPARTMENT OF STATE,
Washington, September 25, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 21st instant, officially informing me of the death of His Excellency Señor Dr. Don Rafael Nuñez, the titular President of the Republic of Colombia.

I beg of you to make known to the minister for foreign affairs of Colombia the deep sorrow with which this Government learns of this sad event.

Accept, sir, etc.,

W. Q. GRESHAM.

INTERNATIONAL RELATIONS OF COLOMBIA.

Mr. Sleeper to Mr. Gresham.

No. 75.]

LEGATION OF THE UNITED STATES,
Bogota, October, 1894. (Received November 19.)

SIR: I have taken from the report of the minister of foreign affairs a synopsis of matters which appear to me to be of some interest to the Government of the United States. I shall also forward the printed report of the minister, in order that the Department may inform itself more particularly upon any subject.

1. Boundaries between Colombia and Costa Rica.

[Translation.]

At your sessions of 1892 you were informed of the modification introduced into the proceedings relating to our boundaries with our neighbors on the north, in consequence of the arbitration treaties having lapsed. The causes of such lapse could not be more weighty, if we look at the letter and spirit of the treaties, nor more worthy of consideration, in view of the necessity of removing all danger of inefficacy in so important a matter as that of our northern frontier.

To maintain that treaties which are void, or of very doubtful force, may serve as titles to extremely valuable rights, is to maintain that a question of this gravity may remain unsettled, or liable to future objections. If the admission of the lapse of the treaties involved the breaking off of all amicable negotiations concerning the pending dispute, there would be some reason for claiming that those agreements, however defective, should continue to serve as a basis in this matter; but, as Colombia has declared her wish that they be renewed and amended, all claim to the contrary fails to be just or proper.

In the correspondence, which I have the honor to transmit herewith, is set forth in detail the course of these negotiations in the last phase which they have assumed. Our Government wishes the question of our boundary with Costa Rica to be settled in the manner prescribed by justice, to wit, by renewing and amending the treaties as experience demands, and at the time and place which may be most convenient to both countries.

It is desired that the treaties should contain stipulations relative to the practical execution of the award, to the costs of the litigation, to the enlargement of the powers which the arbitrator should have, to harmonize, as far as possible, the chief interests of the parties; and our Government, in acting in this way, is actuated by friendship toward Costa Rica, and acts in confidence of its rights, strengthened by new evidence.

The Costa Rican Government has at last assented to these proposals, as well as to that which has been made to it to fix upon a temporary boundary intended to put an end to the frequent complaints addressed to it by Colombia of the violations of the *status quo* to which both countries are pledged with respect to the possession of the zone now in dispute.

Complaints of this kind were mutual some time ago, owing to the surveys made by the Panama Canal Company in the districts adjacent to the Almirante Lagoon. The San José Government remonstrated at that time to the Colombian Government respecting the duties imposed

by the *status quo* which had been agreed upon. The explanations on our part, however, were so candid and sincere that Costa Rica has not since found it necessary to make the slightest complaint of Colombia's proceedings.

This has not been the case with regard to our rights to present possession of a part of the zone in dispute. The authorities of Panama and Bocas del Toro, the periodical publications of the country, the documents published by Costa Rica, and respectable private individuals, are continually informing the Government that agents of the neighboring Republic, by what authority is not known, are committing acts of possession incompatible with the duties which have been expressly acknowledged.

On the Atlantic side, the Costa Rican Government has definitively admitted that the boundary of present possession is formed by the Sixaola River, so that it has no right to exercise acts of jurisdiction on the right bank of that river; but, notwithstanding this, Costa Rican agents or individuals have recently made surveys and drawn up maps on this side of the Sixaola.

On the Pacific side, the Costa Rican Government admitted, as far back as 1880, that it could not occupy territory situated on this side of Punta-Burica, for, at the demand of our Government, it vacated that territory in a manner which may be designated as solemn; and yet it has just been learned, through a perfectly reliable channel, that in that territory, exclusively under the jurisdiction of Colombia, colonists are settling, under the protection, as is asserted, of the San José Government and without the consent of the Colombian Government.

To these two species of violation of the *status quo* must be added another, which affects the whole of the boundary between the two countries. The Costa Rican Government recently published a geographical map of its territory in which its southern frontier does not even coincide with the extreme claims stipulated in the old treaties, but is drawn much farther this way than the straight line connecting Punta-Burica with Escudo de Veraguas, thus embracing a part of the Colombian territory which has not only been always under the jurisdiction and in the possession of the Republic, but forms a part of its undisputed territory.

These acts would not benefit Costa Rica, even if the arbitration treaties were in force, but would be prejudicial to her rights and interests, because they would prove, before the arbitrator, her disregard of indisputable and acknowledged duties. Notice having been given of the abrogation of those treaties, and Costa Rica being interested in their renewal, it is hard to understand why, at the very time that she is negotiating for such renewal, she puts an insuperable obstacle to it; for Colombia can not consent to the amicable act of fixing upon a temporary boundary and renewing the arbitration compromise, until such irregularities have ceased.

This consideration has been the reason that the Colombian Government has hitherto confined itself to repeatedly calling the attention of the Government of the neighboring Republic (to these facts); and it has received from it the most satisfactory assurances in the sense asserted by Colombia. It is, however, to be presumed that the intentions of that Government have been thwarted by its agents, as several circumstances render it certain that the duties relative to the present possession of the disputed territory have not been thoroughly performed.

The theoretical statement of our rights and the protests against the

violation of them have not, therefore, had the desired effect, and in this situation, the Vice-President of the Republic has instructed me to address to the Ministry of Government a communication setting forth the condition of affairs and the necessity of organizing at Panama two peaceful but active and efficient expeditions, to go, one to Punta-Burica and the other to Sixaola, for the purpose of making an investigation at the principal points in those districts, in order to learn the state of things and to make the rectifications demanded by the rights of the Republic.

United States of America.

[Translation.]

The Congress of 1892 approved by law 101 the contract made between the Government and Mr. Alexander Weckbecker, a citizen of the United States of America, in which the latter sold to the nation the estates of Pescaderias and lands of "Madre de Dios," situated in the department of Cundinamarca, for the sum of \$150,000, Colombian money.

The contract was confirmed by said law, and the sale was completed on the delivery of the said lands and their payment, the Government being in full possession of said estates, of which use has already been made, contracts having been signed with the minister of hacienda for the renting of the "Bodegas de Bogota," a part of said lands. There having been between the nation and Mr. Weckbecker, as also between this gentleman and the former state of Cundinamarca, several lawsuits respecting these same lands, which gave rise to claims on the part of the Government of the United States, the legation of the said country has declared to this Ministry that all claims made in the favor of the rights of Mr. Weckbecker shall be considered as satisfied the moment the above contract be carried out, and as this has been done, all disputes with Mr. Weckbecker, either diplomatic or judicial, may be considered as at an end.

2. Discussion as to the nationality of Mr. Pérez Triana.

On account of the measures taken by the executive and judicial authorities in relation to the intrigues arising from the making of the contracts for the construction of the Puerto-Berrio and Bucaramanga railroads, the U. S. legation intervened in favor of Señor Santiago Pérez Triana, against whom some accusations were pending, in connection with his participation in the negotiation of those contracts.

The remonstrance of the U. S. minister was considered by the Government under two points of view, that of the local jurisdiction and that of Señor Pérez Triana's nationality. With regard to the first point, the Government maintained, as was just and evident, that as the prisoner was in Colombia, and as the object was to investigate acts committed in this country, he could not evade the jurisdiction of the courts, even on the supposition of his being a citizen of the United States. This principle received additional weight from the fact that the charges against Señor Pérez Triana related to acts which, as they affected the national interests, would be under the jurisdiction of the Republic, even if they had been committed in a foreign country, as the Colombian criminal law considers every person whose delinquency may cause loss to the national treasury, subject to the sovereignty of this country.

As to the nationality of the prisoner, this ministry equally maintained that, according to state doctrine in the United States, as well as the practice of the Government in Washington, together with the several treaties between the United States and other nations, nationality acquired by naturalization in that country is lost by the individual subsequently becoming domiciled in his native country, provided the residence be more than two years.

The occurrence of this circumstance in the case of Mr. Pérez Triana was proved not only by his physical residence in Colombia, but by facts which demonstrated his separation from the United States, and intention of not returning. This and the several undertakings begun by the said individual in Colombia, not only with respect to the railways of Antioquia and Santander, but in other branches, as of agriculture, mines, and commerce, completely proved his intention of remaining in the country, or at least of establishing in it his center of operations for these undertakings and speculations.

The U. S. legation having admitted the general principle of the loss of nationality from subsequent domiciliation, there only remained the difference of opinion between this ministry and the legation as to the question of the residence of Mr. Pérez Triana, but as he (Pérez) had already expressly admitted his domicile, and had also indirectly admitted his Colombian nationality, the rights of the Republic could not be placed in doubt.

Although the particular case of Mr. Pérez Triana may be considered as terminated, the Government thinks that, to avoid any further controversies with the United States, it would be most expedient to come to an agreement respecting the nationality of Colombians who, after becoming naturalized in that country, should return to the land of their birth. Some states, especially those which form to-day the German Empire, have agreements made with that object, whose principal stipulation is that the original nationality shall be considered as reestablished after a residence of two years in the old country.

Although established precedents, the laws of equity, and obvious considerations of convenience may be sufficient to form a fixed rule in the matter, it seems preferable to arrive at a permanent settlement of the point by means of an international treaty. The fact is, that as we are not obliged to come to an understanding about this matter on account of forced military service, cases of this kind must necessarily be rare, but although that necessity does not exist, we must take into account the political troubles of the Latin-American Republics and the recognized desire for foreign nationality as a shield against responsibility produced by civil war. The Government is therefore preparing the necessary instructions for its representative in Washington with the object of attaining that result.

3. Chicago Exposition.

The participation of Colombia in the Columbian Exposition in Chicago, inaugurated with the object of celebrating the fourth century of the discovery of America, was the occasion of expressions of esteem and gratitude on the part of the legation of the United States in Bogota, addressed to this office, accompanied by an Act passed by the Congress of the United States, in which the people and Government of that nation gave thanks to the several governments of the world for their cooperation in the Quadricentennial Exposition.

4. *Closure of ports during cholera.*

The measures taken by the Government in 1892 to protect the towns on the Atlantic coast from contagion from the Asiatic cholera by the closure of the ports against vessels proceeding from infected or suspicious places, caused the U. S. Government to claim that their vessels should be exempted from such a measure, and claiming, with justice, that the epidemic had not declared itself in any part of the United States.

The home office having resolved to empower the authorities on the coast to decide each case on its own merits, the press of this capital and of other places declared the closure to have been stopped in favor of the United States on account of the Government at Washington having declared its intention of opening our ports by force. It was evident that this false report tended to diminish the cordiality cultivated by the United States with Colombia, as it made the Government of that country appear to ignore the sovereignty of the Republic in the most flagrant manner; and it was also evident that it made this Republic appear to be insensible to so great an insult, and to tolerate the violation of her most sacred rights. For these reasons it was necessary to rectify these assertions, and to this end a note was passed to the American legation in this city, in which, having explained the causes thereof, it was asked whether the President of the Union had given any order resembling that which had appeared in the public papers. The representative of the United States certified not only that such orders had not been communicated to the legation, but that having asked the Secretary of State whether any such orders had been transmitted to any agent of their Government, it had received an answer in the negative.

5. *Defense of our rights over the islets Roncador and Quitasueño.*

During your last session you were informed of the claims that were being made by this Government to the Government of the United States against the abuses that were being committed by certain traders, who, without any permission from Colombia, export large quantities of guano from the islets of Roncador and Quitasueño, which form part of the group of the isles of Providencia. These deposits of guano were, in former times, rented out by this Government to certain contractors, and if they were again put upon the market (after a short study) their probable value would give the public treasury a sum of some consideration.

It appears that the extractors of guano obtained from the United States Government a license to work the guano deposits on the islands under the pretense that they were *res nullius*, not belonging to any State whatever; but this assertion was absolutely false, as the islets are the property of Colombia by virtue of perfect titles of dominion and of public and repeated acts of possession. Roncador and Quitasueño form part of the Archipelago of Providencia belonging to the Republic, of which it has been in peaceful possession since its existence, as it was formerly in that of Spain; and besides, the inhabitants of the neighboring islands make use of these islets for stations in certain periods of the year for the fishery of tortoise shells and to cultivate as much as possible that part of the territory.

The Colombian chargé d'affaires in Washington has presented to the United States Government a long and well-argued statement, which leaves no doubt as to the exclusive right of this Republic to the isles of Roncador and Quitasueño, and as the Secretary of State declared

that the permission granted to the extractors of guano would be of no value on Colombia proving its rights before 1869, the date when the permission was granted, it is to be hoped that the honorable Government of the United States will do justice to our rights, and withdraw the license given under false impressions, and that Colombia will be able by this means to utilize that source of wealth.

6. Commercial reciprocity.

The result of the proclamation of the President of the United States on the 15th of March, 1892, by which the provisions of the tariff law of October 1, 1890, were applied to the importation of coffee and hides from Colombia, continues to affect these articles of our commerce.

The documents annexed contain the correspondence that has passed between our legation in Washington and the Secretary of State, the matter having been handled by our representative with unanswerable logic, notable tact, and in a masterly form which does great honor to the worthy minister of Colombia in the United States and Italy. Our legation has shown both clearly and strongly, with moderation and energy, that the application of the tariff bill to the coffee and hides imported from Colombia to the United States is wanting in legality, is a violation of the stipulations of the treaty of 1846, and prejudicial to the commerce of both countries.

The law which authorizes the Government of the United States to tax the coffee, hides, molasses, sugar, and tea imported from foreign countries, in no way gives it absolute authority, as it requires as an indispensable condition that, in the country where these things are produced, the products from the United States shall be unequally and exorbitantly taxed, in comparison with the duties imposed by the United States custom-house tariff.

This is the reason why the tariff law has been called the law of commercial reciprocity. The President of the United States, under the provisions of the law, is to decide the question of reciprocity by comparing the duties levied in that country and those levied in a foreign country, also the different tariffs of the countries which export the articles referred to in the law of 1890.

In levying on the coffee and hides of Colombia the differential duties of the McKinley law, it was necessary that the above-mentioned comparisons should have proved three things: First, that the Colombian tariff was more severe on articles imported from the United States than the tariffs of other countries to which the additional duties have not been applied; secondly, that the fruits and produce of the United States were treated worse than those of Europe; and thirdly, the want of proportion between the duties levied in Colombia on imports from the United States to those levied in the United States on those of Colombia.

Notwithstanding that none of these facts have been proved, as the custom-house tariff is much more liberal than that of the other countries more favored by the Government in Washington, and as the imports from Europe can not be considered as treated with more favor than those of the United States, and as the exports from this country to the United States are no greater than the imports, it follows that the decree which applies to this country the provisions of the McKinley law, is not based on the conditions required by it, viz, want of reciprocity.

But where the irregularity of the proclamation is most manifest is where it touches the articles of the treaties existing between the two

countries, in which articles Nos. 2 and 5 guarantee to this Republic the same treatment in the custom-house tariffs as that given to the most favored nation. The Government of the United States having conceded to several countries the right of introducing coffee free of duty, Colombia has a right to be treated on the same footing, according to these stipulations, even if such favors had not been granted gratuitously, and since the Mexican and Argentine Republics were so treated, Colombia should be placed on the same footing with them.

The present difference in the price of bills on the United States and of those on Europe is not in proportion to the intrinsic value of their respective moneys. As this inequality goes on increasing the result will be the diminution of bills on the United States, caused, most undoubtedly, by the falling off of our exportation to that country. The imports will at the same time continue to diminish, owing to the high prices of their goods; and instead of our trade increasing with the States, as happened in former times, it will decrease on account of the application of the tariff bill.

The present Government, whose ideas on protection are well known, is the one called upon to rectify the unjust application of differential duties on our exports, and to give ear to the repeated protests that have been made. In truth one of the principal doctrines of the present Government is to abolish the tariff law, the said Government being noted for its deference to existing treaties. The Secretary of State, with laudable frankness, has recognized our rights, but instead of taking a resolution in accordance with these rights and with the treaties of 1846, it has been considered preferable to have the matter to be decided by "general politics," that is to say, to the repeal of the tariff law.

This solution would not be satisfactory, even were the law of reciprocity entirely abolished, in such a way that it would coincide with the rights we hold through the treaty, as then we should still be under the necessity of demanding the return of those duties that have been paid under protest, and a precedent would remain against the interpretation of the provisions of the treaty of 1846; and if the law were not abolished, but simply amended, the result for this Republic would be most pernicious, for not only would the putting aside of our treaty rights be passed over, but it would permanently injure our commerce. It appears that the latter is the solution that will take place, as the Government has unofficial information that Congress has decided that coffee shall enter free of duty, but that hides shall continue to pay in accordance with the old tariff law. The question of our rights will remain in the same state until the Government at Washington revokes the proclamation of 1892 in favor of Colombia, recognizes our rights of free importation, and decrees the return of the custom-house duties that were paid under protest. As for the question itself, it is only half arranged, as coffee is the only article that can be imported free of duty into the United States.

It is to be hoped that the Government of the Union, convinced, as it is, of the justice of our claims and protests, as also of the pernicious state of affairs with respect to the commerce between the two countries, will adopt measures in accordance with our rights and in deference to justice, which is one of the characteristics of the illustrious President of the United States of America.

France.—Convention regarding aliens, commerce and navigation.

The last Congress having approved the convention on commerce and navigation and the status of foreigners, concluded between Colombia and the French Republic on the 30th of May, 1892, the ratifications were exchanged on the 5th of October last, the convention coming into force from the 13th of the same month, in accordance with the last article of said treaty.

Great Britain.

The steamer *Tartar*, of the British navy, requested last year, through the British legation in this city, permission to sound Sabanilla Bay, and to make a sketch of the port. * * * It was resolved to grant the request made by the British legation, and orders were therefore sent to the coast, which arrived after the departure of the British vessel. As the legal provisions applicable in such cases are not very clear * * * it would seem desirable to agree upon a fixed rule, which should be in accordance with national rights and international courtesy.

Venezuela.—Free navigation of the River Orinoco.

A large part of Colombian territory being watered by navigable branches of the River Orinoco, has enabled the republic to make use of this river as far as the open sea by any of its outlets, with no other obligations than those of observing the police laws that Venezuela might make for internal security and for the protection of her revenues.

This right of Colombia has been confirmed still more now that the frontier limits have been decided, and it is admitted that the territory of our country extends as far as the left bank of the Orinoco, the river there having become international, its navigation is free to both countries. * * *

Execution of the boundary award.

In your sessions of 1892 you were informed of the period agreed to between the governments of this country and Venezuela for the sending of a mixed commission, composed of representatives of each country, with the object of planning out on the spot the artificial portions of the frontier defined in the sentence of arbitration pronounced by His Majesty the King of Spain on the 16th of March of 1891. This period elapsed during the ordinary sessions of the last Congress in Venezuela, which were concluded the end of last May, since which time, on account of a recent political transformation, Congress has not met, as the convention called in 1893 only met to decide certain questions. The commission, however, has not as yet been sent, on account of Venezuela having dispatched to this capital, as I have already said, a legation of the first class to negotiate with Colombia an arrangement as to several points relating to the question of frontiers, after recognizing the absolute rights of the republic, as defined and set forth in the sentence of arbitration. The views and claims of Venezuela and Colombia have been given out in the following declaration or agreement:

The minister of foreign affairs of the Republic of Colombia and the envoy extraordinary and minister plenipotentiary of Venezuela, together in the department of foreign affairs in the city of Bogota April 4, 1894, hereby agree to certify to, by the

present document, duly certified by our respective signatures, the following declarations which we have made verbally in several conferences which have taken place:

First. The envoy extraordinary and minister plenipotentiary of Venezuela declares that his Government has accepted and accepts, as natural and indispensable, the arbitration sentence pronounced by His Majesty the King of Spain, the 16th day of March, 1891, in which sentence or decision he fixed upon as judge at law, the line of division which in 1810 divided the viceroyship of Santa Fe from the captainship of Venezuela, to which reference is made in the treaty of arbitration and compromise of September 14, 1886, signed by Colombia and Venezuela, for the purpose of adjusting in a definite manner the controversies which have existed as to the real situation of the frontier line according to the "uti possidetis" of 1810, the recognized basis of their respective territorial rights; and that consequently and in compliance with the provisions contained in the arbitration treaty of 1886 those portions of territory separated by the said divisional line of 1810 fixed by the arbitration sentence remain *ipse facto* the territorial property of the two nations, respectively, giving them thus full rights of jurisdiction and sovereignty as regards possession and occupation of said territories.

Second. The envoy extraordinary and minister plenipotentiary of Venezuela also declares that as many questions exist between that Republic and Colombia, which are now being settled, and the Government of Venezuela, considering that among these questions of common interest there are many, economic and political, connected with that of frontier boundaries, and that they would be much facilitated if Colombia would on her part nobly concede, in some parts of the line, a slight rectification, he has submitted these desires and views in a friendly and fraternal spirit to the minister of foreign affairs.

Third. The envoy extraordinary and minister plenipotentiary of Venezuela also declares that in accordance with the "uti possidetis" and in virtue of the arbitration sentence, all disputes as to frontiers between the two countries having been settled, nothing prevents the two governments, leaving to the arbitration sentence all its validity and its final and unchangeable character, from adopting the modifications heretofore mentioned, taking into account their mutual convenience and common interests, compensating each other reciprocally in the manner best adapted to their mutual advantage.

Fourth. The minister of foreign affairs of the Republic of Colombia also declares that having heard, in the several conferences held with the minister of Venezuela, the explanations offered by said minister in regard to the above-mentioned modifications, and having also received from his Government special instructions, he has stated to the representative of Venezuela that, finding in the just considerations and proposals of said nation a full recognition of the arbitration sentence and of the rights acquired by both countries from said arbitration, and from the treaty of 1886, and consulting at the same time with equity, broadness of ideas, and international cordiality the common interests of both nations, the Government of Colombia accepts in principle the proposal of the Government of Venezuela for certain modifications of the frontier line, which modifications shall be determined after conclusion of the treaties which are on the point of being settled referring to commerce and navigation between Colombia and Venezuela, so that the interests of both parties shall be equally taken into account.

In witness whereof we sign the same, and have affixed hereto our respective seals

[L. S.]
[R. S.]

MARCO F. SUÁREZ.
J. A. UNDA.

I am, etc.,

JACOB SLEEPER,
Chargé d'affaires ad interim.

DENMARK.

VISITORS TO GREENLAND.

Mr. Risley to Mr. Gresham.

No. 52.]

LEGATION OF THE UNITED STATES,
Copenhagen, June 23, 1894. (Received July 7.)

SIR: Referring to that part of my dispatch No. 48, of June 2, which relates to the request of Prof. T. C. Chamberlin, of Chicago, and Dr. Frederick A. Cook, of Brooklyn, for instructions of the Danish Government to its officials in Greenland, I have to inform you that I have just received from the minister of foreign affairs a note, of which I inclose a translation.

There being substantially no commerce between Denmark and Greenland, the communication consists only of casual vessels being dispatched from here to the settlements on that coast two or three times a year, at irregular intervals. It will be perceived from the minister's note that the last vessel for this season had left here before the request in behalf of Professor Chamberlin and Dr. Cook was received.

Should they have already taken their departure for Greenland, I have little doubt that they will be courteously and kindly received, for the hospitable disposition of the Danish Government in such matters must be well known to the officials of Greenland.

I have, etc.,

JOHN E. RISLEY.

Inclosure in No. 52.—Translation.

Mr. Vedel to Mr. Risley.

COPENHAGEN, *June 23, 1894.*

MR. MINISTER: In informing me that Professor Chamberlin, of Chicago, proposes to visit Greenland this summer with the desire of studying the glacial formations, and that Dr. Cook, of Brooklyn, has also the intention of undertaking a series of scientific researches along the coasts of Greenland, you have, by your note of the 2d instant, expressed the desire that the necessary assistance should be accorded, by the authorities, to these two savants.

Not having failed to communicate this desire to the minister of the interior, I have the honor to inform you that the last vessel destined, this year, for the Greenland colonies, is already gone, and it is not possible for my colleague to conform to the desire expressed in your note.

I avail, etc.,

L. VEDEL.

Mr. Risley to Mr. Gresham.

No. 66.]

LEGATION OF THE UNITED STATES,
Copenhagen, November 6, 1894. (Received November 21.)

SIR: Referring to my No. 52, of June 23, 1894, relating to an application for an order from the Danish Government to its officials in Greenland to receive hospitably an Arctic expedition under command of Dr. Cook, of Brooklyn, you will perceive that the application was not successful for the reason that, as was stated, the last Danish ship for the season had departed before it was received.

It appears now that the expedition, not waiting for an answer to the application, or disregarding the fact that no orders had been issued for their reception in Greenland, took their departure on the steamer *Miranda*, and that the steamer met with disaster just off the Greenland coast.

I received a letter on the subject from the ministry of foreign affairs, dated October 22, of which I inclose a translation.

You will perceive that the minister substantially characterizes the expedition as a pleasure excursion consisting of about fifty members, that serious consequences were narrowly escaped by them, and politely calls attention to the existence of a royal ordinance of March 18, 1776, which prohibits all persons, whether Danes or foreigners, from landing at any of the ports of Greenland or the adjacent islands, without first obtaining permission of the Danish Government, except in case of disaster.

On receipt of this letter I wrote to his excellency the minister, asking him to kindly send me a copy of the ordinance to which he referred, to the end that care might be taken to prevent future violations of its provisions. I inclose a copy of my note.

I have now received a copy of the royal ordinance, printed in both Danish and English, which I inclose. I have also had a conversation with Mr. Vedel, director-general of the ministry of foreign affairs, in which he stated in substance that the inhabitants of Greenland (Eskimos) were not sufficiently advanced in civilization to make it safe for them to be brought into contact with people or excursions from other lands; that they had no commerce and no knowledge of commerce; that the ordinance was issued and maintained for the purpose of protecting them generally, and particularly to prevent the introduction of intoxicating liquors.

The colonies of Greenland are not a source of commercial advantage or gain to Denmark. On the contrary, it costs the Danish Government a considerable sum of money each year to support them. A certain number of young Eskimos—boys and girls—are brought here each year and placed in schools specially provided for them, where they are educated as teachers and missionaries, and when qualified are sent back to their own country to do what they can in civilizing their kindred and countrymen. I am convinced that the policy of Denmark toward those remote northern provinces is dictated wholly by motives of humanity.

I also beg to respectfully call attention to the treaty of 1826, Article VI of which expressly excepts Iceland, the Faroe Islands, and Greenland from the operation of the convention. This exception was in furtherance of the policy established by the ordinance of 1776.

The Danish Government is exceedingly liberal and zealous in aiding scientific inquiry, and I have no doubt will willingly grant the privilege of landing on the shores of any of its possessions, and aiding in all

proper ways any expedition of moderate numbers really intended for scientific research, but I am equally confident it earnestly hopes that no applications will be made to it without due regard to its above mentioned policy, and to the purely scientific character of the expedition. I have, etc.,

JOHN E. RISLEY.

[Inclosure 1 in No. 66.—Translation.]

Mr. Vedel to Mr. Risley.

COPENHAGEN, *October 22, 1894.*

MR. MINISTER: Doubtless you remember having, in a letter of June 2, last, asked my intervention to obtain the necessary assistance, by the local authorities, to Dr. Frederick A. Cook, of Brooklyn, who proposed to undertake a series of scientific investigations along the coasts of Greenland. By my note of the 23d of the same month I informed you that the last vessel destined this year for the Greenland colonies having already departed it was impossible to conform to the request in your letter.

Now, my colleague, the minister of the interior, is informed by a report received from the colony of "Sukkertoppen" that the steamer *Miranda*, of Liverpool, leaving from New York, and having on board an Arctic expedition, composed of about fifty persons, under the direction of Dr. Cook, arrived at the said colony on the 6th of August, last, and left there on the 9th of the same month. On departing the vessel touched a rock and sprang a leak, and the captain was obliged to return to the colony. Dr. Cook then went 10 versts north to procure an American fishing schooner to accompany the *Miranda* during the return to St. Johns, the damage sustained by the latter vessel being so severe that the captain, Mr. Farrell, was unwilling to risk the lives of the passengers in making the return trip to St. Johns in that same ship unaccompanied.

On the 20th of August Mr. Cook returned to the colony with a schooner, and the two vessels were ready to start the day following. All the passengers had gone on board the schooner, and the captain of the *Miranda* with his equipment alone remained on board of that vessel.

Thus it appears that a pleasure excursion has been made with the design of visiting Greenland, and that it is by a mere chance that the numerous travelers escaped being obliged to pass the winter in Greenland, from which, without doubt, troublesome consequences would have followed both to themselves and to the colony.

In having the honor of bringing to your notice the preceding, I venture, Mr. Minister, to beg you to observe that by the royal ordinance of the 18th of March, 1776, it is forbidden to all, whether Danish subjects or strangers, to touch except in case of necessity at any of these ports or places of Greenland or of the adjacent islands without having been authorized beforehand by the Government of the King.

I avail, etc.,

For the minister,

VEDEL.

[Inclosure 2 in No. 66.]

Mr. Risley to Baron Thott.

No. 33.]

LEGATION OF THE UNITED STATES,
Copenhagen, October 24, 1894.

EXCELLENCY: I have the honor to receive your highly esteemed note of the 22d instant relating to the recent disastrous expedition of Dr. Frederick A. Cook, of Brooklyn, and party to Greenland, and will without delay communicate a copy of it to my Government.

I would thank you very much if you would kindly cause to be sent to me a copy of the royal ordinance of 18th of March, 1776, to which you refer. I will have it translated and will bring it to the attention of my Government, to the end that in the future proper steps may be taken as far as may be to prevent unauthorized expeditions similar to that above referred to.

With the highest consideration, etc.,

JOHN E. RISLEY

PROHIBITION OF AMERICAN CATTLE.

Mr. Risley to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
Copenhagen, November 21, 1894.

To prevent Texas fever, now prevailing in America, importation of live cattle or fresh meat from that country is prohibited in Denmark. Does the disease exist? I have protested.

RISLEY.

Mr. Risley to Mr. Gresham.

No. 69.]

LEGATION OF THE UNITED STATES,
Copenhagen, November 21, 1894. (Received December 3.)

SIR: I have just cabled you as follows:

GRESHAM, *Washington*:

To prevent Texas fever, now prevailing in America, importation of live cattle or fresh meat from that country is prohibited in Denmark. Does the disease exist? I have protested.

RISLEY.

In the *Berlinke*, the official newspaper published in this city, there appeared yesterday a decree to prevent the importation into Denmark of live cattle or fresh meat from America. I inclose a printed copy, with a translation.

I had an interview to-day with Mr. Vedel, the director-general of the ministry of foreign affairs, on the subject, in which I inquired upon what ground the decree was based. He replied that such decrees were issued by the minister of the interior without consultation with the minister of foreign affairs. He did not know upon what information the minister had acted, but presumed he had merely followed the similar action of Germany and Sweden, as that was the usual course, so as to prevent those countries from prohibiting the shipment of cattle

and meat from Denmark to them, shipments of that kind to those countries being very large and important to Denmark.

I then stated I had no official information as to whether or not the Texas fever prevailed in the United States, but had seen denials of it in the American newspapers, and had seen charges that Germany had taken the action referred to, in the nature of a retaliation for the tariff imposed on her sugar, and I supposed Sweden had merely followed the lead of Germany. He said he was surprised to hear that there was any question of the prevalence of the disease in America. I then called attention to the peculiar phraseology of the decree. It seemed to imply that the decree of 1879 had remained in force until superseded by the present one, and that during all those years it had been unlawful to import from the United States either live horned cattle or fresh meat from them; that the late decree seemed to be more comprehensive than the former one, in that it omitted the word "horned" and used the word cattle (*kvaeg* in Danish), which might include sheep and hogs. He thereupon carefully read the decree, and said the plain inference was as I said—it had been unlawful since 1879 to import the said articles, though he was surprised to see that it was so. He also said that the recent decree certainly was of wider scope than the former one, and that by its terms it certainly did include sheep and swine. He then suggested that I write them an official note, inviting attention to these points, and they would confer with the minister of the interior, and then reply. I answered that I would first cable to you and officially ascertain how the fact was as to the prevalence of the disease, and when I had your answer I would write to them, as suggested, and would bring up the whole question.

It will be observed that the prohibition does not apply to meats which arrive in hermetically-closed cans.

The matter may have additional importance because on the 9th instant the free port of Copenhagen was opened to the commerce of the world and considerable efforts have been used to make it known. It may well be that the great advantages of the free port may have induced, or may hereafter induce, large shipments of cattle or meat from America. I use the term America as the Danes do, as being synonymous with the United States.

It will give me much pleasure to carry out any instructions you may honor me with in the matter.

I have, etc.,

JOHN E. RISLEY

Mr. Uhl to Mr. Risley.

No. 52.]

DEPARTMENT OF STATE,
Washington, November 23, 1894.

SIR: I append a copy of your telegram of the 21st instant, in relation to the prohibition of the importation of live cattle and fresh meat from the United States into Denmark.

In this connection I inclose herewith copies of the telegrams concerning a similar action by Germany, which were sent to the United States ambassador at Berlin on the 27th and 31st ultimo.

I am, sir, your obedient servant,

EDWIN F. UHL,
Acting Secretary.

DOMINICAN REPUBLIC.

ATTACK ON AMERICAN SCHOONER HENRY CROSBY.

Mr. Smythe to Mr. Gresham.

No. 6.] LEGATION OF THE UNITED STATES,
Port au Prince, January 22, 1894. (Received January 29.)

SIR: I inclose herewith the testimony forwarded to me by Consul Meade relating to the incident at Azua. This shows the affair practically as reported to me by the commander of the *Kearsarge*, and is the only official intelligence I have received except the brief dispatch which I forwarded to you.

It seems right to consider, first, that the vessel was anchored at a closed port; second, that the whole country side was in arms trying to apprehend or prevent the escape of the parties who had assassinated the governor of the province; and third, that the mate, instead of proceeding boldly to the shore and making inquiries as soon as he saw a few men with arms in their hands, turned the bow of his boat to the vessel and retreated; thus confirming the suspicions of the ignorant soldiery in the belief that the vessel was either concerned in the uprising, or was there (in a closed port) to carry away the assassins of the governor. I have unofficial information that the mate is well and the seaman, Smith (who, it seems, is Swede), is recovering rapidly.

I have, etc.,

HENRY M. SMYTHE.

P. S.—I have just learned that it will be impossible to copy the evidence, etc., for this mail, and hence I send this dispatch to give the Department an idea of the situation. My opinion is that no discourtesy was intended to our flag, but think a reasonable indemnity should be demanded for the wounded sailors, unless the circumstances debar them from remuneration. The papers will follow in next mail, and can then be connected with this dispatch.

Very truly, etc.,

HENRY M. SMYTHE.

[Inclosure 1 in No. 6.]

Mr. Meade to Mr. Smythe.

No. 12.] CONSULATE OF THE UNITED STATES,
San Domingo, December 30, 1893.

SIR: I inclose you herewith copies of the depositions of the master, mate, and sailor (with accompanying medical certificate) of the American schooner *Henry Crosby*, who were connected with the recent shooting affair at Azua, and an account of which has been telegraphed you, as received from Consular Agent Hardy at that port.

I have, etc.,

JOHN R. MEADE,
U. S. Consul.

[Inclosure 2 in No. 6.]

Mr. Hardy to Mr. Meade.

No. 71.]

U. S. CONSULAR AGENCY,
Azua, December 26, 1893.

SIR: Your dispatch, No. 2, dated December 16, received and contents noted.

According to instructions, I inclose copy of depositions made at this consular agency by A. F. Stubbs, master; William H. Brooks, first mate; and Charles Smith, seaman, all belonging to the American schooner *Henry Crosby*, now lying at this place, the originals of said depositions being entered and sworn to in the record books in this office. I also inclose certificate of medical attendant regarding nature of wound received by the above-named Charles Smith on the 10th day of December last.

You will observe that there is an unimportant addition to the captain's declaration. This was added at the request of the authorities here, who desired Captain Stubbs to sign a declaration drawn up by them which did not recognize the fact of the vessel's national flag being displayed. To avoid dispute, I advised Captain Stubbs to send a copy of his declaration in the consular agency, which was done in the form inclosed, in explanation of the Dominican Government's wish that the master certify to the fact that he was anchored outside the limits of any port.

I may mention that Azua and Barahona are the only two ports in this section where foreign vessels are allowed to anchor unless under special permit from the Government. Captain Stubbs was misled by the information he received in New York regarding the situation of Azua, and it is to be regretted that he did not provide himself with an United States hydrographic chart of 1886, or sailing directions from the same office, published in 1892, before leaving New York. The arrival of the *Henry Crosby* occurred while the country was in a state of unrest. The governor-general of the province and Bara Huna having been assassinated on the Sunday previous, the whole population was under arms to prevent the escape of the murderers, and by some error the authorities here were advised that the vessel reported at anchor on the coast was from Barahona; hence the dispatch of an armed force to watch her motions. Of course a moment's consideration ought to have convinced the authorities that a vessel engaged in any illegal enterprise would hardly anchor in the middle of the day and remain twenty-seven hours within rifle shot of the beach with her colors flying. In any case the dispatch of an armed force in a boat, as afterward was done, would resolve any suspicions that existed.

The seaman, Charles Smith, is progressing favorably.

Trusting inclosures will be found satisfactory,

I remain, etc.,

JOHN HARDY,
U. S. Consular Agent.

[Inclosure 3 in No. 6.]

U. S. CONSULAR AGENCY,
Azua, December 22, 1893.

Be it known that on the 22d day of December, 1893, personally appeared before me John Hardy, consular agent of the United States of America for the port of Azua, William H. Brooks, chief officer of the

American schooner *Henry Crosby*, who maketh the following declaration and answers under oath:

That the said William H. Brooks is an American citizen with residence in Rockland, Me.; that he has been attached to the American schooner *Henry Crosby* upward of one year; that he left New York in the said schooner in the capacity of mate on the 24th day of November last.

That on the 10th day of December, while the vessel was lying at anchor off what was supposed to be the port of Azua at 11:30 a. m., he received an order from A. J. Stubbs, the master of the vessel, to take two seamen in the small boat to ascertain if the vessel was really in the port of Azua, with the additional order not to land; that in obeying these instructions the boat was taken within hailing distance of the shore, where two men were observed and the question asked, "Is this the port of Azua?" Understanding them to give an affirmative answer and further alarmed by the sudden appearance of a large body of armed men, the order was given to pull back to the vessel; immediately the men on the beach opened fire on the boat, great numbers of bullets falling near to and passing through the planking of the boat, one of the latter striking him, the deponent, on the hip, and for the moment disabling him.

That up to the time of the firing no intimation which he could understand had been given him that he was desired to land; consequently he carried out the orders given by the master of the vessel, and seated with his back to the shore he was unable to see the soldiers making ready to fire, and with the first volley he became disabled. After a time, finding that one of his boat's crew was dangerously wounded and the other in hiding, by a great effort he took to the oars in the endeavor to get the boat out of range or on the other side of the vessel. In this he succeeded.

That he further declares that the schooner *Henry Crosby* held no other communication with the shore from the time of his leaving New York, and that during the time of the vessel lying at anchor off the Boca de Jura, the national flag was displayed from sunrise to sunset, and that at the time of the firing the flag on the ship was plainly discernible.

To the above declaration the said William H. Brooks subscribes his name and maketh oath the day and date above written.

WM. H. BROOKS.

This declaration made and sworn to before me this 22d day of December, 1893.

JOHN HARDY,
U. S. Consular Agent.

U. S. CONSULAR AGENCY,
Azua, December 26, 1893.

I, John Hardy, consular agent of the United States of America, do hereby certify that this is a true copy of the original on the record book of this agency.

Given under my hand and seal the day, month, and year mentioned.

JOHN HARDY,
U. S. Consular Agent.

[Inclosure 4 in No. 6.]

U. S. CONSULAR AGENCY,
Azua, December 23, 1893.

Be it known that on the 23d day of December, 1893, the following declaration was made and sworn to by Charles Smith, seaman, belonging to the American schooner *Henry Crosby*, of Bangor, Me., the said Charles Smith being confined to his bed on account of a wound received in the line of his duty as seaman on board the said vessel; said Charles Smith makes declaration that he is a native of Sweden, but has sailed in American vessels for upward of three years past.

He further declares that he sailed from New York in the above-mentioned vessel in the capacity of able seaman on the 24th day of November last; that nothing of importance occurred until the 10th day of December, the ship then lying at anchor off the coast of San Domingo. Shortly before noon of the above date the deponent was ordered to go into the boat and accordingly pulled toward the shore with Seaman Johnson pulling and the chief officer, Mr. Brooks, steering. When within hailing distance of the shore, the mate turned the boat's bow toward the vessel and then the mate ordered us to stop rowing. The mate then asked some men on shore speaking in English "if this was the port of Azua." Whatever answer was given was not understood by me.

During this conversation I noticed a number of men issuing from the bush armed with rifles and big knives and called the mate's attention to it; the mate then gave the order to give away on the oars. Almost at the same moment the men on shore commenced firing, the balls dropping in and around boat in great quantity. Very soon afterwards I saw the mate fall from his seat face forward to the bottom of the boat. Johnson having dropped his oar and hid in the bottom of the boat I seized the two oars and endeavored to pull on board; but very soon receiving a bullet in the front of the thigh which passed through and left my body at the posterior, and getting faint from pain and loss of blood, I too abandoned the oars and later was hoisted on board and my injuries temporarily dressed by the captain.

Charles Smith further maketh declaration, that the ship held no communication with the shore of San Domingo than as above stated, and that during the time of the firing on the boat the flag of the vessel was plainly discernible.

To all of which the said Charles Smith declares on oath that the statement is true.

CHARLES SMITH.

This declaration made and sworn to before me on the 23d day of December, 1893.

JOHN HARDY,
U. S. Consular Agent.

U. S. CONSULAR AGENCY,
Azua, December 26, 1893.

I, John Hardy, consular agent of the United States of America at Azua, do hereby certify that this is a true copy of the original on the record book of this agency.

Given under my hand and seal the day and date ad supra.

JOHN HARDY,
U. S. Consular Agent.

[Inclosure 5 in No. 6.]

U. S. CONSULAR AGENCY,
Azua, December 22, 1893.

Be it known that on the 22d day of December, 1893, personally appeared before me, John Hardy, consular agent of the United States of America at the port of Azua, A. F. Stubbs, master of American schooner *Henry Crosby*, who makes the following declaration and answer under oath:

That the said A. F. Stubbs is a citizen of the United States, with residence in Brooklyn, N. Y.; that as master of schooner *Henry Crosby* he sailed from the port of New York, bound for the port of Azua, and that nothing of importance occurred until the morning of the 9th day of December, when the vessel was off Salina Point; acting under the best information he could obtain before leaving New York, and also consulting the chart used by him on board, he was led to believe that Azua was about 15 miles distance in a northwest direction; with the sea breeze a corresponding course was steered until he supposed himself opposite the inland town of Azua, when the anchor was dropped at 1:30 p. m. in 6 fathoms of water and the colors kept flying in expectation of a visit from custom-house authorities, the tend of the shore showing an indentation of a small port; that the colors were kept flying during daylight of the 9th and hoisted at sunrise Sunday, the 10th; that at 11:30 a. m. of the 10th, no communication having been received from the shore, and observing two or three men on the beach, he ordered William H. Brooks, first mate of the vessel, to take the small boat, with two seamen, and approach near enough and hail it if it was the port of Azua or not, but on no account to land.

Watching the mate he saw him get near to the beach and turn the bow of his boat seaward after apparently exchanging speech with the men on shore; the men in the boat commenced to pull toward the ship; that during the time of the mate's speaking with the men on shore he was surprised to see a great number of armed men issue from the woods, probably thirty or forty, and the moment the boat commenced to move toward the ship they opened fire on the boat, the result being the mate, William H. Brooks, having been struck on the hip by a ball which had probably passed through the woodwork of the boat, and thus lost a great part of its force, fell from his seat. His injury proved to be a large contusion. The man pulling the after oar hid himself in the bottom of the boat, and Charles Smith, seaman, the bow oar, was shot so severely that he fell from his seat. The crew of the boat being apparently totally disabled, the troops on shore opened fire on the ship, the rifle balls passing through the rigging and some few landing on deck, so that it became necessary to order the rest of the crew below for safety.

The said A. F. Stubbs further declares that during his voyage he held no communication with the shore and was engaged in peaceful and lawful occupation, to all which he affirms under oath the day and date above mentioned.

A. F. STUBBS,
Master of American schooner Henry Crosby.

This declaration was made and sworn to before me the 22d day of December, 1893.

JOHN HARDY,
U. S. Consular Agent.

Addition.

As the clause concerning the anchorage of the schooner *Henry Crosby* is deemed not sufficiently clear, it is acknowledged that through bad information and unacquaintance the vessel was anchored in a part of the coast not recognized as a port of entry, and uninhabitable.

A. F. STUBBS.

I certify to the above signature.

JOHN HARDY,
U. S. Consular Agent.

U. S. CONSULAR AGENCY,
Azua, December 26, 1893.

I, John Hardy, consular agent of the United States of America at Azua, certify that this is a true copy of the original on the record books of this agency.

Given under my hand and seal the day, month, and year above written.

JOHN HARDY,
U. S. Consular Agent.

EXEMPTION FROM TONNAGE DUES.

Mr. Gresham to Mr. Smythe.

No. 8.]

DEPARTMENT OF STATE,
Washington, January 13, 1894.

SIR: I inclose herewith a copy of letter, dated the 10th instant, from Messrs. Smith, Gregory & Winters, of New York, in which they inquire whether a vessel, which is exempted by concession from tonnage dues at one port of San Domingo, is subject to them at a second port, to which it goes to load a return cargo.

You are instructed to make inquiry on this subject, and report the facts ascertained to the Department.

I am, sir, etc.,

W. Q. GRESHAM.

[Inclosure in No. 8.]

Messrs. Smith, Gregory & Winters to Mr. Gresham.

DEAR SIR: We have the American schooner *Lavinia M. Snow* chartered to merchants of New York to load a cargo from Brunswick to Samana Bay, San Domingo, at \$5.25 per 1,000 feet of lumber (charterers paying the vessel's foreign port charges). Please note this clause particularly.

This same vessel we have chartered to another merchant here to bring back from Macoris, San Domingo, a cargo of bag sugar to the United States.

We have lately been informed by other parties that the shippers of the outward cargo have received a concession from the San Domingo Government exempting from tonnage dues (which are extreme, being about \$1.65 per registered ton) any vessel bringing the shippers' cargo

to San Domingo; but we are also informed if the vessel moves to any other San Domingo port to load a home cargo the Government will impose all of the duties at the second port from which the vessel was exempted at the first port.

We wish to ask you if this information is correct. It seems to us it must be erroneous, as it would be most unjust to impose inward charges at a second port which was released at the first port.

For your information, we beg to say that the vessels employed in this business are all small, moderate-sized vessels.

The ports are small ports, where they seldom, if ever, ship sufficient cargo to fill a vessel, and all charters are made giving the shippers the privilege of ordering the vessel to two or more ports to complete a cargo; the port charges, i. e., tonnage dues, etc., are paid by charterers at the first port. After that the vessel can move to any other port in San Domingo and not have to pay them a second time. This is where no concession has been made.

Kindly enlighten us to the best you can on this subject, and greatly oblige,

Yours, truly,

SMITH, GREGORY & WINTERS.

Mr. Smythe to Mr. Gresham.

No. 9.]

LEGATION OF THE UNITED STATES,
Port au Prince, April 14, 1894. (Received April 25.)

SIR: In compliance with the instructions contained in your dispatch No. 8, Santo Domingo series, dated January 13, last, I beg to transmit herewith inclosed copy of a letter received from Juan A. Read, esq., U. S. vice-consul, acting, in reply to my letter to him requesting that an inquiry be made in the matter of the schooner *Lavinia M. Snow* and report the result of such inquiry to this office.

I have, etc.,

HENRY M. SMYTHE.

[Inclosure in No. 9.]

Mr. Read to Mr. Smythe.

U. S. CONSULATE,
San Domingo, April 2, 1894.

SIR: I have to inform you that I have received your dispatch dated January 27, 1894, numbered 14, inclosing copy of letter from Messrs. Smith, Gregory & Winters to the Department of State, directing me "to make inquiry and report the facts whether or not a vessel which is exempted by concession from the payment of tonnage dues at one port of San Domingo is subject to them at a second port to which it goes to load a return cargo."

In obedience to said instructions, I have to report as follows:

The law of San Domingo requires the payment of port charges by a vessel bringing cargo to or taking it from its ports. These port charges are imposed only once during the same voyage without regard to the number of ports at which the vessel may enter, and payment must be made at the first port of entry.

When a concession from the Government is relied upon to exempt a vessel from the operation of this law, reference must be had to the language of the concession itself to determine to what extent the operation of the law is suspended in the particular case.

In the matter of the *Lavinia M. Snow*, which is the especial subject of my investigation and report, it appears that this vessel was chartered by New York merchants to load a cargo of lumber for Samana Bay, and that said charterers were to pay foreign port charges. The vessel was chartered for the return voyage to another merchant to load a cargo of sugar in Macoris, both ports being within the territory of the Dominican Republic.

Messrs. Gregory, Smith & Winters state that the first charterers were by concession (from the Dominican Government) exempted from the payment of port charges, but do not claim this exemption, and it is taken for granted that it did not exist on behalf of the second charterer.

An inspection of the provisions of said concession relating to the subject-matter of this report (copy of which is inclosed for your information) shows that there is exempted from taxation certain property materials, capital, etc., and from port charges vessels which transport solely materials necessary to the construction and repair of the concessionaires' railroad; but it is especially declared that the exemption does not apply in the case of export duties on products of the soil, nor in the case of vessels in which said products are exported.

The *Lavinia M. Snow*, deriving her claim to exemption from port charges from the aforesaid concession, can have no claim to greater exemption than is therein granted. When, therefore, her employment in transporting "solely materials necessary to the construction and repair of the concessionaires' railroad" ceased, her right to exemption from port charges ceased, and in taking other cargo, more especially of a product of the soil and on behalf of a new charterer for a return voyage, she became subject to the payment of port charges in accordance with the general law, in whatever port she now first took cargo or made entry.

I note that Messrs. Gregory, Smith & Winters state the port charges as \$1.65 per ton. Since June, 1892, port charges have been \$2.65 per ton, a fact which I respectfully suggest be communicated to the shipping community in case of more extended misapprehension as to present charge.

I have, etc.,

JUAN A. READ,
U. S. Vice-Consul, Acting.

[Subinclosure.—Translation.]

Copy article 7 of the concession of the railroad from Samana Bay to La Veza.

ART. 7. The railroad and all its accessories in movable and immovable property, as well as its capital and the rent produced, shall enjoy exemption from all kinds of imposts and fiscal and municipal contributions during fifteen years only, and also the vessels in which are imported only the materials necessary for the construction and reparation of the railroad shall be exempted from the port charges and the said materials from custom duties.

This franchise shall not be enjoyed by the products of the soil in regard to export duties nor by the vessels in which the export is made.

Concession May 5, 1893.

(Collection of laws, p. 276, No. 8.)

FRANCE.

ADMEASUREMENT OF VESSELS.

Mr. Gresham to Mr. de Marçilly.

DEPARTMENT OF STATE,
Washington, December 21, 1893.

SIR: My attention has been drawn by the Treasury Department to the circumstance that changes of French legislation in the rules of admeasuring merchant vessels, made since the exchange of rates in 1888-'89, whereby it was reciprocally agreed to accept as evidence of the fact the tonnage measurement certificates issued by the respective governments, such alterations have been made that a serious discrepancy now exists between the French and American rules.

For instance, there is now pending in the Treasury Department a protest filed by the agent of La Compagnie Générale Transatlantique against the assessment of tonnage tax on the steamer *La Gascogne* at New York, upon 3,766 tons according to the Treasury rule of measurement, while the French certificate gives but 2,913 tons according to the modified French rule.

Attention was drawn to the general matter of these discrepancies by the Department's note of November 3, 1891, and Mr. Patenôtre's reply of March 31, 1893, expressed the readiness of your Government to conclude a special arrangement to settle the question so raised. Further information was asked and furnished on both sides, but since the last note of this Department on the subject, September 3, 1892, which responded to Mr. Desprez's request for the rules governing the admeasurement of British vessels in the ports of the United States, no further action appears to have been taken.

As it is desirable that an understanding in this regard should be reached as soon as may be practicable, to the end that reciprocal acceptance of the respective tonnage certificates may continue, as contemplated in the agreement of 1888-'89, provided the pertinent legislation of the two countries be found in substantial agreement, I have to request that you will acquaint me with the present views of your Government thereon.

Meanwhile, in answer to an inquiry of the Secretary of the Treasury, based on the protest in the case of *La Gascogne* to which I have adverted, I have advised Mr. Carlisle that the arrangement of 1888-'89 can not be regarded as effectively continuing in view of the evident and considerable discrepancy which results from applying to the admeasurement of vessels the unchanged rule of the United States, which formed the basis of that agreement, and the subsequently modified French rule.

Accept, etc.,

W. Q. GRESHAM.

Mr. Patenôtre to Mr. Gresham.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
Washington, June 16, 1894. (Received June 18.)

MR. SECRETARY OF STATE: With reference to the discrepancies existing between the methods of admeasurement in France and in the United States, resulting from modifications introduced during the past few years in the French regulations applying to the admeasurement of merchant vessels, you were pleased to inform this embassy, in a note dated December 21, 1893, that it was impossible for the Federal Government to continue in force the agreement of 1888-'89 and to request us to join you in seeking the terms of a new agreement harmonizing with American legislation. My Government, to which I had transmitted your communication in good time, informs me, that, in accordance with the decision of the department of finance, it is willing to act upon that proposal. The eventual arrangement might, like that of 1888-'89, be concluded by means of an exchange of diplomatic notes.

It might rest, as regards the adjustment of navigation taxes, on the reciprocal acceptance of special certificates of measurement issued by the proper authorities of either country according to the rules enforced in the other. This new arrangement appears to remove all possible difficulty, since the tonnage of our vessels would henceforward be measured in France according to the American rules.

In order to avoid all risks of error in the special certificates which the French customs would be called upon to issue to our vessels, the French administration would wish to be given the official text of rules concerning the admeasurement of merchant vessels as applied in the United States. You would oblige me by enabling me to meet that wish and sending me several copies of the said rule.

I have the honor, for my part, to inclose herewith four copies of the circular of the French customs service, dated February 10, 1893, accompanied by the text of the decree of May 24, 1873, and all the modifications therein introduced by the decrees of July 21, 1887, March 7, 1889, and January 31, 1893.

Accept, etc.,

PATENÔTRE.

Mr. Gresham to Mr. Patenôtre.

DEPARTMENT OF STATE,
Washington, July 11, 1894.

EXCELLENCY: Your note of the 16th ultimo transmits a proposition relative to the admeasurement of French vessels and the assessment of tonnage tax on such vessels in ports of the United States. You suggest that the matter might rest as regards the assessment of navigation tax on the reciprocal acceptance of special certificates of admeasurement issued by the proper authorities of either country according to the rules in force in the other, and you state that such new arrangement would remove all possible difficulty, since the tonnage of French vessels would henceforward be measured in France according to American rules.

The subject having been submitted to the consideration of the Secretary of the Treasury, I have the honor to make known to you the substance of his reply. He states that the laws formerly in force in the

United States were amended by the act of August, 1882, which prescribes that in cases like the present, when it shall be necessary to ascertain the tonnage of a vessel not a vessel of the United States, the said tonnage shall be ascertained in the manner provided by law for the measurement of vessels of the United States. As the law requires admeasurement by an officer of the United States, it is impracticable to accept admeasurements made by French officers. His letter to this Department of December 14th last (which was communicated to you on the 21st of that month), showed that the Government of France had adopted new regulations for measurement not substantially in accordance with the rules now existing in the United States. He considers, therefore, that the acts of Congress governing the matter will not warrant action in accordance with your suggestion. A copy of the regulations requested by you has been forwarded under separate cover, and your attention is invited to page 40 thereof.

Accept, Mr. Ambassador, etc.,

W. Q. GRESHAM.

REGULATIONS FOR PREVENTING COLLISIONS AT SEA.¹

Mr. Patenôtre to Mr. Gresham.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
Washington, June 20, 1894. (Received June 21.)

MR. SECRETARY OF STATE: The London cabinet having asked, as you are aware, that certain modifications of detail should be made in the draft of the regulations adopted in 1890 by the Washington Marine Conference for the prevention of collisions at sea, the U. S. Government expressed its intention to agree to this proposition, which is now before the Federal Congress awaiting its approval. Great Britain suggested, moreover, that the new regulations should take effect March 1, 1895, so that an understanding among the powers at no distant day seems to be probable.

The Government of the Republic, desiring to facilitate this agreement, is prepared, so far as it is concerned, to abandon the reservations which it originally made, and to adhere to the British modifications. It would, however, be glad to know whether the Washington Cabinet, which took the initiative in the conference of 1889, proposes now to retain the direction of this matter by transmitting to the other powers for their approval the propositions to which it has itself agreed, or whether it intends to leave it to the British Government to secure the acceptance of its draft by its own diplomatic action. In the latter case we should not have to notify the U. S. Government of our adhesion, but that of Great Britain.

I shall be obliged to you if you will enable me to reply to the question which has been addressed to me.

Thanking you in advance,

I beg, etc.,

PATENÔTRE.

¹ See Senate Ex. Doc. No. 75, third session, Fifty-third Congress.

Mr. Gresham to Mr. Patenôtre.

DEPARTMENT OF STATE,
Washington, July 7, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 20th ultimo stating that the Government of France, desiring to facilitate the adoption of the International Regulations for preventing collisions at sea proposed by the International Marine Conference held in this city in 1889, is prepared to abandon the reservations which it originally made and to adhere to the British modifications, which have also been agreed to by the United States.

This Government, which took the initiative in that conference, feels that it should acquaint the other powers of the present situation of the matter. It has, therefore, taken the necessary measures to advise them of the accord reached by the United States, France, and Great Britain, and to urge the governments concerned to assent to the amended regulations, to the end that they may go into effect and be binding upon all on March 1, 1895.

Meanwhile, a copy of your note has been communicated to the Secretary of the Treasury, with a letter in this sense:

I inclose for your information a copy of an act of Congress approved May 28, 1894, to amend "An act to adopt regulations to prevent collisions at sea."

Accept, Mr. Ambassador, etc.,

W. Q. GRESHAM.

Mr. Gresham to Mr. Patenôtre.

DEPARTMENT OF STATE,
Washington, August 6, 1894.

EXCELLENCY: I have the honor to say, in connection with the Department's note of the 7th ultimo, that, in view of the accord reached by the Governments of France, Great Britain, and the United States relative to the International Regulations for preventing collisions at sea, the President decided to promptly issue his proclamation, fixing March 1, 1895, as contemplated by Her Britannic Majesty's Government, as the date on which the law of the United States approved August 19, 1890, as amended by that approved May 24, 1894, shall take effect.

I inclose copies of the President's proclamation of July 13, 1894, and I shall be glad to learn that the Government of France has proclaimed its law upon the subject to take effect March 1, 1895, so that identic rules may come into force on that date.

I shall send to the diplomatic representatives of the United States, accredited to the several states that participated in the International Marine Conference held in this city in 1889, copies of the President's proclamation, and shall direct each to urge upon the governments concerned the adoption of similar legislation in case they shall not already have done so, and the proclamation of the same, so as to go into effect on March 1, 1895.

Accept, Mr. Ambassador, etc.,

W. Q. GRESHAM.

Mr. Patenôtre to Mr. Gresham.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
Washington, August 26, 1894. (Received August 29.)

MR. SECRETARY OF STATE: In informing me through your note of (date omitted) that the United States had accepted the amendments which England desired to see inserted in the regulations prepared by the Maritime Conference of Washington with a view to preventing collisions at sea, you were good enough to acquaint me with the interest that the Federal Government would entertain with respect to bringing about a general agreement among the powers on this subject.

My Government, desirous to meet, as far as it is concerned, the wishes expressed in your communication, instructs me to inform you that from the present time it gives without reservation its definitive adherence to the provisions inserted by (the American) Congress in the act of May 28, 1894, and which reproduce in full the English propositions.

I have the honor at the same time to advise you that the Government of the Republic accepts the date of March 1, 1895, suggested by the London cabinet for carrying these new regulations into effect.

Accept, etc.,

PATENÔTRE.

ASSASSINATION OF PRESIDENT CARNOT.

Mr. Eustis to Mr. Gresham.

[Telegram.]

EMBASSY OF THE UNITED STATES,
Paris, June 25, 1894. (Received June 25.)

The minister of foreign affairs notified me officially this morning of the assassination last night at Lyons of President Carnot, who died to-day at 12:35 a. m. The chamber meets on the 27th to elect another President. In the meantime the cabinet, acting under the provision of the constitution, assumes the duties of the Executive.

EUSTIS.

Mr. Gresham to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 25, 1894.

Express to the minister of foreign affairs the profound sorrow with which the President and the American people have heard of the atrocious crime which has robbed a sister Republic of its wise, humane, and patriotic Chief Magistrate.

GRESHAM.

[Telegram.]

Mr. Gresham to Mr. Eustis.

DEPARTMENT OF STATE,
Washington, June 25.

The President directs me to communicate through you to the Government of France and to Madame Carnot the following resolutions

this day adopted in the Senate and House of Representatives of the United States expressing condolence with the French nation and the loss it has sustained, and abhorrence of the assassination.

GRESHAM.

Resolution of the Senate (June 25).

Resolved, That the Senate of the United States unite with the American people in expressing to the people of France their sorrow and sympathy in the national bereavement they are suffering from the cruel blow of an assassin which was aimed at the peace of France and fell upon the heart of President Carnot, and as a mark of respect due to the memory of the wise, virtuous, and patriotic President of the Republic of France, the Senate will, at the close of this proceeding, stand adjourned until to-morrow at ten o'clock, morning.

Second. That the President of the United States is requested to communicate this expression of national sorrow to the Government of the Republic of France and to Madame Carnot.

Resolution of the House of Representatives (June 25, 1894).

Resolved, That the House of Representatives of the United States of America have heard with profound sorrow of the assassination of President Carnot and tenders the people of France sincere sympathy in their national bereavement; that the President of the United States be requested to communicate this expression of sorrow to the Government of the Republic of France and to Madame Carnot, and, as a further mark of respect to the memory of the President of the French Republic, the House of Representatives do now adjourn.

Mr. Patenôtre to Mr. Gresham.

[Translation.]

EMBASSY OF THE FRENCH REPUBLIC,
Washington, June 29, 1894.

MR. SECRETARY OF STATE: I have the honor to advise you that, in compliance with instructions of my Government, religious service will be celebrated at Washington in St. Matthew's Church on Sunday, the 1st of July, at noon, that being the day on which the funeral of the President of the Republic will take place at Paris.

I shall be grateful for your kindly communicating this information to the high Federal authorities and to the members of Congress.

I seize this opportunity for renewing the thanks of my Government for the tokens of sympathy which the Republic of the United States was so good as to express to France under the sad circumstances the latter has just experienced, and I beg you to

Accept, etc.,

PATENÔTRE.

Mr. Gresham to Mr. Eustis.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 29, 1894.

President, Cabinet, Senators, and Members House of Representatives will attend religious service here on Sunday in memory of late President of France.

GRESHAM.

Mr. Eustis to Mr. Gresham.

No. 180.]

EMBASSY OF THE UNITED STATES,
Paris, June 29, 1894. (Received July 9.)

SIR: I cabled on the 25th instant the substance of a telegram from the minister of foreign affairs informing me officially of the assassination of President Carnot. The press agencies had already, I have no doubt, furnished you with full reports of the sad event, and through the same channel you must have been made aware of all the circumstances which followed this tragic event. To complete our record I shall therefore simply inclose copies of the correspondence with the French Government on this occasion and such extracts from the Paris papers which it might be of interest to keep on file.

I have, etc.,

J. B. EUSTIS.

[Inclosure 1 in No. 180.—Translation.]

Mr. Hanotaux to Mr. Eustis.

PARIS, June 25—1:55 a. m.

It is with profound sorrow that I convey to your knowledge that the President of the Republic has just died at Lyons from the effects of an attempt against his life.

The assassin was immediately arrested.

I did not fail to direct, by telegraph, the representatives of France abroad to convey this fatal news to the knowledge of the governments to which they are accredited.

G. HANOTAUX.

[Inclosure 2 in No. 180.]

Mr. Eustis to Mr. Hanotaux.

EMBASSY OF THE UNITED STATES,
Paris, June 25, 1894.

SIR: I have the honor to acknowledge the receipt of your excellency's dispatch of this morning informing me of the assassination of the President of the Republic. Without awaiting the instructions of my Government, I hasten to give you the assurance that the dreadful misfortune which, in the person of its first magistrate, befalls the old and faithful ally of the United States will awaken in all American hearts a feeling of profound emotion.

I beg you, Mr. Minister, to convey to Madame Carnot the expression of my respectful condolence, and to rest assured that in the painful trial through which France is now passing and with her the democratic institutions she so worthily represents in the old world, the sympathies of my fellow-citizens, as well as those of my Government, will not cease to accompany her.

I take, etc.,

J. B. EUSTIS.

[Inclosure 3 in No. 180.]

Mr. Eustis to Mr. Hanotaux.

EMBASSY OF THE UNITED STATES,

Paris, June 26, 1894.

SIR: Upon receipt of your excellency's sad communication of yesterday, I hastened to give an expression of my feelings in respect to the assassination of the President of the Republic.

By direct instruction from the honorable Secretary of State, Mr. Gresham, I have now to express to your excellency the profound sorrow with which the President and the American people have heard of the atrocious crime which has robbed a sister Republic of its wise, humane, and patriotic Chief Magistrate.

I am further directed, through you, to communicate to the Government of France and to Madame Carnot the following resolutions at once adopted by the Senate and House of Representatives of the United States, expressing condolence with the French nation in the loss it has sustained and their abhorrence of the assassination.

The Secretary of State informs me also that immediately upon the passage of these resolutions, the Senate and House of Representatives adjourned as a tribute of respect to President Carnot's memory.

I take, etc.,

J. B. EUSTIS.

[Inclosure 4 in No. 180.]

Mr. Eustis to Mr. Hanotaux.

EMBASSY OF THE UNITED STATES,

Paris, June 27, 1894.

SIR: At a meeting of Americans now present at Paris, which was held yesterday for the purpose of offering an expression of their feelings on the occasion of the assassination of the President of the Republic, the resolutions of which a copy is herewith inclosed were unanimously adopted, and I was requested to have them properly presented.

I shall feel obliged if your excellency will kindly communicate them to the members of the Government and to Madame Carnot.

I avail, etc.,

J. B. EUSTIS.

[Inclosure.]

Copy of resolutions.

Whereas the President of the French Republic has just been mortally stricken down by a heinous crime, and whereas we Americans, having in our own country twice experienced a similar great grief, are only the more impelled to mingle our tears with those of the sorrowing people of fair France: Therefore, be it

Resolved, That, while denouncing the abominable act which has so suddenly removed President Carnot from our midst, it is with more than pain of mind that we Americans in Paris have assembled to offer our expressions of warmest sympathy to the French nation who are now undergoing the same emotions of pity and tenderness which we experienced when murderous hands struck down two of our venerated Presidents.

Resolved, That there is no divergence of opinion among us as to the high values of this lovable man whom a great nation has called to be its Chief Magistrate, and to us Americans it is a consolation of deepest significance that this the first citizen of our sister Republic was so universally respected throughout the world. We knew that his heart was good, his domestic virtues unbounded, his charities as broad and liberal as his character was beyond reproach.

Resolved, That while the unanimity of the national sentiment which is hourly showing itself can not but soften the awful sorrow that now afflicts the noble woman who so dignifiedly shared the companionship of Mr. Carnot's life, we, too, as Americans, would lay at her feet the expression of our most respectful and devoted affection.

We beg Madame Carnot and her sorrowing family to receive the assurance of our sincerest condolences and sympathy, the homage of our profound esteem.

Paris, June 26, 1894.

JOHN H. HAYES,
Chairman of the Meeting of American Citizens.

[Inclosure 5 in No. 180.]

Mr. Eustis to Mr. Hanotaux.

EMBASSY OF THE UNITED STATES,
Paris, June 28, 1894.

SIR: As an additional mark of the heartfelt sympathy of my countrymen for France in her grief caused by the assassination of the President of the Republic, I send copies of two telegrams received, one from Gen. Horace Porter, president of the Society of the Sons of the American Revolution, the other from Mr. John W. Mackay, president of the Commercial Cable Company.

I avail, etc.,

J. B. EUSTIS.

Mr. Eustis to Mr. Gresham.

[Telegram.]

PARIS, *July 2, 1894.*

President Carnot's funeral yesterday was very imposing, and as a tribute of the national grief was worthy of France. The whole ceremony lasted six hours. The cost of floral wreaths exceeded 2,000,000 francs. The popular demonstration was most orderly, respectful, and sympathetic.

Though not well, and the heat was intense, I accompanied the cortege on foot. His remains rest in the Pantheon.

EUSTIS.

Mr. Eustis to Mr. Gresham.

No. 184.]

EMBASSY OF THE UNITED STATES,
Paris, July 3, 1894. (Received July 16.)

SIR: Referring to my No. 181, of June 29, inclosing a copy of my dispatch transmitting to the minister of foreign affairs the expression of the sympathies of the American people and Government, I now send a copy and translation of Mr. Hanotaux's reply to the same.

I also inclose a copy of your telegram received June 30, informing me that the President, Cabinet, members of the Senate and House of Representatives would attend on Sunday a religious service at Washington in memory of the late President, which information was at once communicated to Mr. Hanotaux.

I add a copy of my telegram of the 2d instant relative to the funeral of President Carnot, for which I ordered a large wreath, which I sent to the Palais de l'Élysée.

I have, etc.,

J. B. EUSTIS.

[Inclosure in No. 184.—Translation.]

Mr. Hanotaux to Mr. Eustis.

PARIS, *June 26, 1894.*

MR. AMBASSADOR: Your excellency has been good enough to express to me, in the name of the honorable Mr. Gresham, Secretary of State, the deep feeling of emotion with which the Government of the United States and the American nation were apprised of the crime of which President Carnot has been the victim, and to communicate to me the resolutions passed on this occasion by the Senate and by the House of Representatives.

In accordance with your desire I have not failed to make known these marks of sympathy to Madame Carnot and to the members of the Government of the Republic, who have been particularly touched by their expression.

I beg your excellency to be assured of their gratitude and to kindly make known their feelings to the American Government.

Please accept, etc.,

G. HANOTAUX.

Mr. Vignaud to Mr. Gresham.

No. 190.]

EMBASSY OF THE UNITED STATES,
Paris, July 11, 1894. (Received July 23.)

SIR: Referring to Mr. Eustis's No. 184, of July 3, reporting that your telegram relative to the religious service to be held in Washington in memory of the late President Carnot had been communicated to the minister for foreign affairs, I have now to state that this communication was acknowledged by Mr. Hanotaux under date of the 7th instant. The Government of the Republic, he says, was very much touched by the part taken at Washington with France in her mourning, and he asks that its thanks be conveyed to our Government.

I have, etc.,

HENRY VIGNAUD.

CONVENTION BETWEEN FRANCE AND LIBERIA.

Mr. Vignaud to Mr. Gresham.

No. 193.]

EMBASSY OF THE UNITED STATES,
Paris, July 13, 1894. (Received July 30.)

SIR: In its sitting of the 10th instant the Chamber of Deputies adopted without discussion the bill presented by the Government for approving the convention signed December 8, 1892, between France and Liberia. Mr. Coolidge's No. 91, of December 9, 1892, informed you of the circumstances under which this arrangement was made and gave you its English text.¹ I now send a printed copy of the French text, as presented to the Chamber of Deputies. It does not differ from the English version. In introducing the bill Mr. Deloncle, who spoke for the Government, made only a few remarks, saying that the arrangement had been approved by the Chambers of Monrovia. He made no reference to the two special clauses, of which a copy accompanied Mr. Coolidge's dispatch. They were not made known to the chamber.

I have, etc.,

HENRY VIGNAUD.

¹ See Foreign Relations, 1893, p. 296.

GERMANY.

BURDENS ON EXPORTATION OF AMERICAN HOG PRODUCTS.

Mr. Runyon to Mr. Gresham.

No. 45.]

EMBASSY OF THE UNITED STATES.

Berlin, January 29, 1894.

SIR: On receipt of your instruction No. 36* of December 22 last, in reference to an application for waiver by the German Government of microscopical examination in the United States of American hog products, I immediately brought the subject to which it relates to the attention of the Imperial German Government, in a personal interview sought by myself for the purpose with Baron von Marschall, imperial secretary of state for foreign affairs, and, while he gave no definite reply to my application, he promised an early answer. Up to this time, however, I have received none.

The subject will continue to have my attention.

I have, etc.,

T. RUNYON.

Mr. Gresham to Mr. Runyon.

No. 52.]

DEPARTMENT OF STATE,

Washington, February 1, 1894.

SIR: I inclose for your information a copy of a letter dated the 27th ultimo, from the Secretary of Agriculture, calling attention to the excessive burdens imposed upon the exportation of American meats to Germany and France by the microscopical inspection required by the governments of those countries and to the fact that, so far as his Department has been able to learn, there has been no case of trichinosis during the last three years among the more than sixty-five millions of people inhabiting this country.

As the archives of your embassy will show, conclusive proofs of the healthfulness of American meats have been repeatedly submitted to the German Government without any satisfactory results. The Department hopes that the present may be found to be a more propitious time for recalling the subject to the attention of the Government of Germany with a view to having the burdensome restrictions upon the trade in American meats removed.

Under the circumstances, you will exercise your own judgment as to the best time and manner of presenting this matter to the minister of foreign affairs, making such reference to the legislation now pending

* Not printed.

in Congress as may seem judicious, with a view to inducing the Government of Germany to adopt a more liberal and enlightened policy with regard to the important branch of our commerce which now suffers from the restrictions in question.

I am, sir, etc.,

W. Q. GRESHAM.

Mr. Runyon to Mr. Gresham.

No. 53.]

EMBASSY OF THE UNITED STATES,
Berlin, February 20, 1894.

SIR: Referring to your instruction No. 52 of the 1st instant, in regard to the burdens imposed on the exportation of meat from the United States into Germany, I beg to say that (as I have already reported) the subject had, before that instruction came to my hands, had my attention. At once after the instruction referred to was received, I sought and obtained an interview with Baron von Marschall, the imperial secretary of state for foreign affairs, in which the matter was discussed at length. No decision was declared, but a promise was given that the matter should receive due consideration and that an answer should be given as soon as practicable. In the course of the conversation he informed me that the continued delay in replying to my request for information as to microscopical examination here, etc., under your instruction of June 21, last, No. 26,* was due to the necessity of obtaining information for such reply from the sovereignties composing the German Empire, inasmuch as the microscopical examination as to which inquiry is made, is, if made, made pursuant to requirements not of the Imperial Government, but pursuant to requirements of those sovereignties or of municipalities therein.

I ought here to say that I judge from his remarks that the German Government will claim that the advantages gained by it under the action of the President of the United States (proclamation of February 1, 1892), pursuant to section 3 of the act of Congress of October 1, 1890, entitled "An act to reduce the revenue and equalize the duties on imports, and for other purposes," were acquired for a consideration given by it to, and received therefor, by the United States Government, and that they will be protected accordingly in any new tariff legislation on our part.

As to the microscopical examination in the United States of pork products exported from that country into Germany, it is claimed that that inspection was voluntarily undertaken by our Government, and was understood to be one of the considerations for, and a condition of, removing the prohibition. (See the correspondence preceding and leading up to the proclamation above referred to, and the regulations of March 25, 1891, made by the Department of Agriculture pursuant to the act of March 3, 1891, entitled "An act to provide for the inspection of live cattle, hogs, and the carcasses and products thereof, which are the subject of interstate commerce, and for other purposes.")

I have, etc.,

T. RUNYON.

* Not printed.

Mr. Coleman to Mr. Gresham.

No. 107.]

EMBASSY OF THE UNITED STATES,

Berlin, June 30, 1894.

SIR: Referring to the ambassador's dispatch No. 53, of the 20th of February last, respecting his execution of the directions contained in your instruction No. 52, of the 1st of that month, relating to the desirability of the burdensome restriction which requires the microscopic inspection of meat (hog products) in the United States before shipment to Germany being removed, I have the honor to inform you that I called to-day on Baron von Rotenhan, acting secretary of state for foreign affairs, and urged dispatch in the matter, calling attention to the length of time that has elapsed without an answer having been given to the representations made by the ambassador in pursuance of your instruction.

Baron von Rotenhan assured me the matter should have full attention, and that the desired answer should be given at the earliest practicable moment.

I have, etc.,

C. COLEMAN.

PROHIBITION OF AMERICAN CORNED BEEF.

Mr. Coleman to Mr. Gresham.

No. 125.]

EMBASSY OF THE UNITED STATES,

Berlin, July 27, 1894. (Received August 15.)

SIR: I have the honor to transmit herewith a copy of a note I have to-day addressed to the foreign office remonstrating against a prohibition by the authorities of the city of Heilbronn, Würtemberg, of the sale there of American corned beef, shipped by Messrs. Armour & Co., on the ground of the alleged insufficiency of the certificate by the Department of Agriculture of the United States of the healthfulness of the article.

A copy of the certificate referred to, which was submitted to the authorities of Heilbronn by the merchant applying for permission to sell the product in question in support of his application, is also inclosed herewith.

The answer of the foreign office to the embassy's remonstrance will, when received, be promptly transmitted to the Department.

I have, etc.,

CHAPMAN COLEMAN.

[Inclosure 1 in No. 125.]

Mr. Coleman to Baron Rotenhan.

EMBASSY OF THE UNITED STATES OF AMERICA,

Berlin, July 27, 1894.

The undersigned, chargé d'affaires of the United States of America, has the honor to invite the attention of Baron von Rotenhan, acting secretary of state for foreign affairs, to a prohibition of the sale of an important article of American trade at the city of Heilbronn, in Würtemberg, and to request that such measures may be kindly taken as

will lead to the removal of the prohibition in the event of its being found, upon investigation, to be unwarranted, as the undersigned ventures to believe it will be.

As appears from an extract, herewith inclosed, from the minutes of the common council (Gemeinderath) of the city of Heilbronn, Würtemberg, that municipal body, under date of the 5th of July instant, decreed that Mr. Paul Wohl, a merchant of that city, should not be permitted to sell American corned beef on the ground that the certificate submitted by him afforded no sufficient guaranty for the complete harmlessness of the article.

In what respect the article referred to, which is issued by the Department of Agriculture of the United States, is deemed insufficient by the authorities of Heilbronn is not known to the undersigned; it appears, however, as far as he is informed, to be regarded as satisfactory elsewhere throughout Germany.

While requesting that the decree of the common council of Heilbronn may be ultimately kindly returned, the undersigned avails himself of this occasion, etc.,

CHAPMAN COLEMAN.

[Inclosure 2 in No. 125.—Certificate of the U. S. Department of Agriculture. Duplicate certificate of inspection of meat products for export.]

U. S. DEPARTMENT OF AGRICULTURE,
BUREAU OF ANIMAL INDUSTRY,
Chicago, Ill., March 31, 1894.

Stamp number
4094835
to
4094864
Mc

This is to certify that 30 bbls. of beef clods, bearing stamps numbered as indicated on the margin hereof, which are to be exported by Armour & Company, and are assigned to Paul Wohl, Frankfort, Germany, have been inspected and stamped in conformity with the requirements of the act of Congress approved March 3rd, 1891, and that the animals from which said products came were free from disease on post mortem examination.

Signed,

DA MELVIN,
Inspector.

J. STERLING MORTON,
Secretary.



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Mr. Runyon to Mr. Gresham.

No. 169.]

EMBASSY OF THE UNITED STATES,
Berlin, December 3, 1894.

SIR: Referring to Mr. Coleman's dispatch No. 125, of July 27 last, I have the honor to state that I have to-day been informed by the imperial foreign office that the prohibition placed upon the sale of American canned beef by the local authorities at Heilbronn, in Würtemberg, has been removed.

I have, etc.,

THEODORE RUNYON.

PROHIBITION OF AMERICAN CATTLE.

Mr. Gresham to Mr. Runyon.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 27, 1894.

German ambassador has notified me of intended prohibition of imports of American cattle and fresh meats, owing to alleged discovery of Texas fever in two recent shipments, with compulsory slaughter of cattle shipped before 28th instant. I have earnestly represented to the ambassador the injury this apparently needless and harsh measure will cause. The only cattle which communicate Texas fever are those from a well-defined district in southern part of the United States, from which district export is not permitted. Our regulations and inspection are amply sufficient to prevent such exportation. The enforcement of the German prohibition will be regarded here as unfriendly and retaliatory and be an obstacle to the repeal of the tax of one-tenth a cent a pound imposed by the present tariff law upon all sugars coming from bounty-paying countries. Since the adjournment of Congress it has been the President's intention to advise the repeal of that tax, and it still is his intention to do so. You are enjoined to immediately and impressively urge that, in the interest of both countries, the contemplated prohibition be not enforced.

Mr. Runyon to Mr. Gresham.

[Telegram.]

BERLIN, *October 28, 1894.*

Telegram received this morning. I have seen minister for foreign affairs and made urgent representations according to instructions. Immediate action or reply not probable on account of present Government conditions.

Mr. Runyon to Mr. Gresham.

No. 146.]

EMBASSY OF THE UNITED STATES,
Berlin, October 29, 1894. (Received November 12.)

SIR: I have the honor to acknowledge the receipt of your cipher telegram on Sunday morning the 28th instant. When it came I had just received information of the new prohibitory regulation and had just written a dispatch to be sent to the State Department on the subject, on the assumption that the Department was not aware of the action of the German Government. Herewith I send a copy (with translation) of the document promulgating the decree in Hamburg. It will be noticed that it is dated on Saturday, October 27, while the decree excluded all beef cattle and fresh beef sent from the United States after the next day, Sunday, the 28th. At once, on the same day and within a few hours from the time of the receipt of the telegram, I applied for and obtained an interview with Baron von Marschall, the imperial secretary of state for foreign affairs, on the subject and dis-

cussed the matter with him fully, presenting as forcibly as I was able (among others) all the views and considerations expressed in your dispatch to me, and I strongly urged that the interest of both countries demanded that the prohibition be not enforced.

In a previous conversation with him he had represented the great desirability of the repeal of the tariff tax on sugar from bounty-paying countries, and I reported the substance of that conversation to you in my dispatch on the subject of the patent law (No. 145, dated October 23, 1894). Baron von Marschall said he thought that the time was not opportune for the action complained of because of the liability to misconstruction—to be thought to be retaliatory merely—but he insisted upon it, however, that it was not intended to be in any wise retaliatory or to be so regarded, but was merely, and was so intended to be, a sanitary regulation which had been deemed absolutely necessary for the protection of cattle in Germany. He also disclaimed responsibility for the action, and stated that it was taken at the instance of the Prussian minister of agriculture. You will see, I may remark, by the copy of the instrument promulgating the decree in Hamburg that the action was by the German Government and was taken by the imperial chancellor.

In view of my representations on the subject of the ability of the United States to prevent the exportation of cattle affected with Texas fever, and of the considerations which I presented to him of the extraordinary sweeping character of the prohibition, which makes no discrimination whatever and even includes American fresh beef, he promised to give the matter such consideration as he could and asked me to send him in writing the statement I had made verbally as to the ability of the United States to prevent the exportation of cattle affected by Texas fever. I prepared such statement and sent it accordingly, and I herewith inclose a copy of it as part of the history of my action in the matter.

I have the honor, etc.,

THEODORE RUNYON.

[Inclosure 1 in No. 146.—Translation.—Official gazette of the free and Hanse city Hamburg.]

PROCLAMATION OF THE SENATE.

Proclamation relating to the prohibition of the importation from America of living beef cattle and fresh beef.

No. 111.]

SATURDAY, October 27, 1894.

The imperial chancellor, on the strength of paragraph 4, page 2, of the imperial law of June 23, 1880, concerning protection against and suppression of cattle diseases, after the arrival here of two shipments of American cattle containing sick animals, and after the certification by the imperial health office that the sickness is "Texas fever," has ordered the prohibition of the importation from America of living beef cattle and fresh meat. On the strength of paragraph 7 of the said law it is therefore ordered that—

The importation of living beef cattle and fresh beef from America is forbidden. The importation will nevertheless be permitted of such shipments as have left America before and including the 28th instant. The cattle the importation of which, according to the above provision, is still to be permitted must, however, be slaughtered at once in the slaughterhouse at this place.

Offenses against this prohibition will, according to paragraph 66 of the imperial law concerning protection against and suppression of cattle diseases, be punished with a fine up to 150 marks or arrest, in so far as no greater penalty is prescribed by law. In addition to this punishment the cattle or fresh meat imported in contravention of this prohibition will be confiscated, whether the cattle or meat belong to the offender or not.

Given at the session of the Senate, Hamburg, October 26, 1894.

[Inclosure 2 in No. 146.]

Mr. Runyon to Baron Marschall.

EMBASSY OF THE UNITED STATES OF AMERICA,
Berlin, October 28, 1894.

The undersigned, ambassador, etc., of the United States of America, begs leave to refer to the conversation had with His Excellency Baron Marschall von Bieberstein, imperial secretary of state for foreign affairs, to-day, in which the undersigned, under positive instructions from his Government, earnestly urged that the contemplated prohibition against American beef cattle and American fresh beef be not enforced. In that interview the subject was indeed fully discussed and the views of the Government of the United States as to the proposed measure were presented at length. The undersigned, nevertheless, in calling his excellency's attention again to the fact that the shipping of cattle affected with Texas fever from the United States can be wholly prevented, begs leave very respectfully to avail himself of the occasion to renew his representations of the great injury which will be caused to American commerce in that direction by the enforcement of the measure complained of.

The measure was not only sudden and unexpected (it appears to have been promulgated only on the day before yesterday), but is harsh and unnecessary, going, as the undersigned respectfully submits, very far beyond the requirements of any reasonable sanitary consideration. It excludes not only all American beef cattle whatever, without exception, qualification or discrimination, or reference to condition, but even all American fresh beef whatever, merely on the ground that it is said that in two recent shipments of American live cattle Texas fever was found to exist. The main object of this communication is very respectfully to call his excellency's attention to the representation made by the undersigned in the interview above spoken of, under the instructions before referred to, that the only cattle that can communicate the disease known as Texas fever are those from a well-defined district in the southerly part of the United States and that the American regulations and inspections are amply sufficient to prevent the exportation of cattle from that district.

The undersigned, begging leave to repeat his request that the measure referred to be not enforced, avails himself of the occasion to renew to his excellency the assurance of his most distinguished consideration.

THEODORE RUNYON.

Baron Saurma to Mr. Gresham.

[Translation.]

IMPERIAL GERMAN EMBASSY,
Washington, October 31, 1894.

MR. SECRETARY OF STATE: That which I had the honor to express on several occasions to your excellency as my personal opinion is now officially confirmed by instructions which I have received from Berlin.

The Imperial Government when it decreed the prohibition of cattle, far from intending it as a retaliation, was merely prompted by veterinary considerations.

By expert authority the existence of cases of sickness was established in two separate cargoes, which were recognized with absolute

certainly as Texas fever, and only thereupon was the prohibition of importation issued.

There remained no doubt that in Germany one must have recourse to protection against this dangerous disease, which heretofore had not made its appearance among cattle there, and that a resort to prohibitory measures was compulsory.

Notwithstanding the immediate existing danger, all shipments from the United States made up to the 29th of October were admitted out of special consideration under compulsory slaughter on landing.

The action taken in this case is exactly the same pursued toward all other countries whose cattle show any symptoms of contagious disease germs.

The Imperial Government believes that the Government of the United States has the less ground for complaint, as its own sanitary regulations are specially severe toward foreign countries, as section 7 of the act of August 30, 1890, and No. 5 of the provisions for its execution exemplify.

Accept,

SAURMA.

Mr. Gresham to Baron Saurma.

DEPARTMENT OF STATE,

Washington, November 5, 1894.

EXCELLENCY: A brief illness has prevented my earlier acknowledgment of your note of the 31st ultimo, in which, under instructions from Berlin, you confirm the personal opinion, previously expressed on several occasions, that the recent prohibition against the importation of American cattle and fresh meats into the Empire was not intended as a retaliation, but was solely prompted by veterinary considerations.

In reply, it is due to state that instructions have been given by the competent authorities of this Government for even more rigid measures of inspection and control of cattle and dressed meats for export than those of which I have had the honor to advise you; and it is hoped that the German Government will speedily revoke its prohibitory orders.

Accept, etc.,

W. Q. GRESHAM.

Mr. Runyon to Mr. Gresham.

No. 155.]

EMBASSY OF THE UNITED STATES,

Berlin, November 15, 1894. (Received November 30.)

SIR: I beg very respectfully to report progress in the matter of the prohibition by the German authorities of American cattle and American fresh beef. I yesterday again called upon Baron von Marschall, imperial secretary of state for foreign affairs, in reference to it, and was informed by him that the subject is still under investigation, no conclusion having yet been reached, and that so soon as the authorities shall be able to determine what course sanitary considerations (which it is insisted are alone involved in and the cause of the existing prohibition) render it expedient to pursue, whether to continue or withdraw or modify the prohibition, action will be taken accordingly, and the result will be communicated without delay.

I have, etc.,

THEODORE RUNYON.

ADDITIONAL DUTY ON GERMAN SUGAR.

Memorandum.

IMPERIAL GERMAN EMBASSY,

Washington, July 16, 1894.

With regard to the levying of an identical ad valorem duty of 40 per cent on sugar from all countries, with the addition of one-eighth of a cent per pound on sugar above No. 16 Dutch standard, the German Government will refrain from making any observations, although German sugar, since it is of better quality than the inferior grades of sugar from the competing countries, is thereby placed at a disadvantage, as compared with those inferior grades. The German Government must, however, regard the discrimination against German goods by levying a duty thereon of one-tenth of a cent additional per pound as an injury to the German sugar trade which can not be reconciled with the treaty stipulations now in force between Germany and the United States. The payment of a bounty is a purely domestic matter, and is not to be considered in connection with the establishment of duties between States which, like Germany and the United States, sustain the relation of most favored nations toward each other. The United States might, for instance, with the same reason assert that German manufacturers in any particular branch of industry paid lower taxes than elsewhere, and then, in order to bring about a so-called equalization, levy a discriminating duty on the German product concerned on its importation into an American port. It is quite evident that such a view of the case would render the most-favored-nation clause altogether illusory.

While the Imperial Government can not thus do otherwise than regard the addition of one-tenth of a cent per pound as being at variance with the treaty, the German sugar producers declare, on the basis of accurate computations made by them, that this addition would, in fact, drive out German productions from the American market. The addition, moreover, falls more heavily upon the sugar industry of Germany than it does upon that of other bounty-paying countries, since the German bounty, which, in the year 1897, is to be discontinued entirely, is by no means as high as those of Austria and France, and does not even approximately compensate the exporter for the loss entailed upon him by the additional duty.

The excitement which prevails in German agricultural and manufacturing circles on account of this inequitable treatment of a German production, is the more vehement and the less easily resisted, inasmuch as it is generally believed that the United States, in the agreement of August 22, guaranteed exemption to Germany from the duty on sugar, in return for the concession of the conventional duties on American agricultural products and the removal of the restrictions on the importation of swine.

However fully the Imperial Government is convinced that the passage of the resolution fixing the duty on sugar, which has been adopted by the Senate, is not to be considered as an act unfriendly to Germany, yet it is so considered in many quarters. The Imperial Government is consequently at present unable to say whether it will be possible for it, in view of the increasing agitation on account of the proposed measure, to restrain the interested parties from demanding retaliatory action, which the Imperial Government, owing to the friendliness and fairness that characterize its intercourse with the United States, desires to avoid.

Baron Saurma to Mr. Gresham.

[Translation.]

IMPERIAL GERMAN EMBASSY AT WASHINGTON,
Washington, August 28, 1894.

MR. SECRETARY OF STATE: I have the honor to communicate to your excellency the following in pursuance of instructions received from His Majesty the German Emperor, King of Prussia:

In the act which took effect to-day, entitled "An act to reduce taxation, to provide revenue for the Government, and for other purposes," there appears in Schedule E, 182½, the provision that sugar from countries that pay an export bounty is liable to an additional duty of one-tenth of a cent per pound.

In the course of the negotiations which took place in the Congress of the United States of America in connection with the tariff question the Imperial Government took the liberty to point to the fact that such a measure could not be reconciled with the most-favored-nation clause which governs the economic relations of the two countries, but that it was rather a differentiation whereby the exportation of German sugar to the United States of America was more unfavorably treated than that of several other European countries.

The expectation that (as might have been anticipated from the long standing relations of amity between the two nations) these considerations would not be without influence upon the decisions of the legislative bodies of the United States has, unfortunately, not been realized.

The Government of His Majesty the Emperor is consequently once more compelled to repeat that, after most careful consideration, it is convinced that the levying of an additional duty on German sugar is in harmony neither with existing stipulations nor with those tendencies which the exchange of notes of August 22, 1891, called forth.

The granting of an export bounty on sugar is a domestic affair of Germany.

An intent not to fulfill its treaty stipulations, based upon the most-favored-nation clause, can not, therefore, be inferred from this by any other country.

It is needless to dwell upon the fact that the view which has been manifested by the legislative bodies of the United States would render the effects of the most-favored-nation clause illusory, and that it would expose the contracting parties to the adoption of arbitrary duties, which it is the object of treaties containing a most-favored-nation clause to prevent.

The Imperial Government feels conscious that it has always conscientiously fulfilled the duties rendered incumbent upon it by the most-favored-nation clause, and it consequently deems itself authorized to expect similar action on the part of the United States of America.

The Government of His Majesty the Emperor is consequently compelled to protest against the discriminating provisions of the act of August 28, 1894.

I avail myself, etc.,

SAURMA.

Mr. Gresham to Baron Saurma.

DEPARTMENT OF STATE,
Washington, August 29, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of yesterday in relation to the provisions of Schedule E, 182½, of the new tariff act, touching the levying in certain cases of an additional duty of one-tenth of a cent per pound on sugar from countries that pay a bounty thereon.

As soon as I have opportunity to give due consideration to the important question and take the President's direction thereon, I will do myself the honor to reply to your note.

Accept, etc.,

W. Q. GRESHAM.

Mr. Gresham to Baron Saurma.

DEPARTMENT OF STATE,
Washington, December 7, 1894.

EXCELLENCY: I have the honor to inclose for your information copy of a communication which I addressed to the President on the questions raised by your protest of August 28 against the additional duty of one-tenth of a cent a pound imposed by our tariff act of that date on sugars which are imported from or are the product of a country that pays a bounty on the exportation of sugars; also, copy of the President's annual message to Congress, from which I quote the following:

The German Government has protested against that provision of the customs tariff act which imposes a discriminating duty of one-tenth of 1 cent a pound on sugars coming from countries paying an export bounty thereon, claiming that the exaction of such duty is in contravention of articles 5 and 9 of the treaty of 1828 with Prussia.

In the interests of commerce of both countries, and to avoid even the accusation of treaty violation, I recommend the repeal of so much of the statute as imposes that duty, and I invite attention to the accompanying report of the Secretary of State, containing a discussion of the questions raised by the German protest.

Accept, etc.,

W. Q. GRESHAM.

[Inclosure.]

DEPARTMENT OF STATE,
Washington, D. C., October 12, 1894.

THE PRESIDENT:

The note of the German ambassador of August 28, 1894, protests against the additional duty of one-tenth of a cent a pound imposed by the tariff act of that date on sugars which are imported from, or are the product of, a country that pays a bounty on the exportation of such sugars.

The protest is based upon "the fact that such a measure could not be reconciled with the most-favored-nation clause which governs the economic relations of the two countries," but that it is "rather a differentiation whereby the exportation of German sugar to the United States" is "more unfavorably treated than that of several other European countries." In this relation the German ambassador says:

The granting of an export bounty is a domestic affair of Germany. An intent not to fulfill its treaty stipulations based upon the most-favored-nation clause can not, therefore, be inferred from this by any other country.

He also declares that—

The view which has been manifested by the legislative bodies of the United States would render the effects of the most-favored-nation clause illusory, and that it would expose the contracting parties to the adoption of arbitrary duties, which it is the object of treaties containing a most-favored-nation clause to prevent.

By the tariff act of October 1, 1890, an additional duty of one-tenth of a cent a pound was imposed on sugars imported from countries that paid a greater bounty on the exportation of refined sugar than was paid on raw sugar. Against this additional duty it does not appear that the German Government protested. The reason, however, why no such protest was made may, perhaps, be discovered by a comparison of the provisions of the two acts. By the act of 1890 the additional duty was imposed only on sugars above No. 16 Dutch standard, and on them on the conditions above stated. By the act of 1894 the additional duty is imposed on all sugars, whether above or below that standard.

The value of sugars imported into the United States from the German Empire has been more than \$15,000,000 annually. Of this aggregate, only \$200,000 or \$300,000 worth, or about one seventy-fifth, was above No. 16 Dutch standard. The effect, therefore, of the additional duty of one-tenth of a cent under the tariff act of 1890 was comparatively insignificant.

The effect of the additional duty on all sugars under the act of 1894 is most important, since, other things being equal, the importer would not take the more highly dutiable German sugars till other sugars not subject to the additional duty had been absorbed. The additional duty under the act of 1894 affects, therefore, the whole of our large trade in German sugars.

We are now brought to the consideration of the legal aspects of the German ambassador's protest.

The treaty between the United States and Prussia of May 1, 1828, on which the protest is based, contains two stipulations that bear on the present question.

Article 5 provides:

No higher or other duties shall be imposed on the importation into the United States of any article the produce or manufacture of Prussia, and no higher or other duties shall be imposed on the importation into the Kingdom of Prussia of any article the produce or manufacture of the United States, than are or shall be payable on the like article being the produce or manufacture of any other foreign country.

Article 9 provides:

If either party shall hereafter grant to any other nation any particular favor in navigation or commerce, it shall immediately become common to the other party, freely, where it is freely granted to such other nation, or on yielding the same compensation, when the grant is conditional.

The stipulations of these two articles place the commercial intercourse of the United States and Prussia, not the entire German Empire, on the most-favored-nation basis—the first, by providing that the duties shall not be higher than “on the like articles being the produce or manufacture of any other foreign country;” the second, by providing that any particular favor granted by either party “to any other nation” shall “immediately become common to the other party.”

In other words, these stipulations give either party the right, special engagements of reciprocity being excepted, to take the duties levied by the other on articles the produce or manufacture of any other country, and to demand the same treatment for its own product and manufactures. It is obviously no answer to this to say that certain discrimi-

nating duties levied by one party on the products or manufactures of the other are not confined to the latter, or to any country by name, but apply equally to all countries that may happen to fall in a certain category. If there is any other country, or if there are other countries, which, either by name or by a general classification, are exempt from the duty (special engagements of reciprocity being excepted), the requirements of the treaty are not fulfilled. To say that the discrimination is not specifically and explicitly national, or that it applies to more than one country, is a mere argumentative subterfuge, inconsistent with the clear intention of the treaty.

By the second article of the commercial convention between the United States and Great Britain of July 3, 1815, it is provided, in language almost identical with that in the subsequent treaty with Prussia, that—

No higher or other duties shall be imposed on the importation into the territories of His Britannic Majesty in Europe of any articles the growth, produce, or manufacture of the United States than are or shall be payable on the like articles being the growth, produce, or manufacture of any other foreign country.

By the general customs act of 7 William IV, section 60 (1836), it was provided:

That the duty upon rice, rough or in the husk, imported from the "west coast of Africa, shall be, per quarter, one penny."

Under this act the general duty on the same kind of rice, which was commonly called rough rice, or paddy, was 2s. 6d. per bushel. By some members of the British board of trade it was argued that the discrimination was not inconsistent with the provisions of the convention, since it gave an advantage, *not to the produce of any particular country*, but only to articles of commerce shipped from a particular place, and treated the product of all countries alike.

Against this contention the United States protested.

In a note to Lord Palmerston, of February 1, 1841, Mr. Stevenson, the minister of the United States in London, said:

If it be admitted, as it must be, that, by the provisions of the existing law, all rice, wherever produced (and, of course, that of Africa), can be imported into British ports at the low duty of a penny per quarter, upon what principle can it be maintained that Africa is not thereby placed upon the footing of a favored nation, with advantages given to her produce which the treaty intended equally to secure to the United States? Can the stipulations of the treaty be defeated or evaded by Great Britain allowing Africa to import from her coasts not only her own rice, but that of other nations?

The result of this protest was that the British Government equalized the duties on rough rice imported from the United States and from the western coast of Africa. (House Ex. Doc. No. 2, Twenty-seventh Congress, second session, pp. 47-57.)

The discrimination in the act of 1894 is even more pointedly at variance with the treaty stipulations in question than was the discrimination in the British act of 1836, since it imposes, expressly, an additional duty on an article, as the produce or manufacture, and because it is the produce or manufacture of a country that may happen to fall within a disfavored category.

It is scarcely necessary to say that the question now under consideration can not be affected by the form in which the discrimination is created—whether it is created by granting a duty lower than the general duty or by imposing a duty in addition to the general duty. The form in which the discrimination is created is no criterion either of its extent or of its effect. In reality, in the present case, the discrimination, so

far as its effect is now ascertained, would fall on Germany and Austria-Hungary alone. If it fell on only one country, or on three or more, the question of treaty construction would remain so long as there was any other country that was favored.

Another question, however, is yet to be considered. Can the payment by a government of a bounty on the exportation of an article of its produce or manufacture be considered in the light of a discrimination which may warrant another government in laying on the importation of such article an additional or discriminating duty, in spite of a most-favored-nation stipulation?

The answer seems to be plain, that the payment by a country of a bounty on the exportation of an article of its produce or manufacture for the purpose of encouraging a domestic industry can no more be considered as a discrimination than can the imposition of a protective or practically prohibitive duty on the importation of an article the produce or manufacture of a foreign country for the same purpose be so considered. The two measures are the same in principle; the question as to which shall be adopted is a matter of domestic policy. It is a matter in respect of which nations, in stipulating for equality of treatment, have preserved liberty of action. The protective duty on importation and the bounty on exportation are alike intended, whatever may be their effect, to create a national advantage in production or in manufacture. As between the two, the bounty is the more favorable to the inhabitants of foreign countries, since it tends to enable them to get cheaper articles at the expense of the bounty-paying government.

Formerly, the Government of the United States paid a bounty on all exported pickled fish that were derived from the fisheries of the United States (sec. 2, act of July 29, 1813, Stat. L., vol. 3, p. 50). This act was continued in force in 1816, its duration having originally been limited to the period, whatever it might be, covered by the war with Great Britain and a year thereafter (act of February 9, 1816, Stat. L., vol. 3, p. 254). It remained in force for many years; it seems still to have been in force in 1845. It probably never was imagined that this act created a discrimination which might expose the United States to retaliatory or discriminating duties at the hands of foreign governments.

In laying protective duties on foreign articles instead of paying bounties on domestic products, the immediate effect, if not the object, of the law is to curtail importations; but, so long as the duties imposed are equal on the products or manufactures of all nations, though in practice they may operate most unequally, foreign nations can not object on legal grounds. They can not allege discriminations in the treaty sense. It is understood, when treaties against discriminating duties are made, that governments reserve the right to favor (by duties or by bounties) their own domestic production or manufacture.

The additional duty, therefore, levied by the act of 1894 on all sugars coming from bounty-paying countries is not responsive to any measure that may be considered as constituting a discrimination by those countries against the production or manufacture of the United States, but is itself a discrimination against the produce or manufacture of such countries. It is an attempt to offset a domestic favor or encouragement to a certain industry by the very means forbidden by the treaty.

I assume that the German Government does not claim the treaty affords any just ground for protest against the additional duty on sugars not shown to be the produce or manufacture of Prussia.

Respectfully submitted.

W. Q. GRESHAM.

Baron Saurma to Mr. Gresham.

IMPERIAL GERMAN EMBASSY,
Washington, December 8, 1894.

MR. SECRETARY OF STATE: I have had the honor to receive your excellency's note of the 7th instant, and the accompanying message of the President of the United States to the Congress, and your excellency's accompanying report, for which I have to express my best thanks, and to inform you that I will transmit them to the Imperial Government.

Please accept, etc.,

SAURMA.

TAX ON GERMAN SALT.

Baron Saurma to Mr. Gresham.

IMPERIAL GERMAN EMBASSY,
Washington, October 13, 1894.

MR. SECRETARY OF STATE: Pursuant to instructions I have the honor to invite your attention to the following matter:

According to section 608 of the new tariff act of the United States, salt shall be generally exempt from duty, but shall be subject to the former duty when it is imported from a country which imposes a duty upon salt exported from the United States.

In virtue of this resolution it is understood that the Treasury Department of the United States has issued an order making the former tariff to apply to salt imported from Germany.

The Imperial Government desires to point out that in its opinion a duty that is made to weigh upon salt imported from Germany would not be found to agree with the rights of the most favored nation, which, according to the treaties of commerce in force, are guaranteed to Germany.

In these treaties it is determined that no higher duty shall be levied upon the imports into the United States of the products of German soil and industry than that levied upon similar products of any other country. It does not seem reconcilable, therefore, with this clear and unconditional stipulation that the imports from Germany should from any other cause be excluded from the free list or a tariff reduction that may be granted to other countries. In this light, especially, it is irrelevant to consider whether like American products are subjected in Germany to any duty or to what duty they are subjected.

Quite apart from this view, which is adduced from the treaties in force, it must also be considered that Germany does not actually levy a duty upon American salt. On foreign salt entering by the way of land or rivers into Germany a duty of 12 marks and 80 pfennigs per each 100 kilograms is levied; by way of sea only 12 marks. This rate of 12 marks constitutes the equivalent of the assessment of the corresponding salt taxes of the German States (see act of October 12, 1867, for the territory of the former North German Confederates, *Bundesgesetzblatt*, p. 41), levied upon the domestic salt industry, and which also amount to 12 marks per 100 kilograms. Albeit this rate in question is specified in the German tariff, it is virtually no real duty, but only an internal tax, and certainly does not provide the least protection to the internal salt industry.

Moreover, imported foreign salt, which is not destined for human consumption, but for industrial and agricultural purposes (especially for feed for cattle), is exempt from this rate of 12 marks, which is also the case with the assessment of internal salt intended for such purposes. This exemption occurs especially when the salt, through deterioration, has been made unfit for human use.

As the importation of American salt into Germany would naturally take place only by sea, it follows from the above statement that the presumptions under which a duty is to be placed upon salt imported into the United States do not exist for German salt not intended for human use, particularly for deteriorated salt, according to the letter, and for German eating salt, according to the spirit of section 608, above quoted.

In submitting, according to instructions, the above to your excellency and the competent authorities for friendly examination and consideration, I am hopeful that the Government of the United States will share the view of the Imperial Government in this matter, and therefore be able to place German salt imported into the United States on the free list.

May I ask to be advised of the decision reached?

Accept, etc.,

SAURMA.

PENALTIES FOR FAILURE TO PERFORM MILITARY DUTY.

Mr. Runyon to Mr. Gresham.

No. 153.]

EMBASSY OF THE UNITED STATES,
Berlin, November 1, 1894.

SIR: I have the honor to append hereto a memorandum report of certain military cases, more particularly mentioned below, which have not yet been referred to in my correspondence with the State Department, and to be, sir, etc.,

THEODORE RUNYON.

[Inclosure 1 in No. 153.]

William Wegmer was born at Schützingen, Württemberg, December 20, 1868, and emigrated in 1884 to the United States, where he became naturalized as an American citizen on October 21, 1891, at Newark, N. J., where he now resides. In 1892 an attachment was placed upon an inheritance coming to him for his failure to perform military service. Upon intervention made in his behalf under date of June 3, 1893, the attachment was removed and instructions were given to the state's attorney to desist from all further prosecution of the case.

[Inclosure 2 in No. 153.]

Peter Brück was born at Gross Altenstadten, Prussia, January 20, 1867, and emigrated in 1882 to the United States, where he became naturalized as an American citizen on November 5, 1888, in Crawford County, Ohio. In May, 1893, he returned to his native place on a visit, and a few days after his arrival he was arrested, and, in order to avoid imprisonment, was forced to pay a fine of 150 marks, in satisfaction of a judgment recorded against him for failure to perform military service. Upon intervention made in his behalf under date of June 8, 1893, the money paid as fine and costs was refunded to him.

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[Inclosure 3 in No. 153.]

Peter Kanjorski (Kedziorski) was born at Lautenburg, Prussia, June 30, 1866, and emigrated in 1879 to the United States, where he became naturalized as an American citizen at Wilkesbarre, Pa. In July, 1893, he returned on a visit to his native place, where he was, on August 1, 1893, compelled to pay a fine of 155 marks, imposed upon him for failure to perform military service. Upon intervention made under date of August 12, 1893, the repayment of the money paid as a fine was effected.

[Inclosure 4 in No. 153.]

Max Cohen was born at Culmsee, Prussia, September 12, 1858, and emigrated in 1879 to the United States, where he became naturalized as an American citizen in Texas, on October 12, 1885. In March, 1892, he paid a visit to his native place, returning to America in September of the same year. While sojourning with his parents, in order to avoid molestation he paid, on April 27, 1892, a fine which, with costs, amounted to 264 marks, for failure to appear for the third inquiry into his fitness for military duty. Upon intervention made under date of September 30, 1893, the return of the money paid was effected.

[Inclosure 5 in No. 153.]

Siegfried Apt was born at Zabrze, Silesia, in 1871, and emigrated in 1886 to the United States, where he became duly naturalized as an American citizen. He returned in January, 1894, to his native place, where on March 3 he was arrested and impressed into the German military service, in spite of the embassy's intervention made in his behalf on February 28, 1894, at a time when his case was being considered by the military authorities. He was, however, released on the evening of the second day after his impressment, and he was then recognized as an American citizen and his name was removed from the list of those liable for military duty.

[Inclosure 6 in No. 153.]

Conrad Carl was born at Asslar, Prussia, January 3, 1867, and emigrated in 1884 to the United States, where he became naturalized as an American citizen October 25, 1893. In February, 1894, he returned to his native place, where he was on March 12 compelled to pay a fine of 150 marks for nonperformance of military service. The embassy's intervention, made March 19, 1894, resulted in the refunding to him of the money paid as fine and costs.

[Inclosure 7 in No. 153.]

Christian J. Gerstner was born at Marktlenthen, Bavaria, February 18, 1865, and emigrated in 1882 to the United States, where he became naturalized as an American citizen November 3, 1888. On April 10, 1894, the amount of 183.98 marks was deducted from an inheritance coming to him, on account of a fine which had been imposed upon him for failure to perform military service. Upon the embassy's intervention, made June 22, 1894, the return to him of this money was ordered.

[Inclosure 8 in No. 153.]

Hugo Meyerstein was born at Gotha January 27, 1869, and emigrated in 1887 to the United States, where he became naturalized as an American citizen on May 31, 1894. In June he returned to his native place on a visit, where on July 28 he was compelled to pay a fine of 450 marks for alleged violation of military duty. Upon intervention made August 2, 1894, the refunding of the money paid as a fine was ordered.

[Inclosure 9 in No. 153.]

Emil Wilke was born at Hochstättlan, Prussia, May 11, 1872, and emigrated in 1888 to the United States, where he became naturalized as an American citizen at Chicago, June 17, 1893. In May, 1894, he returned on a visit to his parents, and on September 11 he received an order from the police authorities to leave German territory within ten days. Upon the embassy's intervention, made September 11, 1894, this order was canceled, and he was informed that he might remain in Germany until the end of December, 1894.

PATENTS FOR INVENTIONS.

Mr. Uhl to Mr. Runyon.

No. 158.]

DEPARTMENT OF STATE,
Washington, October 5, 1894.

SIR: I inclose herewith copy of a correspondence which has passed between this Department, Messrs. Richards & Co., of New York, and the Department of the Interior in regard to publishing in the Imperial Gazette of Berlin that the laws of the United States guarantee reciprocity in the matter of patents; in order that our citizens may thereby be enabled to avail themselves of the benefit of the German patent law of April 7, 1891.

That law provides as follows:

SECTION 1. Patents are granted for new inventions, which permit of an industrial exploitation. The exceptions are * * *

SEC. 2. An invention is not considered as new, if at the date of filing the application according to the provisions of this present law, the same has been so described in public prints, within the last century, or so publicly employed in the country (the German Empire), that the use of the same by other persons skilled in the art appears possible.

The official foreign patent specifications are only considered equal to public prints after the lapse of three months from the date of publication, in so far as the patent is applied for by the foreign patentee or his legal successor.

This exception refers, however, only to the official publications of those States in which, according to a publication of the imperial chancellor in the Imperial Gazette, reciprocity is guaranteed.

It will be seen by the report of the Commissioner of Patents inclosed in the letter from the Secretary of the Interior of August 27, 1894, that the reciprocity so to be guaranteed on the part of Germany by the act of the imperial chancellor has long been guaranteed by the United States under the provisions of section 4887 of the Revised Statutes, taken in connection with section 4886.

Section 4887 is as follows:

No person shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid, by reason of its having been first patented or caused to be patented in a foreign country, unless the same had been introduced into public use in the United States for more than two years prior to the application. But every patent granted for an invention which has been previously patented in a foreign country shall be so limited as to expire at the same time with the foreign patent, or if there be more than one at the same time, with the one having the shortest term and in no case shall it be in force more than seventeen years.

Section 4886 reads:

Any person who has invented or discovered any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement thereof, not known or used by others in this country, and not patented or described in any printed publication in this or any foreign country before his invention or discovery thereof, and not in public use or on sale for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law and other due proceedings had, obtain a patent therefor.

It is apparent, therefore, the Commissioner observes, that no person is debarred from receiving and maintaining an American patent by reason of its having been first patented in a foreign country unless the invention has been in public use in the United States for more than two years prior to the application, the only limit being that the American patent so granted shall be limited to expire at the same time with the foreign patent. An American patent may be applied for at any time during the life of the foreign patent.

As all that can be secured to American inventors under existing provisions of the German law is the right to apply for a German patent within three months from the date of the publication of his American patent, a much more restricted favor than has long been enjoyed by German subjects in this country, and as all that remains to be done to secure the enjoyment of this limited right is that reciprocity be announced by a publication effected by the imperial chancellor in the Imperial Gazette, the Commissioner of Patents submits that American inventors have just ground for asking that the Imperial Government make prompt publication of the reciprocity which has long been offered by the existing provisions of the American law.

In view of this recommendation you are instructed to endeavor to reach an understanding with the German Government whereby the publication of the requisite German announcement may be procured, in order that citizens of the United States may enjoy the benefit of the German law. The subject is to be considered separately and aside from that of the draft treaty concerning patents and trade-marks, which involves many other questions, and which is under consideration by the Patent Office.

I am, sir, etc,

EDWIN F. UHL,
Acting Secretary.

PASSPORTS.

Mr. Runyon to Mr. Gresham.

No. 58.]

EMBASSY OF THE UNITED STATES,
Berlin, March 10, 1894. (Received March 30.)

SIR: I have the honor to report that I have to-day issued a passport to Abraham H. Mausbach, a native American citizen, at present residing temporarily in Luxemburg. The application was made through, and on oath before the vice commercial agent, the only consular officer of the United States there. Inasmuch as Luxemburg is an entirely independent sovereignty, and is not a part of the German Empire, to which I am accredited (nor indeed of any other dominion), and the application was not made from Germany, I have thought it prudent to report my action in the premises the case presenting unusual features, as already appears, and to take the precaution to secure a return of the passport in case my action in granting it (as to the propriety of which, however, I see no room to doubt, otherwise I would not have issued the passport) should not be approved. There is no United States official in Luxemburg, who under the regulations is competent to issue a passport. Had the applicant come into the German Empire and made his application to me either directly or through a consular officer

here, no question would have arisen, but I was unwilling under the circumstances to require him to do that, because the reason therefor seemed to me to be unsubstantial.

I have, etc.,

T. RUNYON.

Mr. Uhl to Mr. Runyon.

No. 81.]

DEPARTMENT OF STATE,
Washington, April 3, 1894.

SIR: Your dispatch No. 58, of the 10th ultimo, in relation to your action in issuing a passport to an American citizen upon an application taken before the vice-commercial agent of the United States at Luxemburg, has been received.

In reply I have to say that no question of territorial jurisdiction is necessarily involved in the case. When there is no representative of the United States competent to issue a passport in a small sovereign state, the nearest embassy or legation can be applied to. Thus an application from Monaco might be made indifferently to Paris or Rome; from Andorra to Madrid or Paris, and so forth.

It would seem, however, that the commercial agent at Luxemburg had authority to issue a passport. The statutes provide for the issuance of passports in foreign countries by consular officers, and commercial agents are declared to be full consular officers by section 1674 of the Revised Statutes.

I am, sir, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Gresham to Mr. Runyon.

No. 169.]

DEPARTMENT OF STATE,
Washington, November 1, 1894.

SIR: I inclose a copy of a letter addressed to this Department by Mr. Julius Hess, who alleges that he is a naturalized American citizen, and who states that his application to your embassy for a passport was refused; also a copy of the Department's reply.

Your embassy appears, according to Mr. Hess's statement, to have acted in accordance with our long-established rule that the applicant for a passport must produce evidence to show his intention to return to and reside in the United States.

The Department has, however, admitted occasional exceptions to this rule where sound public policy seemed to warrant them. Our legations have been authorized to issue passports to missionaries in foreign lands, whose residence there was continuous and practically permanent, and who could not allege any definite intention of returning to and residing in the United States. An exception has also been made in the case of agents of American business houses who are engaged in foreign lands in promoting trade with the United States. (*See Wharton's International Law Digest, Vol. II, pp. 369, 370.*)

In view of the statements of Mr. Hess's letter, it may be that his case may fall under the second exception. The Department has, therefore, suggested to him that he apply again to your embassy, stating fully the nature of his employment and its relations with the trade of this country. If the facts appear to warrant the inclusion of the case in the second class of exceptions, the Department is of the opinion that, in view of Mr. Hess's express declaration of his desire to preserve his American nationality, a passport may be issued to him.

I am, sir, etc.,

W. Q. GRESHAM.

GREAT BRITAIN.

[See "Affairs at Bluefields," Senate Ex. Doc. No. 20, Fifty-third Congress, third session, and "Regulations respecting fur seals," Senate Ex. Doc. No. 67, Fifty-third Congress, third session. Appendix Foreign Relations, 1894.]

CONSULAR REPRESENTATION IN BULGARIA.¹

Mr. Adee to Mr. Bayard.

No. 473.]

DEPARTMENT OF STATE,
Washington, August 10, 1894.

SIR: The Department being informed that a new British agent and consul-general has been appointed at Sofia, you are instructed to request Lord Kimberley to permit him to continue the good offices heretofore extended in behalf of our citizens in Bulgaria by Mr. Henry Nevill Dering, the retiring officer.

The Department has advised our minister at Constantinople of this instruction.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Roosevelt to Mr. Gresham.

No. 294.]

EMBASSY OF THE UNITED STATES,
London, September 1, 1894. (Received September 10.)

SIR: I have the honor to inform you that, in accordance with your Instruction No. 473, of the 10th ultimo, I addressed, on the 23d of August last, a note to Her Majesty's secretary of state for foreign affairs, a copy of which is inclosed herewith, requesting that the good offices heretofore extended in behalf of United States citizens in Bulgaria by the British representative at Sofia, Mr. Dering, might be continued by his successor in office, Sir Arthur Nicholson, and I have now the honor to inclose herewith a copy of Lord Kimberley's reply thereto, stating that he will have pleasure in thus instructing Sir Arthur Nicholson when his appointment is taken up in the autumn.

I have, etc.,

JAMES R. ROOSEVELT.

¹ See Foreign Relations, 1893, pp. 325, 326.

[Inclosure 1 in No. 294.]

Mr. Roosevelt to Lord Kimberley.

EMBASSY OF THE UNITED STATES,
London, August 23, 1894.

MY LORD: Referring to Mr. Bayard's note of August 16, 1894, to your predecessor, and in accordance with instructions from my Government, I have the honor to ask your Lordship to be so good as to permit the newly appointed British agent and consul-general at Sofia to continue the good offices heretofore extended, so courteously and efficiently, to citizens of the United States by his predecessor in office, Mr. Dering.

I have, etc.,

JAMES R. ROOSEVELT.

[Inclosure 2 in 294.]

Lord Kimberley to Mr. Roosevelt.

FOREIGN OFFICE, *August 27, 1894.*

SIR: I have the honor to acknowledge the receipt of your note of the 23d instant requesting on behalf of the U. S. Government that the protection hitherto extended by Her Majesty's representatives at Sofia to American citizens in Bulgaria may be continued by Mr. Dering's successor.

I shall have much pleasure in giving instructions in this sense to Sir Arthur Nicholson when he takes up his appointment as Her Majesty's agent and consul-general at Sofia in the course of the autumn.

I have, etc.,

KIMBERLEY.

Mr. Uhl to Mr. Bayard.

No. 505.]

DEPARTMENT OF STATE,
Washington, September 11, 1894.

SIR: I have the honor to inform you that the Department has received and read with pleasure Mr. Roosevelt's dispatch No. 294, of the 1st instant, reporting that Her Britannic Majesty's Government has consented to instruct the newly appointed British agent and consul-general at Sofia to continue the good offices heretofore extended to American citizens in Bulgaria by his predecessor, Mr. Dering.

Requesting you to communicate to the foreign office an expression of the Department's high appreciation of the friendly and courteous action of Her Majesty's Government in regard to the matter in question, I am, etc.,

EDWIN F. UHL,
Acting Secretary.

REMOVAL OF BRITISH SUBJECTS FROM THE CHOCTAW RESERVATION.

Mr. Adee to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, August 2, 1894.

DEAR SIR JULIAN: In your personal note of the 23d ultimo, inclosing a communication from certain parties claiming to be British subjects, who are supposed to be among those whose removal has been requested by the Choctaw authorities, you say:

The case seems a hard one if their allegations be correct and they have committed no offense in relation to the strike. It would be satisfactory to know on what ground they are ejected after so long a residence, the absence of a permit having apparently been condoned by long sufferance. Their ejection may be a mode of unjust coercion by interested parties, and entails absolute ruin on them. I hope, therefore, that you will kindly institute some further inquiry which will elicit, not the law under which it is proposed to eject them, but the reasons for putting the law in force after a residence of years in the Territory.

Having handed both your note and its inclosure to the Secretary of the Interior, I have now the honor to acquaint you with the substance of his reply.

On the 7th ultimo Secretary Smith transmitted to me a report of the Commissioner of Indian Affairs giving the reasons for the removal of parties shown to be within the Choctaw territory without proper authority and the treaties and laws under which this action was to be taken. Copy of this report I sent you July 10.

What motive prompted the Choctaw authorities to demand the removal of the persons designated by them as intruders the Secretary of the Interior is unable to say. On May 12 last the Indian agent of his Department whose field of duties includes the Choctaw country reported that 2,000 miners who had struck were boisterous and threatening; that the police force was inadequate to meet the crisis, and that he regarded the presence of a military force as absolutely essential. About the same time various other telegrams were received showing the situation there to be most critical and the danger of loss of life and property imminent.

On May 19, 1894, the Commissioner of Indian Affairs submitted to the Interior Department a letter from the governor of the Choctaw Nation, inclosing the names of 200 people, who, it was said, entered the nation under permit of the authorities thereof, to work for the Choctaw Coal Railway Company, but who had quit their work, and were therefore no longer protected by the permits issued to them, and asking for their removal as intruders.

The Commissioner recommended that such persons as had no authority to remain in the Choctaw country be removed, and this recommendation was approved by the Interior Department. The Secretary of the Interior has not yet received a full report of the investigation made and action taken by the agent under the authority thus granted to remove intruders.

The Choctaws are not citizens of the United States, but constitute a separate nation, with its own form of government and laws existing within the borders of the United States under and in accordance with treaty stipulations. Those people who go into that country must be held to have done so with full knowledge of those treaties and of the Choctaw laws, and must accept the consequences if they are found to be there without proper authority. The statement made by these parties that they have their homes there, which represent to them years of

labor, can not be fully accepted. The fact is, non-citizens are not permitted to acquire real estate in the Choctaw country.

However, the Secretary of the Interior is investigating the matter of these removals, and such action as may be proper will be taken to secure to all persons such protection as they may be entitled to under treaty stipulations and provisions of law.

The Secretary concludes with the statement that from information recently received he is led to believe that the trouble between the miners and their employers will soon be adjusted satisfactorily to all parties.

I return herewith the inclosure to your note, as therein requested.

Believe me, etc.,

ALVEY A. ADEE,
Acting Secretary.

BRITISH GUIANA AND THE VENEZUELAN BOUNDARY.

Mr. Gresham to Mr. Bayard.

No. 442.]

DEPARTMENT OF STATE,
Washington, July 13, 1894.

SIR: During your incumbency of the office of Secretary of State you became acquainted with a long pending controversy between Great Britain and Venezuela concerning the boundary between that Republic and British Guiana.

The recourse to arbitration, first proposed in 1881, having been supported by your predecessors, was in turn advocated by you in a spirit of friendly regard for the two nations involved. In the meantime, successive advances of British settlers in the region admittedly in dispute were followed by similar advances of British colonial administration, contesting and supplanting Venezuelan claims to exercise authority therein.

Toward the end of 1887 the British territorial claim, which had, as it would seem, been silently increased by some 33,000 square miles between 1885 and 1886, took another comprehensive sweep westward to embrace the rich mining district of the Yuruari as far as Guacipati; and this called forth your instruction to Mr. Phelps of February 17, 1888, respecting the "widening pretensions of British Guiana to possess territory over which Venezuelan jurisdiction" had never therefore been disputed.

Since then repeated efforts have been made by Venezuela as a directly interested party, and by the United States as the impartial friend of both countries, to bring about a resumption of diplomatic relations, which had been suspended in consequence of the dispute now under consideration. The proposition to resume such relations has, however, been intimately bound up with the ultimate question of arbitration. Until recently Venezuela has insisted upon joining to the agreement to arbitrate a stipulation for the restoration of the status quo of 1850 pending the proposed arbitration; but it seems that this condition is now abandoned. On the other hand, Great Britain has on several occasions demanded, as a preliminary to an understanding touching arbitration, that Venezuela shall definitely abandon all claim to a large part of the territory in dispute and limit the eventual arbitration to that portion only to which Great Britain has more recently laid claim.

In May, 1890, replying to a note of Mr. Lincoln tendering the good offices of this Government to bring about a resumption of relations, by

means of a conference of representatives of the three powers, or in any friendly way, Lord Salisbury offered to submit to arbitration any questions in respect to territory west of Schomburgk's line of 1840, but insisted on admission of the British claim to all parts to the east of that line.

The Venezuelan Government has on three occasions since the rupture sent accredited agents to London to negotiate for a restoration of diplomatic intercourse. Dr. Urbaneja having failed, Señor Púlido succeeded him, and insisted, as his predecessor had done, upon a preliminary agreement for unreserved arbitration, but he was met by a counter proposal for a conventional boundary line which was somewhat more favorable to Venezuela than that formerly insisted upon, in that it departed importantly from the Schomburgk line and relinquished claim to the Barima district, on the main branch of the Orinoco. Not reaching an accord, Señor Púlido returned to Carácas in September, 1890, and the matter rested for a time.

In 1893 Señor Michelena was sent to London as a confidential agent, bearing a modified proposal to resume diplomatic relations on the basis of the status quo of 1850, and to appoint commissioners to determine a conventional boundary, leaving to arbitration any question as to which they might fail to agree. Lord Rosebery, replying July 3, 1893, treated this proposal as a substantial renewal of Venezuela's claim for unconditional arbitration, and in effect declared that the proposed settlement of the boundary by a commission could only be entered upon after Venezuela should have relinquished all claim to any territory eastward of the line laid down on a map submitted to Venezuela 19th March, 1890. This line appears to substantially follow Schomburgk's, with some modification. Señor Michelena declined this proposition and advanced a counter proposition July 31, 1893, to which Lord Rosebery replied, September 12, that it did not appear to Her Majesty's Government that Señor Michelena's note opened the way to any agreement that they could accept concerning this question, but that they were "still desirous to come to an understanding in regard to the frontier between the possessions of the two countries," and were "disposed to give their best attention to any practicable proposals that might be offered them to that effect."

A discussion soon followed touching a scheme for the British occupation of High Barima and the region to the northwest as far as the Orinoco, which elicited from Lord Roseberry, September 22, 1893, the declaration that the acts of jurisdiction complained of did not encroach upon Venezuela's rights, but were, "in fact, no more than part of the necessary administration of a territory which Her Majesty's Government consider to be indisputably a portion of the colony of British Guiana, and to which, as it has been their duty to state more than once, they can admit no claim on the part of Venezuela." Against this declaration Señor Michelena protested October 6, 1893; and there the matter now rests.

The President is inspired by a desire for a peaceable and honorable adjustment of the existing difficulties between an American state and a powerful transatlantic nation, and would be glad to see the reestablishment of such diplomatic relations between them as would promote that end.

I can discern but two equitable solutions to the present controversy. One is the arbitral determination of the rights of the disputants as the respective successors to the historical rights of Holland and Spain over the region in question. The other is to create a new boundary line in

accordance with the dictates of mutual expediency and consideration. The two Governments having so far been unable to agree on a conventional line, the consistent and conspicuous advocacy by the United States and England of the principle of arbitration, and their recourse thereto in settlement of important questions arising between them, make such a mode of adjustment especially appropriate in the present instance, and this Government will gladly do what it can to further a determination in that sense.

With these considerations I commit the matter to your hands, leaving it to you to avail yourself of any convenient opportunity to advance the adjustment of the dispute in question.

I append for your convenient perusal copy of a memorandum¹ on the controversy, which has recently been handed to me by the Venezuelan minister at this capital.

I am, etc.,

W. Q. GRESHAM.

Mr. Gresham to Mr. Bayard.

No. 548.]

DEPARTMENT OF STATE,

Washington, December 1, 1894.

SIR: On the 13th of July last, in my instruction No. 442, I summarized the views of this Government in regard to the boundary dispute between Great Britain and Venezuela, and inclosed copy of a memorandum on the subject which was handed to me by the Venezuelan minister on March 31, 1894.

In conferences with Señor Andrade, during your recent visit home, he doubtless expressed the earnest desire of his Government for a speedy determination of the question by arbitration.

I can not believe Her Majesty's Government will maintain that the validity of their claim to territory long in dispute between the two countries shall be conceded as a condition precedent to the arbitration of the question whether Venezuela is entitled to other territory which, until a very recent period, was never in doubt. Our interest in the question has repeatedly been shown by our friendly efforts to further a settlement alike honorable to both countries, and the President is pleased to know that Venezuela will soon renew her efforts to bring about such an adjustment.

It is not doubted that you will discreetly exert your influence in favor of some plan of honorable settlement.

I am, sir, etc.,

W. Q. GRESHAM.

AMERICAN INTERESTS IN THE TRANSVAAL.

Mr. Adee to Mr. Bayard.

No. 437.]

DEPARTMENT OF STATE,

Washington, July 3, 1894.

SIR: With a dispatch, numbered 56, of May 29, 1894, the consul of the United States at Cape Town has acquainted the Department with what at that time threatened to become a serious warfare between

¹ Not printed.

the South African Republic and the Kaffre tribes on its northeast boundaries. It is represented that the Transvaal Government threatened to proclaim martial law, and had actually begun to draft or impress its citizens for the scene of hostilities, stated to be hundreds of miles from the center of population at Johannesburg.

Mr. Benedict inclosed with his dispatch a clipping from the Cape Times of May 29 last, which, he states, contains a clear and accurate account of the situation at that date. This published statement asserts that the commandeering-law—by which every male inhabitant of the State between given ages was to be pressed into the country's service for the suppression of the war—was to be rigorously enforced. At that date, however, its operations had been confined to three districts. Naturally this harsh and arbitrary measure was objected to on the part of those not citizens of the Transvaal Republic, and it is understood that protests have been made on the part of British subjects in that quarter. As a last resource, a direct appeal is reported to have been made to the foreign office at London, and "according to recent cable messages the matter is now under the consideration of Her Majesty's Government." Meanwhile, the discontented at Johannesburg and Pretoria are preaching defiance of the law as announced by the President of the South African Republic.

There are several thousand Americans in the Transvaal, mostly in and about Johannesburg. As at present advised, no attack has been made against the State, nor have the lives and property of our citizens been threatened. The Government of the United States would be glad to know what decision, if any, has been reached by Her Majesty's Government in the case of the "direct appeal" referred to in the clipping from the Cape Times.

I shall reply to the consul's dispatch, and, in answer to his request for instructions as to his guidance in the premises, recite the general conclusions of this Government in such contingency. It may be well, however, for his additional information, to give him copy of your dispatch to the Department, or pertinent extracts therefrom, upon receipt of definite intelligence from the British foreign office. I make this suggestion with a view to place him in possession of this information at the earliest practicable date, confiding in your prudence and judgment.

I am, etc.

ALVEY A. ADEE,
Acting Secretary.

Mr. Bayard to Mr. Gresham.

No. 250.]

EMBASSY OF THE UNITED STATES,
London, July 19, 1894. (Received July 30.)

SIR: I had the honor to receive, on the 15th instant, your instruction No. 437, dated July 5, in relation to the status of citizens of the United States residing in the South African Republic, and inquiring as to the action of Her Majesty's Government in relation to British subjects resident in that region.

In pursuance of an appointment, I called on Lord Kimberley at the foreign office yesterday, and found the subject had already seriously engaged his attention.

The question of the exemption of British subjects, resident in other countries, from compulsory military service, had been submitted to the

law officers of the Crown, whose reply was to the effect that, by the general rule of law, such exemption was not held to exist, and that it was not claimed as a legal right by Great Britain, but that, by conventional agreement, based upon mutuality between governments, such an exemption could be established.

And Lord Kimberley also said that by existing treaties between the South African Republic and Portugal, Belgium, France, Germany, Italy, and Switzerland, severally, it is mutually stipulated that resident citizens of either and both of the respecting contracting governments shall be exempted from compulsory military service.

The Government of the Transvaal had, under its commandeering-law, sought to compel British subjects within its jurisdiction to enlist in its military service against the Kaffre tribes, and this had led to much discontent, the individual resistance of the impressed citizens, and in many cases to their imprisonment for refusing to perform such military duties.

The presence in the Transvaal of Sir Henry Loch, governor of Cape Colony, was, however, conducive to a discreet and amicable arrangement, and the framing of a convention (now pending) containing a "most favored nation" clause is expected to secure to British subjects the same exemption from compulsory military duty as is enjoyed by the citizens of those governments above enumerated who have treaties with the South African Republic of a mutual nature on the subject.

I have, etc.,

T. F. BAYARD.

Mr. Roosevelt to Mr. Gresham.

No. 287.]

EMBASSY OF THE UNITED STATES,
London, August 20, 1894. (Received August 30.)

SIR: In relation to the status of aliens in the South African Republic, I have now the honor of inclosing herewith a clipping from this day's Times giving the details of a further debate, and statement of the under secretary of state for the Colonies on this subject.

I have, etc.,

JAMES R. ROOSEVELT.

[Inclosure.—From the London Times, Monday, August 20, 1894.]

SUPPLY.

The house then went into committee of supply, and resumed the consideration of the remaining votes of the civil service and revenue department estimates, class 2.

On the vote to complete the sum of £40,960 for salaries and expenses of the colonial department, including certain expenses connected with emigration, Sir E. Ashmead-Bartlett called attention to the oppressive treatment of British subjects who were resident in the Transvaal. They were some thousands in number, and there was invested in the Transvaal some £100,000,000 of British capital. In consequence of the treatment they had received at the hands of the Boer Government of the Transvaal, hundreds of these British subjects had been driven from their homes, had had their property confiscated, and had been ruined. These unfortunate persons, although they contributed largely to the wealth of the community, were practically debarred forever from obtaining the franchise in consequence of the Boers having passed a law which prevented a foreigner from becoming enfranchised unless his father had been naturalized. Numbers of them had been commandeered, and when they had been released on the demand of Sir H. Loch they were turned adrift 200 miles from their homes without any means of getting back to them. When he had put a ques-

tion on the subject in that house the honorable member, the parliamentary secretary to the colonial office, had replied that he could make no inquiry into the matter, as to do so would be to throw an imputation upon the Boer government.

Surely it was the business of the Government to inquire into the truth of this matter. He had a letter dated July 22, 1894, in which it was stated that not only were British subjects ordered to the front for personal service, but had also to provide horses and ammunition at their own expense. Sir H. Loch remonstrated and President Kruger released the men after the term of service, but they were set at liberty 200 miles from their homes without the means of getting back. The answer of the under-secretary on this matter was discreditable to the Government. British subjects were still commandeered for food and supplies.

Mr. BUXTON. The only food contribution to which British subjects are liable is that to which all burghers and foreign residents are liable.

Sir E. Ashmead-Bartlett thought the honorable gentleman was mistaken, and that when he got fuller information he would find that British subjects were still liable to commandeering for food supply up to the amount of £15. Then there was a special war tax which, he believed, was imposed on all residents in the Transvaal. He now turned to the most oppressive action on the part of the Transvaal Government, namely, the prohibition of the right of public meeting in the open air.

Mr. BUXTON. That is prohibited to all foreign residents.

Sir E. Ashmead-Bartlett said that more than four-fifths of the foreign residents in the Transvaal were British subjects. The Boer police had power to break up assemblies by force. Even indoor assemblies of more than five persons were prohibited. This law was passed in the Volksraad by 17 votes to 6, so that a majority of 11 had absolutely silenced thousands of British residents who were building up the wealth and prosperity of the Transvaal. What was the line taken up by the Government? The under secretary went out of his way to justify the Boers. [Mr. Buxton—No.] He had done so over and over again. In reply to a question the other day as to whether the franchise had been denied to all British residents, he said the Government had no official information on the subject. Such an answer evaded the question. Then the honorable gentleman was asked whether we had any representative in the Transvaal through whom information could be obtained, and he replied: "We have all the information we require, though we have no special official information." Then the honorable gentleman was asked a third time, "Is it or is it not the fact that such a law has been passed?" And then at last he was forced to answer, "I believe such a law was passed." The under secretary for the colonies had admitted that the right of open-air public meeting had been denied to British subjects in the Transvaal, and that the right of indoor meeting had been restricted. The right of meeting was, in fact, refused to more than five persons. [The chancellor of the exchequer—Coercion.] [Laughter.] Yes, coercion of the worst kind, for our fellow subjects in the Transvaal had been guilty of no crimes; they had not committed murders; they had not mutilated cattle; they had not boycotted. The under secretary had said that whatever might be the merits or demerits of these restrictive enactments, the South African Republic appeared to be acting within their rights in passing such laws. Why did the honorable gentleman encourage the Boers in that way? Why did he encourage them to disregard in this outrageous manner the elementary rights of man and the liberties of the subject? The policy of the honorable member was totally wrong, and by his statements the Boers had been led to believe that Great Britain was actually afraid of them. The Government should bear in mind that they were not dealing with a highly civilized people. The Boers were, no doubt, valiant, but as a people they were singularly ignorant. Statements such as had been made by the under secretary strengthened the Boers' belief that they were invincible, and the result was that the position of our fellow-subjects in the Transvaal grew more and more unbearable. The Government, no doubt, wished to maintain peace, but the course which they took was not really calculated to accomplish that purpose. It was likely to encourage the Boers in their oppression of British subjects, and the result might be that British interference would become a necessity. The right way to insure peace was to point out to the Boers that encroachments upon the rights of our fellow-subjects would not be tolerated. A feeling of exasperation and a sense of betrayal were being engendered in our fellow-subjects. The time must come when all the mischief and wrong done in 1881 would be undone, when the old state of affairs would return, and when the whole of South Africa would be under the British flag. How this was to come about he would not presume to say, but such a time was coming beyond a doubt. The enterprise, industry, and energy of the British race were asserting themselves in spite of the failures, errors, and betrayal of British governments. If the Government acted firmly and in time there would be no occasion for war. The danger was that our fellow-subjects in the Transvaal, who were brave men and far more civilized than the Boer burghers, might be driven by intolerable oppression into taking precipitate action. The best way to prevent that was for the Government to give the

Boers to understand that they would support the rights of British subjects. Only by that means, in his opinion, could a sanguinary collision be prevented in the Transvaal.

Capt. Bethell said that he did not feel to the same extent as the honorable member who had just sat down the fears and apprehensions which he had expressed. Nevertheless, it was true that some of the recent acts of the Government of the South African Republic had been very inimical to foreign interests in that territory, and he thought the Government of the Republic ought to be made to understand that acts of the kind could not be tolerated for long by the foreign population to whom the prosperity of the Transvaal was entirely due. The protests of the foreign population were quite intelligible, but it would be an error to suppose that that population had the slightest intention of submitting once more to the rule of Downing street. He did not think that a revolution in South African affairs would be at all a desirable event. In his opinion it would be a most satisfactory evolution of affairs in that part of the world if the different countries south of the Zambesi were to confederate, so that in future they should form one country.

Mr. Tomlinson said the complaint against the Government was that they did not seem to consider it their first duty to protect the position and interests of British subjects in the Transvaal. We were suffering now from the Nemesis of our policy of some years ago when we allowed the Boers to think that a Boer was better than an Englishman and neglected to use the might of Great Britain to maintain our right position in the Transvaal. The time had long gone by when an Englishman, in any part of the world, could say *Civis Romanus Sum*. Foreigners had been allowed to trample on the rights of British subjects without any reparation being obtained.

Dr. Clark declared that the facts of the honorable member for Sheffield were mere fictions. His complaints were not worthy of consideration. ["Oh!"] He asserted that British subjects were terribly misgoverned in the Transvaal and could not get the franchise. But there was no country in the world where foreigners got privileges and rights of that character quicker than the Transvaal. Any foreigner after two years' residence could vote in elections to the second chamber of the legislature, and after five years he could vote in elections to the first chamber. With regard to "commandeering," unless a man was willing to be commandeered his farm might be burned and he would probably be murdered. So that it was necessary he should join in mutual self-defense. As to education in the Transvaal, no states in the world spent so much on education as the Boer states in the Transvaal. He hoped the questions at issue between the Transvaal and ourselves would be settled by the colonial office in an amicable spirit and that the change which must take place in the Transvaal by which persons now regarded as foreigners would become citizens, would be accomplished without much friction.

Mr. S. Buxton agreed that it was unquestionably the duty of any government—liberal or conservative—to defend British interests wherever they might exist, and that where their rights were unjustly infringed to see that they had justice. He also agreed that it was largely due to the enterprise and energy of the British inhabitants of the Transvaal that the country was in its present position. He felt bound to say that such a speech as that of the honorable member for Sheffield could only tend to create difficulties which otherwise would not be encountered in seeking to obtain a satisfactory solution of questions arising between this country and the Transvaal Republic. [Cheers.] As everybody was not a member of that house, and as perhaps there was a certain number of persons outside who might attach weight and importance to the statements of the honorable member—although, of course, members of the house knew what amount of weight and importance to attach to them—he felt it necessary to say that he was confident the honorable member in no sense expressed the opinions or feelings of right honorable and honorable gentlemen who usually sat on the front opposition bench. [Cheers.] He had only that day received a letter from a correspondent of the honorable member in Edinburgh—a letter the style, stamp, and temper of which were faithfully reflected in the speech of the honorable member. The writer was a specimen of the correspondents of whom the honorable member had spoken. He abused the Liberal Government and those whom he called "the bloody Boers" [laughter], and accused the foreign residents in the Transvaal of cowardice for not having taken up arms before. [Sir E. Ashmead-Bartlett said he had not read the letter referred to.] The honorable member had that day made almost identically the same speech which he delivered to the house a few days ago, and therefore he did not intend to delay the committee by going fully into details of all the questions which had been raised. [Hear, hear!] It was no part of his duty, nor was it his intention to defend the South African Republic from the honorable member's attacks, but after such a speech as they had just heard he did feel it necessary to say a few words about the action of Her Majesty's Government. [Hear, hear!] As to the honorable member's statements with reference to the prisoners who had been commandeered by the Republic, the information he had gathered enabled him to deny that anything like inhumanity had been practiced toward them. They

were not treated with any barbarity at all, but were placed in the same position as other burghers who had been commandeered. With reference to the question of the military contribution he could only repeat his former statement that any special military contribution which had been levied on British subjects had been removed. He was glad to say that Her Majesty's Government were dealing with the Government of the Transvaal in a friendly way, and that thus they had been able to secure the two points they desired, namely, the personal exemption of British subjects from commandeering and also from contributions for goods and money. [Hear, hear!] With respect to the Transvaal law relating to public meetings, he might point out that that law was even less stringent than the law which prevailed in England at the present time, for, while it required six persons to constitute a meeting in the Transvaal, only three persons were necessary to constitute a meeting in England. In regard to the point of the franchise, he regretted—as he had previously stated—the stringency of the system in the Transvaal, and thought the restrictions upon foreign residents were unfair, but, as to active interference in the internal affairs of an independent state in reference to these and other matters, he thought favorable members ought to be very careful how far they recommended such an extreme course. [Hear, hear.] Apart from the question of commandeering the Government had received no representations from British residents in the Transvaal that they desired the Government in any way to interfere in the internal affairs of the Republic. It was the desire of the Government to deal with the Republic in a frank and friendly spirit. As Englishmen they could express a hope that their British fellow-subjects in the Transvaal might be treated with fairness and consideration, and the Government would always be ready to do all in their power to insure that result. [Cheers.]

Mr. Dalziel could not concur in the statement of the honorable gentleman the parliamentary secretary that the situation of the British subjects in the Transvaal was not a serious one. In his opinion the situation of those persons a few months ago was a very serious one indeed, and was calculated to give rise to just grounds of alarm. The President of the Transvaal ordered the British residents in the territory to assemble within twenty-four hours for the purpose of taking part in a war with which they had no concern, while the French, German, and Italian residents were exempted from the duty. He was glad, however, to have heard the assurance of the honorable gentleman that, in consequence of the negotiations that had taken place between the British and the Transvaal governments, British subjects would not be subjected to commandeering in the future. [Hear, hear!]

Sir E. Ashmead-Bartlett said that he could only treat with contempt the unjustifiable personal attack that had been made upon him by the parliamentary secretary for the colonies. Doubtless the honorable gentlemen had obtained a few cheap cheers by making that attack upon him, but he would refrain from imitating the honorable gentleman, although he might retort upon the honorable member, perhaps, with even greater effect. He had never made any personal attack upon any individual in that house, although he might have attacked the policy of the Government of the day. [Hear, hear!] The two main charges which he had made against the Boer government, namely, that the franchise had been denied to British subjects who were resident in the Transvaal and that they were prohibited from holding public meetings, had not been met. He repudiated any intention of causing disturbances in the Transvaal, but he was afraid that the half-hearted policy of the Government would have that effect.

PREVENTION OF ESCAPE OF CHINAMEN.

Sir Julian Pauncefote to Mr. Gresham.

BRITISH EMBASSY,

Washington, May 8, 1894. (Received May 9.)

SIR: At the commencement of June last year the British steamship *Danube* Capt. Myers, arrived at Portland, Oreg., having on board a number of Chinese, who had represented themselves as merchants. The collector of customs refused to allow some of them to land, and the U. S. district judge issued writs of habeas corpus to bring them before him at his court, which was distant about 2 miles from the port.

I received on the 3d of June a telegram from Mr. Laidlaw, British vice consul at Portland, informing me of these facts and stating that the captain was unable to incur the responsibility of preventing the escape of these Chinese on their way from the ship to the court, as any

evasion on their part would have subjected him to heavy penalties. The vice-consul begged me to request the U. S. Government to relieve the captain of this responsibility, which might entail an involuntary violation of the law.

As the matter was pressing I brought the matter unofficially to the notice of Mr. Attorney-General Olney, and he was good enough to telegraph instructions to the U. S. marshal at Portland, directing him to prevent the Chinese escaping on their way from the *Danube* to the court-house. Mr. Olney also telegraphed to the U. S. attorney at Portland, instructing him to give his assent if an application was made to the court to allow the Chinese, ordered to be produced on habeas corpus, to remain on the *Danube* in custody of a deputy marshal pending a hearing of the case.

On the 28th ultimo I received another telegram from Mr. Laidlaw stating that a similar case had arisen at Portland with Capt. Irving, of the British steamship *Islander*, and asking whether instructions could not be telegraphed as in the case of the *Danube*. I again had recourse to Mr. Olney's kind offices, and he was good enough to instruct the United States officials to the same effect as in June last.

Consul Laidlaw, in a dispatch supplementing his telegram, informs me that the case of the *Islander* resembles in all respects that of the *Danube*. He adds that the marshal, on being requested to guard the Chinese on their way from the *Islander* to the court-house, refused his consent on the grounds that the instructions issued by Mr. Olney with regard to the *Danube* only applied to that special case and could not be regarded as general.

Vice-Consul Laidlaw urges that it is impossible for the master of the ship to do more than prevent the escape of persons from his vessel, so long as they remain on board, his authority over them ceasing once they are allowed to land.

In view of the possible frequency of cases similar to those of the *Danube* and *Islander* under the Chinese immigration act, he expresses the hope that instructions may be issued to the United States authorities at ports where such cases are liable to occur, authorizing them to furnish guards sufficient to prevent the escape of persons whom the master of a ship is compelled to land and produce before the courts in obedience to a writ of habeas corpus.

I venture to commend this suggestion to your favorable consideration.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Uhl to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, May 24, 1894.

EXCELLENCY: I have the honor to inform you that, in accordance with the request contained in your note of the 8th instant, the Attorney-General has given general instructions to the U. S. marshal and the U. S. district attorney for Oregon of the same character as the specific instructions given in the case of the British steamships *Danube* and *Islander*, in regard to preventing the escape of Chinese on their way from vessels to the court-house under writs of habeas corpus.

I have, etc.,

EDWIN F. UHL,
Acting Secretary.

PROTECTION OF SALMON FISHERIES.

BRITISH EMBASSY,
Washington, June 25, 1894. (Received June 27.)

Sir Julian Pauncefote to Mr. Gresham.

SIR: In obedience to instructions from Her Majesty's principal secretary of state for foreign affairs, I have the honor to ask your kind intervention in the following matter:

From information received by the Canadian Government from the lieutenant governor of British Columbia it appears that the salmon fisheries of the Fraser River have been greatly injured by the setting of ground nets by the United States citizens at Point Roberts, on the boundary line of Washington Territory.

The example was followed by Canadian subjects, who obtained permission to use similar nets in Boundary Bay, a sheet of water between the said Point Roberts and the mouth of Fraser River, and within Canadian jurisdiction.

It is feared that the increase in the number of these traps will diminish the chances of fishermen using drift nets, and it is understood that both Canadian and United States fishermen complain that this mode of fishing is injurious to the salmon-fishing industry of the district.

I have under these circumstances been instructed to call your attention to the question, in order that if possible an agreement may be arrived at as to joint action for the preservation of this valuable industry.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Adee to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, July 10, 1894.

EXCELLENCY: In part reply to your note of the 25th ultimo, regarding the injury to the salmon fisheries of the Fraser River, arising through the setting of ground nets by United States citizens at Point Roberts, on the boundary line of the State of Washington, I have the honor to inform you of the purport of a letter received on the subject from the Commissioner of Fish and Fisheries.

The Commissioner states that his Commission is now engaged in an investigation of the methods, condition, and apparatus of the fisheries, and of the life history of the species of fishes which are of economic importance in the international and contiguous waters on the boundary between the United States and Canada, and that a concurrent investigation, having the same object, is being conducted by the Canadian Government. These investigations are being made in accordance with a protocol now in force between the Government of the United States and that of Great Britain, the purpose of which is to furnish a basis for joint and concurrent regulation of fisheries in the waters above referred to. The present season's investigations will be conducted on the Lake of the Woods, the chain of Great Lakes, and the maritime waters lying between the United States and Canada, this region presenting the most important and urgent questions of controversy.

The particular matter brought to the Department's attention by you, the Commissioner thinks, properly belongs to the investigation now in

progress, and he has accordingly brought the subject to the attention of the American representative, Mr. Richard Rathbun, and requested him to have the matter fully investigated. Pending this inquiry it does not seem expedient to take any action. When Mr. Rathbun's report is received the Department will communicate its substance to you.

I have, etc.,

ALVEY A. ADEE,
Acting Secretary.

COLLISIONS AT SEA.¹

Sir Julian Pauncefote to Mr. Gresham.

WASHINGTON, April 25, 1894. (Received April 28.)

SIR: With reference to previous correspondence in regard to the alterations in the regulations for preventing collisions at sea, recommended by the Washington Maritime Conference in 1889, I have the honor to inform you that Her Majesty's Government, after carefully considering the criticisms of foreign and colonial governments and British shipowners on their proposals, have decided to adhere to the regulations which they proposed in 1892.

It will be remembered that in 1891 Her Majesty's Government proposed to adopt the Washington regulations, with the omission of article 9, and with five alterations in the remaining thirty articles, but that, in deference to the opinions expressed by foreign governments, two of these alterations were withdrawn in 1892 and a third was put forward in a modified form, article 9 being still omitted.

In this form the regulations have received the general approval of the several foreign maritime powers, and Her Majesty's Government consider that no time should now be lost in taking steps to carry them into effect, and they now propose, after careful consideration, to enforce the regulations shown in the inclosed paper on and from the 1st of March, 1895.

Having regard to the paramount importance of securing international agreement with regard to these regulations, I am instructed to express a hope that the same course will be adopted as that determined on by Her Majesty's Government, in order that the rules may become law in both countries on the same day.

The regulations proposed for adoption, which consist of the Washington rules, with the omission of article 9, and with slight alterations in three of the remaining thirty articles, have, as above stated, already received the general approval of the principal maritime countries. Article 9 has been reserved in deference not only to the opinion expressed by the technical advisers of Her Majesty's Government, but also to the views expressed by the majority of the North Sea powers, and proposals in view of a satisfactory settlement of the question of fishing vessels' lights, and the further questions of steam pilot vessels' lights, and the right of way of steam trawlers will be made at an early date.

In urging the adoption of these regulations, I am to explain that the proposal of any amendments at the present time must have the effect of delaying indefinitely the settlement of the whole question, and I

¹"See Collisions at Sea," Senate Ex. Doc. No. 75. Fifty-third Congress, third session.

am to point out that Her Majesty's Government have withdrawn certain of the amendments which they proposed in 1891, because they feel strongly that it is only by sinking minor differences that the already protracted discussion of the Washington rules can be brought to a satisfactory termination and an international agreement be reached.

Her Majesty's Government propose that the British Order in Council prescribing the revised regulations shall be issued as soon as the principal maritime nations have definitely signified their acceptance of these regulations. If they come into force, as proposed, on the 1st of March, 1895, it appears to Her Majesty's Government that each foreign government will have ample time to prepare and promulgate identic rules to come into force on the same day. If, however, in order to secure international agreement, it should be found absolutely necessary to alter the date suggested, Her Majesty's Government will be prepared to entertain a proposal to that effect.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Uhl to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, April 30, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 25th instant, transmitting copy of the "Regulations for preventing collisions at sea as finally adopted by Great Britain," which Her Majesty's Government propose to enforce on and from the 1st of March, 1895, and expressing the hope that the same course will be adopted by this Government in order that the rules may become law in both countries on the same day.

I have submitted the matter to the Secretary of the Treasury for an expression of his views.

I have, etc.,

EDWIN F. UHL.

Sir Julian Pauncefote to Mr. Gresham.

WASHINGTON, May 14, 1894. (Received May 16.)

SIR: With reference to your note of the 30th ultimo, respecting the regulations for preventing collisions at sea as finally adopted by Great Britain, I have the honor to inquire whether you have yet received the expected communication on the subject from the Secretary of the Treasury, and are able to favor me with a reply to the inquiry of Her Majesty's Government?

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Uhl to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, May 25, 1894.

EXCELLENCY: Referring to your note of the 14th instant in relation to the revised regulations for preventing collisions at sea, I have the honor to inclose herewith copy of a communication from the Treasury

Department, with its accompaniments, from which it appears that a bill has passed both Houses of Congress amending the act of August 18, 1890, to conform to the changes proposed by Her Majesty's Government.

Attention is invited to the concluding paragraph of Mr. Wike's letter concerning fishing vessels.

I have, etc.,

EDWIN F. UHL.

Mr. Uhl to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, June 19, 1894.

EXCELLENCY: Referring to your note of the 14th ultimo, and to my reply of the 25th ultimo, I have the honor to inclose herewith two copies of "An act to adopt regulations for preventing collisions at sea," approved by the President May 28, 1894.

I have, etc.,

EDWIN F. UHL.

Sir Julian Pauncefote to Mr. Gresham.

Washington, July 17, 1894. (Received July 17.)

SIR: I transmitted to my Government a copy of your note of May 25 last in relation to the revised regulations for preventing collisions at sea, and I have the honor to inform you that I have been instructed by the Earl of Kimberley to state to you with reference to the concluding paragraph of the letter from Mr. Wike, inclosed in your note, that no alteration will be made for the present in the regulations relating to fishing vessels' lights. The only regulations repealed by the forthcoming British Order in Council will be those contained in Articles I to IX and XI to XXVII, inclusive, of the schedule to the Order in Council of August 11, 1884.

The date of the new Order in Council can not at present be fixed, as the principal maritime powers have not yet signified their acceptance of the regulations.

I have the honor, etc.,

JULIAN PAUNCEFOTE.

Mr. Gresham to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, August 6, 1894.

EXCELLENCY: In connection with previous correspondence, and especially with reference to your note of April 25, 1894, concerning the regulations for preventing collisions at sea, in accordance with the recommendations of the International Marine Conference of 1889, I have the honor to inclose copies of the President's proclamation of the 13th ultimo, fixing March 1, 1895, as contemplated by Her Majesty's Government, as the date on which the law of the United States, approved August 19, 1890, as amended by the act approved May 28, 1894, upon that subject, shall go into effect.

It is my intention to send copies of the President's proclamation to the diplomatic representatives of the United States to the several states that participated in that conference, and instruct each to urge upon the government concerned the adoption of similar legislation in case action in that sense has not already been taken, and the promulgation of the same, to the end that identic rules may come into force on the same day by the states represented in the International Marine Conference.

The accord reached by Great Britain, France, and the United States upon this subject, and their concurrent action in promulgating the laws of their respective countries to take effect at a fixed future date, gives encouragement to hope that a majority, if not all, of the other participating states will follow their example.

I have, etc.,

W. Q. GRESHAM.

Collisions at sea.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas an act of Congress entitled "An act to adopt regulations for preventing collisions at sea" was approved August 19, 1890, the said act being in the following words:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following regulations for preventing collisions at sea shall be followed by all public and private vessels of the United States upon the high seas and in all waters connected therewith, navigable by seagoing vessels.

PRELIMINARY.

In the following rules every steam vessel which is under sail and not under steam is to be considered a sailing vessel, and every vessel under steam, whether under sail or not, is to be considered a steam vessel.

The word "steam vessel" shall include any vessel propelled by machinery.

A vessel is "under way" within the meaning of these rules when she is not at anchor, or made fast to the shore, or aground.

RULES CONCERNING LIGHTS, AND SO FORTH.

The word "visible" in these rules when applied to lights shall mean visible on a dark night with a clear atmosphere.

ARTICLE 1. The rules concerning lights shall be complied with in all weathers from sunset to sunrise, and during such time no other lights which may be mistaken for the prescribed lights shall be exhibited.

ART. 2. A steam vessel when under way shall carry—

(a) On or in front of the foremast, or if a vessel without a foremast, then in the fore part of the vessel, at a height above the hull of not less than twenty feet, and if the breadth of the vessel exceeds twenty feet, then at a height above the hull not less than such breadth, so, however, that the light need not be carried at a greater height above the hull than forty feet, a bright white light, so constructed as to show an unbroken light over an arc of the horizon of twenty points of the compass, so fixed as to throw the light ten points on each side of the vessel, namely, from right ahead to two points abaft the beam on either side, and of such a character as to be visible at a distance of at least five miles.

(b) On the starboard side a green light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the starboard side, and of such a character as to be visible at a distance of at least two miles.

(c) On the port side a red light so constructed as to show an unbroken light over an arc of the horizon of ten points of the compass, so fixed as to throw the light from right ahead to two points abaft the beam on the port side, and of such a character as to be visible at a distance of at least two miles.

(d) The said green and red side lights shall be fitted with inboard screens projecting at least three feet forward from the light, so as to prevent these lights from being seen across the bow.

(e) A steam vessel when under way may carry an additional white light similar in construction to the light mentioned in subdivision (a). These two lights shall be so placed in line with the keel that one shall be at least fifteen feet higher than the other, and in such a position with reference to each other that the lower light shall be forward of the upper one. The vertical distance between these lights shall be less than the horizontal distance.

ART. 3. A steam vessel when towing another vessel shall, in addition to her side lights, carry two bright white lights in a vertical line one over the other, not less than six feet apart, and when towing more than one vessel shall carry an additional bright white light six feet above or below such light, if the length of the tow, measuring from the stern of the towing vessel to the stern of the last vessel towed, exceeds six hundred feet. Each of these lights shall be of the same construction and character, and shall be carried in the same position as the white light mentioned in article two (a), excepting the additional light, which may be carried at a height of not less than fourteen feet above the hull.

Such steam vessel may carry a small white light abaft the funnel or aftermast for the vessel towed to steer by, but such light shall not be visible forward of the beam.

ART. 4. (a) A vessel which from any accident is not under command shall carry at the same height as a white light mentioned in article two (a), where they can best be seen, and if a steam vessel in lieu of that light, two red lights, in a vertical line one over the other, not less than six feet apart, and of such a character as to be visible all around the horizon at a distance of at least two miles; and shall by day carry in a vertical line one over the other, not less than six feet apart, where they can best be seen, two black balls or shapes, each two feet in diameter.

(b) A vessel employed in laying or in picking up a telegraph cable shall carry in the same position as the white light mentioned in article two (a), and if a steam-vessel in lieu of that light, three lights in a vertical line one over the other not less than six feet apart. The highest and lowest of these lights shall be red, and the middle light shall be white, and they shall be of such a character as to be visible all around the horizon, at a distance of at least two miles. By day she shall carry in a vertical line, one over the other, not less than six feet apart, where they can best be seen, three shapes not less than two feet in diameter, of which the highest and lowest shall be globular in shape and red in color, and the middle one diamond in shape and white.

(c) The vessels referred to in this article, when not making way through the water, shall not carry the side lights, but when making way shall carry them.

(d) The lights and shapes required to be shown by this article are to be taken by other vessels as signals that the vessel showing them is not under command and can not therefore get out of the way.

These signals are not signals of vessels in distress and requiring assistance. Such signals are contained in article thirty-one.

ART. 5. A sailing vessel under way and any vessel being towed shall carry the same lights as are prescribed by article two for a steam vessel under way, with the exception of the white lights mentioned therein, which they shall never carry.

ART. 6. Whenever, as in the case of small vessels under way during bad weather, the green and red side lights can not be fixed, these lights shall be kept at hand, lighted and ready for use; and shall, on the approach of or to other vessels, be exhibited on their respective sides in sufficient time to prevent collision, in such manner as to make them most visible, and so that the green light shall not be seen on the port side nor the red light on the starboard side, nor, if practicable, more than two points abaft the beam on their respective sides.

To make the use of these portable lights more certain and easy, the lanterns containing them shall each be painted outside with the color of the light they respectively contain, and shall be provided with proper screens.

ART. 7. Steam vessels of less than forty, and vessels under oars or sails of less than twenty tons, gross tonnage, respectively, when under way, shall not be obliged to carry the lights mentioned in article two (a), (b), and (c), but if they do not carry them they shall be provided with the following lights:

First. Steam vessels of less than forty tons shall carry—

(a) In the fore part of the vessel, or on or in front of the funnel, where it can best be seen, and at a height above the gunwale of not less than nine feet, a bright white light constructed and fixed as prescribed in article two (a), and of such a character as to be visible at a distance of at least two miles.

(b) Green and red side lights constructed and fixed as prescribed in article two (b) and (c), and of such a character as to be visible at a distance of at least one mile, or a combined lantern showing a green light and a red light from right ahead to two

points abaft the beam on their respective sides. Such lantern shall be carried not less than three feet below the white light.

Second. Small steamboats, such as are carried by sea-going vessels, may carry the white light at a less height than nine feet above the gunwale, but it shall be carried above the combined lantern mentioned in subdivision one (b).

Third. Vessels under oars or sails, of less than twenty tons, shall have ready at hand a lantern with a green glass on one side and a red glass on the other, which, on the approach of or to other vessels, shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side nor the red light on the starboard side.

The vessels referred to in this article shall not be obliged to carry the lights prescribed by article four (a) and article eleven, last paragraph.

ART. 8. Pilot vessels when engaged on their station on pilotage duty shall not show the lights required for other vessels, but shall carry a white light at the masthead, visible all around the horizon, and shall also exhibit a flare-up light, or flare-up lights, at short intervals, which shall never exceed fifteen minutes.

On the near approach of or to other vessels they shall have their side lights lighted, ready for use, and shall flash or show them at short intervals, to indicate the direction in which they are heading, but the green light shall not be shown on the port side, nor the red light on the starboard side.

A pilot vessel of such a class as to be obliged to go alongside of a vessel to put a pilot on board may show the white light instead of carrying it at the masthead, and may, instead of the colored lights above mentioned, have at hand, ready for use, a lantern with a green glass on the one side and a red glass on the other, to be used as prescribed above.

Pilot vessels when not engaged on their station on pilotage duty shall carry lights similar to those of other vessels of their tonnage.

ART. 9. Fishing vessels and fishing boats when under way and when not required by this article to carry or show the lights therein named shall carry or show the lights prescribed for vessels of their tonnage under way.

(a) Vessels and boats when fishing with drift nets shall exhibit two white lights from any part of the vessel where they can best be seen. Such lights shall be placed so that the vertical distance between them shall not be less than six feet and not more than ten feet, and so that the horizontal distance between them, measured in a line with the keel, shall be not less than five feet and not more than ten feet. The lower of these two lights shall be the more forward, and both of them shall be of such a character as to show all around the horizon, and to be visible at a distance of not less than three miles.

(b) Vessels when engaged in trawling, by which is meant the dragging of an apparatus along the bottom of the sea—

First. If steam vessels, shall carry in the same position as the white light mentioned in article two (a) a tricolored lantern so constructed and fixed as to show a white light from right ahead to two points on each bow, and a green light and a red light over an arc of the horizon from two points on either bow to two points abaft the beam on the starboard and port sides, respectively; and not less than six nor more than twelve feet below the tricolored lantern, a white light in a lantern, so constructed as to show a clear, uniform, and unbroken light all around the horizon.

Second. If sailing vessels, of seven tons gross tonnage and upwards, shall carry a white light in a lantern, so constructed as to show a clear, uniform, and unbroken light all around the horizon, and shall also be provided with a sufficient supply of red pyrotechnic lights, which shall each burn for at least thirty seconds, and shall be shown on the approach of or to other vessels in sufficient time to prevent collision.

In the Mediterranean Sea the vessels referred to in subdivision (b) two may use a flare-up light in lieu of a pyrotechnic light.

All lights mentioned in subdivision (b) one and two shall be visible at a distance of at least two miles.

Third. If sailing vessels of less than seven tons gross tonnage shall not be obliged to carry the white light mentioned in subdivision (b) two of this article, but if they do not carry such light they shall have at hand, ready for use, a lantern showing a bright white light, which shall, on the approach of or to other vessels, be exhibited where it can best be seen, in sufficient time to prevent collision; and they shall also show a red pyrotechnic light, as prescribed in subdivision (b) two, or in lieu thereof a flare-up light.

(c) Vessels and boats when line fishing with their lines out and attached to their lines, and when not at anchor or stationary, shall carry the same lights as vessels fishing with drift nets.

(d) Fishing vessels and fishing boats may at any time use a flare-up light in addition to the lights which they are by this article required to carry and show. All flare-up lights exhibited by a vessel when trawling or fishing with any kind of drag

net shall be shown at the after part of the vessel, excepting that if the vessel is hanging by the stern to her fishing gear, they shall be exhibited from the bow.

(e) Every fishing vessel and every boat when at anchor shall exhibit a white light visible all around the horizon at a distance of at least one mile.

(f) If a vessel or boat when fishing becomes stationary in consequence of her gear getting fast to a rock or other obstruction she shall show the light and make the fog signal prescribed for a vessel at anchor, respectively. (See article fifteen (d) (e) and last paragraph.)

(g) In fog, mist, falling snow, or heavy rain storms drift-net vessels attached to their nets, and vessels when trawling, dredging, or fishing with any kind of dragnet, and vessels line fishing with their lines out shall, if of twenty tons gross tonnage or upwards, respectively, at intervals of not more than one minute make a blast; if steam vessels, with the whistle or siren, and if sailing vessels, with the fog horn, each blast to be followed by ringing the bell.

(h) Sailing vessels or boats fishing with nets or lines or trawls, when under way, shall in daytime indicate their occupation to an approaching vessel by displaying a basket or other efficient signal, where it can best be seen.

The vessels referred to in this article shall not be obliged to carry the lights prescribed by article four (a) and article eleven, last paragraph.

ART. 10. A vessel which is being overtaken by another shall show from her stern to such last-mentioned vessel a white light or a flare-up light.

The white light required to be shown by this article may be fixed and carried in a lantern, but in such case the lantern shall be so constructed, fitted, and screened that it shall throw an unbroken light over an arc of the horizon of twelve points of the compass, namely, for six points from right aft on each side of the vessel, so as to be visible at a distance of at least one mile. Such light shall be carried as nearly as practicable on the same level as the side lights.

ART. 11. A vessel under one hundred and fifty feet in length, when at anchor, shall carry forward, where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light in a lantern so constructed as to show a clear, uniform, and unbroken light visible all around the horizon at a distance of at least one mile.

A vessel of one hundred and fifty feet or upwards in length, when at anchor, shall carry in the forward part of the vessel, at a height of not less than twenty and not exceeding forty feet above the hull, one such light, and at or near the stern of the vessel, and at such a height that it shall be not less than fifteen feet lower than the forward light, another such light.

The length of a vessel shall be deemed to be the length appearing in her certificate of registry.

A vessel aground in or near a fair way shall carry the above light or lights and the two red lights prescribed by article four (a).

ART. 12. Every vessel may, if necessary in order to attract attention, in addition to the lights which she is by these rules required to carry, show a flare-up light or use any detonating signal that can not be mistaken for a distress signal.

ART. 13. Nothing in these rules shall interfere with the operation of any special rules made by the government of any nation with respect to additional station and signal lights for two or more ships of war or for vessels sailing under convoy, or with the exhibition of recognition signals adopted by shipowners, which have been authorized by their respective governments and duly registered and published.

ART. 14. A steam vessel proceeding under sail only, but having her funnel up, shall carry in daytime, forward, where it can best be seen, one black ball or shape two feet in diameter.

SOUND SIGNALS FOR FOG, ETC.

ART. 15. All signals prescribed by this article for vessels under way shall be given:

1. By "steam vessels" on the whistle or siren.
2. By "sailing vessels and vessels towed" on the fog horn.

The words "prolonged blast" used in this article shall mean a blast of from four to six seconds' duration.

A steam vessel shall be provided with an efficient whistle or siren, sounded by steam or by some substitute for steam, so placed that the sound may not be intercepted by any obstruction, and with an efficient fog horn, to be sounded by mechanical means, and also with an efficient bell. [In all cases where the rules require a bell to be used a drum may be substituted on board Turkish vessels, or a gong, where such articles are used on board small sea-going vessels.] A sailing vessel of twenty tons gross tonnage or upward shall be provided with a similar fog horn and bell.

In fog, mist, falling snow, or heavy rain storms, whether by day or night, the signals described in this article shall be used as follows, viz:

(a) A steam vessel having way upon her shall sound, at intervals of not more than two minutes, a prolonged blast.

(b) A steam vessel under way, but stopped, and having no way upon her, shall sound, at intervals of not more than two minutes, two prolonged blasts, with an interval of about one second between them.

(c) A sailing vessel under way shall sound, at intervals of not more than one minute, when on the starboard tack one blast, when on the port tack two blasts in succession, and when with the wind abaft the beam three blasts in succession.

(d) A vessel when at anchor shall, at intervals of not more than one minute, ring the bell rapidly for about five seconds.

(e) A vessel at anchor at sea, when not in ordinary anchorage ground, and when in such a position as to be an obstruction to vessels under way, shall sound, if a steam vessel, at intervals of not more than two minutes, two prolonged blasts with her whistle or siren, followed by ringing her bell; or, if a sailing vessel, at intervals of not more than one minute, two blasts with her fog horn, followed by ringing her bell.

(f) A vessel when towing shall, instead of the signals prescribed in subdivisions (a) and (c) of this article at intervals of not more than two minutes, sound three blasts in succession, namely, one prolonged blast followed by two short blasts. A vessel towed may give this signal and she shall not give any other.

(g) A steam vessel wishing to indicate to another "The way is off my vessel, you may feel your way past me," may sound three blasts in succession, namely, short, long, short, with intervals of about one second between them.

(h) A vessel employed in laying or picking up a telegraph cable shall, on hearing the fog signal of an approaching vessel, sound in answer three prolonged blasts in succession.

(i) A vessel under way, which is unable to get out of the way of an approaching vessel through being not under command, or unable to maneuver as required by these rules, shall, on hearing the fog signal of an approaching vessel, sound in answer four short blasts in succession.

Sailing vessels and boats of less than twenty tons gross tonnage shall not be obliged to give the above-mentioned signals, but, if they do not, they shall make some other efficient sound signal at intervals of not more than one minute.

SPEED OF SHIPS TO BE MODERATE IN FOG, AND SO FORTH.

ART. 16. Every vessel shall, in a fog, mist, falling snow, or heavy rain storms, go at a moderate speed, having careful regard to the existing circumstances and conditions.

A steam vessel hearing, apparently forward of her beam, the fog signal of a vessel the position of which is not ascertained, shall, so far as the circumstances of the case admit, stop her engines, and then navigate with caution until danger of collision is over.

STEERING AND SAILING RULES.

PRELIMINARY—RISK OF COLLISION.

Risk of collision can, when circumstances permit, be ascertained by carefully watching the compass bearing of an approaching vessel. If the bearing does not appreciably change, such risk should be deemed to exist.

ART. 17. When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other, as follows, namely:

(a) A vessel which is running free shall keep out of the way of a vessel which is closehauled.

(b) A vessel which is closehauled on the port tack shall keep out of the way of a vessel which is closehauled on the starboard tack.

(c) When both are running free, with the wind on different sides, the vessel which has the wind on the port side shall keep out of the way of the other.

(d) When both are running free, with the wind on the same side, the vessel which is to the windward shall keep out of the way of the vessel which is to leeward.

(e) A vessel which has the wind aft shall keep out of the way of the other vessel.

ART. 18. When two steam vessels are meeting end on, or nearly end on, so as to involve risk of collision, each shall alter her course to starboard, so that each may pass on the port side of the other.

This article only applies to cases where vessels are meeting end on, or nearly end on, in such a manner as to involve risk of collision, and does not apply to two vessels which must, if both keep on their respective courses, pass clear of each other.

The only cases to which it does apply are when each of the two vessels is end on, or nearly end on, to the other; in other words, to cases in which, by day, each vessel sees the masts of the other in a line, or nearly in a line, with her own; and by night, to cases in which each vessel is in such a position as to see both the side lights of the other.

It does not apply by day to cases in which a vessel sees another ahead crossing her own course; or by night, to cases where the red light of one vessel is opposed to the red light of the other, or where the green light of one vessel is opposed to

the green light of the other, or where a red light without a green light, or a green light without a red light, is seen ahead, or where both green and red lights are seen anywhere but ahead.

ART. 19. When two steam vessels are crossing, so as to involve risk of collision, the vessel which has the other on her own starboard side shall keep out of the way of the other.

ART. 20. When a steam vessel and a sailing vessel are proceeding in such directions as to involve risk of collision, the steam vessel shall keep out of the way of the sailing vessel.

ART. 21. Where by any of these rules one of two vessels is to keep out of the way, the other shall keep her course and speed.

ART. 22. Every vessel which is directed by these rules to keep out of the way of another vessel shall, if the circumstances of the case admit, avoid crossing ahead of the other.

ART. 23. Every steam vessel which is directed by these rules to keep out of the way of another vessel shall, on approaching her, if necessary, slacken her speed, or stop, or reverse.

ART. 24. Notwithstanding anything contained in these rules every vessel overtaking any other shall keep out of the way of the overtaken vessel.

Every vessel coming up with another vessel from any direction more than two points abaft her beam, that is, in such a position with reference to the vessel which she is overtaking that at night she would be unable to see either of that vessel's side lights, shall be deemed to be an overtaken vessel; and no subsequent alteration of the bearing between the two vessels shall make the overtaking vessel a crossing vessel within the meaning of these rules, or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

As by day the overtaking vessel can not always know with certainty whether she is forward of or abaft this direction from the other vessel she should, if in doubt, assume that she is an overtaking vessel and keep out of the way.

ART. 25. In narrow channels every steam vessel shall, when it is safe and practicable, keep to that side of the fairway or mid-channel which lies on the starboard side of such vessel.

ART. 26. Sailing vessels under way shall keep out of the way of sailing vessels or boats fishing with nets, or lines, or trawls. This rule shall not give to any vessel or boat engaged in fishing the right of obstructing a fairway used by vessels other than fishing vessels or boats.

ART. 27. In obeying and construing these rules due regard shall be had to all dangers of navigation and collision, and to any special circumstances which may render a departure from the above rules necessary in order to avoid immediate danger.

SOUND SIGNALS FOR VESSELS IN SIGHT OF ONE ANOTHER.

ART. 28. The words "short blast" used in this article shall mean a blast of about one second's duration.

When vessels are in sight of one another, a steam vessel under way, in taking any course authorized or required by these rules, shall indicate that course by the following signals on her whistle or siren, namely:

One short blast to mean, "I am directing my course to starboard."

Two short blasts to mean, "I am directing my course to port."

Three short blasts to mean, "My engines are going at full speed astern."

NO VESSEL, UNDER ANY CIRCUMSTANCES, TO NEGLECT PROPER PRECAUTIONS.

ART. 29. Nothing in these rules shall exonerate any vessel or the owner or master or crew thereof from the consequences of any neglect to carry lights or signals, or of any neglect to keep a proper lookout, or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

RESERVATION OF RULES FOR HARBORS AND INLAND NAVIGATION.

ART. 30. Nothing in these rules shall interfere with the operation of a special rule, duly made by local authority, relative to the navigation of any harbor, river, or inland waters.

DISTRESS SIGNALS.

ART. 31. When a vessel is in distress and requires assistance from other vessels or from the shore, the following shall be the signals to be used or displayed by her, either together or separately, namely:

In the daytime—

First. A gun fired at intervals of about a minute;

Second. The International Code signal of distress indicated by N C;

Third. The distance signal, consisting of a square flag, having either above or below it a ball or anything resembling a ball;

Fourth. Rockets or shells as prescribed below for use at night;

Fifth. A continuous sounding with any fog-signal apparatus.

At night—

One. A gun fired at intervals of about a minute;

Two. Flames on the vessel (as from a burning tar barrel, oil barrel, and so forth);

Three. Rockets or shells, bursting in the air with a loud report and throwing stars of any color or description, fired one at a time at short intervals;

Four. A continuous sounding with any fog-signal apparatus.

SEC. 2. That all laws or parts of laws inconsistent with the foregoing regulations for preventing collisions at sea for the navigation of all public and private vessels of the United States upon the high seas, and in all waters connected therewith navigable by seagoing vessels, are hereby repealed.

SEC. 3. That this act shall take effect at a time to be fixed by the President by proclamation issued for that purpose.

And whereas an act of Congress entitled "An act to amend an act approved August nineteenth, eighteen hundred and ninety, entitled 'An act to adopt regulations for preventing collisions at sea,'" was approved May 28, 1894, the said act being in the following words:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That article seven of the act approved August nineteenth, eighteen hundred and ninety, entitled "An act to adopt regulations for preventing collisions at sea," be amended to read as follows:

"ART. 7. Steam vessels of less than forty, and vessels under oars or sails of less than twenty tons gross tonnage, respectively, and rowing boats, when under way, shall not be required to carry the lights mentioned in article two (a), (b), and (c), but if they do not carry them they shall be provided with the following lights:

"First. Steam vessels of less than forty tons shall carry—

"(a) In the fore part of the vessel, or on or in front of the funnel, where it can best be seen, and at a height above the gunwale of not less than nine feet, a bright white light constructed and fixed as prescribed in article two (a), and of such a character as to be visible at a distance of at least two miles.

"(b) Green and red side lights constructed and fixed as prescribed in article two (b) and (c), and of such a character as to be visible at a distance of at least one mile, or a combined lantern showing a green light and a red light from right ahead to two points abaft the beam on their respective sides. Such lanterns shall be carried not less than three feet below the white light.

"Second. Small steamboats, such as are carried by seagoing vessels, may carry the white light at a less height than nine feet above the gunwale, but it shall be carried above the combined lantern mentioned in subdivision one (b).

"Third. Vessels under oars or sails of less than twenty tons shall have ready at hand a lantern with a green glass on one side and a red glass on the other, which, on the approach of or to other vessels, shall be exhibited in sufficient time to prevent collision, so that the green light shall not be seen on the port side nor the red light on the starboard side.

"Fourth. Rowing boats, whether under oars or sail, shall have ready at hand a lantern showing a white light which shall be temporarily exhibited in sufficient time to prevent collision.

"The vessels referred to in this article shall not be obliged to carry the lights prescribed by article four (a) and article eleven, last paragraph."

That article nine be hereby repealed.

That article twenty-one be amended to read as follows:

"Article twenty-one. Where, by any of these rules, one of two vessels is to keep out of the way the other shall keep her course and speed.

"NOTE.—When, in consequence of thick weather or other causes, such vessel finds herself so close that collision can not be avoided by the action of the giving-way vessel alone, she also shall take such action as will best aid to avert collision." (See articles twenty-seven and twenty-nine.)

That article thirty-one be amended to read as follows:

"DISTRESS SIGNALS.

"Article thirty-one. When a vessel is in distress and requires assistance from other vessels or from the shore the following shall be the signals to be used or displayed by her, either together or separately, namely:

"In the day time—

"First. A gun or other explosive signal fired at intervals of about a minute.

"Second. The international code signal of distress indicated by N C.

"Third. The distance signal, consisting of a square flag, having either above or below it a ball or anything resembling a ball.

"Fourth. A continuous sounding with any fog-signal apparatus.

"At night—

"First. A gun or other explosive signal fired at intervals of about a minute.

"Second. Flames on the vessel (as from a burning tar barrel, oil barrel, and so forth).

"Third. Rockets or shells throwing stars of any color or description, fired one at a time, at short intervals.

"Fourth. A continuous sounding with any fog-signal apparatus."

And, whereas, it is provided by section 3 of the act approved August 19, 1890, that it shall take effect at a time to be fixed by the President by proclamation issued for that purpose;

Now, therefore, I, Grover Cleveland, President of the United States of America, do hereby, in virtue of the authority vested in me by section 3 of the act aforesaid, proclaim the first day of March, 1895, as the day on which the said act approved August 19, 1890, as amended by the act approved May 28, 1894, shall take effect.

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 thirteenth day of July, one thousand eight hundred and ninety-four, and of the Independence of the United States the one hundred and nineteenth.

[SEAL.]

By the President:

W. Q. GRESHAM,
Secretary of State.

GROVER CLEVELAND.

Sir Julian Pauncefote to Mr. Gresham.

WASHINGTON, August 17, 1894.

SIR: I have the honor to acknowledge your note of the 6th instant, inclosing copies of the President's proclamation of the 13th ultimo, fixing March 1, 1895, as the date on which the laws of the United States, therein mentioned and relating to the new regulations for preventing collisions at sea, are to take effect.

I did not fail to transmit to my Government a copy of that communication, together with copies of the proclamation.

I have, etc.,

JULIAN PAUNCEFOTE.

Mr. Goschen to Mr. Gresham.

NEW LONDON, October 15, 1894. (Received October 17.)

SIR: I have the honor to inform you, with reference to my conversation with Mr. Uhl, that I have received a dispatch from the Earl of Kimberley to the effect that, owing to the fact that all the maritime powers have not as yet given their adhesion to the new regulations for the prevention of collisions at sea, it has been found to be impossible that they should be put into effect on the date originally suggested by Her Majesty's Government and specified in the President's proclamation of July last.

His Lordship also considers postponement of the date in question inevitable, owing to the fact that it is generally held that nine months should elapse between the promulgation of the regulations and their enforcement.

The Earl of Kimberley desires me, in calling your attention to the above consideration, to ask whether the United States Government are prepared for the unavoidable postponement of the date upon which it was hoped that the regulations in question would go into effect.

I have, etc.,

W. E. GOSCHEN.

Mr. Gresham to Mr. Goschen.

DEPARTMENT OF STATE,
Washington, October 22, 1894.

SIR: Referring to your note of the 15th instant, stating that in the opinion of Her Majesty's Government it will be impossible to put into effect the new regulations for preventing collisions at sea on the date originally suggested by Great Britain and specified in the President's proclamation, I have the honor to say that besides the arguments adduced by the Acting Secretary of the Treasury in his letter of the 19th instant, of which a copy is inclosed, this Department, as at present advised, considers it impossible for this Government to suspend the operation of the act of Congress of August 19, 1890, as amended by that of May 28, 1894. The President, by his proclamation, having fixed the date on which it is to come into effect, his power in the matter is exhausted. The date of March 1, 1895, fixed in the proclamation, is as much a part of the act as if incorporated in it, and any change therein being in the nature of new legislation can only be made by the legislative branch of this Government.

In view of these facts and of the confusion which would inevitably result from the regulations in question not being put in operation on the same date by Great Britain and the United States, and considering furthermore that the date fixed upon by the United States for putting them in operation has also been adopted by the Government of France and may very probably be, before long, adopted by other maritime powers, it is hoped that Her Majesty's Government will find it possible to adhere to its first proposition and put the rules in question in operation on the same date as the United States.

I have, etc.,

W. Q. GRESHAM.

[Inclosure.]

Mr. Wike to Mr. Gresham.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, D. C., October 19, 1894.

SIR: I have the honor to acknowledge the receipt of your letter of the 18th instant, transmitting copy of a note of the 15th instant, from the British chargé d'affaires *ad interim* at this capital, stating that owing to the fact that all the maritime nations have not as yet given their adhesion to the new regulations for preventing collisions at sea, it has been found impossible that they should be put into effect on the date originally suggested by Her Majesty's Government and specified in the President's proclamation of July last.

Replying to your request for an expression of the views of this Department in regard to the matter in question, I have the honor to call your attention to the note from the British ambassador at this Capital, dated April 25, 1894, transmitted to this Department with your letter of April 30.

Upon the assurance that the regulations, modified in certain particulars indicated in the ambassador's inclosure of the regulations as finally adopted by Great Britain, had received the general approval of the several foreign maritime powers, Congress at the late session amended the act of 1890, which embodied the original propositions of

the Washington Marine Conference, to conform to the regulations as finally adopted by Great Britain. The amendatory act was passed upon the recommendation of this Department so that there should be ample time for the promulgation of the rules by the United States before the date for their enforcement, agreeably to this Government as fixed by the British Government. It then appeared, and still appears to this Department, that if the rules come into force, as proposed, on the 1st of March, 1895, each foreign government will have ample time to prepare and promulgate identic rules to come into force on the same day.

This Department observes that an interval of from April 25 to July 13 elapsed between the date of the note of the British ambassador suggesting March 1, 1895, as the date for the enforcement of the proposed regulations, and the date of the President's proclamation, during which it received no notification that an alteration of the date was desired by the British Government. A further interval, from July 13 to September 28, elapsed before the distribution of the new regulations was begun by this Department, during which it received no notification that an alteration of the date was desired by the British Government. The distribution of the new regulations among the masters of vessels has now progressed so far that it does not appear practicable to recall them.

This Department accordingly trusts that it may be possible for the British Government to adhere to its proposition, communicated in the note of the British ambassador, dated April 25, after careful consideration, to enforce the regulations on and from the 1st of March, 1895.

Respectfully, yours,

S. WIKE,
Acting Secretary.

Mr. Uhl to Mr. Goschen.

DEPARTMENT OF STATE,
Washington, November 19, 1894.

SIR: I have the honor to inform you that this Government has now received assurances from the Governments of Austria-Hungary, France, Spain, Sweden, Portugal, and the Netherlands that they will put in force on and after the 1st of March, 1895, rules similar to those adopted by the United States for the prevention of collisions at sea.

The Department has been advised that Russia will, in all probability, adopt a similar course. It is therefore hoped that Her British Majesty's Government may see its way to reconsider its determination, made known to this Department in your note of the 15th of October, to postpone putting such rules in force.

Accept, etc.,

EDWIN F. UHL.

Mr. Gresham to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, January 16, 1895.

EXCELLENCY: Referring to the note of October 15 last from your embassy, and to the Department's reply of November 19, in relation to the regulations for the prevention of collisions at sea, I have the honor

to ask that you advise the Department whether Her Majesty's Government adhere to the determination to postpone the enforcement of the rules agreed upon until some time after March 1 next, and in that event, that you indicate the date upon which Her Majesty's Government will put them in operation.

I have, etc.,

W. Q. GRESHAM.

Sir Julian Pauncefote to Mr. Gresham.

WASHINGTON, January 21, 1895. (Received January 22.)

SIR: I have the honor to acknowledge the receipt of your note of the 16th instant, in which you inquire whether Her Majesty's Government adhere to the determination to postpone the enforcement of the rules agreed upon for the prevention of collisions at sea until some time after March 1. I have already had the honor to explain to you, unofficially, under instructions from the Earl of Kimberley, the difficulty in which Her Majesty's Government find themselves with regard to this question and their inability at present to find a date for bringing the regulations into force.

They hope to be in a position to do so by the end of February, but six months' notice will be necessary before this can be done.

If the U. S. Government put them into force on the 1st of March considerable inconvenience will be caused, and it is still the hope of Her Majesty's Government that the decision of the U. S. Government, communicated to Mr. Goschen in Mr. Gresham's note of the 22d of October last, may not be final, and that the President may find it possible to issue a supplementary proclamation deferring the date.

I have, etc.,

JULIAN PAUNCEFOTE.

[Telegram from the Earl of Kimberley, January 16, 1895.]

International regulation for the prevention of collisions at sea.

Owing to the opposition which has been raised in England to certain articles in the proposed regulations, especially that relating to fog signals, Her Majesty's Government now finds it impossible, until Parliament has been consulted, to fix a date for bringing the regulations into force.

By the end of February, however, we hope to be in a position to fix a date, but six months' notice will be necessary before bringing the regulation into force. I have to request you to take an early opportunity of explaining unofficially to Mr. Gresham the difficulty in which we find ourselves. I have spoken on the subject to Mr. Bayard, who is telegraphing to his Government. If the United States put the regulations into force on the 1st of March, considerable inconvenience will be caused, and it is still the hope of Her Majesty's Government that the decision of the United States, communicated in Mr. Gresham's note of the 22d October last, may not be final, and that the President may find it possible to issue a supplementary proclamation deferring the date.

Mr. Gresham to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, January 23, 1895.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 21st instant, in reply to the inquiry made in mine of the 16th, whether Her Majesty's Government adhere to the determination to postpone the enforcement of the rules agreed upon for the prevention of collisions at sea until some time after March 1. You refer to the difficulty in which Her Majesty's Government find themselves with regard to this question and their inability at present to fix a date for bringing the regulations into force, and express the hope that the President may find it possible to issue a supplementary proclamation deferring the date.

As explained in my note of October 22 last, the President has no option in the matter. His power was exhausted by the proclamation fixing the date on which the act of Congress of August 19, 1890, as amended by that of May 28, 1894, is to come into effect, this date being as much a part of the act as if incorporated in it.

Accept, etc.,

W. Q. GRESHAM.

Mr. Gresham to Mr. Bayard.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 25, 1895.

Your 374 received. Act 1890 provides that it shall take effect at a time to be fixed by the President, by proclamation issued for that purpose. The President issued proclamation declaring that act should go into force March 1, the effect being the same as if the act had declared it should take effect on that date; and the President's power in the matter is exhausted.

Mr. Bayard to Mr. Gresham.

No. 380.]

EMBASSY OF THE UNITED STATES,
London, January 31, 1895. (Received February 11.)

SIR: I have the honor to acknowledge your telegraphic instruction of the 25th instant in relation to the finality of the exercise of the Executive power by proclamation over the time for bringing into force the provisions of laws of the United States to prevent collisions at sea.

On Wednesday, the 30th instant, I called at the foreign office and communicated to Lord Kimberley the substance of your telegram, that the President, acting under the terms of the statute, had proclaimed a day certain (March 1, next) for its prospective operation, and had thereby exhausted his authority over the subject.

His Lordship told me he had received information to the same effect from Sir Julian Pauncefote.

I remarked that, in adopting the regulations recommended by the International Maritime Conference at Washington, the influence of the distinguished British members had been largely controlling, and it was very much to be regretted that, after the lapse of so long a time (from

1890 to 1895), with no indication of a change of opinion on the part of Her Majesty's Government, that now, suddenly, upon the eve of putting the regulations, so deliberately considered and agreed upon, into legal operation, the dissent or hesitation of Great Britain should, for the first time, be suggested.

His Lordship regretted, but said he supposed Congress could authorize "a temporary suspension of the proposed regulations for six months," intimating, but not explicitly stating, that by that time Her Majesty's Government would be prepared to act coordinately with the United States to carry out the regulations.

During my visit at the foreign office the naval attaché of the French embassy called at this embassy and said he was instructed by his Government to inquire as to the action taken, or proposed to be taken, by the United States in reference "to the new Rules of the Road at Sea." He stated that his Government had no objection to the new rules, as proclaimed by the President of the United States, and would have made them operative on their own vessels were it not for their proximity to England, and her position as a great maritime power, which compelled them to follow her lead in such matters.

This seems natural enough, and in communicating the foregoing to you I very respectfully suggest whether, under existing circumstances, and in view of the eminently practical and gravely important nature of the proposed regulations, it would not be advisable for the present Congress, by an amendatory joint resolution, to authorize the President to revoke temporarily, and in his discretion to renew, his proclamation, bringing the regulations into force, so as to secure cooperation upon the part of Great Britain, and consequently of other maritime powers.

The great object and purpose of the conference can only be attained by the concurrent international adoption of a single code of regulations to become the law for all, and the common guide for the safety of each and all.

The shocking and disastrous collision causing the loss of the steamship *Elbe* in the North Sea yesterday, and the death of so many human beings, impressively suggests the imperative necessity of a distinct and mutual understanding between approaching vessels, and their joint and unquestionable submission to laws regulating the respective conduct of each and both of them.

I have, etc.,

T. F. BAYARD.

THE BRAZILIAN REVOLT.¹

Mr. Gresham to Mr. Bayard.

[Extract.—Telegram.]

DEPARTMENT OF STATE,

Washington, February 6, 1894.

British ambassador informed me yesterday that it had been reported insurgents were in possession of part of the country in the south of Brazil, and he was directed by Lord Rosebery to ascertain the disposition of this Government as to the propriety of recognizing the Brazilian insurgents as belligerents. I informed him that this Government had twice declined to recognize the belligerent status of the

¹ See Foreign Relations, 1893, p. 350; also *ante*, pp. 57-63.

insurgents, and our minister to Brazil would to-day again be instructed to inform the insurgents the United States did not feel authorized under existing conditions to recognize them as belligerents. The ambassador thought the action of our Government important. In reply to a question the ambassador said he had no information that the insurgents were maintaining a *de facto* government in Brazil with any kind of civil administration there. He called my attention to the note to section 23 of Dana's Wheaton and agreed with me that it laid down correct principles by which neutrals should be governed in according belligerent rights. He said the situation, so far as his knowledge went, did not entitle the insurgents to recognition, and if recognized they would likely blockade Rio to the injury of neutral commerce and the embarrassment of neutral powers.

Mr. Bayard to Mr. Gresham.

[Confidential.]

No. 153.]

EMBASSY OF THE UNITED STATES,
London, February 7, 1894.

SIR: I have the honor to acknowledge your cablegram of this date, and have just returned from an interview with Lord Rosebery at the foreign office, in which I communicated the full purport of your cablegram.

I have just sent you by cable his reply, which I think will be entirely satisfactory, in relation to the attitude and contemplated action of this Government in the questions now pending in Brazil.

I repeated in substance the facts stated in your cablegram and the concurrence of opinion by Sir Julian Pauncefote, as well as your coincidence of opinion as to the rule of international law as stated by Wheaton, and Dana's note to section 23, applicable to the Brazilian case.

I stated the case to be that of a naval officer entrusted with the command of what was virtually the entire naval force of his country and accepting such command under a government with whom he cooperated for several months and then suddenly threw himself into opposition, carrying with him his entire fleet, and creating an insurrection. That, with full information of the facts, but with no intention of interfering in the struggle, living up to their treaty stipulations, and an unbroken amity of nearly seventy years with the Brazilian people and their Government, the Government of the United States had three times refused to recognize as belligerents Admiral di Mello and his associates in arms, such recognition not being justified by the facts and circumstances and the well-established rules of international law.

Lord Rosebery expressed his concurrence in the judgment of the Government of the United States, and stated very clearly and decidedly the intention of his Government to act in accordance with their decision in the matter.

I am, etc.,

T. F. BAYARD.

Mr. Uhl to Mr. Bayard.

No. 311.]

DEPARTMENT OF STATE,
Washington, March 8, 1894.

SIR: I have the honor to acknowledge the receipt of your dispatch, No. 153, of the 7th ultimo, reporting your interview with the Earl of Rosebery in regard to the question of the recognition of the Brazilian insurgents as belligerents, and his expression of an intention to act in line with the Government of the United States in Brazilian matters now pending.

Your representations to Lord Rosebery are fully approved by the Department. The cordial conformity of Her Majesty's Government to the views of the United States in regard to the subject in question is the more fully appreciated because confidently expected. The recent course of events in Brazil has made the contingency of the recognition of belligerent rights for Mello's abortive revolt even more remote than heretofore, and the Department's views concerning the wisdom and appropriateness of the course pursued in relation to the subject remain unchanged.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Bayard to Mr. Gresham.

No. 180.]

EMBASSY OF THE UNITED STATES,
London, March 16, 1894. (Received March 26.)

SIR: Some questions in relation to matters in Brazil were asked and answered in the House of Commons, and I have the honor to inclose herewith the report thereof of the Times of to-day.

It is certainly a cause of congratulation to the war-worn people of Brazil, as well as to the interest of commerce of all nations, that the savage contest of the rival chiefs and parties for power in that Republic has come to a close, so that a period of repose and recuperation may now be hoped for.

The conduct of the relations of the United States to the republican Government of Brazil, has been just, considerate, and thoroughly judicious, and I am sure that the efficient presence of our naval force, and its creditable action under Admiral Benham, has been a factor of great value to the peaceful commerce of the port of Rio, and perfectly consistent with neutrality throughout.

There are indications in the public press of complaint among British shipowners and merchants of a lack of protection of their neutral rights by the naval forces of this country.

I trust that the unhappy civil strife of the Brazilian Republic may now be at an end, and having under your instructions given close attention to the attitude and action of this Government in relation to the contest, I have been unable to trace any disposition whatever to take sides in the struggle or even to express sympathy in favor of the replacement of a republican by a monarchical form of government in Brazil.

The attitude of the Government of the United States and its avowed interest expressed in relation to European interference with affairs in the Western Hemisphere is, I believe, quite well recognized and interpreted here.

I have, etc,

T. F. BAYARD.

[Inclosure in No. 180.—From The Times, March 16, 1894.]

THE REVOLT IN BRAZIL.

Sir E. Ashmead-Bartlett asked the undersecretary of state for foreign affairs whether he could give the house any information as to the progress of the civil war in Brazil, and especially as to the reported surrender of Admiral da Gama.

Col. Howard Vincent asked the undersecretary of state for foreign affairs whether Her Majesty's minister at Rio de Janeiro had confirmed the report of the cessation of the civil war in Brazil, and in such case if Her Majesty's Government would render all assistance possible to British traders to recoup the disastrous losses of the past six months of siege, and use its influence with the Brazilian Government to devote itself to the development of the riches of the country and the opening up of fresh channels for international trade.

Sir E. GREY. The senior naval officer at Rio, telegraphing on the 14th instant, states that the Portuguese commanding naval officer has received Admiral Saldanha da Gama and many of his officers and men on board his vessel. Her Majesty's Government have not yet received any further details relating to the surrender of the insurgent forces in Rio Bay. The question of how to deal with claims of British subjects for losses arising out of the recent disturbances in Brazil is now being considered in consultation with the law officers of the Crown. The Government of Brazil can not be asked to take advice from outside as to the developments of their own country, but Her Majesty's Government are anxious to use every means in their power to promote trade with Brazil as soon the political state of the country admits of it.

Sir A. Rollit asked whether any complaints from British residents had been received as to the neglect of their interests.

Mr. Hanbury asked whether it was true that one of the officers had taken refuge on one of Her Majesty's ships.

Sir E. Ashmead-Bartlett asked whether the Government would use its influence to obtain clement treatment for those who had surrendered.

Sir E. GREY. I can only say, in answer to the last question, that Her Majesty's Government has been most careful to abstain from any interference whatever in what was a purely internal matter [hear! hear!], and I can not promise that they can see their way to take any action in the final settlement of the dispute. It is true that in disturbances of this kind some innocent persons must suffer. British trade is considerable, and it has suffered, and that has naturally given rise to many complaints which we have received; but I am sure that Her Majesty's minister and the admiral, who had a most difficult task to perform [hear! hear!], have discharged their duties well and done the utmost possible under the circumstances. With regard to Admiral da Gama, our latest information is that he is on board a Portuguese vessel, not a British ship.

Mr. Gresham to Mr. Bayard.

No. 342.]

DEPARTMENT OF STATE,
Washington, April 6, 1894.

SIR: You are doubtless aware that the night before the final collapse of the insurgent movement in the bay of Rio de Janeiro, da Gama, the insurgent leader, and some of his subordinate officials, were received on board a Portuguese man-of-war in the harbor. About two weeks ago the British ambassador here informed me that the Brazilian Government had demanded of Portugal the surrender of these men, and that the latter Government had offered to land them somewhere beyond the jurisdiction of Brazil, and there detain them until the fate of the insurrection should be known, when their right to asylum under the circumstances could be determined. Sir Julian was instructed, he said, by his Government to ask the United States to join Great Britain in a friendly suggestion to the Government of Brazil that it accept this offer of Portugal. I submitted the matter to the President, and, after full consideration, he instructed me to inform Sir Julian that the United States did not feel inclined to join in the suggestion. A day or two later a substantially similar request was received from the Government

of Italy, through Mr. Thompson, our minister at Rio, and answered in the same way, and within the last week a direct request to the same effect from the Portuguese Government, through its minister here, has been declined.

I am, etc.,

W. Q. GRESHAM.

Mr. Bayard to Mr. Gresham.

No. 217.]

EMBASSY OF THE UNITED STATES,
London, May 11, 1894. (Received May 21.)

SIR: As relating to the subject of your Instruction No. 342 of April 6, last, I have now the honor to inclose herewith copy of a letter published to-day from Sir Edward Grey, parliamentary under secretary of state for foreign affairs, giving a full and explicit denial of any action or intent on the part of any of the officials of Her Majesty's Government to assist the restoration of monarchy in Brazil, or interfere in the contest there raging.

This is in full accord with the expressions of Lord Rosebery, when secretary of state for foreign affairs, in a conversation with me at the foreign office, which were duly communicated by me at the time of utterance.

I have, etc.,

T. F. BAYARD.

[Inclosure in No. 217.—Cutting from the Standard, May 11, 1894.]

THE REVOLT IN BRAZIL.

Sir J. Blundell Maple, M. P., at the request of constituents in Dulwich, recently called the attention of the Government to allegations made by the Rio correspondent of the New York Herald, to the effect that the commanders and crews of the British war ships at Rio aided and counseled Admiral da Gama; that British merchant vessels supplied the insurgents with food; that British subjects conveyed letters to and from the shore for the rebels; and that money had been transmitted through British banks and mercantile firms for the rebel agents.

The following reply has now been received:

“FOREIGN OFFICE, *May 4, 1894.*

“DEAR SIR: The action of Her Majesty's representative at Rio, and of the British naval officers, was directed solely to protect British commerce, and to preserve complete impartiality during the recent disturbances.

“Any statement that the British officials joined in any attempt to restore the monarchy, or in any way to change the political situation, is absolutely untrue.

“Yours, faithfully,

“EDWARD GREY.

“To Sir J. BLUNDELL MAPLE, M. P.”

AMERICAN PHYSICIANS IN GREAT BRITAIN.

Mr. Adee to Mr. Bayard.

No. 241.]

DEPARTMENT OF STATE,

Washington, December 19, 1893.

SIR: I inclose for your consideration a copy of a letter¹ received from Dr. J. Tempest, of Bradford, England, asking that application be made to the appropriate branch of the British Government to have the United States enrolled on the list of countries recognized under the British medical act of 1886, so that American graduates in medicine may be registered in Great Britain.

Dr. Tempest's previous letter of September 22d, to which he refers, was not received. As he now omits to state of what medical college in the United States he is a graduate, but is described in the printed heading of his communication as "Graduate of the Brighton Eclectic Medical School," and also as "Professor for and British representative of the American College of Art, Science, and Medicine," it is not practicable to instruct you precisely in this regard.

The seventeenth section of the medical act of 49 and 50 Vict. (25th June, 1886) provides for the application of the act, by order in council, "to any British possession or foreign country which in the opinion of Her Majesty affords to the registered medical practitioners of the United Kingdom such privileges of practicing in the said British possession or foreign country as to Her Majesty may seem just."

It would thus appear that the privilege in question rests on reciprocity. The practice of medicine in the several states is, as you know, regulated by the laws thereof, and generally foreign physicians are admitted to practice on proof of due qualification. Information has occasionally been sought by Her Majesty's representatives as to the repute of particular medical colleges in the United States. The inclosed copies¹ of correspondence show a recent inquiry of this kind and the reply made.

A report from you would enable the Department to answer the requests for information in this regard which are from time to time presented.

I am, sir, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Bayard to Mr. Gresham.

No. 208.]

EMBASSY OF THE UNITED STATES,
London, April 18, 1894. (Received April 26.)

SIR: Referring to your Instruction No. 241, of the 19th of December, last, I have now the honor to inclose herewith a report drawn up by Mr. James R. Roosevelt, secretary of this embassy, on the subject of the enrollment of the United States on the list of countries recognized under the British medical act of 1866.

If this report should meet your approval, and be printed, it is believed

¹ Not printed.

that it will furnish a compendious and convenient reply to the many inquiries made at the Department as well as at this embassy.

If printed I should like to have a number of copies supplied for use here.

I have, etc.

T. F. BAYARD.

[Inclosure in No. 208.]

Mr. Roosevelt to Mr. Bayard.

EMBASSY OF THE UNITED STATES,
London, April 16, 1894.

SIR: I have the honor, in accordance with your instructions, to submit to you the following report as to the possible enrollment of the United States on the list of countries recognized under the British medical act of 1886, for the purpose of allowing American graduates in medicine to be registered in Great Britain.

I have the honor to advise you that, as the result of several interviews held with Sir Charles Lennox Peel, clerk of Her Majesty's privy council, and with Mr. Miller, secretary of the general medical council of Great Britain, the following facts have been ascertained:

The graduates of American medical colleges can, at present, practice without let or hindrance in the United Kingdom. They can not, however, sue for their fees in court, sign burial or death certificates, or hold local medical offices unless enrolled on the registry list of the medical council of Great Britain. As this privilege of enrollment has heretofore been denied to medical graduates of the United States and other foreign countries, they are, in consequence, when practising in England not in full standing, either with their brother practitioners or the public authorities.

It is stated, however, by the secretary of the general medical council that there never has been, on the part of the council, any objection whatever to the enrollment on its registry of the graduates of certain colleges of high scientific standing in the United States, should Her Majesty's privy council see fit to grant the application of the U. S. Government to be recognized as a "foreign country," to which the British medical act of 1886 be made to apply.

Section 17, part 2, of this act (49 and 50 Vict., June 26, 1886), copy of which I have the honor to inclose herewith, provides that—

Her Majesty may from time to time, by order in council, declare that this part of the act shall be deemed, on and after a day to be named in such order, to apply to any British possession or *foreign country*, which, in the opinion of Her Majesty affords to the registered medical practitioners of the United Kingdom such privileges of practicing in the said British possession or foreign country, as to Her Majesty may seem just.

To secure, therefore, the recognition of American practitioners and the placing of their names upon the registry, the following action on the part of the British authorities would be necessary:

1. An order in council for the application of the medical act of 1886 to the United States, made at the request of the U. S. Government, through the ministry of foreign affairs, such request to be accompanied by satisfactory evidence, showing that the United States affords similar reciprocal privileges to the registered medical practitioners of the United Kingdom.

2. Upon application of the act to the United States being so ordered in council, the recognition by the general medical council of certain American colleges of high scientific repute, whose graduates may thereupon, on proper application, be duly placed upon the medical registry and be admitted to practice. (See sec. 13 (1), 49 and 50 Vict., 1886, part 2.)

The power thus invested in the general medical council is subject to an appeal to Her Majesty's privy council. (See sec. 13 (2), 49 and 50 Vict., 1886, part 2.)

In the conversations held with Sir Charles Lennox Peel, clerk of Her Majesty's privy council, it was disclosed that the principal objections heretofore made to the application of the act of 1886 to the United States have been that no evidence has been offered showing that the United States, as a nation, affords reciprocal privileges to the registered practitioners of Great Britain. The wording of the act is:

That this part of this act shall be deemed, on and after a day named in such order, to apply to any British possession or *foreign country*.

If the proof of the existence of such reciprocal privileges were offered as regards any one or more States of the Union only it is extremely doubtful, therefore, whether such State or States could separately obtain the benefit of the application of the act. And, on the other hand, under the want of uniformity of laws in the several States regulating the practice of medicine, it would doubtless be difficult for the Federal Government to offer satisfactory evidence of the existence of reciprocity throughout the Union.

In this diversity in the laws of the different States and the apparent impracticability of the Federal Government's giving the necessary assurance of a uniform reciprocity throughout the Union lies the whole difficulty.

Sir Charles Lennox Peel, however, has very kindly stated that should an application be made by this embassy to the privy council, through the foreign office, either for the application of the act to the United States as a nation (showing, if possible, reciprocity in all the States of the Union), or if this should not be practicable, then seeking to make the act applicable to one or more States where reciprocity exists, the question would be most carefully considered by the privy council and a decision given by their legal advisers as to whether the wording of the act permits such application.

The evidence to be presented as to the existence of reciprocity would consist of the State laws authorizing the recognition and admission to practice of the graduates of foreign medical colleges.

It might be advisable, therefore, to have the question definitely settled in this manner, and thus put an end to the many inquiries on the subject received from individual members of the medical profession both at this embassy and at the Department of State.

I may add that, should a favorable decision be given by Her Majesty's privy council, it would be of little service to the class of medical practitioners represented by the Department's correspondent, Dr. Joseph Tempest, of Bradford, England. As he is not apparently the graduate of any medical college of scientific standing and repute in the United States, it is highly probable that his claim to be placed upon the registry would be disallowed.

I have, etc.,

JAMES R. ROOSEVELT.

MEDICAL ACT, 1886.

* * * * *

PART II.—*Colonial and foreign practitioners.*

11. On and after the prescribed day where a person shows to the satisfaction of the registrar of the general council that he holds some recognized colonial medical diploma or diplomas (as hereinafter defined) granted to him in a British possession to which this act applies, and that he is of good character, and that he is by law entitled to practise medicine, surgery, and midwifery in such British possession, he shall, on application to the said registrar, and on payment of such fee, not exceeding five pounds, as the general council may from time to time determine, be entitled, without examination in the United Kingdom, to be registered as a colonial practitioner in the medical register;

Provided that he proves to the satisfaction of the registrar any of the following circumstances:

(1) That the said diploma or diplomas was or were granted to him at a time when he was not domiciled in the United Kingdom, or in the course of a period of not less than five years, during the whole of which he resided out of the United Kingdom; or

(2) That he was practising medicine or surgery or a branch of medicine or surgery in the United Kingdom on the said prescribed day, and that he was continuously practised the same either in the United Kingdom or elsewhere for a period of not less than ten years immediately preceding the said prescribed day.

12. On and after the said prescribed day where a person shows to the satisfaction of the registrar of the general council that he holds some recognized foreign medical diploma or diplomas (as hereinafter defined) granted in a foreign country to which this act applies, and that he is of good character, and that he is by law entitled to practise medicine, surgery, and midwifery in such foreign country, he shall, on application to the said registrar, and on payment of such fee, not exceeding five pounds, as the general council may from time to time determine, be entitled, without examination in the United Kingdom, to be registered as a foreign practitioner in the medical register;

Provided that he proves to the satisfaction of the registrar any of the following circumstances:

(1) That he is not a British subject; or

(2) That, being a British subject, the said diploma or diplomas was or were granted to him at a time when he was not domiciled in the United Kingdom, or in the course of a period of not less than five years, during the whole of which he resided out of the United Kingdom; or

(3) That, being a British subject, he was practising medicine or surgery, or a branch of medicine or surgery, in the said United Kingdom on the said prescribed day, and that he has continuously practised the same in the United Kingdom or elsewhere for a period of not less than ten years immediately preceding the said prescribed day.

13 (1) The medical diploma or diplomas granted in a British possession or foreign country to which this act applies, which is or are to be deemed such recognised colonial or foreign medical diploma or diplomas as is or are required for the purposes of this act, shall be such medical diploma or diplomas as may be recognised for the time being by the general council as furnishing a sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practise of medicine, surgery, and midwifery.

(2) Where the general council have refused to recognise, as aforesaid, any colonial or foreign medical diploma, the privy council, on application being made to them, may, if they think fit, after considering such application, and after communication with the general council, order the general council to recognise the said diploma, and such order shall be duly obeyed.

(3) If a person is refused registration as a colonial or foreign practitioner on any other ground than that the medical diploma or diplomas held by such person is or are not such recognised medical diploma or diplomas as above defined, the registrar of the general council shall, if required, state in writing the reason for such refusal, and the person so refused registration may appeal to the privy council, and the privy council, after communication with the general council may dismiss the appeal or may order the general council to enter the name of the appellant on the register.

(4) A person may, if so entitled under this act, be registered both as a colonial and a foreign practitioner.

14. The medical register shall contain a separate list of the names and addresses of the colonial practitioners, and also a separate list of the names and addresses of the foreign practitioners registered under this act; each list shall be made out alpha-

betically according to the surnames; and the provisions of the medical act, 1858, relating to persons registered under that act, and relating to the medical register and to offences in respect thereof, shall, so far as may be, apply in the case of colonial and foreign practitioners registered under this act and of the said lists of those practitioners, in the same way as such provisions apply in the case of persons registered under the said medical act, 1858, and of the register as kept under that act.

15. On and after the appointed day it shall be lawful for any registered medical practitioner who, being on the list of colonial or foreign practitioners, is on that day in possession of or thereafter obtains any recognised colonial or foreign medical diploma granted in a British possession or foreign country to which this act applies to cause a description of such diploma to be added to his name in the medical register.

16. On and after the appointed day it shall be lawful for any registered medical practitioner who, being on the medical register by virtue of English, Scotch, or Irish qualifications, is in possession of a foreign degree in medicine, to cause a description of such foreign medical degree to be added to his name as an additional title in the medical register, provided he shall satisfy the general council that he obtained such degree after proper examination and prior to the passing of this act.

17. (1) Her Majesty may from time to time by order in council declare that this part of this act shall be deemed on and after a day to be named in such order to apply to any British possession or foreign country which in the opinion of Her Majesty affords to the registered medical practitioners of the United Kingdom such privileges of practising in the said British possession or foreign country as to Her Majesty may seem just; and from and after the day named in such order in council such British possession or foreign country shall be deemed to be a British possession or foreign country to which this act applies within the meaning of this part thereof; but until such order in council has been made in respect of any British possession or foreign country, this part of this act shall not be deemed to apply to any such possession or country; and the expression "the prescribed day" as used in this part of this act means, as respects any British possession or foreign country, the day on and after which this part of this act is declared by order in council to apply to such British possession or foreign country.

(2) Her Majesty may from time to time by order in council revoke and renew any order made in pursuance of this section; and on the revocation of such order as respects any British possession or foreign country, such possession or foreign country shall cease to be a possession or country to which this part of this act applies, without prejudice nevertheless to the right of any persons whose names have been already entered on the register.

(18) Nothing in the medical act, 1858, shall prevent a person holding a medical diploma entitling him to practise medicine or surgery in a British possession to which this act applies, from holding an appointment as a medical officer in any vessel registered in that possession.

SALVAGE IN THE WEST INDIA ISLANDS.

Mr. Gresham to Mr. Bayard.

No. 218.]

DEPARTMENT OF STATE,

Washington, November 23, 1893.

SIR: I inclose herewith a copy of a letter¹ dated the 2d instant, from the president of the Board of Underwriters of New York, calling attention to the treatment experienced by vessels in distress at the hands of the inhabitants of the Bahama and other West India islands. It appears that many of the islanders pursue the occupation of salvors, and that frequently their anxiety for gain tempts them into a course of conduct which wholly disregards the rights of the owners of vessels and cargoes placed within their reach by the perils of the sea.

The case is cited of the American steamship *El Dorado*, of which these "wreckers" seem to have practically taken possession, in spite of the statement of the master that he did not desire their assistance. This vessel, which had run aground on the Bahama Banks,

¹ Not printed.

but was being relieved by salvors engaged by the master and was out of all danger, was surrounded by seventy-eight wrecking vessels which came from the neighboring islands to which news of the disaster had spread. The wreckers, to the number of seven hundred, it is stated, boarded the *El Dorado* and practically compelled the master to allow them to remove the cargo, in spite of his protestation that he neither needed nor desired their services. These practices unfortunately, though not altogether, perhaps, unnaturally, seem not to be adequately condemned by local opinion and the only protection against them is in the courts of admiralty. The British vice-admiralty court at Nassau is presided over by Chief Justice Yelverton, a fearless and impartial magistrate, whose services in the protection of commerce are gratefully recognized by the New York underwriters.

The president of the Board of Underwriters incloses in his letter a copy of a communication from Chief Justice Yelverton in which the latter, discussing the question under consideration, makes certain suggestions, the adoption of which he considers absolutely essential to the effective administration of justice in the vice-admiralty court at Nassau.

(1) That the chief justice of the colony should be thoroughly independent.

(2) That the payment of the officials of the court by fees should be abolished.

(3) That upon the occurrence of every wreck it should be in the power of the chief justice, with or without application made to him for that purpose, to order an inquiry, with or without nautical assessors, into the circumstances attending the wreck.

Recognizing the great value to American commerce, as well as to that of Great Britain and other countries, of an impartially-administered admiralty jurisdiction in these islands, this Department desires to call the attention of the British Government to the above suggestions. You are therefore directed to present them to the attention of the minister of foreign affairs, expressing at the same time this Government's appreciation of the able and impartial manner in which Chief Justice Yelverton has administered his office.

I am, sir, etc.,

W. Q. GRESHAM.

Mr. Bayard to Mr. Gresham.

[Extract.]

No. 136.]

EMBASSY OF THE UNITED STATES,
London, January 10, 1894. (Received January 18.)

SIR: Referring to your Instruction No. 218 of November 23, last, I have now the honor to transmit herewith copies of the correspondence with the foreign office, in relation to the questions involved therein.

The note of Lord Rosebery of the 28th ultimo contains a very explicit reply and denial of the statement of the Board of Underwriters in New York, and which as will be perceived was carefully presented by me to the foreign office as the representations of that board, and not otherwise.

It would of course have been quite inadmissible for the Government of the United States to suggest any interference on a question so purely domestic in its nature, as the removal or retention in office of a British official.

By the Official Gazette of December 29, last, the appointment of Charles George Walpole, esq., to be chief justice of the Bahama Islands appears, so that Mr. Yelverton is now *functus officio*.

I have, etc.,

T. F. BAYARD.

[Inclosure 1 in No. 136.]

Mr. Bayard to Lord Rosebery.

EMBASSY OF THE UNITED STATES,
London, December 5, 1893.

MY LORD: I have just received instructions from the Secretary of State of the United States to crave your Lordship's attention to a condition of affairs in the Bahamas and other British West India Islands, which is most prejudicial to commerce generally and has resulted in great injury to the American owners of vessels and cargoes, as well as to other vessels trading in those regions. And I have the honor to inclose herewith a copy of a letter received at the State Department from the president of the Board of Underwriters, of New York, which contains a detailed statement of injuries inflicted upon an American trading steamship *El Dorado*, and, in addition thereto, the president of the Board of Underwriters makes certain recommendations in the interest of international commerce, which are appended to his letter, and may possibly be of use to the officials of Her Majesty's Government who may take cognizance of the subject.

May I ask your Lordship to cause the matter referred to to be brought to the consideration of the proper authorities, in the hope that relief may follow.

I have, etc.,

T. F. BAYARD.

[Inclosure 2 in No. 136.]

Lord Rosebery to Mr. Bayard.

FOREIGN OFFICE, *December 28, 1893.*

YOUR EXCELLENCY: With reference to my note of the 7th instant, I have the honor to state that no complaints have of late years reached the secretary of state of the colonies bearing on injuries to wrecked vessels from inhabitants of British colonies.

Should any such complaints be made and redress not be obtained in the colonial courts, the matter would of course be investigated by Her Majesty's Government.

As regards the Bahamas, the Board of Underwriters in New York appear to have been misinformed, as neither of the chief justices referred to has been assailed on account of his admiralty decisions. The questions affecting the late Chief Justice Yelverton, which were brought before the privy council, had no connection with the case of the *El Dorado*, nor with any other admiralty matter, and so far as the secretary of state for the colonies is aware, Mr. Yelverton's decision in that case has never been impugned.

I have, etc.,

ROSEBERY.

CLAIMS AGAINST GREAT BRITAIN

Mr. Uhl to Mr. Bayard.

No. 317.]

DEPARTMENT OF STATE,
Washington, March 16, 1894.

SIR: In its No. 1027, of January 11, 1893,¹ the Department transmitted to Mr. Lincoln a copy of a Senate resolution and the report of the Committee on Foreign Relations, relative to the claim of William Webster against the Government of Great Britain, and instructed him as follows:

You will again endeavor to secure a favorable consideration of the claim by the British Government. If, however, you are unable to harmonize the diverse views of the two governments, then, following the recommendation of the Senate, you may "propose to the Government of Great Britain that the entire contention be submitted to arbitration, to the end that a final and conclusive settlement thereof, and of all questions involved, may be attained."

In his dispatch No. 931 of February 28, 1893, Mr. Lincoln inclosed a copy of his note to the British foreign office in pursuance of the foregoing instructions, and also a copy of a note from Lord Rosebery, in reply, under date of February 25. In this note his lordship stated that a communication on the subject of the claim had been made to the Government of New Zealand in August, 1892; that their attention would be again called to it, and, that on receipt of their reply, he would consider the matter in consultation with the secretary of state for the colonies. The Department has received no further communication regarding this matter.

As more than a year has elapsed since the date of Lord Rosebery's note, it would seem proper for you to again call the attention of the foreign office to the matter and request a reply.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Uhl to Mr. Bayard.

No. 364.]

DEPARTMENT OF STATE,
Washington, April 24, 1894.

SIR: Referring to your dispatch No. 185 of the 20th ultimo, I inclose for your information a copy of a letter of the 22d instant, from the Hon. William Cogswell, inclosing a communication from Messrs. Oakes and Foster, expressing their willingness to accept the sum of \$1,632.67 offered by Great Britain in settlement of their claim against that country.

You are accordingly requested to notify the foreign office of your readiness to receive the above sum in settlement of the claim in question.

When the money shall have been paid you will remit it to this Department.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

¹ Foreign Relations, 1893, pp. 308, 319.

TONNAGE DUES IN GRENADA.

Sir Julian Pauncefote to Mr. Gresham.

WASHINGTON, *February 14, 1894.* (Received February 15.)

SIR: In Mr. Foster's note of the 2d of July, 1892, it is stated that when your Government shall have been informed that the water dues charged in the British colony of Grenada on vessels entering the port of St. George have been abrogated the President will issue a proclamation suspending the collection of tonnage dues upon vessels entering the ports of the United States from Grenada.

I now have the honor, in accordance with instructions from the Earl of Rosebery, to inclose copy of an ordinance which has been passed by the legislature of Grenada abolishing the water dues in question, and to express the hope of Her Majesty's Government that, as the tonnage dues heretofore levied on vessels arriving in Grenada have been abolished by this ordinance, the President will now be pleased to issue his proclamation remitting the tonnage dues on vessels arriving in the ports of the United States from that colony.

I have, etc.,

JULIAN PAUNCEFOTE.

[Inclosure.]

St. George's water dues abolition ordinance, 1893. Sanctioned.

I assent.

CHARLES BRUCE,
Governor.

15TH DECEMBER, 1893.

Grenada. An ordinance to abolish water dues on vessels entering the port of St. George. (15th December, 1893.)

Be it enacted by the governor, by and with the advice and consent of the legislative council of the colony of Grenada.

1. This ordinance may be cited as "the St. George's water dues abolition ordinance, 1893."

2. This ordinance shall come into operation from and after the publication of the governor's assent thereto in the Government Gazette.

3. So much of section 30 of act 191 of 1877, cited as "the St. George's water supply ordinance, 1877" as imposes a tax or duty of three pence per ton on the registered burden of vessels clearing from the port of St. George, is hereby repealed.

4. It shall be lawful for the parochial board of St. George, and it is hereby authorized, to charge for the supply of water to all vessels in the port of St. George, except to Her Majesty's ships of war, the following rate:

For every 100 (hundred) gallons supplied a sum not exceeding 1s. 0d.

Any less quantity than a hundred gallons shall count as a hundred gallons for the purposes of this charge.

Passed the legislative council this 12th day of December, in the year of Our Lord one thousand eight hundred and ninety-three.

M. H. D. BERESFORD,
Clerk of Councils.

Mr. Uhl to Sir Julian Pauncefote.

DEPARTMENT OF STATE,
Washington, February 24, 1894.

EXCELLENCY: I have the honor to acknowledge receipt of your note of the 14th instant, in which you ask that, in view of the action of the legislature of Grenada in abolishing the water dues heretofore levied

against vessels entering the port of St. George, the President will issue his proclamation remitting the tonnage dues on vessels arriving in the ports of the United States from that colony.

While your request contemplates a tonnage proclamation in favor of the colony, it would seem, from the statements of the Acting Secretary of the Treasury in a letter of the 20th instant, that it could not at present extend to vessels coming from any other port of Grenada than St. George, that being the only port wherein vessels may enter without the payment of such dues.

Asking that you will inform the Department which, if any, of the other Grenadian ports have abolished the water dues, particular reference being had to the port of Grenville.

I have, etc.,

EDWIN F. UHL;
Acting Secretary.

VESSELS CARRYING TROOPS.

Sir Julian Pauncefote to Mr. Gresham.

BRITISH EMBASSY,
Washington, February 21, 1894. (Received February 23.)

SIR: With reference to Mr. Herbert's note to Mr. Bayard of the 8th November, 1888, containing a list of certain British ports at which it had been decided by Her Majesty's Government that not more than one transport or hired vessel carrying troops should be admitted at one time, I have the honor to inform you that, after consideration, Her Majesty's Government have not deemed it necessary to insist on this restriction so far as regards the harbors of Colombo, Trincomalee, Singapore, and Hongkong.

I am instructed, however, by Lord Rosebery to state that this relaxation of the rule has been decided upon with the object of consulting the convenience of foreign powers; but that Her Majesty's Government must still request that, whenever practicable, due notice may be given to the colonial authorities of the intended arrival of transports, especially when more than one is about to arrive at the same time.

I have, etc.,

JULIAN PAUNCEFOTE.

COMMERCIAL AGREEMENTS WITH THE WEST INDIES.

Sir Julian Pauncefote to Mr. Gresham.

[Memorandum. Handed to the Secretary of State by the British ambassador, August 24, 1894.]

The Earl of Kimberley assumes that sections 182½ and 89 will on coming into force entirely cancel the agreements made with the West Indies under the McKinley act, and that they would not be continued by the passage of an act making sugar duty-free indiscriminately.

Mr. Gresham to Mr. Goschen.

DEPARTMENT OF STATE,

Washington, August 25, 1894.

SIR: In response to the inquiry the British ambassador made of me yesterday, when handing me a memorandum of Lord Kimberley's views touching the effect of the recent tariff legislation upon the commercial agreements made with the West Indies under section 3 of the McKinley act, I have the honor to say that the sections to which his lordship refers would, upon the new tariff act becoming a law, operate to cancel those agreements.

I have, etc.,

W. Q. GRESHAM.

GREECE.

INTERNATIONAL COPYRIGHT ACT.

Mr. Uhl to Mr. Alexander.

No. 19.]

DEPARTMENT OF STATE,
Washington, May 9, 1894.

SIR: Under date of May 23, 1893, you were directed by Department's No. 4 to again call the attention of the Greek Government to the act of March 3, 1891, relating to international copyright. In your reply thereto (No. 10, Greek series, July 28, 1893) you stated that it was possible that some interest in the subject might be aroused before the next session of the Chamber of Deputies, since which reply nothing has been received from you touching the matter, and it is inferred that the Chamber of Deputies adjourned without taking up the subject.

It is the Department's desire that you will give this matter your prompt attention, communicating to it the present status thereof and what likelihood there is of the Greek Government accepting the provisions of the act referred to.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Alexander to Mr. Uhl.

No. 33.]

LEGATION OF THE UNITED STATES,
Athens, May 28, 1894. (Received June 11.)

SIR: I have the honor to acknowledge the receipt of your dispatch No. 19, dated May 9, 1894.

In an interview five days ago with Mr. Tricoupi, the prime minister, he told me that he would carefully consider the question of international copyright with a view to definite action during the next session of the Chamber of Deputies in November.

Greece has now no international copyright agreement with any country. It is, of course, impossible that American authors alone can be protected here, and I hardly believe that the Greek Government will, for some years, pass a general international copyright law.

In my dispatch, No. 10, I wrote:

I am of the opinion that no action will be taken by this Government, but it is possible that some interest may be aroused before the next session of the Chamber of Deputies.

The chamber met in November, 1893, and Mr. Tricoupi again became prime minister. He had, during a former term of office, given Mr. Beale reason to think that a law by which foreign authors could find protection in Greece would be proposed, as stated in Mr. Beale's dispatch, No. 30, to the Department of State under date of March 31,

1893. No such law was proposed, however, inasmuch as the chamber was occupied exclusively with the finances of the country up to the time of adjournment.

I shall use every effort to secure action when the chamber meets again next November.

I have, etc.,

E. ALEXANDER.

Mr. Alexander to Mr. Gresham.

No. 49.]

LEGATION OF THE UNITED STATES,
Athens, November 19, 1894. (Received December 8.)

SIR: I have the honor to inform you that the Greek Boulé, or Chamber of Deputies, began its regular session, the fourth of the thirteenth parliamentary period, on the 8th of November. Because of the absence of His Majesty the King, who is now in Russia, the opening was without ceremony. When, after some days had elapsed, a sufficient number of deputies had arrived to make a quorum, the first vote taken, which indicated the strength of the present ministry, was a vote on the election of a president of the Boulé. The ministerial candidate received 107 votes, while the combined strength of the three parties in opposition was 84 votes. The total number of deputies is 207, of whom 191 were present at that meeting.

The session of the Boulé will be occupied chiefly with measures for the settlement of financial questions. In this connection I send you, under separate cover, a report prepared by Secretary Elliot, of the British legation here, entitled "A report for the year 1893-94 on the finances of Greece." It is a good statement of the condition of affairs up to May, 1894, and in fact up to the present time. The Greek Government is paying this year only 30 per cent of the interest on the national debt. A compromise measure, agreed upon during the past summer by a committee representing the bondholders of Great Britain, Germany, and France, and by Prime Minister Tricoupi, has not yet been accepted by the bondholders themselves.

I think of nothing affecting American interests which needs to be acted upon during the present session of the Boulé except, perhaps, the question of international copyright. It seems to me quite unlikely, for reasons already stated in these dispatches, that the copyright agreement which all of us desire can be accomplished at once. Greece is not yet ready for international copyright. I believe, however, that this country can be brought to a favorable view of the question long before the lack of an international copyright arrangement begins to affect American authors in any way. Books by American authors are not republished here in the original, and almost none are republished here in translation. A few books by Greek authors, Bikelas and others, are published, in translation, in the United States. These men have said to me: "We are handsomely remunerated if Americans honor us by reading our books." Perhaps they may take a different view of the matter after a time.

I have, etc.,

E. ALEXANDER.

TRADE-MARK CONVENTION.

Mr. Uhl to Mr. Alexander.

No. 21.]

DEPARTMENT OF STATE,
Washington, May 16, 1894.

SIR: Messrs. Richards & Co., patent attorneys of New York and Washington, have lately represented to the Department that their application, through their local representative at Athens, Mr. Constantine D. Ractivanda, on behalf of the Edison United Phonograph Company, for the registration of their trade-mark in Greece, had been refused by the court on the ground that there was no special convention between the United States and Greece.

It is contended by Messrs. Richards & Co. that the Greek law concerning the registration of trade-marks provides that they shall be registered as the property of citizens of foreign countries, where such foreign country grants reciprocal privileges to the subjects of Greece; and they cite the fact that those subjects are privileged to effect the registration of their trade-marks in the United States in virtue of the provisions of the act of Congress approved March 3, 1881, entitled "An act to authorize the registration of trade-marks and protect the same." (Stat. L., vol. 21, p. 502.) Accordingly they ask that you formally bring this law to the notice of the Greek authorities, "to the end that the objections may be withdrawn and the trade-marks of our citizens may be registered upon proper application."

Without more precise information than the Department possesses at present concerning the Greek law or the disposition of that Government in the premises, I am unable to instruct you formally to comply with the wishes of Messrs. Richards & Co., who, although representing in this instance a particular firm, speak generally for the interests of American manufacturers.

You may, however, invite the attention of the minister for foreign affairs to the subject, and at the same time suggest that in order to remove all possible doubt and correct any defects that may exist the Government of the United States is willing to enter into immediate negotiations looking to the conclusion of a trade-mark convention, a draft of which I inclose, and which you are directed to submit for the consideration of the Greek Government, should it express a willingness to enter upon such negotiations. This draft embraces the ideas of the United States Patent Office, is largely framed after our convention with Denmark of June 15, 1892, and it is hoped that it will prove acceptable to the Greek Government.

A full power will be sent to you at an early date authorizing you to negotiate, conclude, and sign a trade-mark convention; meanwhile you will give the subject earnest attention and may transmit hither copies of the laws of Greece relating to trade-marks; and in this connection your attention is directed to instruction No. 7, of February 16, 1892, to your predecessor, forwarding copies of the laws of the United States on that subject.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure in No. 21.]

Draft of trade-mark convention.

The United States of America and His Majesty the King of the Hellenes, desiring to secure for the manufacturers in their respective territories the reciprocal protection of their trade-marks and trade labels, have resolved to conclude a special convention for this purpose, and have named as their plenipotentiaries:

The President of the United States of America, Eben Alexander, envoy extraordinary and minister plenipotentiary of the United States to Greece; and His Majesty the King of the Hellenes, who, after communicating to each other their respective full powers, found in good and due form, have agreed upon the following articles:

ARTICLE I.

The citizens or subjects of each of the high contracting parties shall have in the dominions and possessions of the other the same rights as belong to native citizens or subjects in everything relating to trade-marks and trade labels of every kind. Provided always, that in the United States the subjects of Greece, and in Greece the citizens of the United States, can not enjoy these rights to a greater extent or for a longer time than in their native country.

ARTICLE II.

A citizen or subject of another State who has his principal business establishment within the territory of one of the high contracting parties shall be considered a citizen or subject of the latter for the purposes of this convention.

ARTICLE III.

Any person in either country desiring protection of his trade-mark in the dominions of the other must fulfill the formalities required by the law of the latter, but no person, being a citizen or subject of one of the high contracting parties, shall be entitled to claim protection in the other by reason of the provisions of this convention unless he shall have first secured protection in his own country in accordance with the laws thereof.

ARTICLE IV.

The present arrangement shall take effect immediately after the exchange of ratifications, and shall remain in force one year from the time that either of the high contracting parties announces its discontinuance.

ARTICLE V.

The present convention shall be ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by His Majesty the King of the Hellenes, and the ratifications shall be exchanged at Athens at the earliest practicable date.

In witness whereof we, the plenipotentiaries of the United States of America and of the Hellenes, have signed the present convention and have affixed thereto our seals.

Done, in duplicate, at Athens, on the — day of —, in the year of our Lord one thousand eight hundred and ninety-four.

_____. [SEAL.]
_____. [SEAL.]

Mr. Uhl to Mr. Alexander.

No. 23.]

DEPARTMENT OF STATE,
Washington, May 26, 1894.

SIR: Referring to the Department's instruction to you, No. 21, of the 16th instant, I transmit to you herewith a full power authorizing you to negotiate, conclude, and sign a convention between the United States and Greece for the reciprocal protection of trade-marks and trade labels.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. E. Alexander to Mr. Ukl.

[Extract.]

No. 37.]

LEGATION OF THE UNITED STATES,

Athens, June 30, 1894. (Received July 17.)

SIR: * * * The draft of a trade-mark convention has been submitted to the minister for foreign affairs, who is now considering the matter. In May I had several conferences with him on this subject. It is probable that the convention can be concluded at once.

I am translating the laws of Greece relating to trade-marks, and will send you the translation as soon as possible.

I have, etc.,

E. ALEXANDER.

Mr. Alexander to Mr. Gresham.

No. 41.]

LEGATION OF THE UNITED STATES,

Athens, July 21, 1894. (Received August 6.)

SIR: Referring to your dispatches numbered 21 and 23, I have the honor to inform you that a declaration for the reciprocal protection of trade-marks and trade labels has been signed by the Greek minister for foreign affairs, Mr. D. M. Stephanos, and by me.

A convention would have required the ratification of the Boulé (Chamber of Deputies), and, in the present condition of affairs in Greece, there would have been considerable delay in securing such ratification. This declaration, however, being simply an interpretation of our treaty with Greece, goes into effect at once.

I may add that Austria and France have arranged the matter in the same way, and that Great Britain is also preparing a similar declaration.

One copy of the declaration agreed upon to-day (old style, July 9) is submitted herewith; the other copy is filed in the foreign office.

I have, etc.,

E. ALEXANDER.

GUATEMALA AND HONDURAS.

LOCAL JURISDICTION OVER FOREIGN MERCHANT SHIPS.

Mr. Huntington to Mr. Gresham.

PACIFIC MAIL STEAMSHIP COMPANY,
35 Wall Street, New York, December 13, 1893.

SIR: Referring to our letter of the 11th of November last, we again beg to call the attention of the Department to the request contained in the closing paragraph reading:

In view of the fact that this is not the first case on record in which the commanders of our steamers plying on the Central American coast have been called on to deliver to the authorities of the different republics passengers on their steamers (accused of political offenses against said republics), and under their charge and protection of our flag, we would esteem it a favor if some definite action should be taken by the Department, by prompt intervention in this instance, to secure protection in the future for passengers, cargo, and mails carried by our steamers, and that a definite policy be outlined by our Government, and communicated to this company, in order that such instructions may be issued to our commanders as will properly secure the protection of our ships, and prevent any misunderstanding on the part of our officers which might contravene and confuse the wishes of our Government and involve the Department as well as this company in needless complications.

The Department will readily understand that without some such definite indication of the policy of our Government in connection with these cases, it is impossible for us to lay down a fixed rule for the governance of our commanders on the Pacific coast, under which they shall act intelligently in such emergencies.

We trust, therefore, that, in the light of all the facts in connection with this incident now in the possession of the Department, it may be deemed consistent to comply promptly with our request as above indicated.

I have, etc.,

C. P. HUNTINGTON, *President.*

Mr. Gresham to Mr. Huntington.

DEPARTMENT OF STATE,
Washington, December 30, 1893.

SIR: I have given attention to your letter of the 13th instant, in which you refer to the recent firing upon your steamer *Costa Rica* in the Honduranian port of Amapala, and repeat the suggestion contained in your letter of November 11, 1893, that a definite policy in respect to surrendering accused criminals when claimed by the local authorities in a port of call be outlined for the guidance of your commanders.

It is not practicable to lay down a general fixed rule applicable to the varying conditions in such cases. As a comprehensive principle, it is well established in international law that a merchant vessel in a foreign port is within the local jurisdiction of the country with respect to offenses or offenders against the laws thereof, and that an orderly demand for surrender of a person accused of crime by due process of law, with exhibition of a warrant of arrest in the hands of the regularly

accredited officers of the law, may not be disregarded nor resisted by the master of the ship. On the same voyage when the Amapala incident occurred, Capt. Dow appears to have acted on this principle in allowing the arrest at other ports, on proper judicial warrant, of two or three other passengers accused of crime. That the passenger may have come on board at the port where the demand is made, or at another port of the same country, is immaterial to the right of local jurisdiction.

Arbitrary attempts to capture a passenger by force, without regular judicial process, in a port of call, may call for disavowal when, as in the present case at Amapala, the resort to violence endangers the lives of innocent men and the property of a friendly nation. Whether, if force be threatened, the master of the vessel is justified in putting in jeopardy, by his resistance, the interests committed to his care, must be largely a question for his discretion. It is readily conceivable that the consequences of futile resistance to overpowering force may be such as to make the resistance itself unwarrantable.

The so-called doctrine of asylum having no recognized application to merchant vessels in port, it follows that a shipmaster can found no exercise of his discretion on the character of the offense charged. There can be no analogy to proceedings in extradition when he permits a passenger to be arrested by the arm of the law. He is not competent to determine whether the offense is one justifying surrender, or whether the evidence in the case is sufficient to warrant arrest and commitment for trial, or to impose conditions upon the arrest. His function is passive merely, being confined to permitting the regular agents of the law, on exhibition of lawful warrant, to make the arrest. The diplomatic and consular representatives of the United States in the country making the demand are as incompetent to order surrender by way of quasi-extradition as the shipmaster is to actively deliver the accused. This was established in the celebrated Barrundia case by the disavowal and rebuke of Minister Mizner's action, in giving to the Guatemalan authorities an order for the surrender of the accused.

If it were generally understood that the masters of American merchantmen are to permit the orderly operation of the law in ports of call, as regards persons on board accused of crime committed in the country to which the port pertains, it is probable on the one hand that occasions of arrest would be less often invited by the act of the accused in taking passage with a view to securing supposed asylum, and on the other hand that the regular resort to justice would replace the reckless and offensive resort to arbitrary force against an unarmed ship which, when threatened or committed, has in more than one instance constrained urgent remonstrance on the part of this Government.

I am, etc.,

W. Q. GRESHAM.

Mr. Gresham to Mr. Young.

No. 76.]

DEPARTMENT OF STATE,
Washington, January 31, 1894.

SIR: I inclose herewith for your information copy of a letter from the president of the Pacific Mail Steamship Company, and copy of the Department's reply thereto, in relation to the firing upon the steamer *Costa Rica* in the port of Amapala, Honduras, and the position of commanders of merchant vessels as regards demands for the surrender of criminals.

I am, etc.,

W. Q. GRESHAM.

REVOLT IN HONDURAS.

Mr. Pringle to Mr. Gresham.

No. 56.]

LEGATION OF THE UNITED STATES,
Guatemala, January 6, 1894. (Received January 26.)

SIR: With reference to the situation of Honduras I beg leave to say that I have just sent you a cable as follows:

JANUARY 6, 1894.

Vasquez defeated at Choluteca. Loses many prisoners. Yuscarán held by revolutionists. Situation serious for Vasquez.

PRINGLE.

I understand that Gen. Vasquez is about to make a final effort to reestablish his authority and to drive the revolutionists out of Honduras. A decisive engagement was expected yesterday near Tegucigalpa, the capital, but up to the present moment of writing I have heard nothing.

Should the Government forces be again defeated serious trouble must follow.

Yuscarán is a mining town, about 12 leagues from Tegucigalpa, and there is quite an amount of American capital invested there.

Our consul at Tegucigalpa has not been able to furnish me with any information at all, as I understand the telegraph lines are only allowed to send dispatches which are favorable to the Government.

I have, etc.,

D. LYNCH PRINGLE,
Chargé d'Affaires ad interim.

Mr. Pringle to Mr. Gresham.

No. 63.]

LEGATION OF THE UNITED STATES,
Guatemala, February 9, 1894. (Received March 2.)

SIR: Mr. Peterson, consul at Tegucigalpa, wrote this legation saying that there were several Americans serving with President Vasquez in Honduras, and that if the revolutionists under Policarpo Bonilla captured them they would undoubtedly be shot.

The situation has become desperate for President Vasquez, and from the present information in my possession I deem his downfall only a question of a few days. As Mr. Peterson is cut off from all outside communication I thought it best to cable you.

Amongst the Americans serving with Vasquez is a Mr. Imboden, who owns large mining interests at Yuscarán, and who is a bitter personal enemy of Bonilla. His brother is at present in Guatemala and appealed to me two days ago to take such steps as I thought proper to avert such a possibility.

I informed Mr. Imboden that I could not act officially, as he must be well aware of the fact that all Americans serving during revolutionary times must accept the consequences of defeat.

It is possible, however, that you might take another view of this matter, inasmuch as the Americans are all serving in the army of the constitutionally recognized Government, and in most instances are fighting for the preservation of their property and interests.

As I have reason to believe that the *Ranger* is at Amapala, which is about three days' journey from Tegucigalpa, I thought it best to call your attention to this fact, that in case you wished to communicate with the capital, an officer might be sent from there.

I have, etc.,

D. LYNCH PRINGLE,
Chargé d'Affaires ad interim.

P. S.—I inclose copy of letter from Mr. Imboden, the gentleman referred to in this dispatch.

[Inclosure in No. 63.]

Mr. Imboden to Mr. Pringle,

GUATEMALA CITY, February 8, 1894.

DEAR SIR: I beg to call your attention to the many official telegrams from the seat of war at Tegucigalpa, Honduras, published in the daily newspapers of this city. All these advices claim that the allied troops of Nicaragua and revolutionists of Honduras have reduced Gen. Vasquez and his army to a state of siege in the capital and will force his retreat or capitulation. In the latter event many people believe that should any of the Americans now serving as officers or soldiers under Gen. Vasquez, who is the President of Honduras, become prisoners of war they would be murdered by the revolutionist forces.

While I do not believe this would occur, it is nevertheless possible, and as there is at least a doubt on the question, I suggest it is worthy of the prompt attention of the American Government. Many of the Americans serving now with Gen. Vasquez are long resident in that country, are men of character and good position, commercially and socially, and they maintain they have the same right to enlist their services with the Government of Honduras that an Englishman or German had who joined the American Army in 1861, and are entitled to all the amenities of civilized warfare.

Trusting you will give this effective attention,
I am, etc.,

F. M. IMBODEN.

Mr. Gresham to Mr. Pringle.

No. 79.]

DEPARTMENT OF STATE,
Washington, February 16, 1894.

SIR: I append a copy of your telegram of 8th instant, reporting the statement of Mr. Peterson, consul at Tegucigalpa, that if any Americans in the army of Vasquez should be captured by Bonilla they will be shot.

In an interview with the minister of Nicaragua, I find that Dr. Guzmán does not share Mr. Peterson's apprehensions.

I am, etc.,

W. Q. GRESHAM.

Mr. Pringle to Mr. Gresham.

No. 68.]

LEGATION OF THE UNITED STATES,
Guatemala, March 1, 1894. (Received March 15.)

SIR: I have the honor to report to you that on the evening of the 22d instant President Vasquez, of Honduras (with about 300 troops), cut his way through the lines of the Nicaraguan and Honduran revolutionists under Bonilla, and escaped from Tegucigalpa, where he had been besieged for thirty-one days by Bonilla.

As telegraphic communication has been interrupted, it is almost impossible to get any positive or accurate information. Mr. Peterson

reported to me that the Americans with Vasquez were all safe. I suppose that by this time he has been enabled to make a full and detailed report to the Department.

I heard last night that President Vasquez had retreated across the frontier of Salvador. If this be true it is the virtual ending of the constitutional Government of Honduras.

I am, etc.,

D. LYNCH PRINGLE,
Chargé d'Affaires ad interim.

Mr. Pringle to Mr. Gresham.

[Telegram.]

GUATEMALA, *March 10, 1894.*

U. S. consul at Tegucigalpa telegraphs that Americans who fought with Vasquez are threatened with expulsion by President Bonilla. Consul Peterson urges my going there on the *Ranger*. Future complications might be avoided by a strong protest.

Mr. Pringle to Mr. Gresham.

[Telegram.]

GUATEMALA, *March 12, 1894.*

Requests Department to suggest that he go on the *Ranger* to Amapala to meet Consul Peterson.

Mr. Pringle to Mr. Gresham.

No. 73.]

LEGATION OF THE UNITED STATES,
Guatemala, March 13, 1894. (Received March 29.)

SIR: I beg leave to report that the U. S. S. *Ranger*, Commander Longnecker commanding, arrived from Amapala in the port of San Jose de Guatemala on the evening of the 6th instant.

Commander Longnecker informs me that he was requested, through the U. S. consular agent, Mr. Hayden, at Amapala, by the representatives of Gen. Vasquez's government and Gen. Bonilla's government, to allow them to meet on his ship in the harbor of Amapala. He granted their request, and on the morning of the 3d of March Gen. Villela, commandante of Amapala, Col. Pinel, Mr. Rosseur, Gen. Manuel Bonilla, and Mr. Baca were present, Gen. Villela representing Vasquez's government, Gen. Bonilla representing Bonilla's government, and Mr. Baca representing the Nicaraguan Government.

An agreement was signed by which, at 8 o'clock the following morning, the troops of Gen. Vasquez, amounting in all to about 600 soldiers, were paid off and mustered out, and allowed to proceed to their homes. Later in the day Gen. Bonilla's forces occupied the town.

By the terms of this agreement the soldiers were guaranteed a safe conduct to their homes. A general guaranty was also given under

which the lives and property of all officers and officials who had served under Gen. Vasquez were secured.

Later in the day a petition was sent to Capt. Longnecker, through the consular agent, to give a passage to six gentlemen, namely, Gen. Villela, Col. Pinel, Col. Rodriguez, Messrs. Leira, Valdedares, and one other, to San José de Guatemala, as they were apprehensive that the terms of this agreement would not be carried out, and that their lives might be in danger.

Capt. Longnecker, after consultation with the consular agent, decided to grant their request, and brought them safely to San José de Guatemala.

As the mail closes before long, I will write more fully of affairs in Honduras by the next mail.

I have, etc.,

D. LYNCH PRINGLE,
Chargé d'Affaires ad interim.

Mr. Uhl to Mr. Young.

No. 109.]

DEPARTMENT OF STATE,
Washington, May 16, 1894.

SIR: I have received Mr. Pringle's No. 75, of April last, in regard to the cases of the American citizens compromised in the late revolution in Honduras.

Mr. Pringle's action at Amapala appears to have been discreet. He was right in declining to make any "agreement" whereby the eventual expulsion from Honduras of the American citizens who took part with President Vasquez in the late troubles might be acquiesced in.

On general principles it is not compatible with the obligations of a citizen to his own state to take active part in the internal dissensions of another state. The neutrality which it behooves his Government to observe in such cases is equally incumbent upon him as an individual. Although this Government may not uphold any right on the part of these men to engage in the service of either contending faction, it may feel morally bound to protect them as American citizens against any exceptional or unduly harsh treatment, based on the fact of their being American citizens, and especially so in view of the fact that their association with the titular Government, with which this Government at the time maintained relations, only exposed them to penalties in the event of its overthrow.

It is hoped that the circumstance of Mr. Pringle's visit with the *Ranger* to Amapala may suggest the interest which the Government feels in the incident, and that whatever steps may be eventually taken against these men will be tempered by due consideration and be free from all appearance of vindictiveness or harshness. The vicissitudes of government in that region, and the benefits accruing to the State through the invited influx of foreign capital and enterprise, would seem to counsel the avoidance of repellant treatment whereby such aids to national development may be discouraged for the future.

Mr. Peterson appears to have been something of an alarmist in this matter, and Mr. Pringle has acted wisely in not allowing himself to be influenced by his not very practical suggestions.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

CEREMONIAL ANNOUNCEMENTS.

Mr. Pringle to Mr. Gresham.

No. 88.]

LEGATION OF THE UNITED STATES,
Guatemala, April 24, 1894. (Received May 10.)

SIR: With reference to my dispatch No. 85 of April 10, 1894,* to the Department of State, inclosing the letter from the Provisional President of Honduras to the President of the United States, I beg leave to say that I am informed by my colleagues, the Spanish and the Italian ministers, as well as the German minister, that they do not consider it in accordance with diplomatic etiquette or usage for the Provisional President of Honduras to address an autograph letter to their respective sovereigns until such time as he should have been elected the constitutional President of that Republic.

The Italian and Spanish ministers have not seen fit to transmit the letter to their respective Governments. The German minister took the same view that I did, namely, that he was not authorized to withhold any communication that came to his legation, and forwarded it.

I merely wish to call the Department's attention to this fact so that it can take such action as it deems advisable in the premises.

I have, etc.,

D. LYNCH PRINGLE,
Chargé d'Affaires ad interim.

Mr. Uhl to Mr. Young.

No. 107.]

DEPARTMENT OF STATE,
Washington, May 12, 1894.

SIR: I have to acknowledge receipt of Mr. Pringle's No. 88, of the 24th ultimo, in relation to the autograph letter from the Provisional President of Honduras to the President of the United States, which was transmitted with his No. 85, of the 10th ultimo.

Mr. Pringle did right to forward a communication so received from the *de facto* head of the Government with which intercourse is held.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

ARREST OF UNITED STATES CITIZENS.

Mr. Pringle to Mr. Gresham.

[Telegram.]

GUATEMALA, *March 14, 1894.*

Peterson informs that Imboden and Barnharts are confined, and will be obliged to leave the country. Government of Honduras wishes to deal with party duly authorized to treat. *Ranger* still here.

PRINGLE.

* Not printed.

Mr. Gresham to Mr. Pringle.

[Telegram.]

DEPARTMENT OF STATE,
Washington, March 14, 1894.

Ascertain and report fully charges, what punishment is proposed, and whether service under Vasquez was voluntary. Make no agreement without instructions.

GRESHAM.

Mr. Pringle to Mr. Gresham.

No. 75.]

LEGATION OF THE UNITED STATES,
Guatemala, March 30, 1894. (Received April 19.)

SIR: Referring to my three cablegrams of March 10, March 12, and March 14, and to the Secretary's cablegram of March 15, I beg leave to report as follows:

It being very apparent that my telegrams to Mr. Peterson were not being forwarded and being under the impression that Mr. Imboden and Messrs. Barnhart were in jail, I discussed the matter with Capt. Longnecker of the U. S. S. *Ranger*, who had brought the Honduranian refugees mentioned in my No. 73 of March 13, 1894, and he informed me that he had discretionary orders as to going north or returning to Amapala, and could easily take me to Amapala, if I so desired. I therefore made the suggestion to the Department of my meeting Mr. Peterson at Amapala, for the purpose of learning the true state of affairs, and having received the Department's cable of March 15, referred to above, I left San José de Guatemala on the evening of Friday, the 16th, and arrived at Amapala on Sunday morning, the 18th.

I found that all telegraphic communication with Tegucigalpa was interrupted. After waiting three days without hearing anything from Mr. Peterson, and when about to return, I received a telegram informing me that he was on his way to Amapala, where he arrived on the night of the 22d. After conferring with him for two days I returned here on the 26th.

In the first place I found that I had misinformed the Department as to the fact of Mr. Imboden and Messrs. Barnhart being in confinement.

As Mr. Peterson, in his telegram to me dated March 12, made use of the words "in limbo," I cabled the Department, under the impression that they were in confinement. Mr. Peterson and myself differ very materially upon the meaning of the words "in limbo." I claim, and am supported in my assertion by Webster, that "in limbo" means in "confinement" or "detention."

He urged me very strongly to go to the capital with him for the purpose, as he expressed it, of "making an agreement" of some kind with President Bonilla relative to the punishment of Mr. Imboden and Messrs. Barnhart. This I declined to do without positive instructions from the Department.

I inclose copy of letter which I requested Mr. Peterson to write to me while at Amapala, as his verbal statements to me were somewhat vague and differed materially at different times.

As President Bonilla up to that time had taken no action against these Americans, I failed to see where anything could be done until such time as an overt act was committed. Mr. Peterson differed with

me, and seemed to think something ought to be done, but failed to explain in what way or how it should be done. I deem it best to inclose copies of all his correspondence, which I found on my return here.

I advised Mr. Peterson to be very careful in his communications or conversations with President Bonilla, as he was in no way authorized, either officially or unofficially, to discuss such matters with the President of Honduras.

The point raised by President Bonilla, and referred to by Mr. Peterson, namely, that of organizing a military commission, may prove, in my opinion, serious. The Department will, however, judge of this point when it is raised. As matters now stand, I infer that it will be some time before an action is taken against any of these men. I therefore shall do nothing more unless further instructed by the Department.

In conclusion I beg leave to state that, in my opinion, the moral effect of the *Ranger* returning, with myself on board, will prove very beneficial and useful, thereby showing that some interest is being taken in the welfare of American citizens in Honduras.

Trusting that my action in this matter may be approved,
I have, etc.,

D. LYNCH PRINGLE,
Chargé d'Affaires ad interim.

[Inclosure 1 in No. 75.]

Mr. Peterson to Mr. Pringle.

CONSULATE OF THE UNITED STATES,
Tegucigalpa, March 22, 1894. (Now at Amapala.)

SIR: I have to report to you in regard to the cases of American citizens, compromised in the late revolution in Honduras, as follows:

Mr. Bonilla, the provisional President of Honduras, informed me, unofficially, that it is his purpose to expel from the country each and all foreigners who were engaged in favor of Gen. Vasquez, the late President. He stated, in more than one conversation, that he regarded the said foreigners as guerillas, and in no sense entitled to the treatment accorded to regularly enlisted soldiers. He stated that he knows that the foreigners went out with Gen. Vasquez as sharpshooters and as volunteers, but held no commissions and signed no rolls. This is true of all of them with the exception of John Haas and H. O. Jeffers, Americans, and Fred. Budde, a German.

At the same time Bonilla had foreigners in his own army, who maintain the same status as those in Vasquez's army, but they, being on the "winning side," are to be unmolested.

Bonilla stated to me that if amicable arrangements could not be made in the cases of the compromised foreigners, he would organize a military commission and regularly try, not only foreigners, but natives also, and the decision of the commission would be final. He proposes, if said commission is organized, to try the foreigners, not as regular soldiers, but as guerillas, and I might say that the decision of the commission can be easily predicted, that is, that every man of them will be convicted and the sentence will most certainly be expulsion from the territory of Honduras.

The following are the names of the American citizens who are under the ban:

C. W. Cleaney, H. M. Barnhart, H. C. Barnhart, J. P. Imboden, and Charles Cadalso, who are in Honduras, and John Haas, — McClelland, — Brown, and H. O. Jeffers, who are, I think, in Salvador.

What Bonilla means by "an amicable arrangement," in my judgment, is that agreements shall be made between him and each of the parties interested, approved by you as the diplomatic representative of the United States to the effect that each person shall be given time to settle up his business, and then voluntarily leave the country, never to return. All of these men have business interests in Honduras of more or less importance, and it is proposed to grant them more or less time, according to the importance or peculiar state of the business of each.

The business of some of these men is suffering for lack of attention, because, while no one is under arrest, all who are in the country are practically debarred from doing

business, and from going from place to place freely, and those who are not in the country can not return.

When I telegraphed to you the state of affairs I used the following expression: "American interests in danger." That same day, having an appointment with Mr. Bonilla, I went to see him, and was informed by him that my telegram had been delivered to him and read before transmitting it, and he demanded of me an explanation of what I meant by American interests being in danger, stating that I was endeavoring to make it appear that he was plundering or robbing Americans, etc.

I courteously informed him that I did not recognize his right to demand or request of me any explanation of my official conduct, but would, as a personal favor, make the explanation. I then referred him to the fact that the business and interests of all Americans mentioned above were suffering for lack of attention, and that I had claims from other Americans asking for damages for wrongs committed upon their persons and property, and desired that you should come to Honduras to take personal charge of all these matters. I further told Bonilla that I was not treating with him officially, but whatever I said to him was unofficial, and I desired to have his views in order that I might report to you.

Bonilla appeared to be somewhat angry with me, saying that I was making these matters official by communicating with you, and he then and there refused to treat further, leaving matters *in statu quo* until you should arrive at Tegucigalpa, where he has been expecting you.

The conversation ended quite friendly after Bonilla understood my motives in asking you to come to Honduras. I have had several conversations with him, and I must state, to do him justice, that I do not think he wants to take any unfair advantage of anyone.

He thinks he is right in expelling from his country the men above mentioned, and many of his people are demanding it at his hands.

In addition to the Americans mentioned who were compromised with Vasquez there are some British and German subjects. There is and has been no discrimination that I know of.

As I said above, Bonilla expects you to go to Tegucigalpa, as he told me that he would not treat concerning the cases of the Americans mentioned except it be with someone fully authorized to arrange the question diplomatically.

The mails and telegraphs have been interrupted many times for days in succession. I did not receive a single telegram from Mr. Heyden, notwithstanding he wrote and telegraphed to me that you were here.

I am of the opinion that Mr. Bonilla's officials are to blame for the interruption, and are tampering with both mails and telegraphs.

I wrote you full particulars to Guatemala by the last mail, which, I presume, you will receive on your return.

Hoping this report will be satisfactory,

I am, etc.,

JAMES J. PETERSON,
U. S. Consul.

MR. PRINGLE: In addition to the persons mentioned in my letter to-day as being compromised with Vasquez, and is now in Salvador and can not come back with safety, is Maj. E. A. Burke, late of Louisiana.

Maj. Burke and George S. Scott, of New York, are the *de facto* owners of the Montserrat mines at Yuscaran, which are now shut down because Burke and Richard Crow, the superintendent, a British subject, are in Salvador.

Yours, very truly,

JAMES J. PETERSON.

AMAPALA, March 22, 1894.

[Inclosure 2 in No. 75.]

Mr. Peterson to Mr. Young.

CONSULATE OF THE UNITED STATES,
Tegucigalpa, January 30, 1894.

SIR: On the 22d instant I sent to you the following telegram:

"The President returned to Tegucigalpa yesterday. He lost many men and arms in the battle of Choluteca. Salvador has offered men to Honduras. Telegraph me at once if you can secure a war vessel soon. The situation in Honduras is serious."

To-day I forward to you the following telegram:

"Enemy attacked Tegucigalpa 23d; bombarded city 26th, without much damage.

F R 94—20

Shells fell near consulate. Siege continues. Government expects reenforcements. Can not predict results."

Will you please to write me whether or not you receive the telegrams I send to you. I sometimes think that they do not transmit the telegrams I send.

It is now eight days since this city has been besieged by the Nicaraguans. Fighting has been going on every day, more or less, since the 23d, but the enemy has not yet entered the city. They gained the heights on the west of the city, from whence they bombarded the town on the 26th, sending about 30 shells into the town. Most of them fell near this consulate, and had the cannon been elevated a small fraction they would have struck this building, as they struck immediately west of it, within a block. It was a matter of barbarity to shell this part of the city, as the quarters of the soldiers are in another part of the town. The only public building near here is the telegraph office, and that is some five blocks distant, and only a few shells fell in or near it.

Since the 26th there has been desultory shooting with cannon and rifles. There has been some rather hard fighting on the south of the city, within 3 miles. The headquarters of the enemy is within 2 leagues of the palace of the Government.

The number of the enemy is estimated from 2,000 to 4,000 men and the Government has here not over 2,000. The Government has been expecting reenforcements from the north for days, but it seems that something is wrong, because they do not come.

I look upon the situation of the Government as serious, and the enemy, animated by the Choluteca success, are more determined than ever.

An assault upon this city is expected every day, and in my opinion it will eventually be taken.

The Government holds the heights all around the city except on the west. The tactics are something wonderful and pass all understanding.

No mails are permitted to enter or leave, and I can not say when I will be able to send you this letter.

Before sending this I will add whatever news there may be of interest.

I am, etc.,

JAMES J. PETERSON,
U. S. Consul.

FEBRUARY 19, 1894.

I can only report in addition that this city is still besieged by the Nicaraguans, and is surrounded on all sides. Cannonading and musketry are heard at all hours of the day and night. No mails enter or leave, and I improve the opportunity of sending this letter by two Americans who leave the city to-morrow by way of the enemy's camp.

The situation of the Government forces in the city is getting very serious for the lack of food supplies, which are becoming very scarce. No assaults are made, but only a continual firing of cannon and rifles on all sides.

All hope of reenforcements for the Government has been given up, and it may be many days before relief may come in any shape.

I trust that this letter will reach you, but I have little expectation that it will. When I am able to do so I will report to you more fully.

[Inclosure 3 in No. 75.]

Mr. Peterson to Mr. Young.

CONSULATE OF THE UNITED STATES,
Tegucigalpa, February 28, 1894.

SIR: I have to report to you that on the 24th of February, instant, I sent to you the following telegram:

"Revolutionists took Tegucigalpa Thursday night. Vasquez escaped with few men. Bonilla provisional President. Thirty-one days of siege. Some Americans escaped with Vasquez; all others safe."

To-day I forward to you the following telegram:

"Can you not arrange to come here and stay a month or two? There are likely to be difficulties, and I consider your presence necessary. Wire me at once."

The mail will likely go out by way of Puerto Cortez next Saturday. My letter sent on the 19th did not get through.

On the night of the 22d instant the revolutionists took this city, and Bonilla came in on the morning of the 23d as provisional President. All the departments of the

Republic are in the hands of the revolutionists, so they say, except Amapala, and news is expected daily of the delivery of that port.

Gen. Vasquez escaped with a small force, in which were several Americans, and now, no doubt, he is in Salvador.

There have been no executions, but Bonilla has informed me that it is his intention to exile all foreigners who fought against him. Some American property has been destroyed or injured, and for these reasons I am very anxious that you come here at once. If your presence was ever needed, now is the time.

I have had nothing from Washington for two months, nor have I heard from you. No mails have entered or left. Probably the correspondence which has been on the way will arrive some time in the future.

Everything now seems to be quiet, but I am afraid that difficulties will arise as soon as the new Government gets settled down a little.

I will add a line on Saturday if anything occurs of interest.

I am, etc.,

JAMES J. PETERSON,
U. S. Consul.

[Inclosure 4 in No. 75.]

Mr. Peterson to Mr. Young.

CONSULATE OF THE UNITED STATES,
Tegucigalpa, March 9, 1894.

SIR: I have to report to you that yesterday, March 8, I forwarded to you the following telegram: "When will you come here? It is extremely necessary for you to be here. Telegraph me at once."

To-day I forward to you two telegrams, as follows:

"Americans who took part in revolution in favor of Vasquez threatened with expulsion. Have received numerous reclamations. Situation urgent. Can you not come here at once? Have received nothing from you. Telegraph me at once and do not delay coming."

"Am informed that this provisional Government has filed complaint against me for becoming witness to a reclamation made by Guatemalan citizen. Do you know anything of it? Am strictly conforming to law, and not overstepping my duties. American interests in danger, and your personal presence extremely necessary. Come via Amapala."

Before going further, I will say that I have frequently telegraphed you, and the telegram from Mr. Pringle, reported in my last letter to you, is the only intimation I have had that anything has been received. Of all my telegrams I have sent you a verification by letter, and if all have not been received someone should be held responsible, because of the principle that diplomatic and consular correspondence should be inviolate.

Now, in explanation of the above telegrams, I have to say:

1. I have received from several American citizens complaints of imprisonment, robbery, and maltreatment, so I have thought that if you would come here and examine these things in person, with the assistance I can give you, their adjustment can be very much simplified and also advanced; therefore I have telegraphed you that it is extremely necessary that you come here.

2. I have been officially informed, but not in writing, by Policarpo Bonilla, the provisional President, himself, that it is his proposal to expel from his country all Americans who took part in favor of Vasquez. A number of foreigners, among whom are Americans, took part for him. (Bonilla) for whom he showed nothing but "the greatest consideration," the question resolving itself into "Whose ox has been gored?" Some of these Americans have property interests in Honduras, which must necessarily suffer if they have to leave. Bonilla says, however, that he will give them a reasonable time to settle up their business. How can a mining business be settled up "in a reasonable time" if that time is not, probably, extended to years instead of months?

The probable suffering of these interests is another reason why I am anxious for you to come to Tegucigalpa.

Among the men mentioned as belonging to the above category are J. P. Imboden, E. A. Burke, H. C. Barnhart, Charles Cadalso, and others.

The above, I think, explains my telegrams, and I am anxiously waiting for an answer from you to the effect that you will come here at once.

These people know that I am not in "a diplomatic capacity," and all I do is carefully watched, and probably exceptions will be taken to my actions.

From documents published within the last few days I learn that Bonilla organized his cabinet as long ago as the 24th of December, 1893, and was recognized by Nica-

ragua as the "true Government of Honduras." I send to you by this mail some publications.

As the mail goes by Puerto Cortes to-morrow—or at least they say so—I will close and probably add a line to-morrow.

I am, etc.,

JAMES J. PETERSON,
U. S. Consul.

[Inclosure 5 in No. 75.]

Mr. Peterson to Mr. Young.

CONSULATE OF THE UNITED STATES,
Tegucigalpa, March 10, 1894.

SIR: I have to further report to you that in an interview had with Mr. Bonilla yesterday, after writing my letter to you, he (Bonilla), after informing me that he had seen and read all the messages I have forwarded to you, complained that he was misrepresented in various ways in my telegrams, or that you would interpret them to his discredit and disadvantage.

He wanted to know, first, what American interests were in danger, and in what respect. I told him, first, that I did not acknowledge his right to question me concerning my official communications or my official acts; that I was responsible only to my own Government for them, but in the interests of good feeling, and to satisfy him that I was right, I would explain.

I then pointed him to the fact that I have on file in my office four claims from Americans for personal damages inflicted by his people—his decision to expel a number of Americans from his territory—nearly all of which Americans have more or less of property interests, and that if the welfare and property of Americans were not American interests, I did not properly understand my "mother tongue." I submitted to him that the damages sustained by the above-mentioned persons, and the probable ruin of their business in the country, certainly placed "American interests in danger."

He then complained that I have urged you to come here to get him and his Government in possible difficulties. I explained that your coming here would have the opposite effect; that amicable settlements of all these matters could most likely be made, as well to his advantage as to that of the Americans concerned; that I was sure that justice would be done to him as well as demanded from him.

He then spoke of that part of my telegram saying that I had heard that he had complained of my action in the hotel matter, but he denied that, and I am sure that I had been misinformed as to the matter.

He then informed me that in view of the fact of your probable coming he would do nothing as to the settlement of the cases of the Americans who fought against him; but that those who were already out of the country must stay out and those who are in must stay in, until you come, and the matter can be settled determinately. This decision in itself works a hardship upon many, who can not attend to their business nor even go to their various temporary homes. He refuses to give passports or any other writing giving guaranties.

The interview was conducted and closed in a very amicable manner, Bonilla assuring me of his personal consideration and his desire to do justice to all and avoid diplomatic difficulties with the United States.

He urged that you come soon, and if you can not come that you secure for me special instructions to treat with him concerning all these matters.

To-day I forward you the following telegram:

"President informs me that he will defer action as to expulsion of Americans and adjustment of claims until you arrive or I receive special instructions and authority. Cases are urgent. Wire me what I may expect. Report of complaint against me untrue."

Amapala has been surrendered to the provisional Government. As far as I am able to learn, the entire Republic has now acknowledged allegiance to Bonilla.

American mining interests at Yusecan are entirely suspended. American company at San Juancito is still running. Business of all kinds is very much stagnated.

I close this letter urging you to come here and take personal charge of the situation.

I am, etc.,

JAMES J. PETERSON,
U. S. Consul.

POSTSCRIPT.—Since writing the above the provisional President, Mr. Bonilla, sent for me and requested me to withdraw the telegram, last mentioned above, until I should receive answers from you to those of yesterday and the day before, saying

that he is of the opinion that you ~~may~~ understand them badly, and another official telegram from me before explaining those first sent might involve difficulties.

In consideration of his request, and upon his promising to have his director-general of telegraphs wire to Guatemala hastening the answers, I consented and withdrew the telegram mentioned; so it has not been and may not be dispatched.

I am, etc.,

JAMES J. PETERSON,
U. S. Consul.

[Inclosure 6 in No. 75.]

Mr. Peterson to Mr. Pringle.

CONSULATE OF THE UNITED STATES,
Tegucigalpa, March 12, 1894.

SIR: To-day I forward to you the telegram, of which I inclose a copy, after submitting it to Bonilla himself, who is cognizant of the facts.

The urgency of the case is that these men can not return to the country, and their business interests are suffering for lack of attention.

Bonilla seems willing to settle the difficulties in an amicable manner, but wants to do it in a way which will be binding on all parties, so as to prevent future reclamations.

He seems determined to expel all who took part against him—that is, all foreigners—but wishes to give them each sufficient time to settle up their business.

I am anxiously awaiting instructions in these matters, as some of these men seem to think that I am slow in giving them aid, but I am doing the best I can.

I am, etc.,

JAMES J. PETERSON,
U. S. Consul.

[Inclosure 7 in No. 75.—Telegram.]

Mr. Peterson to Mr. Pringle.

TEGUCIGALPA, March 12, 1894.

Explain former telegrams as follows: Burke, Crow, Cadalso, and others left with Vasquez and are in Salvador. Cleaney and McMurdo left, but I don't know where they are. Imboden and the Barnharts are here, but in limbo. Property of these men suffering because they can not attend to it. Government willing to give time and opportunity to each to settle business and then leave the Republic, but wishes to deal with minister, or party duly authorized. Five claims for damages to person and property have been filed with me.

These claims must be investigated, and if minister were here in person, or if I were duly authorized, I think all could be settled amicably and without diplomatic adjustment. The five claimants were noncombatants. Satisfactory arrangements, I think, can be made to the Americans compromised, provided it be done in a legal and binding manner. All other American interests safe and guaranteed. Report of complaint against me untrue. Matters above mentioned must remain *in statu quo* until minister comes or I am authorized to treat authoritatively. Therefore, I have urged minister to come here.

PETERSON,
Consul.

Mr. Pringle to Mr. Gresham.

No. 87.]

LEGATION OF THE UNITED STATES,
Guatemala, April 23, 1894. (Received May 10.)

SIR: I beg leave to inclose a copy of a letter from Mr. William Heyden, acting U. S. consular agent at Amapala, to Hon. Edward H. Strobel, also a copy of statement made by Mr. Henry J. Stibbs relative to his arrest and illegal detention by the authorities of Honduras.

Awaiting instructions in the matter,

I have, etc.,

D. LYNCH PRINGLE,
Chargé d'Affaires ad interim.

[Inclosure 1 in No. 87.]

*Mr. Heyden to Mr. Strobel.*U. S. CONSULAR AGENCY,
Amapala, February 27, 1894.

SIR: It being impossible for me to communicate with Consul Peterson at Tegucigalpa, owing to that place being in a state of siege, I have the honor to hand you herewith copy of a complaint presented me this day by Mr. H. L. Stibbs, a native-born American citizen, residing at this port.

The facts in the case are as related by Mr. Stibbs, but I imagine there may be a question regarding whether the Nicaraguan authorities, or the authorities of the revolutionary movement now under way in this country, are responsible for the arrest and detention of the young man mentioned.

During the latter part of December of the past year, Dr. Policarpo Bonilla, with a limited number of followers, invaded the territory of this Republic from the neighboring Republic of Nicaragua and declared himself Provisional President of Honduras, the Government of Nicaragua giving his Government its recognition immediately thereafter. Subsequently he attacked and captured the town of El Corpus, and then, accompanied by a Nicaraguan army under command of Gen. Ortiz, Vice-President of Nicaragua, after considerable fighting, occupied the Honduran territory between the Pacific coast and Tegucigalpa, the capital, with the exception of this and a few of the adjacent islands in this gulf; but as there has been no declaration of war on the part of either of the contending governments, I imagine the authorities in possession of Choluteca and all the territory mentioned can not be looked upon as Nicaraguan, as Mr. Stibbs claims, but must be considered as the agents of the *de facto* government of Dr. Bonilla. I am strengthened in this idea by the fact of its being rumored at the Salvadorean port of La Union that young Mr. Stibbs was arrested by special telegraphic order of Dr. Bonilla from the neighborhood of Tegucigalpa, which place that leader is at present besieging.

The manager of the San Martin Mine Renguetine, who passed through Choluteca a few days since on his way to this port *via* La Union, tells me that he talked with Mr. Stibbs in the prison of that place, and that the young man told him he had protested his American citizenship before the authorities, who had answered him that exactly for that reason it was their intention and orders to hold him.

As there was no declaration of war by either of the contending parties, no notification of the closing or blockading of the coast ports by the victorious invaders, I might argue with the *de facto* authorities at Choluteca that Mr. Stibbs was justified in making his regular trips to the usual ports, as per contract with the owners of the steamer *Carmen*, and perhaps with a request based upon such argument I might obtain his immediate release were it possible to communicate with the said authorities, but unfortunately it is not possible owing to the fact that every boat we send in that direction is captured and held by those in possession of the coast.

I will furnish copies of this communication to the American minister at Managua and request his good offices with the Government of that Republic, and also to Capt. Longnecker of the *Ranger*, who is supposed to be at La Libertad, for any action he may see fit to take in the matter, and by earliest opportunity I will communicate direct with the authorities at Choluteca, keeping you fully informed of any steps I may take and their results.

I must mention the fact that the steamer in question is the property of a German resident at this place and that the object of its voyage to the coast was to deliver the mail for the San Martin Mining Company, and bring from the coast a director of that company who was endeavoring to reach this place on his way to France.

Mr. Stibbs is a competent marine engineer holding a first-class certificate from the U. S. Government and is here known as an honest, industrious, sober man, and no complaint of either father or son has ever been before the authorities here, nor does the consular agency know of anything derogatory to his character.

I have, etc.,

WILLIAM HEYDEN,
Acting U. S. Consular Agent.

[Inclosure 2 in No. 87.]

STATEMENT OF MR. STIBBS.

On this, the 8th day of March, 1894, personally appeared before me acting, U. S. consular agent at this port, Henry J. Stibbs, son of H. L. Stibbs, a native-born American citizen and made oath:

That on the 14th of February, of the present year, he left this port as engineer of the steamer *Carmen* bound for the coast port of La Chinga for the purpose of

bringing to Amapala the superintendent of the San Martin mines. That he arrived at the port mentioned at about 5 p. m., and that two hours later he was arrested by Subcommandant Santas Quiroz, who kept him a close prisoner, under the guard of a sentry who had orders to shoot him did he attempt to leave the house that was his prison, until the following day at 11 a. m., notwithstanding his repeated protests of American citizenship, when he was sent, on foot, during the heat of the day, under guard of three soldiers and a sergeant, to the city of Choluteca, 24 miles distant, although he begged to be allowed to make the terrible journey by night. That when within 5 miles of his destination he was completely overcome by fatigue and heat and was obliged to bribe the sergeant to allow him to finish his journey on that officer's horse. That before leaving La Chinga the commandant, Quiroz, ordered his troops to tie him with a rope, but that he was finally allowed to make the journey untied by giving his word of honor not to make an effort to escape. That he arrived after a forced march at about nightfall and was taken before the commandant of the city, who tried to induce him to join the military force under his command and who, on his protesting his American citizenship, ordered him to be made a prisoner in the major's office. That he was kept a close prisoner in said office during two days and two nights, having to purchase his own food and being forced to sleep on an unhealthy bare brick floor without bedding of any description whatever. That after that date he was furnished with a cot by an American friend. That on the night of the 22d of February Commandant Orteiz called him into his presence and ordered him to make himself in readiness to enter the military service as his aid, so that he could furnish him with money with which to purchase his food. That he again repeatedly protested his American citizenship, but the commandant answered him that his being mustered into such service was a mere formality that would enable the officer mentioned to draw money for his (Stibbs's) support from the public treasury. That he answered the commandant that he had sold some of his personal property for the purpose of purchasing food and that he still had funds for the purpose, resulting from such sale. That the commandant answered him that all that made no difference and that the next day he would have to put a bit of red ribbon on his shoulder and draw his regular pay. That from that day on he was allowed the liberty of walking about the streets of the city and was given 50 cents and a piece of raw beef each day.

That on or about the 26th of February, as he was wandering about the city he was surprised by hearing shouts of "Shoot him!" behind him, and on coming to a standstill, was overtaken by a guard of about 10 drunken soldiers who surrounded him with cocked rifles and made him a prisoner, taking him with vile and violent language before the Nicaraguan general, Godoy, who ordered him sent to the commandant, who released him, telling the soldiers that he (Stibbs) was one of his aids. That on March 6, twenty days after his arrest, he was given his passport by Gen. Rosales, his steamer was turned over to him, and he arrived at this place to-day. That after his arrest and during his detention he was never brought before a court of justice either military or civil, or accused of any crime, or lawbreaking of any description whatever, and he most solemnly protests as a native American against the unjust, uncalled-for, and illegal interference with his personal liberty.

HENRY J. STIBBS.

Sworn to and signed before me.

[SEAL.]

WILLIAM HEYDEN,
Acting U. S. Consular Agent.

Mr. Uhl to Mr. Young.

No. 108.]

DEPARTMENT OF STATE,
Washington, May 15, 1894.

SIR: Your dispatch, No. 87, of the 23d ultimo, inclosing copy of a communication from William Hayden, acting consular agent at Amapala, to Mr. Strobel, under date of February 27 last, and also a protest made before Mr. Hayden by Henry J. Stibbs, has been received.

Mr. Hayden's letter to Mr. Strobel had sometime previously been received here, and with it was transmitted a protest from young Stibbs' father relating to his arrest and imprisonment at Choluteca. Mr. Peterson, the consul at Tegucigalpa, was directed to investigate this matter in the light of the protest made by the elder Stibbs, and a dispatch just received from Mr. Peterson informs the Department that he has sent papers in the case to your legation. You have, of course, a copy of the protest made by Stibbs, jr., and possibly you may also have

that made by Stibbs, sr., but as I am not certain you have the latter, I forward you herewith a copy of the same. You will observe on reading these two protests that they differ in this important particular, that the protest of the elder Stibbs states that the wrong was done to his son by the Nicaraguan authorities; while I infer from the protest made by the younger Stibbs, in connection with Mr. Hayden's letter to Mr. Strobel, that persons acting under the authority of Gen. Bonilla of Honduras, were responsible for the acts complained of. It is the desire of the Department that you will investigate fully and report just who are responsible for the arrest and imprisonment of young Stibbs, giving the grounds upon which the arrest was made and any circumstances which may explain or throw light upon it.

I am, sir, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Young to Mr. Gresham.

No. 127.]

LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Guatemala, September 20, 1894. (Received October 16.)

SIR: I have the honor to inform you that on the 25th day of August there were three citizens of the United States, Henry Argall, Henry Thomas, and Robert Pardee, arrested on a farm near this city and placed in the penitentiary. They were laborers on the farm of Herbert Van de Putte, a subject of Belgium. It appears that some officer of the Government, thinking the land belonged to the Government, had erected a shed or outhouse, and Van de Putte took his laborers (the three Americans) to the spot and ordered them to take down the shed and remove it to his house, which they did; and while in the act they were arrested and placed in the penitentiary. They only obeyed their patron, not intending to violate any law of Guatemala. As soon as they arrived at the penitentiary they conveyed a message to me and I at once repaired to the prison and demanded to see Argall, the foreman of the Americans. He was brought to me and immediately removed his shirt and exhibited the welts and stripes on his back caused by blows from a rawhide, inflicted by one of the interior officers of the prison.

Argall alleged that he had given no cause for this treatment, and the commandant of the penitentiary merely told me it was done without his order, and that he was not present when the blows were given. I went to the minister of war who proposed to accompany me to the President. I stated to the President that these were all innocent men who only obeyed their employer who himself assumed all the responsibility; that I was ready to give any bond that might be named, for their appearance in court at any time; he declined to interfere.

On the following Monday, the 27th of August, the prisoners were brought before a judge and I went to the judge and tendered bond, but it was declined, the court saying the accused must return to prison. I sent a messenger to the penitentiary to see the prisoners to learn what I could do for them in the way of employing counsel and to arrange for their defense; he was denied entrance. I then wrote a formal request to the minister of foreign relations asking permission to send the vice-consul-general of the United States to converse with the accused, to arrange for their defense. I sent this communication by the vice-con-

sul-general in person. No reply was sent to this communication; however, on the 6th September, the accused were set at liberty without ever having seen a charge or warrant.

This imprisonment was an outrage; but the lashing of a defenseless, respectable man inside the prison walls, by one of the officers who had charge of him, without trial or sentence, is an outrage which ought to be atoned for by heavy damages; and if not atoned for, in the language of Argall, "then is there really any security for the life, limb, and property of any American in this Republic?"

I talked with the three men within four hours from the time of their arrest, and was shown by Argall the cruel stripes upon his back. I inclose the two complaints, and it seems to me that the Government of Guatemala ought to be made to pay damages in both instances, and especially heavy damages to Argall. I examined the two men who were not whipped, but who witnessed the blows given to Argall, and they corroborate in all respects his statement.

I am, etc.,

P. M. B. YOUNG.

[Inclosure 1 in No. 127.]

Petition of the three American laborers.

GUATEMALA, September 12, 1894.

To the Secretary of State, etc.:

We, the undersigned citizens of the United States, are now temporarily residing in Guatemala, near the city of Guatemala, and on the land of Herbert Van de Putte. On the 25th day of August last we were ordered by Mr. Van de Putte to tear down a small shed which he told us was on his land, and which he told us to bring to his house. While we were in the act of taking down the shed and moving it to the house of Mr. Van de Putte we were arrested by the police and taken to the penitentiary.

We were not served with warrants, nor were we told of the charge against us. We repeatedly asked that we might be allowed to give bond for appearance at court at any time we might be needed. We repeatedly demanded to know the charges against us. We never were furnished with a warrant, nor a charge, but were placed in a vile, dirty prison, with thieves, robbers, and murderers, without having even violated a law or having the intention of doing so. We were kept in this den, sleeping on a rock floor, and treated as the most guilty criminals for twelve days, and then we were released and went free without bond.

We have been greatly wronged and maltreated, and we beg that your excellency will take steps to see that damages are allowed us for this atrocious wrong placed upon us, three citizens of the United States who have committed no violation of the law, and who have never intended to violate a law of this Republic.

We pray that this petition may be considered and that such steps may be taken as will result in our indemnification for the wrongs we have suffered.

W. H. ARGALL,
HENRY THOMAS,
ROBERT PARDEE,

Sworn to and subscribed before me this 12th day of September, 1894.
[SEAL.]

P. M. B. YOUNG,
United States Minister.

[Inclosure 2 in No. 127.]

*Mr. Argall to Mr. Gresham.*GUATEMALA, *September 14, 1894.*

SIR: On the 25th day of August I was, while foreman of a finca owned by Mr. Herbert Van de Putte, arrested by a police officer and taken by force to the penitentiary in Guatemala.

I was employed by Mr. Van de Putte as foreman of his finca and had been in his employ about two months. I was executing an order from him in removing a shed on the land when arrested. There was no warrant shown me and no charge made.

When I arrived at the prison and had entered the interior I asked one of the interior officers of the prison to tell me when I could see Colonel Lopez, commandant of the penitentiary, whom I had known before. He made no reply to me, but struck me four blows across my back with a rawhide, inflicting upon me great welks or stripes and giving me great pain physically, besides the disgrace that was put upon me. I am an American citizen and a law-abiding man. I gave no reason to this man for the outrage he inflicted upon me. I merely asked him in this language, "How can I get to talk to Colonel Lopez?" He commenced to strike me and said, "There is your Colonel Lopez." I did not resist. If I had I would have been murdered. I dropped my hands to my side. I was in prison and defenseless, and this officer was one of those who had charge of me.

After twelve days' imprisonment I was set at liberty without any crime charged against me. I was one of the three persons who made complaint to your excellency in another document, but I was the only one whipped. I have two American witnesses to this outrage, and within three hours from the time I was whipped I showed my naked back to the U. S. minister, who can testify to the truth of my statement. I ought to be indemnified for this outrage and the false imprisonment for twelve days. If not, then is there really any security for the life, limb, and property of any American in this Republic?

I earnestly pray that you will see that I am indemnified for this outrage upon me.

W. H. ARGALL.

Sworn to and subscribed before me this 14th day of September, 1894.

[SEAL.]

P. M. B. YOUNG,
U. S. Minister.

Mr. Gresham to Mr. Young.

No. 138.]

DEPARTMENT OF STATE,
Washington, October 25, 1894.

SIR: I have received your No. 127, of September 20 last, inclosing a complaint preferred jointly by W. H. Argall, Henry Thomas, and Robert Pardee, against the Government of Guatemala, and a separate complaint of Argall against that Government.

In your dispatch, as well as in the accompanying memorial, it is stated that the complainants are American citizens. It further appears that on the 25th day of August last they were in the employ of Herbert Van de Putte, a Belgian, on the latter's farm near Guatemala

City, removing a shed or outbuilding which had been erected by an officer of the Guatemalan Government on land which Van de Putte claimed to be his; that while so engaged in obedience to the orders of their employer, and without any intention of violating the law, they were arrested and imprisoned by Guatemalan officers; that they were not served with warrants or informed of the charges against them; that an application for bail made by you in their behalf was refused; a messenger sent by you to confer with them in the penitentiary where they were confined was denied entrance there, and your written request to the minister of foreign affairs for permission to send the U. S. vice consul-general to confer with the prisoners was not replied to; that when first taken to the prison Argall, on asking an officer how he could see Colonel Lopez, the commandant, was given four severe blows across the back with a rawhide, the marks of which he subsequently showed to you.

These men now ask this Government to see that a proper indemnity is made to them by Guatemala.

You will present the matter promptly to the Guatemalan Government for such explanation as it may have to offer.

I am, sir, etc.,

W. Q. GRESHAM.

LOTTERY IN HONDURAS.

Mr. Adee to Mr. Pringle.

No. 89.]

DEPARTMENT OF STATE,
Washington, March 22, 1894.

SIR: I inclose herewith a copy of a petition addressed to the President, the Secretary of State, and the Congress, by citizens of Louisiana, on the general subject of lotteries, and praying among other things that this Government will point out to that of Honduras the proposed attempt of the old Louisiana Lottery Company to establish itself in Honduras. I also include copies of our antilottery statutes, to which reference is made in the petition.

It will be observed that the legislation of the United States in this regard has been framed with a view to its complete efficiency in excluding the circulation of advertisements and notices of foreign lottery schemes, as well as repressing domestic enterprises of that nefarious character.

Should it be true that such an enterprise, made unlawful by our law, is seeking to make use of a foreign territory from which to operate upon our citizens, it would seem to be a subject of which the neighboring and offended State would take notice. It is proper to bring the subject to the notice of the Government of Honduras, through its minister for foreign affairs, in order that it may be advised of the views of the United States and of its legislation in this regard.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

[Inclosure in No. 89.]

PETITION.

To the President, Secretary of State, and the Congress of the United States:

The undersigned, your petitioners, citizens of Louisiana, represent that the moral sentiment of the United States has succeeded after many years of struggle in extirpating the gambling business, known as lotteries, from the soil of the Republic; and that in driving it from its last lodgment in the State of Louisiana the aid of the U. S. Government, by acts of Congress and Executive interference, was of paramount importance. It is hereby further shown that, as citizens of Louisiana who have felt the heavy hand of the corrupt and tyrannical corporation known as the Louisiana Lottery Company, we are, perhaps, better aware of the evils resulting from its operation than other communities. It is, therefore, with sorrow that we learn, through its advertisements, that the said lottery proposes merely to change its base to the Republic of Honduras, and still carry on its demoralizing practices against the peace and welfare of the American people.

We, your petitioners, do therefore most earnestly pray the Government of the United States to make effectual the will of the people by excluding all lottery matter from our mails and by prohibiting, under severe penalties, its transportation into our borders, or between the States, by any company, firm, or individual, in any manner whatsoever.

We also pray that our Government will point out to the Government of Honduras this attempt to use the cover of its nationality to violate the laws of a friendly power.

J. MCCONNELL.
EDGAR HOWARD FARRAR.
DAVIS SESSUMS.
B. M. PALMER.
WM. PRESTON JOHNSTON.
F. JANSSENS.
FRANCIS T. NICHOLLS.
WM. O. ROGERS.
BRANDT V. B. DIXON.
J. C. KEENER.
C. W. CARTER.
JNO. B. ELLIOTT.
J. C. MORRIS.
R. M. WALMSLEY.
L. M. FINLEY.
JOS. A. SHAKSPEARE.
B. M. HARROD.

STATUS OF FOREIGNERS IN GUATEMALA.

Mr. Pringle to Mr. Gresham.

No. 77.]

LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Guatemala, March 31, 1894. (Received April 19, 1894.)

SIR: I have the honor to transmit herewith decree No. 491 with translation. This is a very important decree, and I am sorry to say the translation is very poor. I had it done while I was away, and I have not had time to make another one.

This decree establishes the relations of foreigners residing in this Republic with this Government.

I would ask the Department carefully to consider this decree, as several of my colleagues have informed me that they were of the opinion that their Governments would not accept some of the clauses without protest.

I have, etc.,

D. LYNCH PRINGLE.

[Inclosure in No. 77—Translation.]

DECREE NO. 491.

Jose Maria Reina Barrios, President of the Republic of Guatemala,
Whereas:

The constant progress of all branches of human knowledge in which international law has taken so great a part has exerted great influence upon that branch of science whose object is to fix the individual and judicial condition of foreigners, doubtless because emigration from one country to another and the facility of communication has caused the necessity to be felt of determining the relations of foreigners toward the States in whose territory they settle;

Whereas there are, in our laws, certain isolated provisions relating to this matter, but no law in which the rights of foreigners, or the obligations imposed upon them, or the privileges reserved by the Government as regards them are consistently and definitely specified;

Whereas the State, within certain limits, has a perfect right and is entirely free to admit foreigners into its territory on such terms as may seem best adapted to conciliate conflicting interests, preserve order, and secure the faithful execution of its laws;

Now, therefore, by virtue of the power in me vested, and with the approval of my cabinet, I hereby issue the following decree concerning foreigners:

TITLE I.

SOLE CHAPTER.—*Who are foreigners.*

ARTICLE 1. For the effects of this law the following persons are to be considered foreigners:

Persons born outside of Guatemalan territory, whose parents are not Guatemalans.

Legitimate children born outside of Guatemala of a foreign father and a Guatemalan mother.

Guatemalans who have forfeited their citizenship.

Those born outside of Guatemala of parents who have forfeited their citizenship.

A Guatemalan woman who is married to a foreigner and domiciled outside of Guatemala.

Children of diplomatic ministers, although born in Guatemalan territory.

ART. 2. National vessels shall be considered as Guatemalan territory in determining the nationality of those born on board thereof.

ART. 3. The following persons shall be considered as naturalized Guatemalans:

1. Spanish Americans domiciled in the Republic who have not reserved their citizenship in the manner provided by article 87 of this act, in accordance with paragraph 1, article 7, of the constitution of the Republic.

2. Other foreigners who have received certificates of naturalization according to the provisions of this decree, and those of the constitution contained in article 7, paragraph 3, of that instrument.

Central Americans who make known to the authorities their desire to become naturalized in the manner provided by article 87 of this decree shall be considered as native Guatemalans according to article 6 of the constitution.

ART. 4. A Guatemalan who has forfeited his citizenship by becoming naturalized in a foreign country (the same as the divorced wife of a foreigner, both residing outside of Guatemala), may regain his citizenship by making application, at any time, by renouncing the protection of the foreign flag and by having his declaration and renunciation recorded in the Civil Register.

The Government nevertheless reserves the privilege of deciding such cases as it may think proper.

ART. 5. The application referred to in the foregoing article must be made to the minister of foreign relations of the Republic, or to the diplomatic or consular agent of Guatemala in the place where the applicant resides.

ART. 6. Legitimate or illegitimate children of a Guatemalan father, born or living in a foreign country, when, according to the laws of the country of their birth, they have the privilege of choosing their citizenship, and elect to become Guatemalans, must inform the diplomatic or consular agent of Guatemala within one year from the day on which they become of age, or from that of their emancipation, whether they desire to become Guatemalan citizens, and the said diplomatic or consular officer shall in this, as in the former case, record it in the register of the legation or consulate under his charge, and report the fact immediately to the minister of foreign relations of the Republic.

ART. 7. A Guatemalan who has entered the military service of a foreign country, or who has accepted a public office, or who has any supplementary jurisdiction without permission from the Government of Guatemala, shall be considered as a foreigner, but he may recover his Guatemalan citizenship by complying with the requirements of articles 4 and 5.

ART. 8. A Guatemalan naturalized in another country shall, on returning to Guatemala, be subject to the obligations of his original citizenship; and the allegation that he has been naturalized in another country shall not exempt him from his obligations as a citizen of Guatemala.

TITLE II.

CHAPTER I.—*Classification of foreigners.*

ART 9. Foreigners in Guatemala may be: (1) residents or domiciled persons; (2) nonresidents or sojourners, and (3) immigrants.

ART. 10. Foreigners may enter, reside, and settle freely in any part of the territory of Guatemala.

ART. 11. Civil rights are independent of citizenship.

ART. 12. The law recognizes no difference between a Guatemalan and a foreigner, as regards the acquisition and enjoyment of civil rights.

ART. 13. No inhabitant of Guatemala can be exempted from the fulfillment of obligations contracted in the Republic according to its laws.

ART. 14. Both Guatemalans and foreigners residing in Guatemala, or wherever they may be found, may be summoned to appear before the courts of the Republic for the performance of contracts concluded by them (even in a foreign country) in matters in which the laws of Guatemala permit them to contract.

ART. 15. Although a foreigner be absent from the country, he may be summoned to answer before its courts—

I. When an action is brought concerning property situated in Guatemala.

II. When a civil action is brought on account of any crime or misdemeanor committed by a foreigner in Guatemala.

III. When an obligation is concerned which has been contracted by a foreigner, in which it is stipulated that the courts of the Republic are to decide disputes relative thereto.

ART. 16. Whenever an obligation is concerned which has been contracted in a foreign country, the laws of the country in which it was contracted shall always serve for the judgment of the contract, so far as it is not prohibited by the laws of the Republic. The laws of Guatemala shall be paramount only when the contracting parties submit to them.

ART. 17. A Guatemalan woman married to a foreigner, or a foreign woman married to a Guatemalan, take the nationality of their respective husbands. If they become widows, the former recovers and the latter retains her Guatemalan nationality, provided they reside in the Republic.

ART. 18. The fulfillment of obligations contracted in a foreign country between foreigners not domiciled can not be demanded in Guatemala, unless they are willing to abide by the decision of the courts of the Republic.

ART. 19. A change of nationality or citizenship shall have no retroactive effect.

CHAPTER II.—*Inhabitants and non-residents.*

ART. 20. The domicile of a person is the place where he usually resides; if he has no customary place of residence, it is his principal place of business; if he has neither, his domicile is considered to be the place where he is found.

ART. 21. The domicile of a minor child, not emancipated, is that of the person under whose guardianship he is.

ART. 22. The domicile of a minor child who is not under parental authority, and of a person of full age who is incapacitated, is that of his guardian.

ART. 23. The domicile of a married woman, if she is not separated from her husband, is his domicile; if she is separated from him, she is subject to the provisions of article 20.

ART. 24. Those who serve a person and live in his house, whether minors or of age, have the same domicile as the person whom they serve; but if they are minors, and own property that is in charge of a guardian, their domicile shall be that of their guardian, so far as their property is concerned.

ART. 25. The domicile of those who are serving out a sentence is the place where they are serving it, as regards their judicial relations subsequent to the sentence; as to their previous relations, they shall retain their last domicile. Those who are simply condemned to exile shall retain their former domicile.

ART. 26. The wife and children of a person sentenced to banishment, who do not accompany him to his place of exile, shall not have as their domicile that of the husband and father, but their own, according to the provisions of the foregoing articles.

ART. 27. The domicile of corporations, associations, and establishments recognized by law is the place where their principal office is situated, subject to the provisions of their statutes or by-laws, provided that the domicile therein designated is within the territory thereunto subject.

ART. 28. When there are circumstances which constitute a civil domicile, as regards the same person in several localities, it is to be understood that such person has his domicile in all the localities concerned; but if things are concerned which imply special relation to one of the said localities, that locality alone shall, so far as such cases are concerned, be the civil domicile of the person.

ART. 29. A person is not presumed to have the intention of remaining, and does not, therefore, acquire civil domicile in a place from the mere fact of his having dwelt there for some time in his own house, or in that of another, if he has a domestic establishment elsewhere, or if it appears, from any other circumstance, that his residence is accidental, like that of a traveler, that of a person engaged in the performance of a temporary commission, or that of one doing business as a traveling vendor or commercial traveler.

ART. 30. No person shall prevent the inhabitants of any town from changing their residence.

ART. 31. The inhabitants of any place, be they native or foreign born, shall be liable to the charges and municipal taxes of their place of residence.

ART. 32. A transient person is one who is stopping temporarily in a place.

ART. 33. Transient persons shall not enjoy the rights or be subject to the charges to which residents are subject.

ART. 34. Foreigners who are not domiciled, and whose personal identity, together with the object of their being in the country, is not declared within three months, shall be considered as immigrants.

TITLE III.

SOLE CHAPTER.—*Of registration and its effects.*

ART. 35. The registration of foreigners consists of the inscription of their names and nationality in a book kept for that purpose at the ministry of foreign relations of the Republic.

ART. 36. A foreigner who desires to be registered, and who is at the capital of the Republic, must make application to the ministry of foreign relations or to the political chief of the proper department, furnishing evidence of his nationality, together with at least one of the documents hereinafter named:

I. A certificate from the diplomatic agent or from a consular officer accredited in the Republic, stating that the interested party is a native of the country represented by the aforesaid diplomatic agent or consular officer.

II. The passport with which the applicant has entered the Republic, authenticated in due form.

III. His certificate of naturalization, authenticated likewise; and only when sufficient evidence shall be presented of its destruction or loss, or to the effect that this document is not necessary according to the law of the country in which it should have been issued, shall other evidence of equal value be accepted to the effect that the interested party has legally obtained his alleged naturalization.

ART. 37. Nevertheless, in case of the party being placed on trial, the civil or executive authorities, or any person who is interested, may impugn those documents and prove their spuriousness, in case of necessity.

ART. 38. The evidence of the applicant's nationality, together with his personal description, having been sent to the ministry of foreign

relations by the proper officer, it shall there be registered, and a certificate to that effect shall be given to the foreigner on payment by him of one dollar, which shall be the sole registration fee.

ART. 39. Registration constitutes merely a legal presumption that the foreigner's nationality is that which he claims, and proof to the contrary may be presented.

ART. 40. Registration may be proved by the certificate thereof, signed and issued by the minister of foreign relations, who alone has authority to sign and issue such certificates.

ART. 41. No magistrate or public officer shall recognize a person as being of any particular foreign nationality, unless such person shall present his certificate of registration.

ART. 42. A foreigner shall have the following rights:

I. The right to appeal to the treaties and conventions existing between Guatemala and his own nation.

II. The right to apply to his country for diplomatic protection, in accordance with the provisions of this decree.

III. The benefit of reciprocity.

TITLE IV.

SOLE CHAPTER.—*Political status of foreigners.*

ART 43. Foreigners residing in Guatemala as domiciled persons or sojourners (transients) shall have their rights guaranteed:

To the security and protection of their persons, property, dwelling, and correspondence in the same manner as native citizens.

To express and publish their views, subject to the limitations fixed by law, both by word of mouth and in writing. They may, moreover, be managers, owners, or responsible representatives of newspapers or periodicals of any kind whatever. They shall, however, in all cases, conform to the laws of the country, just as native citizens are required to do, and shall not be at liberty to appeal to diplomatic protection on account of the responsibilities that they may incur.

To address written petitions to the public authorities, just as is done by native Guatemalans to the authorities and their agents.

To the exercise of their religious worship according to the constitution, and with the limitations of universal morality and those established by the police regulations.

To have justice administered to them by the courts and authorities in such cases and in such ways as are provided for by the laws which define the competency of the said courts and authorities.

ART. 44. Inasmuch as these privileges are attributes of (Guatemalan) nationality, no foreigner shall be a voter or be eligible to any public office whose incumbent is chosen by the popular vote; exercise judicial functions or those auxiliary thereto; hold any canonically conferred ecclesiastical office without having been specially authorized to do so by the Guatemalan Government, it being understood that when a foreigner makes such an application, and it is granted by the Government, such foreigner renounces the protection of his country, so far as the discharge of the duties of his office are concerned.

ART. 45. They shall not be at liberty to practice professions for which a professional title is required, without first having gone through the course of study required by the law concerning public instruction or by the treaties; the Government may, however, freely authorize foreigners to fill positions as professors in universities and as teachers in high

schools, as well as to practice professions not yet established in the Republic, when the propriety of so doing is manifest owing to the excellent records and high attainments of such foreigners.

ART. 46. In order to determine the obligations of foreigners with respect to military service, the following is to be borne in mind: That all persons are to be held to the strict performance of such service who, having a right on attaining their majority, to make choice of a foreign nationality, shall fail to exhibit to the civil or military authorities of the Republic documents showing that they have fulfilled said obligation in the country of their choice (option) or that they have been exempted therefrom on account of some cause that, according to Guatemalan law, is sufficient.

TITLE V.

CHAPTER I.—*Of the civil status of foreigners.*

ART. 47. Foreigners shall enjoy in Guatemala all the civil rights that the laws grant to Guatemalans.

Corporations, establishments, and associations recognized by law shall be considered as legal persons for the exercise of said rights.

ART. 48. The laws of Guatemala are binding upon all who are in Guatemalan territory, without distinction of nationality. The status and capacity of persons, together with their family relations, shall be regulated by the laws of the nation to which they belong.

ART. 49. In no case shall the laws, contracts, or sentences of a foreign country, or arrangements and private agreements annul the prohibitory laws of the Republic which relate to persons, property, or contracts, or those which in anywise relate to public order and good morals.

ART. 50. Foreign persons shall enjoy all family rights; they may, consequently, constitute a family and contract marriage in Guatemala with other foreigners or with natives.

CHAPTER II.—*Of marriages.*

ART. 51. A marriage contracted between two foreigners, outside of Guatemalan territory, that is valid according to the laws of the country in which it was contracted, shall be fully valid in Guatemala.

ART. 52. Marriages are valid when contracted between foreigners or between a foreigner and a Guatemalan, both of whom reside in the country, according to the laws of their respective nations. Consequently, such marriages shall have the civil effects that are recognized by this law in respect to marriages contracted by natives of the same country, according to the civil code.

ART. 53. A marriage contracted in a foreign country between Guatemalans, or between a Guatemalan and a foreign woman, or between a foreigner and a Guatemalan woman, shall likewise have the proper civil effects in the national territory, if it is shown that it was solemnized in the form and in compliance with the requirements established by law in the locality in which it took place, and that the Guatemalan has not violated the provisions of the civil code relative to the capacity to contract marriage and to the consent of the ascendants or of the person from whom it is proper to obtain it.

ART. 54. In urgent cases, in which it is impossible to apply to the authorities of the Republic, consent may be given by the minister or consul residing in the place where the marriage is to take place, or by

the nearest one, if there is none in the said place, the minister always to be preferred to the consul.

ART. 55. In case of danger of speedy death in a place where there is no minister or consul, the marriage shall be valid provided it be satisfactorily shown that such danger existed, and that there was no minister or consul in the place.

ART. 56. For the contracting of marriage the law of the nation of the foreigners who are about to contract it shall determine the age at which this can be done by the persons who are to give their consent, and shall define the impediments that may bar it.

ART. 57. In all cases the prohibitory provisions shall be observed which, according to Guatemalan law, are a bar to the solemnization of the marriage, for reasons of morality or public order, on account of relationship, or the legal dissolution of previous bonds.

ART. 58. The disqualifications recognized in some countries on account of political proscription or trial for and conviction of crime shall not be considered as impediments to marriage.

ART. 59. When the contracting parties are foreigners and have not resided in Guatemala for two years they shall be required to show, by a certificate of the competent officer, according to the laws of their country, duly authenticated, and with all the requisites which, according to Guatemalan law, are necessary to make it authentic and valid, that notice of the marriage which they propose to contract has been published, with all the necessary formalities, in the country in which they had their domicile or residence during the year previous to their coming to Guatemala. They shall in all cases show, by means of an authentic document, that they are at liberty to contract marriage.

ART. 60. A foreigner who has been legally divorced in his own country may lawfully contract a new civil marriage in Guatemala, according to decree No. 484.

ART. 61. A marriage contracted outside of Guatemala by foreigners according to the laws of their nation shall have, in Guatemala, all the effects of a lawful marriage.

ART. 62. A marriage contracted in a foreign country by a Guatemalan and a foreign woman, or *vice versa*, shall be valid in Guatemala, provided that in its solemnization the laws were observed that are established in the country in which it took place for regulating the external forms of the contract, and provided that the contracting parties had a right to contract marriage according to the laws of Guatemala.

ART. 63. A marriage solemnized in a foreign country may be proved by any means of proof, if, in the country in which it was solemnized, the registration of marriages is not required by law.

ART. 64. The marriages of foreigners must be recorded in the civil register of the proper municipality when the contracting parties or their descendants remove to Guatemala.

ART. 65. Sentences shall likewise be recorded whereby marriages are declared to be null and void, or married persons are declared to be divorced.

ART. 66. The laws of the country of the married persons shall determine their respective capacity for such civil acts as are consequent upon marriage.

ART. 67. It shall be understood that the matrimonial *régime*, in default of an explicit agreement, is that which is recognized by the nation to which the contracting parties belong.

ART. 68. If marriage has been contracted between a Guatemalan and a foreign woman, or between a Guatemalan woman and a foreigner, and

no stipulation has been made by them with regard to their property, it shall be understood when the husband is a Guatemalan that he marries under the *régime* of common property, and when the wife is a Guatemalan woman that she marries under the *régime* of the common law in the country of her husband; and as regards the property, the fundamental law shall govern.

ART. 69. The legitimacy of the children of foreigners shall be determined by the laws of their country, which shall also regulate the rights of parental authority.

ART. 70. Foreigners in the full enjoyment of their civil rights may recognize their natural children, be guardians and proguardians, if they reside in Guatemala, of their relatives within the fourth civil degree, and adopt and be adopted by other foreigners or by native Guatemalans; but whenever these acts affect a Guatemalan they shall be governed by Guatemalan law as regards all their effects.

TITLE VI.

SOLE CHAPTER.—*Concerning diplomatic intervention.*

ART. 71. The intervention of a foreign Government in behalf of its citizens, either directly or through its diplomatic or consular agents, is admissible and proper only in case of denial of justice or of willful delay in its administration after all the usual means established by law have been exhausted.

ART. 72. There is denial of justice when a judicial magistrate refuses to make a formal declaration in regard to the principal matter or any of the incidents of a case which he is trying or which is submitted to him for examination, or when any law has clearly and undoubtedly been violated, and all legal means of redress having been exhausted, it has not been possible to secure a reversal of the decision or reparation of the damage done, it being understood that the mere fact that a decision is not favorable to a claimant does not constitute a denial of justice.

ART. 73. Delay in the administration of justice is not willful when the judge bases it upon some reason of law or upon some impediment which it is impossible for him to overcome.

ART. 74. When a complaint is laid before the Government for denial of justice or on the ground of its administration being willfully delayed, it must be conclusively shown that those offenses have actually been committed in notorious violation of the laws of the country, and that adequate and sufficient petitions and arguments have been presented and that suitable means have been used for the purpose of securing a judicial correction of those offenses or lawful redress for the injury which has thereby been caused, and that such efforts have not effected a discontinuance of the denial of justice, or of the willful delay in its administration, and have not secured reparation for the injuries resulting therefrom.

ART. 75. A foreigner bringing a civil action against the Republic for injuries done him, for condemnation of property, or for the acts of public officers, shall, before appealing to the Government, lay his case before the proper court, that it may be tried and decided in the manner provided by law.

ART. 76. In order to answer the complaint—and they shall act as parties to the suit in all its stages—the assistant district attorney in this city shall be summoned, or the collectors of internal revenue in those departments where there is no special representatives of the

public exchequer. The officer or officers shall likewise be summoned against whom is brought the charge which originated the action, and he or they may be present at all proceedings if they consider this to be their interest.

ART. 77. An extract from the complaint, signed by the clerk of the court, in which shall be given the name, surname, and domicile of the plaintiff, the amount claimed, and a brief statement of the facts in the case, shall be immediately published in some newspaper printed in the chief town of the department, if any is printed there; and if there is none, in some of those printed in the nearest town. This shall be published at the expense of the plaintiff.

ART. 78. Any citizen who is not debarred from so doing by any legal impediment may appear as a party opposing the action brought, in addition to the persons mentioned in article 76.

ART. 79. In these suits the testimony of witnesses shall not be admitted as evidence unless it is shown that the officer who caused the injury or condemnation refused to give suitable documentary evidence thereof, or unless it shall appear evident, from the nature and circumstances of the case, that it was absolutely impossible to obtain such documentary evidence.

ART. 80. In order to make better provision, the court may cause all such probatory measures to be taken as may best conduce to the establishment of the truth.

ART. 81. A plaintiff who shall have manifestly exaggerated the amount of the damages or injuries suffered shall be liable to the payment of a fine equal to 25 per cent of the sum claimed, and shall also be liable to have any other civil or criminal action brought against him that may result from the suit. It shall be the duty of the judge executing the sentence to collect the fine, for which purpose he may resort to coercive measures. If an indeterminate value is claimed in the suit, the plaintiff, in the cases mentioned in this article, shall be required to pay a fine of not less than five hundred nor more than a thousand dollars. In case of the plaintiff's insolvency, he shall be imprisoned one day for each dollar that he fails to pay.

ART. 82. In no case shall it be claimed that the Nation is under obligations to pay for damages, injuries, or condemnations that have not been done or executed by the legitimate authorities or their agents, acting in their public character.

ART. 83. All persons, not holding official positions, who shall order contributions or forced loans, or who shall commit acts of spoliation of any kind whatever, and also those who shall obey such orders, shall be responsible to the parties injured, both directly and personally, with their property.

ART. 84. The Government shall order the payment of such sums as the courts may decide to be the amount of the damages and injuries done, provided that a copy be presented, in due form, of the judicial decision declaring that the public treasury is bound to pay the indemnity asked for.

ART. 85. The Nation shall assert its right to cause the responsible officer to refund to the public treasury the amount that it shall have disbursed by reason of the condemnatory sentence pronounced in favor of the claimant.

TITLE VII.

SOLE CHAPTER.—*Naturalization of foreigners.*

ART. 86. In order to become naturalized, according to paragraph 3, article 7, of the constitution of the Republic, the following shall be the proper mode of procedure: A person desiring to become naturalized must furnish evidence to the political chief of the department that he has resided in the Republic for two years; that his conduct has been good, and that he has an income, profession, art, trade, or other proper means of earning his livelihood. The evidence on these points may be either documentary or furnished by the testimony of one or more witnesses. The papers in the case having been prepared, the political chief shall send them to the department of foreign relations, and when the application shall have been examined, the President of the Republic shall issue an order granting naturalization if the conditions required shall have been complied with. The order having been issued, a copy of it shall be sent to the officer having charge of the Civil Register, so that he may record it, as required by law.

ART. 87. In order to make the reservation regarding nationality which is mentioned in article 7 of the constitution of the Republic and the statement referred to in article 6 of that instrument, the interested parties shall apply, in writing, to the departmental political chiefs, who, after having caused them to ratify their applications, shall send the latter to the department of foreign relations, which shall issue the proper certificate on payment of one dollar, which payment shall cover all charges except that for the stamped paper used. This certificate, in order to have proper legal effect, must be recorded in the Civil Register.

ART. 88. Any foreigner, without distinction of origin, may be naturalized in accordance with the provisions of article 86.

ART. 89. Naturalization may be express, tacit, or presumptive.

ART. 90. Certificates of naturalization are divided into two classes, viz, concessory and declarative certificates. By the former, naturalization is expressly granted; the latter contains a declaration that the parties interested have become naturalized according to law, owing to their having complied with certain requirements, or, what amounts to the same thing, they contain a declaration of tacit naturalization.

ART. 91. A certificate declarative of tacit naturalization is retroactive in its effects to the time when the loyal act was consummated which effected the change of nationality; whereas a concessory certificate produces its effects on and after the day of its issue.

ART. 92. No certificate of naturalization can be granted to a subject of a nation that is at war with Guatemala, or to a person who is reputed to be or who has been legally convicted, in any country, of being a pirate, a slave trader, an incendiary, a poisoner, a parricide, or a counterfeiter of coin or bank notes, or of other paper serving as a substitute for coin.

ART. 93. Tacit naturalization is secured—

I. By not making the reservation referred to in paragraph 1, article 7, of the constitution of the Republic.

II. By accepting one of those public offices which are reserved for Guatemalans.

ART. 94. A naturalized person acquires all the rights and contracts all the obligations of Guatemalans, unless such rights and obligations are excepted in the following articles:

TITLE VII.

SOLE CHAPTER.—*Concerning expulsion.*

ART. 95. The territory of Guatemala is an asylum for all foreigners.

ART. 96. The Government exercises over foreigners all the rights of inspection and vigilance which belong to it, according to the laws and police regulations, which foreigners, without exception, are required to obey.

ART. 97. If foreigners who have taken refuge in Guatemala shall (misusing the right of asylum) conspire against the country or endeavor to overthrow or modify its institutions, or to disturb in any way the public tranquillity and peace of a friendly nation, the Government may order their expulsion from the national territory.

ART. 98. Foreigners who, not having permission from the Government to remain in the country as domiciled persons, shall fail to furnish evidence that they possess adequate means of subsistence, may be sent to the frontier of the country from which they come, or put on board of a vessel in one of the ports of the Republic.

ART. 99. A foreigner temporarily residing in the country, or an immigrant, who endangers public tranquillity by his conduct, or who has been prosecuted for or convicted in another country of one of the crimes or offenses for which extradition is granted, may be compelled by the Government to leave a determinate place, or to reside in such place as may be assigned to him, and finally to leave the Republic.

ART. 100. An immigrant who, being unable to identify himself, shall be guilty of falsehood in stating his name and circumstances may be expelled from the territory of Guatemala by order of the President of the Republic, as may be any person presenting fraudulent documents for the purpose of identification.

ART. 101. Political chiefs and municipal alcaldes shall take care that indigent foreigners, and also those who are sick and in need, be always assisted by the charitable establishments and board under their control, and they shall in all cases, acting in concert with the consular officers of the nation to which such foreigners belong, take proper measures to return them to the country whence they came.

ART. 102. The same course is to be pursued in the case of abandoned children, the offspring of foreigners. In such cases the effort shall always be made to reconcile the interests of good order and a proper police system with the sacred duties of humanity.

ART. 103. Decisions respecting sick and indigent foreigners and foreign children who have been abandoned shall always be brought to the knowledge of the proper consular officer, who shall be requested to take charge of persons belonging to the former of the above-mentioned classes of persons, on his own responsibility.

ART. 104. If a foreign government shall request, on grounds considered sufficient, the internment of one of its subjects who resides in a town or locality near to the frontier of such country, the Government of Guatemala may intern him, and designate as his residence such place or territory as it may think proper.

ART. 105. Only in exceptional cases connected with the preservation of public order can foreigners be expelled who are married to Guatemalan women, and who have resided in the country for a period exceeding five years. The same rule applies to those whose option of nationality is still pending.

ART. 106. The person whom the order of expulsion concerns shall in all cases be notified thereof, and at least twenty-four hours shall be allowed him in which to obey it. The procedure in cases of expulsion is simply executive.

ART. 107. In case of disobedience, the public force shall proceed to effect the expulsion, and if the expelled person shall return to the territory of Guatemala he shall be tried by the courts of the Republic and shall be punished for disobedience, in pursuance of article 142 of the Penal Code; but when he shall have paid or served out the penalty to which he shall have been sentenced, he may again be expelled from the territory of the Republic, to which end the judge who shall have tried the case shall take care to notify the minister of the interior in due time and through the proper channel.

TITLE IX.

ART. 108. The purchase of wild lands in territory on the frontier is absolutely prohibited to the native citizens of nations bordering on Guatemala, and to those who have become naturalized therein.

ART. 109. A foreigner who is allowed by law to purchase wild lands may preempt a number of caballerias¹ not exceeding fifteen; in no case, however, shall he be allowed to transfer his property, or any real estate that he may have acquired in the Republic, to any foreign government.

TITLE X.

CHAPTER I.—*Concerning criminal cases.*

ART. 110. The laws relating to police and public safety are subject to no exception whatever, and are binding upon all persons residing within the territory of the State. Foreigners are, therefore, amenable to the laws and courts of Guatemala for any crimes that they may commit within the territory of Guatemala.

ART. 111. The following persons are excepted from the provisions of the foregoing article: Princes of reigning families, Presidents or Chief Magistrates of other countries, ambassadors, ministers plenipotentiary, ministers resident, *chargés d'affaires*, and foreigners who are permanently employed at legations. Such persons, when they commit a crime, shall be placed at the disposal of their respective governments.

ART. 112. Cognizance of crimes whose commission has been begun in Guatemala, and consummated or frustrated in foreign countries, shall be taken by the courts and judges of Guatemala, in case the acts perpetrated in Guatemala constitute crimes in themselves, and only with respect to such crimes.

ART. 113. Foreigners shall be tried by the judges and courts of the Republic when they shall have committed one of the following crimes outside of the territory of the nation: A crime against the independence of the Republic, the integrity of its territory, its form of government, its tranquillity, its internal or external safety, or against the chief magistrate of the State, or the crime of forging the signature of the President of the Republic or of the ministers of state, or of counterfeiting the public seals, the legal coin of Guatemala, the paper money of Guatemala which legally is in circulation, bonds, certificates, or other docu-

¹A caballeria of land is equal to about thirty-three and one-third acres.

ments of the national public credit, or notes issued by a bank doing business in the Republic in pursuance of its laws and authorized to issue such notes, and also the crime of introducing such counterfeit papers or money into the Republic and circulating the same therein.

ART. 114. If persons guilty of the crimes enumerated in the foregoing article shall have been acquitted or punished in a foreign country, their cases shall not be reopened, provided that (in the latter case) they shall have suffered the full penalty to which they were sentenced. The same shall be the case if they have been pardoned, except when they have been guilty of the crime of treason. If they have suffered a part of the penalty, allowance therefor shall be made, and it shall be deducted from that which they would otherwise have to suffer.

ART. 115. The provisions of the foregoing articles apply to foreigners who have committed any of the crimes therein enumerated, when they are apprehended in Guatemalan territory or when their extradition is obtained.

ART. 116. The following persons shall also be tried by the judges and courts of the Republic, unless there is something to prevent in the existing international treaties:

1. Foreigners who commit a crime on the high seas on board of a Guatemalan vessel.

2. Foreigners who commit a crime on board of a foreign merchant vessel anchored in a Guatemalan port, or being in the territorial waters of the Republic, unless such crime is committed by a person belonging to the crew against another member of the same crew.

3. Foreigners, members of the crew of a foreign merchant vessel, even though they have committed a crime against a person belonging to the same crew, if the aid of the Guatemalan authorities is asked for on board of the vessel, or when the tranquillity of the port is endangered by the perpetration of the crime.

4. Foreigners who have committed against Guatemalans, in a foreign country, the crime of arson, murder, robbery, or any other for which the perpetrator is extraditable, provided that a charge has been made by a person having a legal right to make charges.

ART. 117. The ordinary courts are competent to take cognizance of offenses committed by foreigners, and the judges of the place where they are committed shall be the only ones having authority to try their perpetrator.

ART. 118. Foreigners may enter a complaint on account of offenses committed against their persons or property, or the property of those whom they represent, security always being furnished previously, the amount of which shall be fixed by the competent court or judge, subject to such exceptions as may be authorized by treaty or by the principle of reciprocity.

ART. 119. The statements of foreigners who are brought to trial, and who are ignorant of the Spanish language or those of witnesses who are unable to express themselves in Spanish, shall be made through a sworn interpreter, and the questions and answers shall be recorded in the national language and in that of the prisoner or the witness making the statement. When this is not possible, the papers containing the questions and answers shall be sent to the office of the official translator.

ART. 120. In no case shall the sentences pronounced by foreign courts be executed in Guatemala, nor shall they occasion the additional punishment curtailed by a repetition of the offense.

LETTERS ROGATORY.

ART. 121. Letters rogatory to foreign courts shall always be sent through the diplomatic channel, or through such channel and in such form as may be expressly established by treaty.

The principle of reciprocity must govern in all cases. These same rules shall be observed in complying in Guatemala with the requests made in letters rogatory of foreign courts whereby it is asked that some judicial act be performed.

ART. 122. The legations shall guarantee to the ministry of the interior and of justice the payment of the expenses that may be caused by criminal prosecutions instituted either *ex officio*, or at the instance of a party declared indigent. The legations shall not transmit letters rogatory of foreign authorities, unless the payment of the expenses that may be caused by compliance with the requests therein contained, in such manner as may be agreed upon with the government of the country, shall be guaranteed.

CHAPTER II.—*The administration of justice as regards foreigners.*

ART. 123. Foreigners are subject to the laws and courts of Guatemala in all suits brought by them or against them to enforce the fulfillment of obligations contracted in or out of Guatemala in favor of Guatemalans, or having reference, in general, to property or to the ownership of anything valuable in the territory of Guatemala.

ART. 124. The Guatemalan courts shall likewise be competent, and it shall be their duty to take cognizance of such suits between foreigners as may be brought before them, and as may have reference to the fulfillment of obligations contracted or performable in Guatemala, or when it is so provided by treaty.

ART. 125. In all other matters in which foreigners are concerned, the courts of Guatemala shall alone be competent to adopt urgent and provisional measures of precaution and safety.

ART. 126. The provisions established by the rules of competency in civil matters are applicable to foreigners when they have recourse to the judges and courts of Guatemala, soliciting acts of voluntary jurisdiction, taking part therein or appearing in court as plaintiffs or defendants against Guatemalans or against other foreigners, when it is proper for the courts of Guatemala to take cognizance according to the laws of the Republic or its treaties with other powers.

ART. 127. Foreigners against whom legal proceedings are instituted, shall, when this is necessary, enjoy the benefit of poverty for purposes of litigation. The same benefit shall be enjoyed by foreigners instituting legal proceedings, if reciprocity is granted to Guatemalans in their country.

ART. 128. If the plaintiff is a foreigner, he shall be obliged to furnish, if the defendant shall demand it *in limine litis*, the security *judicatum solvi* as a guarantee of his solvency; in default thereof, a delay shall be granted in such cases and in such manner as are required of Guatemalans in the country of the plaintiff.

In no case shall such security be required in commercial matters.

ART. 129. The provisions which govern commercial matters are applicable to all persons engaged in trade, without distinction or privilege by reason of nationality.

ART. 130. The law of the place where a juridical act has been performed shall determine the methods of proof of which a foreigner must make use before the courts in order to show the existence of such act.

From this rule are excepted acts and contracts relating to real property situated in the Republic of Guatemala, which shall be governed by the laws of Guatemala exclusively.

FINAL PROVISION.

ART. 131. The provisions of this law shall in no wise impair the immunities and guarantees which are secured to diplomatic and consular officers by international law and by the treaties or conventions which the Government has concluded; nor shall they impair the rights granted by such treaties in particular to foreigners of a determinate nation.

Done at the national palace of Guatemala, this twenty-first day of the month of February, one thousand eight hundred and ninety-four.

JOSE MARIA REINA BARRIOS.

MANUEL ESTRADO C.,

Secretary of State in the Department of the Interior and of Justice.

J. M. GONZALEZ,

Secretary of State in the Department of Public Works.

MANUEL CABRAL,

Secretary of State in the Department of Public Instruction.

SALVADOR HERRERA,

Secretary of State in the Department of Finance and Public Credit.

RAMON A. SALAZAR,

Secretary of State in the Department of Foreign Relations.

GOOD OFFICES IN BEHALF OF CHINESE.¹

Mr. Gresham to Mr. Young.

No. 128.]

DEPARTMENT OF STATE,

Washington, August 18, 1894.

SIR: Referring to your No. 114, of the 26th ultimo, I have to inclose a copy of a note from the Chinese minister of the 16th instant, concerning the petition addressed to him by Chinese subjects residing in Guatemala. He asks, in consequence of the absence of any treaty relations with that Republic permitting China to appoint consular representatives therein, that you may be allowed to exercise your good offices in behalf of the Chinese subjects living in Guatemala.

This is not an unusual request, and the good offices of the diplomatic and consular representatives of the United States have been employed for the protection of Chinese elsewhere as well as other foreigners. The interests of our own people in parts of Turkey, where no United States consular officer resided, have been looked after by British consular officers.

In the present instance your efforts are to be confined to the friendly intervention in case of need for the protection of the Chinese in their person and property from unjust and harsh treatment. You are not to hold any representative character or function as respects the Chinese Government, and are to act informally. Before taking any steps in the matter, however, you should represent to the Guatemalan Government the wish of the Chinese minister and the willingness of your Government to accede thereto, as herein indicated, provided the assent of the Guatemalan authorities is entirely favorable.

The decision of that Government upon the subject should be reported to the Department.

I am, sir, etc.,

W. Q. GRESHAM.

¹ See "Protection of Chinese in Guatemala," *ante*, p. 175.

Mr. Young to Mr. Gresham.

No. 129.]

LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Guatemala, October 11, 1894. (Received October 25.)

SIR: I have the honor to herewith inclose a note from the minister of foreign relations of Guatemala, and a translation of the same, in reply to my note to him in reference to your No. 128, in relation to the request of the Chinese minister in Washington, that the United States minister at Guatemala be directed to use his good offices in behalf of the Chinese residents in this Republic when they might be required.

I am, etc.,

P. M. B. YOUNG.

[Inclosure in No. 129.—Translation.]

Mr. Muñoz to Mr. Young.

DEPARTMENT OF FOREIGN RELATIONS OF THE
REPUBLIC OF GUATEMALA, CENTRAL AMERICA,
National Palace, Guatemala, October 3, 1894.

I have had the pleasure to receive your excellency's polite note of the 24th ultimo, informing me that the minister of China at Washington has requested the U. S. Government to allow its diplomatic representative in Guatemala to use his good offices in behalf of Chinese residents here, with which request your excellency's Government is disposed to comply, provided that such a step meets the approval of the Government of Guatemala.

In reply I have the honor to inform your excellency, having been authorized to do so by the President of the Republic, that my Government will have no objection to giving its approval in this case, provided the Chinese Government addresses to it the request to that end, which seems natural.

I reiterate, etc.,

JORGE MUÑOZ.

RECIPROCITY.

Mr. Gresham to Mr. Arriaga.

DEPARTMENT OF STATE,
Washington, September 20, 1894.

SIR: Referring to our conversation this forenoon, I have the honor to inform you that the so-called reciprocity arrangement between the United States and Guatemala was based on the third section of the statute known as the McKinley law, which was repealed by the going into effect of our existing tariff law, at midnight on the 27th ultimo.

This is in accordance with the opinion of the Secretary of the Treasury, in which I concur.

Accept, sir, etc.,

W. Q. GRESHAM.

Mr. Arriaga to Mr. Gresham.

LEGATION OF GUATEMALA,
Washington, September 24, 1894.

MR. SECRETARY: I have the honor to receive your communication of the 20th instant, concerning the suspension of the reciprocity arrangement between Guatemala and the United States, and I have hastened to transmit it to my Government.

I have the honor, etc.,

A. LAZO ARRIAGA.

CASE OF THE STEAMSHIP OTERI.

Mr. Gresham to Mr. Young.

No. 114.]

DEPARTMENT OF STATE,
Washington, June 7, 1894.

SIR: In its No. 11 of June 8, 1893, bringing to your attention the memorial of Mrs. Luella A. Oteri, by which she desired this Government to prefer a claim against Honduras for the alleged seizure of her vessel, the *Joseph Oteri, Jr.*, by Honduranian insurgents in the port of Ceiba, the Department instructed you to investigate the circumstances of the seizure and also those attending the subsequent exclusion of the vessel from Honduranian ports and to report the facts to the Department. With the Department's No. 41 of October 25 last was inclosed a letter from Mr. J. Oteri setting forth further acts of exclusion on the part of the authorities of Honduras, which you were instructed to bear in mind in making your investigation.

In reply to these instructions nothing has been received from you further than the information contained in your No. 11 of July 13 last, that you would proceed to Honduras as soon as the condition of the roads would admit. Meanwhile the parties interested, thinking a sufficient time has elapsed to hear from you, are pressing the Department for information regarding the result of your investigation.

It is assumed that the Department's instructions have been receiving your attention and that your report on the subject will not be long delayed.

I am, sir, etc.,

W. Q. GRESHAM.

Mr. Young to Mr. Gresham.

No. 107.]

LEGATION OF THE UNITED STATES,
GUATEMALA AND HONDURAS,
Guatemala, June 28, 1894.

SIR: I have the honor to acknowledge the receipt of No. 114, calling for a report in the case of steamship *Oteri*.

The investigation has not been made for the reason that it was practically impossible to do it under the circumstances up to this time. There has not been ten days of peace and tranquillity in the Republic of Honduras for fifteen months. On the 3d of June, 1893, when I arrived in Guatemala, I found Honduras under the government of General Vasquez, as provisional President. The country had just

emerged from a revolution. In the election held in September Vasquez was elected President, and almost immediately war was declared against Nicaragua. Then followed the Bonilla revolution and an invasion by the Nicaraguan army. Vasquez's government was overthrown and Bonilla proclaimed himself provisional President. He is now provisional President and Dictator. It is supposed that an election for President will be had about the last of August. But there prevails in Honduras at this moment great dissatisfaction and discord among the leaders of the party in power, and trouble may be expected at any moment.

I respectfully call your attention to the Department's No. 32, in which my postponement of my visit to Honduras was approved, and also to No. 33 of the Department, in which the last sentence reads as follows: "And deferring your personal visit to Honduras until you shall be instructed to proceed thither."

I regret exceedingly that it has been impossible to make a satisfactory investigation of this case up to this moment. It will involve a considerable expense to the Government of the United States when made, and therefore it should be done thoroughly, and not until a government that is responsible is in power in this unhappy country. I am ready to make the visit to Honduras at a moment's notice and to proceed with the investigation; but I advise against it until peace is entirely restored and a permanent government shall be established. It is hardly necessary for me to say that not one of the foreign ministers to Central America has visited Honduras at any time during the last fifteen months.

With the hope that my course has met with approval in the Department of State,

I have, etc.,

P. M. B. YOUNG.

HAITI.

DISCRIMINATING DUTIES.

Mr. Smythe to Mr. Gresham.

No. 10.]

LEGATION OF THE UNITED STATES,

Port au Prince, Haiti, November 29, 1893.

(Received December 13.)

SIR: I desire to submit to your Department the suggestions and recommendations in this dispatch in the hope that they may induce the Executive to recall the proclamation of his predecessor suspending the operation of the McKinley bill as it relates to Haiti. I presume, of course, inasmuch as the Republics of Venezuela and the States of Colombia were affected in the same way, and as all the reasons that can be urged in one case are equally applicable to the others (so far as I can determine), that the President may not see fit to make what might be considered an invidious distinction in favor of one of the powers.

Aside from the patent fact that the proclamation referred to was in contravention with treaty agreements, I have become convinced after a patient and laborious investigation that such action would materially increase the volume of trade between the United States and Haiti, and be productive of a state of feeling that would tend to promote any interest that your Department may desire to advance. The Executive of the United States is already regarded as a friend to Haiti because of certain decisions of your Department during his former administration (relating to the claims of Pelletier and others), and any action on his part now in advance of legislation on the tariff would be construed as an act of grace and good will, and would not only promote every American interest in Haiti but would place this legation in a position to effectually combat the influence of the powers heretofore predominant in the foreign office.

In support of my recommendation I submit the following in relation to the coffee trade. The crop amounts to about 100,000,000 pounds, and is thought by many to be the finest in the world. Three years ago much of it was finding a profitable market in the United States, but now the duty of 3 cents is simply prohibitive, and all the crop is sent to Europe and all the goods imported from European countries are brought back in return. This year the crop is late and it will not all be gathered before June, hence immediate action in the line indicated would divert all not already shipped to the United States. Here at Port au Prince, which is not the center of the industry, the trade is a most important one, requiring many millions of dollars to move it, employing many people for whom there is at this season no other means of support, and affording immense tonnage to vessels.

Other articles upon which our duties are prohibitive are hides, wax, and honey, and I have just learned from Mr. Richard Allen, the largest dealer in these articles on the island, that he has had to break off his large trade with our ports, and that in sending his goods elsewhere he gets in return goods from Europe which ordinarily would come from

our country. He has a list of twenty other articles which he believes under favorable conditions could be profitably shipped to our ports.

It is pertinent to say that the Haitian Government depends entirely for the means of its budget on duties on imports and exports, and I learn that, notwithstanding the duties collected nearly all the food products, especially flour, lard, bacon, and salt fish are imported from the United States. Many of the light cotton fabrics of the country are also of American manufacture.

Under former conditions many mills for the preparation of coffee and other products were started up. One by Mr. Wakeman, an American, began three years ago under favorable auspices, because he had an American market for fine grades, but having lost this he contemplates giving up his business, in which he has invested many thousands of dollars.

In the sincere hope that the Secretary will submit this to the President as an earnest argument for immediate action,

I have, etc.,

HENRY M. SMYTHE.

Mr. Uhl to Mr. Smythe.

No. 16.]

DEPARTMENT OF STATE,

Washington, December 30, 1893.

SIR: I have received your dispatch No. 10, diplomatic series, of the 29th of November last, presenting certain considerations which suggest themselves to you touching the advisability of withdrawing the existing proclamation imposing certain discriminating duties on Haitian sugars, molasses, coffee, and hides under the third section of the customs act of October 1, 1890.

The subject has been under consideration in view of the claim of Colombia that, under its treaty with the United States, that country is entitled to receive the treatment of the most favored nation, without equivalent, inasmuch as the favor of free entry of such productions continues gratuitously to the benefit of Mexico, Argentina, and some other countries in the absence of the specifically invited agreements for commercial reciprocity.

Besides Haiti and Colombia, Venezuela comes under a similar discriminating proclamation, but the latter country, having abrogated by due notice its commercial treaty with the United States, has no conventional stipulation of favored-nation treatment to which to appeal.

The question of amendatory legislation touching the customs tariff act is under urgent consideration by the Congress, with a prospect of speedy action involving extensive changes in the existing law, and under the circumstances the President has not hitherto thought it well to take executive action calculated to forestall the expected enactments.

Wax, honey, and the other important articles of Haitian export to this country, alluded to in your dispatch, do not fall within the purview of section 3 of the customs act of 1890, and the Executive has no power to exceptionally favor the trade in articles embraced in the fixed tariff.

A copy of your dispatch will be sent to the appropriate committees of Congress, for their information.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

ALLEGED VIOLATIONS OF NEUTRALITY.

Mr. Smythe to Mr. Gresham.

No. 23.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, January 10, 1894.
 (Received January 24.)

SIR: In the same interview with the Secretary of State alluded to in my preceding dispatch¹ my attention was called to the fact that an American schooner (the *Water Witch*, of Boston, owned by Messrs. Green Kenable & Co.) had on board 2 cannon and 60 pounds of powder, and these not on the vessel's manifest.

Of course in a country where revolutions are of somewhat frequent occurrence the Government looks anxiously into the importation of munitions of war, and I promised the Secretary to immediately ask my Government for instructions in this behalf. Are sailing vessels allowed to carry an armament, either limited or unlimited? Are they permitted to carry them as ship's stores? This vessel evidently had no use for the guns, and if for sale they were not scheduled. Be kind enough to give me an early reply to this and my preceding dispatch, and I trust that I may be able to render to the Government a satisfactory reply.

Accept, etc.,

HENRY M. SMYTHE.

Mr. Gresham to Mr. Smythe.

No. 21.]

DEPARTMENT OF STATE,
Washington, January 31, 1894.

SIR: A copy of your No. 23, of the 10th instant, in regard to the case of the American schooner *Water Witch*, which arrived in Haytian waters with 2 cannon and 60 pounds of powder on board, having been transmitted to the Secretary of the Treasury, that official has replied to your inquiry whether sailing vessels of the United States are allowed to carry an armament as ship's stores, or otherwise, that the laws do not forbid the carrying of articles of the character mentioned, provided there shall be no violation of Chapter LXVII of the Revised Statutes.

I am, etc.,

W. Q. GRESHAM.

Mr. Haentjens to Mr. Gresham.

[Translation.]

LEGATION OF HAITI,
24 State Street, New York, February 27, 1894.
 (Received February 28.)

MR. SECRETARY OF STATE: I have the honor to state in this dispatch the following facts, which, in conformity with instructions received by cable from my Government, I set forth in my interview yesterday with the honorable Assistant Secretary of State in your absence.

In the beginning of the month of January last a steam yacht called *Natalie* left the coast of Long Island (New York State) and proceeded

¹Not printed.

to the port of Savannah, Ga. Arrived at that port, the *Natalie*, under cover of night, there shipped thirty-two cases containing cartridges, guns, bullets, gun carriages, etc., and furtively sailed away without procuring any manifest or paper from the custom-house.

From Savannah the yacht proceeded to Nassau, where she was until the 9th of February, sheltering under the American flag her contraband of war, and the last telegraphic advices inform me of her presence on the 23d of February at Fortune Island, one of the Bahama Islands.

This expedition, for a long time in preparation by the Haitian refugees at Kingston, and by their accomplices in New York, is conducted by one Antoine Salini, a Corsican naturalized American. His design is to reach Jamaica, there take on board the revolutionary Haitians who have taken refuge on that island, and to effect their landing on the coast of Haiti.

In view of this act of an American vessel secretly sailing from a port of the United States without papers from the custom-house, carrying away arms and munitions of war; in view of the unlawful use made by Salini and his accomplices of the American flag to conceal his contraband of war and facilitate an expedition the purpose of which is to rekindle civil war in a country which entertains friendly relations with the Republic of the United States, the Haitian Government, fully confiding in the justice of the American Government, in denouncing to it these facts requests that it will take such measures as it may deem efficacious toward arresting an attempted violation of international law.

Accept, etc.,

C. HAENTJENS.

P. S.—Herewith I have the honor to forward to you copy of a letter received from Savannah and containing information concerning the cargo shipped by the *Natalie*. I have not procured affidavits in support of this information in the belief that if obtained directly by your orders, should you think it well to do so, they would be all the more convincing.

C. H.

[Inclosure—Copy of a letter.]

Mr. Farie to Mr. Meehan.

SAVANNAH, GA., *January 26, 1894.*

DEAR SIR: I have to acknowledge your favor of 24th instant, inclosing cuttings from the New York Herald and World, *re yacht Natalie*, and beg to confirm my telegram of date saying:

Natalie Herald cutting; in the main true; Capt. Antonio Salini in command; 26 cases cartridges, 5 cases guns, 6 cases gun carriages, shipped Bannerman, Front street, New York, taken on board yacht. Destination or present location unknown.

The yacht arrived here December 31. The master called himself Nelson to some people, but I find from inquiries which I made that he had given his name as Antonio Salini to others. No entry was made at the custom-house either of the arrival or departure of yacht.

After arrival here, and while waiting, the yacht was coaled up, taking on board about 13 tons of coal. Some of the coal was in sacks and was piled on deck. She was also well provisioned. Before taking coal on board, however, the master called in John Rourke, of the firm of John Rourke & Son, to examine the machinery. Some changes were recom-

mended, and made, to increase speed of vessel. From all I could gather the changes made increased her speed from about 10 knots an hour to 14 knots.

It was given out here that the yacht belonged to private parties, and was awaiting their arrival here to start with them on a hunting and fishing expedition. The parties were coming from the north.

As regards the shipment of ammunition, I would state that I saw the bills of lading for same. They were shipped by the Ocean Steamship Company's steamer *City of Augusta*, appointed to sail January 10, 1894, viz.

First bill of lading.

Goods shipped by Francis Bannerman, 27 Front street, New York City, consigned to Earnest Morrett, Savannah (or Herritt). Box Nos. 4-12, 14-15, 24-34; 21 boxes containing cartridges.

Second bill of lading.

Five cases guns, 3 cases gun carriage and chests, 1 case gun box carriage and chests, 1 case gun chest, 1 case gun carriage.

Third bill of lading.

40-41, 42-44; 5 boxes cartridges.

The consignee here is unknown and probably was an imaginary person. The freight on the packages was paid here and the goods were hauled away after dark on the 20th and shipped on board the yacht from the river side at foot of West Broad street.

The yacht sailed Sunday night. Destination unknown; present location unknown, although the general impression here is that she went direct to the Bahamas.

The master sailed without settling all John Rourke & Son's bill. There is a balance of \$100 or so unpaid, and I understand telegrams were sent to Fernandina and to Pensacola to attach vessel if she put in at these ports.

I return you herewith newspaper cuttings and inclose my bill for services in the matter.

Yours, etc.,

A. L. FARIE,
Correspondent Marine Underwriters.

Mr. Uhl to Mr. Haentjens.

DEPARTMENT OF STATE,
Washington, March 5, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 27th ultimo, in regard to an alleged violation of the neutrality laws of the United States by the American steam yacht *Natalie*, which is reported to have clandestinely shipped munitions of war at Savannah, Ga., and to have sailed from that port without manifest or other papers, her final destination being the coast of Haiti, where it is proposed to land these munitions and Haitian insurgents who had taken refuge in Jamaica. You inclose a letter from Mr. A. L. Farie, of Savannah, reciting particulars, and you ask that the necessary measures be taken to check the attempted violation of international law.

A copy of your note and of its inclosure has this day been communicated to the Secretary of the Treasury and the Attorney-General.

I note your statement that you have not considered it necessary to procure affidavits to substantiate the statements concerning the cargo shipped at Savannah. In similar cases it has been deemed well that due showing under oath should be made by some person having knowledge of the facts claimed to constitute the violation of law. The *Natalie* being now without the jurisdiction of the United States, can not be pursued on the high seas or into a foreign port.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Smythe to Mr. Gresham.

No. 51.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, March 8, 1894.
(Received March 19.)

SIR: Yesterday morning the steam yacht *Natalie* was brought into this port under convoy of the two Haitian cruisers *Capois la Mort* and the *Dessalines*. In the afternoon I received a communication from the foreign office requesting that a representative of this legation accompany the foreign secretary and other members on board the vessel to witness the investigation of the engineer and another of the crew of the yacht who, as I learn, have been retained in the service of the Haitian Government. They detailed the course of the vessel from Port Jefferson, N. Y., thence to Delaware, where coal was taken, thence to Norfolk for coal, and from thence to Savannah, Ga., where the yacht lay for three weeks.

Nearly at the end of this period the captain, Salini, gave all hands leave to go on shore for three days and when they returned it was found that a number of heavy cases had been shipped and which proved to be munitions of war. Some of these were thrown overboard when the vessel went ashore on one of the Bahama reefs. The yacht anchored in the harbor of Fortune Island, and almost immediately afterward one of the Haitian war ships dropped anchor outside. It seems then that the captain of the *Natalie* began negotiations for the sale of the vessel to the Haitian Government, which sale was concluded on the date mentioned in the agreement, a copy of which I herewith transmit. The parties interrogated professed to know much more than they told, but withheld it for a suitable "consideration," and the inference was that the testimony withheld would implicate American citizens "presumably in New York." Admiral Killeck, of the Haitian navy, brought me the protocol of agreement and asked that it be vised or indorsed at the consulate-general. Inasmuch as there appears to have been no American citizen concerned in the transaction I declined to make any indorsement other than that of its presentation with the request. I can not see that the fact of the vessel carrying the flag of the United States will give me any right to appear officially in the matter, since all the circumstances point to the conclusion that the flag was opened in violation of our laws for the purpose of levying war on a power with which we are at peace, and have treaty relations.

An inventory yesterday disclosed that there were on board two guns of recent make and good caliber, several boxes of ammunition, and several cases of rifles, all of American manufacture.

I write this dispatch hurriedly in order to mail by the Spanish steamer now in port. If you deem any special instructions necessary please send by first mail (or if urgent by cable).

I have, etc.,

HENRY M. SMYTHE.

P. S.—Since writing this dispatch I learn that Salini, who sold the boat to Farrington, has papers showing him to be an American citizen, and that H. H. Farrington is consular agent of the United States at Albert Town, Bahama Islands.

Very respectfully, etc.,

H. M. S.

[Inclosure in No. 51.]

Bill of sale, registered vessel.

To all whom these presents shall come, greeting:

Know ye, that I, H. H. Farrington, of Albert Town, Fortune Island, one of the Bahamas, sole owner of the steam yacht, or vessel, called the *Natalie*, late of Greenwich, Conn., of the burthen of fourteen $\frac{3}{4}$ tons or thereabouts, for and in consideration of the sum of five thousand two hundred and eight pounds, six shilling, and eight pence (£5,208 6 8), lawful money of these islands, to me in hand paid before the sealing and delivery of these presents by Admiral H. Killeck, of the Republic of Haiti, the receipt whereof I do hereby acknowledge, and am therewith fully satisfied, contented, and paid, have bargained and sold, and by these presents do bargain and sell unto the said Admiral H. Killeck, his executors, administrators, and assigns, the whole of the said steam yacht, or vessel, together with the whole of the engine, tackle, furniture as she stands, the mast, bowsprit, sails, boats, anchors, cables, and all other necessities thereunto appertaining; the certificate of the registry of which steam yacht, or vessel, is as follows, to wit:

To have and to hold the said whole of said steam yacht *Natalie* and appurtenances thereunto belonging unto him the said Admiral H. Killeck, his executors, administrators, and assigns, to the sole and only proper use, benefit, and behoof to him, the said Admiral H. Killeck, his executors, administrators, and assigns forever; and I, the said H. H. Farrington, have and by these presents do promise, covenant, and agree for myself, my heirs, executors, and administrators, to and with the said Admiral H. Killeck, his heirs, executors, administrators, and assigns, to warrant and defend the said whole of steam yacht *Natalie* and all the other before-mentioned appurtenances against all and every person and persons whomsoever.

In testimony whereof I, the said H. H. Farrington, have hereunto set my hand and seal this 2nd day of March in the year one thousand eight hundred and ninety-four.

H. H. FARRINGTON,
U. S. Consular Agent and Acting Resident Justice.

Sealed and delivered in the presence of—

JOSHUA E. DUNCOMBE,
Custom-House Officer.
A. E. FARQUHARSON.
— WHEBOUF.
T. STEPHENS.

Mr. Uhl to Mr. Smythe.

No. 39.]

DEPARTMENT OF STATE,
Washington, March 21, 1894.

SIR: I am in receipt of your No. 51, of the 8th instant, reporting the sale of the steam yacht *Natalie*, and requesting instructions in connection therewith.

The bill of sale having been sent to the Treasury, no instructions in respect to the transaction seem at present necessary.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

CASE OF WILLIAM WALTER WAKEMAN.

Mr. Uhl to Mr. Smythe.

No. 29.]

DEPARTMENT OF STATE,
Washington, February 15, 1894.

SIR: I have received your dispatches, No. 29, of January 20, and No. 33, of February 3, 1894,¹ in reference to the case of William Wakeman, an American citizen.

In your No. 29 you inclosed a letter from Mr. Wakeman, and the Department about the same time received a communication on the same subject from the office of the West India Coffee Company in New York City.

It appears that Mr. Wakeman, who is the manager of the branch of the West India Coffee Company at Rivière de Nippes, had two of his native employés arrested on the charge of theft; that they were tried and convicted, but subsequently procured a reversal of the judgment, brought suit against Mr. Wakeman for false imprisonment, and were awarded large damages. The authorities threatened to close Mr. Wakeman's place of business or imprison him unless the amount should be paid. You communicated with the minister of foreign affairs protesting against such action, and received satisfactory promises that Mr. Wakeman's rights would be protected. Your No. 33 indicates that these promises will be fulfilled, and that Mr. Wakeman anticipates no further serious trouble. The Department approves your action.

The allowance of an appeal will afford an opportunity for the correction of any irregularities which may have occurred in the original proceedings. If an appeal is not allowed, and it is clearly shown that Mr. Wakeman was not afforded proper opportunity for defense in the suit against him, as alleged in his letter, this will afford ground for complaint by this Government.

You will watch the proceedings and see that there is no denial of justice, or discrimination against Mr. Wakeman on account of his citizenship. If any attempt is made to interfere with the property of the coffee company, you will protest in the name of your Government.

In the absence of a copy of the court proceedings and of any evidence in the case the Department can not instruct you more definitely.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

¹ Not printed.

EXPULSION OF FOREIGNERS.

Mr. Smythe to Mr. Gresham.

No. 47.]

LEGATION OF THE UNITED STATES,
*Port au Prince, March 3, 1894.*SIR: In the official *Moniteur* of last Saturday appeared the following:

Whereas international law confers on each independent State the right to expel from its territory foreigners whose actions are dangerous to public tranquillity and order, considering that the presence in Haiti of Messieurs L. Clouchier, Boisson, Chardon, Paul Andreoli, Antoine Duthiers, and George Duthiers is judged to be dangerous to public safety, on advice of the council of secretaries of state, it is ordered:

ACT. 1. The Messieurs L. Clouchier, Boisson, Chardon, Paul Andreoli, Antoine Duthiers, and George Duthiers are expelled from the territory of the Republic of Haiti, and shall be embarked on board the first steamer leaving for a foreign port.

ACT. 2. The chief of the administrative police of the capital is charged with the execution of this order.

All these are French citizens, some of whom have accumulated fortunes here. It has not transpired what proof the Government has, but inasmuch as I have heard of no protest on the part of the French legation, we may take it that sufficient proof existed. On the other hand, it is possible that these parties may have been denounced by personal enemies, and in case American citizens in business here should fall under the displeasure or suspicion of the Government, I hope that instructions will be given me at the earliest moment practicable as to the course to pursue—whether under our treaty I would have the right to demand the production of proof of such citizens' connection with treasonable practices, which would justify the virtual confiscation of his property (through the ruin of his business). Another phase of the question might be presented. On faith of treaty stipulations, American citizens have invested large sums of money in business tending to the development of the country, and some of them have loaned large sums of money to the Government. In case one of these should be denounced, might there not exist a right to demand a guaranty for such investments or loans? It is conceded here, and I think in Government circles, that American citizens are never engaged in conspiracies against the existing order, but still I consider that I should be advised as to what course to pursue in case of such an exigency, and especially as American citizens feel more or less uneasiness in the premises.

As at least collaterally bearing on the subject, permit me to say that after a careful study of the subject, under conditions peculiarly favorable to a correct judgment, I can see no probability of a successful movement against the present Government. Men of influence and wealth—without whose aid no revolutionary movement can succeed here—are content with the existing order and would uphold it rather than enter into schemes to destroy it. The Government has good credit, as was evinced recently when merchants here offered a loan of \$500,000 at less than the usual rate of interest, and it was declined.

I have, etc.,

HENRY M. SMYTHE.

Mr. Smythe to Mr. Gresham.

No. 50.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, March 8, 1894.
 (Received March 19.)

SIR: As supplemental to my No. 47, I have to report that I have from absolutely good authority the information that the French Government protested against the expulsion of the parties named, and that as soon as the protest was communicated to the Government the President ordered the chief of police to at once embark the parties on board the Dutch steamer then in the harbor. This order was promptly carried out, and since then the French Government has cabled an ultimatum, requiring the Haitian authorities, to furnish the evidence upon which this action was based within eight days, "the French Government to determine its sufficiency." There can be no doubt that my information is correct, and if it is it raises an interesting question in international law, as President Hyppolite contends that there can be no law which discriminates between a powerful government and a weak one, and that France is not asked by other nations (of the first rank) the reasons that impel that power to exercise a similar right. You will please consider this dispatch in connection with my 47, and if you deem any special instructions necessary, transmit them at the earliest possible day.

I have, etc.,

HENRY M. SMYTHE.

Mr. Gresham to Mr. Smythe.

No. 36.]

DEPARTMENT OF STATE,
Washington, March 16, 1894.

SIR: Your No. 47, diplomatic series, of the 3d instant, has been received. You therein report the expulsion from Haiti, by executive decree, of six Frenchmen, on the ground that their presence is judged to be dangerous to public safety; and you ask instructions in the event of similar decree affecting citizens of the United States.

This Department does not usually give contingent instructions to meet hypothetical cases, and in the present instance the high tribute you pay to the law-abiding character of the American residents in Haiti makes it unlikely that explicit instructions will be needed.

I am, etc.,

W. Q. GRESHAM.

Mr. Smythe to Mr. Gresham.

No. 56.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, March 20, 1894.
 (Received April 2.)

SIR: Following my dispatches numbered 47 and 50, in reference to the expulsion of certain French citizens, I have to report that on the 16th instant the French chargé d'affaires called at this legation and asked me to say to the Haitian foreign secretary (if approached on the question) "that such expulsion should not be allowed except on good and sufficient evidence that the parties were engaged in treasonable

practices." I answered that I had asked my Government for instructions for my guidance in case of the possible expulsion of American citizens, but pending the receipt of such instructions, if asked by the secretary my view, that I would be compelled to say to him that if a similar order were issued against an American citizen, I would certainly demand proofs to justify it. The French representative said that he had expressions from the German minister and the English consul-general, and that they agreed that "sufficient proof should be adduced."

I have not been approached in the matter by the foreign secretary and, while the French chargé claims that no proofs exist, have reason to believe the Government will defend its action as justified by international law.

Awaiting your reply, I have, etc.,

HENRY M. SMYTHE.

Mr. Uhl to Mr. Smythe.

No. 40.]

DEPARTMENT OF STATE,
Washington, March 27, 1894.

SIR: I have to acknowledge the receipt of your No. 50, diplomatic series, of the 8th instant, in which you state that the French Government has protested against the expulsion of the Frenchmen mentioned in your No. 47, and that orders were then given for their instant embarkment. The French Government has since cabled an ultimatum requiring the Haitian Government to furnish the evidence upon which their action was based, to be delivered within eight days, "the French Government to determine its sufficiency." President Hyppolite contends that such demands are never made of nations of the first rank, and that there can be no law which discriminates between a powerful government and a weak one.

With respect to the treatment of citizens of the United States, it will suffice now to instruct you that their rights of residence and business are defined by the treaty of 1864, and they are expressly guaranteed by the sixth article thereof, "to enter, sojourn, settle, and reside in all parts of" Haiti; there to "engage in business, hire and occupy warehouses, provided they submit to the laws, as well general as special, relative to the rights of traveling, residing, or trading." The fifth and seventh articles of the treaty are also pertinent, and these provisions taken together constitute a solemn guaranty of unmolested residence of our citizens in Haiti, so long as they shall obey the laws.

You will continue to advise the Department of what may transpire touching the questions arising between Haiti and France.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Smythe to Mr. Gresham.

No. 67.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, April 24, 1894.
(Received May 15.)

SIR: I have received your No. 40 of diplomatic series in response to my No. 50 relating to the recent expulsion of certain French subjects from Haiti. I have unofficial information that the matter has been

settled, and that the French Government has either acknowledged the right of expulsion or has been satisfied of the justness of the measure. I do not anticipate any action of this kind as against American citizens, because they pursue quietly their avocations and do not show any disposition to meddle with the politics of the country that affords them protection.

I note your instructions as to the rights guaranteed by the convention of 1864, and you may be assured that I will leave nothing undone to secure their strict and literal observance. It would give, however, an incorrect impression to your Department if by this assurance I conveyed or suggested a doubt of the absolute good faith of this Government. I observe your instructions, and will promptly report as directed.

I am, etc.,

HENRY M. SMYTHE.

CERTIFICATES OF CITIZENSHIP.

Mr. Durham to Mr. Gresham.

No. 244.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, September 14, 1893.

(Received September 23.)

SIR: I have received application from Stanislas Goutier, esq., our consul at Cape Haitian, to renew for his son, Stanislas Goutier, jr., who is attending school at this capital, a paper which he received from the Honorable Frederick Douglass, formerly minister resident of the United States. I inclose a copy of the paper. While I am sure that the Department would not hesitate to recognize the son of Consul Goutier as an American citizen, I can find no authority for the form of the paper inclosed. I therefore respectfully ask to be instructed by you whether such certificate may be issued by this legation, or what should be done to protect Stanislas Goutier, jr., a minor, during his absence from his home, Cape Haitian.

I have, etc.,

JOHN S. DURHAM.

Mr. Adee to Mr. Terres.

No. 142.]

DEPARTMENT OF STATE,
Washington, September 26, 1893.

SIR: I have received Mr. Durham's No. 244, of the 14th instant, reporting the request addressed to him by Mr. Goutier, consul of the United States at Cape Haitian, for the renewal of the certificate of citizenship given to his son by Mr. Douglass when minister to Haiti.

The only certification of United States citizenship permissible is by a regular passport issued in compliance with law and the regulations of this Department. It sometimes happens in Spanish-American countries that an alien is required to deposit his passport with the legation or a consulate and receive a certificate of registry according to local formula, but Mr. Durham's dispatch does not intimate that the certificate was given to Mr. Goutier's son under such circumstances.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

REGULATIONS OF ENTRANCE AND DEPARTURE OF FOREIGNERS FROM
HAITI.*Mr. Uhl to Mr. Terres.*

No. 57.]

DEPARTMENT OF STATE,
Washington, August 24, 1894.

SIR: I have received your dispatch No. 82,¹ of the 1st instant, concerning the recently revived Haiti law of September, 1864, relative to the arrival of persons from foreign countries in the open ports of the Republic or who depart therefrom on a voyage to foreign countries.

In reply, I have to say that there is no provision in the treaties between the United States and Haiti exempting citizens of the United States from any obligation to produce passports, or other evidence of nationality and identity, on entering Haitian territory. The requirement that arriving foreigners shall produce passports, formerly general in the intercourse of nations, is still retained by several important governments, and their right to prescribe such a requirement is inherent in their sovereignty and can not be contested.

The fee authorized to be collected for a visa attached to a passport by a consular representative of Haiti is one-half of a Spanish dollar, and can not be regarded as excessive. The fee prescribed by the United States Consular Regulations is \$1 in United States gold or its equivalent. The fee of \$4 prescribed for the issuance of the Haitian certificate of travel and residence is presumably what is objected to by persons resorting to Haiti, but as this is a purely municipal tax imposed indiscriminately, there is no ground for contesting it.

The renewed application of the Haitian law in question will be given to the press for the information of the traveling public.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

DISCRIMINATING TAXATION BETWEEN NATIVES AND FOREIGNERS.

Mr. Durham to Mr. Gresham.

No. 235.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, August 28, 1893.

(Received September 4.)

SIR: I beg leave to inclose the accompanying project, which has been presented in the chamber of deputies here for legal enactment. It is a discriminating tax against foreigners in Haiti engaged in any active employment, and so far as it would affect American citizens would seem to violate the treaty between Haiti and the United States.

The feeling of antipathy for foreigners which seems to animate this project has caused some alarm among the foreign merchants. To the inquiries of American citizens, I have replied that so long as the proposed law remains a mere communication from the Executive to the legislative branch of the Government, this legation can not officially take cognizance of its existence without previous instructions from the Department.

¹Substance of this dispatch was printed in Consular Reports for September, 1894, p. 144.

Similar discriminations against foreigners have been attempted by nearly all the administrations during the past forty years; and even now foreigners suffer petty discriminations which are generally accepted as scarcely warranting protest. The last serious attempt to discriminate against foreigners was by the executive decree of President Dominique, which was reported at length by Mr. Bassett, then U. S. minister to Haiti, in dispatches to Mr. Fish, No. 426, January 28, 1876; No. 428, February 7, 1876; No. 443, April 10, 1876.

Mr. Fish's instruction No. 261, of March 13, 1876, states clearly the Department's views as to the purpose and extent of Article V of the treaty between Haiti and the United States.

I am inclined to think that the project will not pass both branches of Congress; but should it become a law and its application attempted, I shall be guided by the correspondence above quoted until I shall have received instructions from you.

I have, etc.,

JOHN S. DURHAM.

[Inclosure in No. 235.—Translation.]

In view of article 69 of the constitution:

Considering that it is urgent to reestablish the equilibrium between public receipts and expenses; that it is conformable with justice and equity that the charges of state should be assessed on all those who dwell in the territory of the Republic, whatever may be their nationality;

Considering that experience has shown that the greater part of the impost is borne only by Haitian citizens; that it is the duty of the Government to devise the means to do away with this injustice in the assessment of the public contributions, and to determine the ratio of the foreign contributor in a manner proportionate to the ability of each one;

Upon the proposition of the secretary of state for finances, and according to the recommendation of the council of the secretaries of state the legislative corps has enacted the following law:

ART. 1. From the 1st of October, 1893, all foreigners dwelling in the territory of the Republic, with the exception of the diplomatic agents accredited near to the Government, outside of the license tax already established by law, shall pay a personal tax conformable to the tariff specified in article 8 of the present law.

ART. 2. This tax shall be paid into the public treasury by the debtor in virtue of the laws and regulations of the public administration conformable to the list which shall be drawn up to that effect by the competent authority.

ART. 3. The list above mentioned shall be drawn up by the chief administrators of finances from the necessary schedules and documents to be furnished by the communal magistrates with the assistance of the secretary of state for the interior to the secretary of state for finances and commerce.

The secretary of state for finances shall address himself directly to the communal magistrates for certain data when he shall deem such necessary.

ART. 4. The schedule of this personal tax shall be revised and regularly drawn up in the form that shall be adopted by the department of finances by the 1st of September of each year, beginning with current one.

ART. 5. No foreigner shall practise a trade or profession except by virtue of a license from the chief magistrate of the Republic. This license shall be issued only on a receipt from the national bank, countersigned by the chief administrator of finance at the place of his residence, certifying to the entire payment of the new tax into the treasury.

ART. 6. In regard to foreigners employed in the capacity of clerks, or under any other title, in the service of merchants, manufacturers, or artisans, either natives or foreigners, those who employ them are and remain responsible for the payment of the tax.

ART. 7. This personal tax shall be paid, so far as due, from the 1st of October to the 10th of November at the latest.

Any person who within the period above mentioned shall not have made his payments to the treasury, shall, on demand of the chief administrator of finance at the place of his residence and on the responsibility of the latter, be subject to the penalties and fines provided in article 18 of the law of October 24, 1876, governing the collection of direct taxes.

ART. 8. The quota of this contribution is established as follows:

TARIFF.		Gold.
I. Foreign consignees engaged in the export trade or banking business, annually, and without distinction of class		\$300
II. Foreign consignees engaged in import trade, annually and without distinction of class		250
III. Foreign consignees engaged in banking, export and import trade		500
IV. Foreign clerks employed in banking or export houses		80
V. Foreign clerks employed in houses engaged in import trade		50
VI. Foreign clerks employed in houses engaged in banking, export and import trade		100
VII. Agents of lines of steamers in all the ports of the Republic		150
VIII. Apothecaries, druggists, and doctors		100
IX. Restaurant keepers who furnish meals and who keep an open house ..		100
X. Coffee-house keepers		100
XI. Coffee-house keepers who have a billiard saloon annexed		150
XII. Architects engaged in all manner of building		80
XIII. Confectioners		100
XIV. Shoemakers who employ workmen		25
XV. Shoemakers working alone		5
XVI. Clock and watchmakers		20
XVII. Photographers having an establishment		50
XVIII. Carriage-makers, painters, gilders of carriages, etc		20
XIX. Tailors who employ workmen		30
XX. Merchant tailors		150
XXI. Journeymen tailors		5
XXII. Proprietors of livery stables and busses		100
XXIII. Drivers of carriages and busses to hire		10
XXIV. Drivers of private carriages or busses		5
XXV. Hair dressers and barbers having a saloon		25
XXVI. Hair dressers and barbers without saloons		5

In all the professions or industries not provided for in the present tariff and open to foreigners, foreigners shall pay twice the amount of the license tax paid by a Haitian, in virtue of the law of October 24, 1876, governing the collection of direct taxes.

ART. 9. The present law shall be published and executed by the secretaries of state for finance and commerce, and for the interior, each so far as concerns him.

Mr. Gresham to Mr. Smythe.

No. 7.]

DEPARTMENT OF STATE,

Washington, November 27, 1893.

SIR: I desire to call your attention to Mr. Durham's No. 235, of August 28 last, inclosing a copy of a bill pending before the Haitian Chamber of Deputies, proposing to levy taxes which appear to discriminate against foreign residents in the Republic.

The preamble of the bill recites that equity and justice require that the charges of the state should be borne by all inhabitants, without regard to nationality. As an abstract proposition this would justify imposing all business license taxes uniformly on foreigners as well as natives, the character and extent of the business transactions affording an equitable basis for the respective license tax.

If, as appears from the draft bill, the proposal is to levy a personal tax on aliens, in addition to all other business taxes they may pay in common with native Haitians, it departs wholly from the just principle laid down as the motive of the measure, substitutes an inequitable and discriminatory treatment at variance with its declared precepts, and results in discrimination against our citizens. The provisions of Article V specifically prohibit the subjection of the citizens of the United States in Haiti to "any contributions whatever higher or other than those that are or may be paid by native citizens."

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 that it becomes a law and an attempt is made to apply it to citizens of the United States.

I am, etc.,

W. Q. GRESHAM.

Mr. Smythe to Mr. Gresham.

No. 16.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, December 13, 1893.
(Received December 26.)

SIR: Replying to your No. 7, reciting Mr. Durham's 235, I have the honor to report that the bill was not presented to the Chamber of Deputies, and this I learn was in consequence of the same arguments presented in your dispatch. The Government realized that the law could not be enforced in reference to American citizens, and as they have similar conventions with other countries it was deemed impracticable and dropped.

I have, etc.,

HENRY M. SMYTHE.

CONTRABAND TRADE.

Mr. Smythe to Mr. Gresham.

No. 22.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, January 10, 1894.
(Received January 24.)

SIR: In an interview to-day with the secretary of state for foreign affairs (at his instance) he stated that certain small whalers and other American vessels had been habitually invading Haitian territory, and in the prosecution of their business frequently putting in at closed ports, and presumably carrying on a contraband trade. He stated further, that he desired to give notice to this legation before proceeding to extreme measures. I answered that the U. S. Government could not be expected to patrol Haitian territory, and that the only course open to the Haitian Government in this behalf was to protect its territory in the usual manner, and in that case the only interest of my Government would be to see that the delinquent parties had a fair and impartial trial, in case they proved to be American vessels.

Since returning to the legation I find the same subject came up some years ago, and that this view (practically) seems to have been sustained by the Department. If my reply needs any modification please advise me.

I am, etc.

HENRY M. SMYTHE.

Mr. Uhl to Mr. Smythe.

No. 19.]

DEPARTMENT OF STATE,
Washington, January 26, 1894.

SIR: Your No. 22, of the 10th instant, reporting the intention of the Haitian Government to adopt extreme measures against whaling and other vessels of the United States putting into closed ports of Haiti and presumably carrying on a contraband trade, has been received. A copy thereof has been sent to the Secretary of the Treasury for communication to shipmasters, and the matter has been given publicity through the press.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

DETENTION OF SAILING VESSELS UNTIL IMPORT DUTIES ARE PAID
ON THEIR CARGOES.

Mr. Durham to Mr. Gresham.

No. 228.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, August 2, 1893.
(Received August 12.)

SIR:

* * * * *

The question of the detention of sailing vessels for the payment of customs duties has been raised by the firm of Green, Knaebel & Co., copy of whose communication I inclose.¹ * * * I inclose also a copy of my reply, in which I inform Messrs. Green, Knaebel & Co. that I have no instructions concerning the suggestion that a test case be made.

The records at the Department are so complete on this subject that it does not seem necessary for me to enter into a detailed report of the case. It seems that the custom of detaining sailing vessels was based originally on an executive decree, not confirmed by Congressional legislation. In Mr. Douglass to Mr. Blaine, No. 179, diplomatic, of June 27, 1891, Mr. Douglass quotes from the annual message of the President of Haiti to the National Congress to the effect that the executive department admits that there is no law for the detention of sailing vessels for the payment of duties. The Congress failed to take any action, and I was instructed to exercise my good offices in the matter. * * *

It has seemed to me that with this official statement from the President that no law existed for the discrimination against sailing vessels, two remedies were possible: either a decree from the President annulling the decree under which the vessels are detained, or a decision from a Haitian court that the detention is without warrant at law. The latter seemed to me to be the more practical, and I ventured to make the observation to that effect in my No. 71, of June 10, 1892. Since that time I have had no word from the Department on the subject.

I have, etc.,

JOHN S. DURHAM.

¹Inclosures not printed.

Mr. Gresham to Mr. Smythe.

No. 2.]

DEPARTMENT OF STATE,
Washington, October 23, 1893.

SIR: I desire to call your attention to Mr. Durham's No. 228, of August 2 last, inclosing copy of a letter from Messrs. Green, Knaebel & Co., protesting against the Haitian regulation requiring the detention of sailing vessels in the ports of the Republic until the import duties on their cargoes are paid by the consignees.

This subject has been discussed with your predecessors, Messrs. Douglass and Durham.

The principal objection to the Haitian rule in this regard is that it is irrational, because visiting the carrier of the goods with delays and virtual penalties with regard to the things carried when they have passed out of the carrier's hands with the fulfillment of his contract, and when the only relation remaining in respect to the goods is between the Government and the importer or consignee. In this latter transaction the goods themselves, being in the hands of the Government, furnish abundant security for the payment of the duties thereon. Were the goods delivered to the consignees by the customs officers in advance of payment of duties, the master of the vessel could not rightly be held responsible for any subsequent default of payment by the consignee. The rule is, moreover, unjust, because applied only to sailing vessels.

The instructions on file will enable you to deal with this unnecessary and unjustly discriminatory burden on the carrier under sail.

I am, etc.,

W. Q. GRESHAM.

Mr. Smythe to Mr. Gresham.

No. 2.]

LEGATION OF THE UNITED STATES,
Port au Prince, November 2, 1893.
(Received November 14.)

SIR: Replying to your No. 2, of 23d ultimo, it seems that the question of the detention of sailing vessels treated of in your dispatch was placed in an attitude of easy solution by the declaration of the Chief Executive of Haiti in his annual message promulgated in 1891, in which he says it has been found from an examination of the bureau of commerce that no law imposes the obligation to detain sailing vessels until the duties on their inward cargoes are paid. The message also recites that "the measure is perhaps only supported by the decree of 30th April, 1869, which was not inserted in the Official Moniteur nor in any law bulletin of the Republic, so that it is not known from what source it emanates. In any case, the date (30th April, 1869) recalls a troubled epoch of the Republic, when it was impossible to render a 'decree in constitutional form.'" In the same document the President says that he "regards the custody of the cargo as an ample safeguard to the fiscal agents."

I can not but believe that upon the proper presentation of the subject in this light an executive decree or declaratory order will follow directing the customs officers to expedite the departure of sailing vessels in the way desired. A careful examination of the records here fails to disclose any instruction from the Department for the guidance of this legation, but I will accept your No. 2 as an instruction to proceed in the

matter in the way outlined in this dispatch, as soon as my status will permit, and at such time I will not omit to urge the reasons in this behalf suggested in your No. 2. In response to your suggestion that the matter has been discussed with Messrs. Douglass and Durham I beg to refer you to Mr. Durham's No. 228, which suggests alternative remedies, and to which I can find no reply.

I am, etc.,

HENRY M. SMYTHE.

Mr. Gresham to Mr. Smythe.

No. 4.]

DEPARTMENT OF STATE,
Washington, November 16, 1893.

SIR: I have received your No. 2 of the 2d instant in regard to the practice of the Haitian authorities in detaining sailing vessels in their ports until the duties on their inward cargoes are paid.

Following the general tenor of Department's instruction No. 2, you may assume the utterances of the President of Haiti, in his message of 1891, to be authoritative and conclusive, and start from that point in your discussion.

Until the question of the legality and equity of the practice has been thus presented, it is not deemed necessary to consider the alternative suggestions advanced by Mr. Durham in his No. 228.

I am, etc.,

W. Q. GRESHAM.

Mr. Smythe to Mr. Gresham.

No. 9.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, November 28, 1893.
(Received December 13.)

SIR: In answer to your No. 4, relating to the detention of sailing vessels, I have the honor to note your instructions and to suggest that an entirely new phase has been added to the question. I have by diligent inquiry and study of the matter reached the following conclusions: First, by custom the sailing vessels are permitted to discharge their cargoes direct into the warehouses of the consignees, and hence the customs agents have not the "ample security" suggested in your correspondence, having in fact only the "good faith" of the consignees and the "custody of the vessel." It has been suggested that this custom has grown out of the necessities of the situation to some extent, because very often the consignee finds it convenient to realize on his cargo before paying the duties.

The disclosure of this state of affairs has prevented me from bringing the matter up in the way suggested, and leaves to this legation now as far as I can see only one course and that is that sailing vessels be placed on the same footing as steamers, which discharge the cargoes direct into the custom-house, and hence are not detained. The object of this dispatch (after replying to your No. 4) is to make it plain to the Department that the customs agents have no custody of the cargoes of sailing vessels, they having been allowed to deliver their goods direct to the consignees. Whether this may be the fault of sailing masters

in not having proper "agreements" at their ports of clearance seems to be a question. At any rate the facts disclosed place the whole subject in an entirely new light, and I feel that I should report the new status to the Department.

Incidentally I may add that a change now, such as I suggest—(*i. e.*,) to place sailing vessels in the same category as steamers—would work more or less inconvenience to merchants who have been utilizing the time (so irksome to the masters of vessels) in disposing of enough of their cargo to pay off the duties.

At the first opportunity I shall endeavor to determine the attitude of the Haitian Government in the matter.

I have, etc.,

HENRY M. SMYTHE.

Mr. Gresham to Mr. Smythe.

No. 12.]

DEPARTMENT OF STATE,
Washington, December 16, 1893.

SIR: I have received your No. 9 of the 28th ultimo, stating that you have learned that the reason of the detention of sailing vessels in the Haitian ports until the duties on their inward cargoes are paid is based on the practice of permitting them to discharge their cargoes directly into the warehouses of the consignees, instead of into the Government custom-houses, as is done by steamers, and that owing to the uncertainty of its ability to follow the goods, the Haitian Government is compelled to detain the vessel as a security for the payment of the duties.

The practice you report is unreasonable, because shifting the usual and rational responsibility from the consignees to the carrier for the convenience of the former and without corresponding advantage to the latter. It would certainly justify shipowners in the United States in looking to some contract with the owners of the goods in order to guard their interests.

You may ascertain the views of the American mercantile community in this regard and report further, suspending action meanwhile.

I am, etc.,

W. Q. GRESHAM.

Mr. Smythe to Mr. Gresham.

No. 49.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, March 6, 1894.

(Received March 19.)

SIR: In my No. 19 I said that I had an assurance from the foreign secretary that reasonable propositions made by my Government in regard to the question of the detention of sailing vessels in Haitian ports would be favorably considered. I have to report that I find now that any change that seems practicable would inure to the injury of the sailing vessels, and in this opinion I am sustained by all the sailing masters who touch at this port. As I before observed (in former dispatches), only the vessel is held and the cargoes are discharged into the warehouses of the consignees, who as a rule endeavor to dispose of a

portion of their goods to pay customs duties. If they were placed on the same footing as steamers this advantage would be lost to the sailing vessel, and merchants would order by the steam vessel to secure prompt delivery. The lines of steam vessels touching at these ports are principally under the protection of other powers, and inasmuch as the complaint originated with the sailing interest, which is almost entirely American and has been withdrawn (or abandoned), in the absence of any further instructions I will consider the matter closed.

I am, etc.,

HENRY M. SMYTHE.

Mr. Uhl to Mr. Smythe.

No. 38.]

DEPARTMENT OF STATE,
Washington, March 21, 1894.

SIR: I have received your No. 49 of the 6th instant in regard to the practice of the Haitian Government in detaining sailing vessels until the duties on their inward cargoes are paid. You therein state that any change in the custom would prove to the disadvantage of the sailing vessels, and that their masters were of this opinion and had withdrawn their complaint.

The Department's instructions on the subject were based on complaints submitted by American ship-owners. In the light of your report, and as no further representations have been made by interested parties, the matter may be suffered to rest.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

TONNAGE DUES.

Mr. Uhl to Mr. Smythe.

No. 35.]

DEPARTMENT OF STATE,
Washington, March 16, 1894.

SIR: I inclose herewith a copy of a letter from Messrs. W. P. Clyde & Co.,¹ which alleges a discrimination in tonnage dues against steamers and in favor of sailing vessels in Haitian ports.

From the facts stated, it appears that while a tax is levied on every ton of cargo landed by a steamer, on sailing vessels the tax is imposed on the registered tonnage irrespective of the amount of cargo discharged. As a sailing vessel, it is alleged, carries in cargo twice or more than twice her registered tonnage, the result is that the steamship is taxed on every ton of cargo, while the sailing vessel escapes taxation on the excess of cargo over the amount of tonnage.

The detention of sailing vessels referred to in the President's last annual message has been the subject of many instructions to your legation. It is the opinion of this Government that neither class of vessels should have an advantage over the other. If there exists a discrimination against the steamers of Messrs. Clyde & Co., who control the steamship communication between the United States and the

¹ Not printed.

northern part of Haiti, you are instructed, in connection with the negotiations now pending for the relief of sailing vessels from the detention to which they are subjected, to call the attention of the Haitian Government to this complaint and endeavor to secure, from every point of view, the same treatment for sailing vessels and steamships in the ports of the islands.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Smythe to Mr. Gresham.

No. 62.]

LEGATION OF THE UNITED STATES,
Port au Prince, Haiti, April 12, 1894.
(Received April 25.)

SIR: I have the honor to acknowledge receipt of your No. 35, inclosing a letter from Messrs. W. P. Clyde & Co., referring to the practice of the Haitian Government in levying discriminating tonnage duties on steamships, as against sailing vessels, and note your instructions. I have already had a conference with the English consul-general in this connection, and we have agreed to unite in a dispatch to the Haitian Government, to the end that neither class of vessels may be subjected to any duty not equally borne by the other, and to endeavor, in short, to "secure from every point of view the same treatment for sailing vessels and steamships in the ports of the islands."

I have, etc.,

HENRY M. SMYTHE.

Mr. Smythe to Mr. Gresham.

No. 72.]

LEGATION OF THE UNITED STATES.
Port au Prince, Haiti, May 15, 1894.
(Received May 28.)

SIR: * * * I have to inclose a copy of my note to the foreign secretary in regard to the methods of levying tonnage dues, and their evident discrimination against steam vessels. My note was almost identical with that sent the same day by the consul-general of Great Britain, and I believe the evil will be corrected.

I have, etc.,

HENRY M. SMYTHE.

[Inclosure in No. 72.]

Mr. Smythe to Mr. Lespinasse.

LEGATION OF THE UNITED STATES.
Port au Prince, Haiti, April 27, 1894.

SIR: It has been represented to this legation that under existing customs regulations of your Government, the levying (or the method of levying) tonnage dues works an injustice to steam vessels as distinguished from sailing vessels in this: That whereas steam vessels pay duties at the rate of — per ton on their actual cargo, the sailing ves-

sel pays only on its registered tonnage, and frequently carries freight of twice this amount. This, as you can easily see, operates to the prejudice of steam vessels, which by the reason of their swiftness of passage and regular schedule of time are much better adapted to the requirements of modern commerce than the sailing vessel, and which in consequence of these manifest advantages frequently receive subsidies from governments to be benefited by the increase of interchange growing out of their superior advantages.

This subject having been brought to the attention of my Government, I am instructed, under date of March 16, to call the attention of your Government to this evident discrimination, and to endeavor to secure "from every point of view the same treatment for sailing vessels and steamships." In the confident belief that your Government will be swift to correct this injustice, and to place all interests on the same footing of impartial justice,

I have, etc.,

HENRY M. SMYTHE.

HAWAIIAN REPUBLIC.¹

RECOGNITION HAWAIIAN REPUBLIC.

Mr. Gresham to Mr. Hatch.

DEPARTMENT OF STATE,
Washington, August 7, 1894.

SIR: I have the honor to acknowledge the receipt of your note of July 7 last, inclosing original and office copy of a letter addressed by His Excellency Sanford B. Dole, President of the Republic of Hawaii, to the President of the United States of America, announcing the establishment of that Government and his assumption of the office of President thereof.

I have delivered his excellency's letter to the President and his reply will be forwarded through the legation of the United States at Honolulu.

Accept, etc.,

W. Q. GRESHAM.

Mr. Gresham to Mr. Willis.

No. 38.]

DEPARTMENT OF STATE,
Washington, August 7, 1894.

SIR: I inclose herewith, in sealed original and office copy, a letter from the President to His Excellency Sanford B. Dole, President of Hawaii, in response to his letter announcing the establishment of that Government and his assumption of the office of President thereof.

You will transmit one of the copies to the minister of foreign affairs, and deliver the original in such manner as will most suit the convenience of his excellency.

I am, etc.,

W. Q. GRESHAM.

[Inclosure in No. 38.]

Grover Cleveland, President of the United States of America, to His Excellency Sanford B. Dole, President of the Republic of Hawaii.

GREAT AND GOOD FRIEND: I have received your letter of the 7th ultimo, by which you announce the establishment and proclamation of the Republic of Hawaii on the 4th day of July, 1894, and your assumption of the office of President with all the formalities prescribed by the constitution thereof.

¹ The correspondence respecting affairs in Hawaii during 1894 will be found in the appendix to Foreign Relations, 1894.

I cordially reciprocate the sentiments you express for the continuance of the friendly relations which have existed between the United States and the Hawaiian Islands, and assure you of my best wishes for your personal prosperity.

Written at Washington, the 7th day of August, 1894.

Your good friend,

GROVER CLEVELAND.

By the President:

W. Q. GRESHAM,
Secretary of State.

Mr. Gresham to Mr. Willis.

No. 39.]

DEPARTMENT OF STATE,
Washington, August 8, 1894.

SIR: Your No. 65 of the 9th ultimo reported the proceedings attending the close of the Hawaiian constitutional convention, the adoption and promulgation of a constitution, and the installation of the Government of the Republic of Hawaii on the 4th of July.

I have to commend your reply to Mr. Hatch's announcement of the organization of the new Government. It was clearly proper to extend it, as you did, the recognition accorded to its predecessor, the Provisional Government; thus carrying out the long-observed rule of the United States of entering into relations with the authorities of an unopposed government.

The additional office copy which accompanied my No. 38 of the 7th instant of the President's reply to the announcement by President Dole of his entrance upon the duties of his office will be preserved in the archives of your legation.

I am, etc.,

W. Q. GRESHAM.

Mr. Willis to Mr. Gresham.

No. 67.]

LEGATION OF THE UNITED STATES,
Honolulu, Hawaiian Islands, August 27, 1894.

SIR: I have the honor to inform you that the autograph letter of President Cleveland, recognizing the Republic of Hawaii, was delivered to President Dole at 11 o'clock this morning at the executive building in the presence of the members of his cabinet and Minister Thurston.

I inclose copies of the remarks submitted upon the occasion.

I am, etc.,

ALBERT S. WILLIS.

[Inclosure No. 1 in No. 67.]

Remarks of Mr. Willis to President Dole.

MR. PRESIDENT: The right of the people of the Hawaiian Islands to establish their own form of government has been formally acknowledged both by the executive and legislative departments of the United States.

It seemed proper, therefore, so far as I, the diplomatic agent, had the right to extend recognition to the "Republic of Hawaii," it having been created under the forms of law and existing without effective opposition.

The action thus taken has, I am glad to state, been fully approved by the proper authorities at Washington. As the highest evidence of that fact I have received an autograph letter from the President of the United States addressed to you as the President of this Republic.

In delivering this letter as instructed, permit me to join in its friendly sentiments and to express the hope that through the Government now inaugurated, peace, prosperity, and happiness will be secured to all the people of these islands.

[Inclosure No. 2 in No. 67.]

Remarks of President Dole to Mr. Willis.

MR. MINISTER: It is with sincere gratification that I have received the information that the President of the United States has confirmed the recognition so promptly extended by your excellency to the Republic of Hawaii.

Permit me on behalf of the Hawaiian people to reciprocate the friendly sentiments expressed by you toward this Government and to assure you of our desire that relations of comity and of commercial intercourse which shall be mutually advantageous, may ever exist between the two countries.

ITALY

PROPOSED NATURALIZATION AND EXTRADITION CONVENTIONS.

Baron Fava to Mr. Gresham.

[Translation.]

EMBASSY OF HIS MAJESTY THE KING OF ITALY,
Washington, January 22, 1894.

MR. SECRETARY OF STATE: Referring to the note of the honorable Department of State, bearing date of November 18, 1890, I have the honor herewith to transmit to your excellency, together with certain observations, (1) the draft of an agreement supplementary to the convention of extradition which is now in force between Italy and the United States; (2) a draft of a naturalization convention between our two countries, on the model of that between the United States and Belgium, as suggested by the Federal Government.

The propriety and desirability which have already been recognized by our two Governments to conclude these two arrangements with as little delay as possible do not leave any doubt in my mind with regard to their acceptance by the U. S. Government, which acceptance would be very gratifying to the Government of His Majesty.

Be pleased to accept, etc.,

FAVA.

[Inclosure No. 1.]

Agreement supplementary to the extradition convention between Italy and the United States.

ARTICLE I.

Neither of the contracting parties shall be obliged to surrender its own citizens or subjects by the provisions of Article I.

ARTICLE II.

Citizenship acquired in one of the two contracting states by a person charged with or convicted of crime, who previous to his naturalization has committed a crime which is punishable in the other state, shall not prevent his arrest and surrender. Nevertheless, extradition may be refused if five years have elapsed from the time when naturalization was granted to him, and if the person for whose extradition application is made has, after having become naturalized, retained his domicile in the state to which such application is made.

Draft of a convention of naturalization between Italy and the United States.

ARTICLE I.

Citizens of the United States who have applied for naturalization and become naturalized in Italy shall be considered as Italian citizens by the United States.

Reciprocally, Italians who have applied for naturalization and become naturalized in the United States shall be considered as citizens of the United States by Italy.

ARTICLE II.

Citizens of the United States who have become naturalized in Italy shall be considered by Italy as citizens of the United States when they shall have again become naturalized according to the laws of their native country.

Reciprocally, Italians naturalized in the United States shall be considered as Italians by the United States when they shall again have acquired Italian citizenship according to the laws of the Kingdom.

ARTICLE III.

This convention shall take effect immediately after the exchange of its ratifications, and shall remain in force for ten years.

If, at the expiration of this time, neither of the two parties shall have notified the other six months in advance of its intention to cause its effects to cease, it shall retain its obligatory force until the expiration of twelve months after one of the contracting parties shall have notified the other of such intention.

Observations on an agreement supplementary to the convention of extradition, and on a convention of naturalization between Italy and the United States.

The matter which forms the subject of the present negotiations should be divided into two agreements essentially different from each other. The one relative to extradition should be considered as an agreement supplementary to the convention of extradition which is now in force between the United States and Italy. The other, relative to naturalization, should form a separate convention, even though both should be signed at the same time. In accordance with this view the drafts of the two agreements are herewith subjoined together with the following observations:

I.—Agreement supplementary to the convention of extradition.

Mr. Stallo, minister of the United States at Rome, proposed the following wording: "Neither of the contracting parties shall be obliged to surrender its own citizens or subjects *on the ground of the stipulations of this convention.*"

The Italian ministry proposed that instead of "on the ground of the stipulations" the words "on the ground of Article I" should be inserted.

The United States Government made no observation in reply.

The Italian Government proposed the following wording:

"Naturalization acquired in one of the two contracting states by a person charged with or convicted of crime after the commission of such crime shall not prevent his arrest and surrender. Nevertheless his extradition may be refused if five years have elapsed from the time when naturalization was granted to him and if the presumptive criminal has, after becoming naturalized, retained his domicile in the state to which application is made for his extradition."

The object of this article is exclusively to prevent anyone after committing a crime in the territory of one state from applying for and acquiring naturalization in the other state for the sole purpose of escaping from the action of justice. It is true that if the Italian Government should have any suspicion that an American applying for naturalization in Italy had committed a crime in his own country, it would refuse his application until he should be fully exonerated from the charge against him by a competent American court; and the United States Government would do the same in the case of an Italian charged with crime in the Kingdom if such a person should seek to become naturalized in America.

It would be well, however, to prevent a specially astute and consequently specially dangerous criminal who had succeeded in concealing his guilt for some time and who should seek to become naturalized in the state in which he had sought refuge before he was detected, from accomplishing his design. In such a case it is not only to the interest of his native country to endeavor to secure his punishment, but it is likewise to the interest of the other state to cause its own citizenship to be respected by compelling a person becoming naturalized to meet the obligations contracted by him toward the justice of his native country previous to his naturalization, which he has fraudulently obtained by concealing his guilt. Mr. Blaine, in his note of November 18, 1890, argued against the article now under consideration as follows:

"The purport of this proposed article appears to be that while citizenship is recognized as a ground for refusing extradition, citizenship by naturalization can not confer the right to demand it. Hence if a native Italian who has been naturalized in the United States should commit a crime and seek asylum in Italy, it does not appear that the Government of Italy would recognize our right to demand his surrender."

From these words it appears evident that Mr. Blaine had in mind the case of an Italian who after having become naturalized in the United States should have committed a crime there and then taken refuge in the Kingdom; in which case he supposed that the Italian Government would desire to reserve the right to refuse his extradition. There is no ground for such a view of the case, and the Italian Government assures that of the United States that Mr. Blaine's interpretation is not in accord either with the text of the article now under consideration nor with the intentions of Italy.

The proposed article was copied from Article IV of the convention of February 5, 1873, between Italy and Great Britain, and was reproduced in that of November 5-17, 1877, with Greece, and in the other of April 4, 1879, with Uruguay, and it never gave rise to doubts or objections whatever. A similar pact was stipulated by Italy in Article XI of the convention of good neighborhood between it and the Republic of San Marino of March 27, 1872, and in Article II of the convention of extradition with Brazil, as was also done by England and France in their convention of extradition of August 14, 1876.

Nevertheless, in order to render the agreement more clear by excluding *a priori* any possibility of understanding it in the sense supposed by Mr. Blaine, the Italian Government presents Article II in the following form:

"Citizenship acquired in one of the two contracting states by a person charged with or convicted of crime who previous to his naturalization has committed a crime which is punishable in the other state, shall not prevent his arrest and surrender." [The rest as originally proposed.] All doubt being thus removed, the article can not give rise to any objections, both because it is nothing but the corollary of the general principle of international law, according to which naturalization does not impair previously acquired rights, and especially because its effect will be to extend the cases of the territoriality of the penal law by which the legislation of the American Union is wholly inspired.

II.—Convention of naturalization on the model of that between the United States and Belgium.

ARTICLE I.

The Italian Government adhered to Article I of the convention of naturalization between the United States and Belgium; but it observed that it would be well to insert a clause for the purpose of making it clear that citizenship obtained through naturalization is not acquired by anyone who does not make application for it. This is done to place so important a matter beyond the reach of the contingencies of legislation. In his note of November 18, 1890, Mr. Blaine declined to accept this slight addition, observing that the clause was superfluous because the laws of the United States which relate to citizenship are all based upon the principle of free consent. Although for this very reason the United States Government should have had no objection to the explicit statement in the proposed article of such a principle of liberty, which redounds to the honor of both States, still, in order to put this article in a shape that will be more acceptable to the United States Government, the Italian ministry proposes that it shall be worded as follows:

"Citizens of the United States who have made application for naturalization and have become naturalized in Italy shall be considered by the United States as Italian citizens. Reciprocally, Italians who have made application for naturalization and become naturalized in the United States shall be considered by Italy as citizens of the United States."

ARTICLE II.

The objections raised in Mr. Blaine's note of November 18, 1890, against Article II of the convention between Belgium and the United States, which reserves the full exercise of penal action against the citizens of one State who have become naturalized in the other when they return to their native country, render the suppression of this article advisable. It is well to observe, however, in justification of the Italian Government, that the suggestion was made by that of the United States that its naturalization convention with Belgium should be taken as a model, the said convention containing this very Article II, against the provisions of which objection was afterwards made by Mr. Blaine.

ARTICLE III.

The Italian Government could not accept any article that in its nature should be at variance with the provisions concerning recruiting for the royal army.

ARTICLE IV.

This article, which, owing to the suppression of the two preceding ones, becomes Article II of the draft of the convention hereto appended between the United States and Italy, is accepted in full by the Italian Government, which also accepts Article V, which becomes Article III in the aforesaid draft.

WASHINGTON, *January, 1894.*

Mr. Gresham to Baron Fava.

DEPARTMENT OF STATE,
Washington, June 13, 1894.

EXCELLENCY: Your note of the 22d of January of this year, inclosing a draft of a proposed agreement supplementary to the extradition treaty existing between the United States and Italy, and a draft of a proposed naturalization convention between the two Governments, together with your comments thereon, have been carefully considered.

In reply I have the honor to inform you that the President is unwilling to enter into any treaty of extradition which will exclude citizens or subjects of either country from its operation.

No good reason is perceived why citizens of the United States who commit crimes in Italy, or Italian subjects who commit crimes in the United States, should not, if they take refuge in their own country, be delivered up by its authorities to the country whose laws they have violated. A refusal to surrender them would result in the case of Americans committing crime in Italy in an utter failure of justice; and though Italy may undertake to punish her subjects who, after committing crime here, return within her jurisdiction, yet the means of ascertaining the truth and doing justice must under such conditions always be difficult and often unattainable.

I regret to say also it is impossible for this Government to accept your views regarding a naturalization convention.

In the first place, it is proposed by you as essential that citizenship by naturalization in this country shall only be conferred upon persons who make application therefor. This would exclude Italian women intermarrying with American citizens, who, under our law, thereby become themselves American citizens. It would likewise exclude minor children of Italians who became naturalized in this country—such children under our law becoming citizens of this country, if dwelling here, by the mere fact of the naturalization of the father.

Your excellency, in conversation, has called this Department's attention to the provision of the Italian civil code declaring the wife and minor children of Italian citizens who have lost their nationality to be foreigners, unless they continue to reside in the Kingdom. This, you think, should remove the objection above stated. But can Italians lose their nationality in the view of the Italian Government, except with the consent of that Government, or in pursuance of treaties made by it with other Governments? And would not the treaty determine and limit the status of citizenship, notwithstanding the law of Italy? Such, I think, would be the case from the Italian point of view. I am, therefore, constrained to the opinion that the principle you contend for, viz, that citizenship by naturalization shall only be acquired by those who make application for it, being in direct conflict with your civil code, should not find a place in a naturalization treaty.

To incorporate this provision in the treaty would be to deny, by implication at least, to the wives and minor children of Italians who

apply for and obtain naturalization here, the right and recognition as American citizens to which, by Italian law, they are entitled.

Your insistence upon another point also imposes an obstacle to the conclusion of a naturalization treaty. I refer to the claim of right on the part of His Majesty's Government to refuse to recognize naturalization in this country as exempting former Italian subjects returning to Italy from the military duties imposed by the laws of that country, or from penalties for failure to meet military obligations. This Government could not agree to permit Italy to exercise such right, except where the obligation had actually accrued before the emigration of the party to this country.

I beg to call your attention to Article I of our naturalization treaty with Belgium, Article II of our naturalization treaty with Austria-Hungary, and Article IV of our naturalization treaty with the North German Union. To the latter your attention is particularly directed as meeting any suggestions which might be made of naturalization being acquired here with the view of evading military duty on returning to Italy.

This Government would be willing to conclude a treaty of naturalization with Italy on the basis of these articles. But it must emphatically decline to recognize the right of that Government to the military service of Italians who, after being naturalized here, return to Italy, still retaining their American citizenship.

Accept, etc.,

W. Q. GRESHAM.

COMMERCIAL RECIPROCITY.

Baron Fava to Mr. Gresham.

EMBASSY OF HIS MAJESTY THE KING OF ITALY,
Washington, November 27, 1894.

MR. SECRETARY OF STATE: Basing their action on the prohibition of importation which is now in force in the Kingdom, the American customs authorities levy upon salt from Sicily and Sardinia the duty established in paragraph 608 of the act of August 28, 1894, which is referred to in circular No. 123 of the Treasury Department.

In point of fact, however, the prohibition of importation in question does not extend to the two islands of Sicily and Sardinia, and the consequence is that, while salt from the United States may be imported into Sicily and Sardinia duty free, Sicilian and Sardinian salt is obliged to pay duty on its arrival in the United States.

I consequently have the honor, in pursuance of instructions received from His Majesty's Government, to call your excellency's attention to this disparity of usage which inures to the detriment of an Italian product, and I do not doubt that, fully sharing my views with regard to the principle of strict equity on which this complaint is based, your excellency will be pleased to use your good offices with the honorable Secretary of the Treasury to the end that he may, without delay, issue the necessary instructions for the free admission of salt from Sicily and Sardinia, since this will be entirely in harmony with the privilege accorded to the same article when imported from the United States into those two islands.

Be pleased to accept, etc.,

FAVA.

Mr. Gresham to Baron Fava.

DEPARTMENT OF STATE,
Washington, December 10, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 27th ultimo, and to inform you in reply that inasmuch as it appears from the statements therein contained that the importation of salt into Sicily and Sardinia is not prohibited, and that salt imported from the United States is admitted free of duty, the collectors of customs at the principal ports of the United States were, on the 7th instant, instructed to admit salt imported from those islands to entry free of duty.

Accept, Mr. Ambassador, etc.,

W. Q. GRESHAM.

SETTLEMENT OF ESTATES BY CONSULAR OFFICERS.

Mr. Uhl to Baron Fava.

DEPARTMENT OF STATE,
Washington, May 24, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 20th instant, proposing that the consuls of Italy in the United States be authorized, as you state U. S. consuls already are in Italy, to settle the estates of their deceased fellow countrymen after being notified of their demise by the local authorities. You suggest that this be done with the view of preventing such irregularities as were referred to in your note of the 3d instant, relating to the estate of Rafaele Pisani, at Brownsville, Tex.

In reply, I beg to say that the United States has never entered into any treaty granting to the consuls of foreign countries, in this country, such authority as that you suggest should be given to the consuls of Italy. The entire question of the administration, settlement, and distribution of decedent's estates in this country is under the control of the respective States. It is for this reason that the Federal Government encounters special difficulty in procuring notice to be given by the local authorities to the consuls of Italy of the death of their fellow countrymen.

The difficulty is increased by the fact that the local courts where estates are administered are frequently remote from the place where the nearest consular officer is stationed. For example, in the vast territory covered by the State of Texas the only consular officer of the Italian Government is located at Galveston.

These considerations compel me, though with much regret, to dissent from the opinion entertained by you that the Italian consuls should, by international agreement, be given the authority you desire for them.

I may observe, however, that I think it highly probable the local courts of the States, in cases where foreigners die within their jurisdiction intestate and without heirs or creditors, would, upon application of the consul of the decedent's country, residing in their jurisdiction, grant him the administration of the estate.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

PROTECTION OF ITALIAN IMMIGRANTS.

*Mr. Gresham to Baron Fava.*DEPARTMENT OF STATE,
Washington, May 7, 1894.

DEAR BARON FAVA: Referring to your personal note to me of the 19th ultimo, in regard to the condition of the Italian immigrants who fall into the hands of speculators, I have the pleasure to inclose for your information copy of a letter from Mr. Carlisle in response to the communication which I addressed to him on the subject.

In addition, permit me to refer to my colleague's statement that "under the alien contract-labor law, if proper evidence could be procured, these immigrants could be prevented from landing, and the padroni bankers or employes could be punished for bringing them here under contract." Mr. Carlisle shows how difficult it is to obtain from the immigrants themselves information which would enable the rigid requirements of our law to be enforced as respects the padroni.

This suggests that a remedy might lie, to a great extent, with the Italian consuls, who, being better situated to ascertain from their deluded countrymen the practices to which they have been subjected, could doubtless bring to the knowledge of the Treasury officers sufficient data upon which to act in enforcement of our laws in this regard. Should they do so, I can assure you of the most cordial cooperation of our agents.

I quite agree with Mr. Carlisle touching the impracticability of meeting the problem through specially organized bureaus of labor.

Feeling sure that my colleague's views will commend themselves to your good judgment,

I am, etc.,

W. Q. GRESHAM.

[Inclosure.]

*Mr. Carlisle to Mr. Gresham.*TREASURY DEPARTMENT,
Washington, May 4, 1894. (Received May 5.)

SIR: I have the honor to acknowledge your favor transmitting a personal note from the Italian ambassador at this capital, pointing out the objectionable character of the contracts made with Italian immigrants by the "padroni," and urging our Government to take steps to prevent their enforcement, and suggesting the establishment of bureaus of labor recognized by the Government.

In reply I have to say that the subject of what is known as the padrone system, by which Italian immigrants voluntarily surrender their individual liberty to designing men, in order to procure money to pay their passage to the United States, and enter into contracts to pay them for obtaining work, whereby they become personal serfs, controlled by rapacious men who rob them of a large part of the fruits of their labor, has received the serious attention of this Department and the Congress of the United States; and the necessity of the adoption of some effective measure for the suppression of these practices is generally recognized. You can assure the ambassador of my willingness to cooperate with his Government to the full extent of the power of this Department in eradicating the evil.

Under the alien contract labor law, if proper evidence could be procured, these immigrants could be prevented from landing, and the padroni bankers or employes could be punished for bringing them here under contract; and as far as possible these laws are being rigidly enforced. The great difficulty encountered is the inability of the authorities to secure evidence to make out a case against either the immigrant or the padroni. These contracts are made in Italy with illiterate people in almost abject poverty, who willingly barter their personal liberty in order to procure the means necessary to enable them to come to America to better their condition. The contract once entered into, which is frequently done in the presence of a priest, who is generally the friend of the padroni, these immigrants will not violate it, and upon arrival here will, under oath, deny its existence; and unless they come within some of the other prohibited classes, the inspectors are obliged to land them.

The establishment of bureaus of labor, which would secure work for these misguided people under Government control, might be an efficient remedy for the evil if such a system was lawful or practicable. I fear that not one of these immigrants would willingly violate his compact, made before leaving his own country, but would, immediately after landing, report to his padroni who had advanced the money to pay his passage. If the bureaus of labor are to be under governmental control for the purpose of restraining these people, and sending them to fields of labor against their will, it would be such a restraint as would be incompatible with our principles of self-government.

We have at present, in connection with the immigrant depot at Ellis Island, an employment bureau where immigrants of all nationalities are invited to come and apply for work; and this is taken advantage of by all nationalities except Italians.

I suggest that you extend to the ambassador an invitation to visit the immigration depot at Ellis Island, in the harbor of New York, with Mr. Stump, Superintendent of Immigration, and there witness the inspection of Italian immigrants upon arrival, and ascertain how many of them could be induced to give up their preconceived plans and intentions.

I am of the opinion that the Italian Government could materially assist us by sending emissaries into the districts from which emigrants principally leave, and through the press, and by speeches and personal contact with those who can not read, warn them of the evils of the padrone system.

Respectfully, yours,

J. G. CARLISLE.

Mr. Mac Veagh to Mr. Gresham.

No. 22.]

EMBASSY OF THE UNITED STATES,
Rome, April 25, 1894. (Received May 8.)

SIR: Great satisfaction has been expressed in the Italian press over the publication of a telegram from Washington stating that the Government of the United States had shown a disposition to appoint Government officials in the ports of arrival for the purpose of assisting Italian emigrants, and saving them from the clutches of the "padroni," and that an appropriation from Congress with this object would be asked for.

Most of the newspapers print short congratulatory paragraphs expressing pleasure that Baron Blanc, minister for foreign affairs, should have so soon succeeded in interesting our authorities in the fate of the Italian emigrant landing in New York and elsewhere in the United States, and stating that the lamentable New Orleans incident has after all served to call attention to their deplorable condition.

The Tribuna and l'Italie call attention to the fact that the diplomatic relations between the two countries have never been more cordial, and consider the plan not only of political significance, but as surely tending toward immense economic results for the future of Italian immigration.

I am, etc.,

WAYNE MACVEAGH.

Mr. Uhl to Mr. MacVeagh.

No. 25.]

DEPARTMENT OF STATE,
Washington, May 10, 1894.

SIR: I am in receipt of your No. 22 of the 25th ultimo reporting the favorable impression made in Italy by the publication of a press telegram from Washington to the effect that the U. S. Government proposed taking action looking to the protection of Italian Immigrants from the padrone system.

For your information I inclose herewith copies of a correspondence¹ which has taken place between this and the Treasury Department and the Italian ambassador here on the subject.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

EXTRADITION OF DELZOPPO AND RINALDI.

Mr. Uhl to Mr. Potter.

No. 101.]

DEPARTMENT OF STATE,
Washington, January 26, 1894.

SIR: You are instructed to request of the Italian Government, in pursuance of existing treaty stipulations, the extradition of Michele Delzoppo and Antonio Rinaldi, under indictment on the charge of murder committed within the State of New York, and who are now in Italy.

The President's warrant to receive the fugitives has been issued to Frank J. McNeil, who is authorized to convey them back to the United States for trial. Mr. McNeil is also furnished with duly authenticated copy of the papers in the case.

In this connection I acknowledge the receipt of your telegram of this date, reading as follows: "Order issued; arrest Delzoppo and Rinaldi."

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

¹Not printed.

Mr. MacVeagh to Mr. Gresham.

No. 15.]

EMBASSY OF THE UNITED STATES,
Rome, April 10, 1894. (Received April 23.)

SIR: On the 3d instant I sent you the following cablegram:

Delzoppo and Rinaldi found pursuant your cable January 26 and watched, but arrest impossible without warrant. Agent has never appeared with warrant. Italian Government now asks very prompt action as fugitives intend leaving country.

To this I received next day your reply, as follows:

Will Italian Government surrender Delzoppo and Rinaldi upon proof of guilt?

To my inquiry, dated the 4th instant, I this morning received a note from the minister of foreign affairs stating that the Government of the King could never consent to the extradition of its own subjects, but that the authorities were ready on presentation of the necessary documents to arrest and place on trial here Michele Delzoppo and Antonio Rinaldi.

On receipt of this note I to-day cabled you as follows:

Italian Government refuses surrender its subjects, but offers on arrival proof of guilt to arrest and try Delzoppo and Rinaldi here.

I am, etc.,

WAYNE MACVEAGH.

[Inclosure 1 in No. 15.]

Mr. MacVeagh to Baron Blanc.

EMBASSY OF THE UNITED STATES,
Rome, April 4, 1894.

YOUR EXCELLENCY: On receipt of the note from the ministry for foreign affairs, dated the 2d instant, informing this embassy that Michele Delzoppo and Antonio Rinaldi, two criminals who are wanted in the United States for trial on a charge of murder, were at present under the surveillance of the police, the one at Alexandria and the other at Matrice, I telegraphed my Government as follows:

Delzoppo and Rinaldi found pursuant your cable January 26 and watched, but arrest impossible without warrant. Agent has never appeared with warrant. Italian Government now asks very prompt action as fugitives intend leaving country.

To the above telegram I have received the following reply:

Will Italian Government surrender Delzoppo and Rinaldi upon proof of guilt?

I would be obliged if your excellency would enable me to make an immediate reply to this telegram.

I avail, etc.,

WAYNE MACVEAGH.

[Inclosure 2 in No. 15.—Translation.]

Baron Blanc to Mr. MacVeagh.

MINISTRY FOR FOREIGN AFFAIRS,
Rome, April 9, 1894.

MR. AMBASSADOR: In reply to the esteemed note of your excellency of the 4th instant I have the honor to inform you that the Government of the King could never consent to the delivery in extradition of two of

its subjects. The authorities of the Kingdom are ready, as soon as your excellency furnishes me with the necessary documents, to arrest Michele Delzoppo and Antonio Rinaldi and put them on trial.

Accept, Mr. Ambassador, etc.,

BLANC.

Mr. Uhl to Mr. MacVeagh.

No. 18.]

DEPARTMENT OF STATE,
Washington, April 24, 1894.

SIR: I have received your dispatch No. 15, of the 10th instant, relative to the extradition of the fugitives Michele Delzoppo and Antonio Rinaldi, with which you transmit a copy of the note of the minister for foreign affairs stating that the Italian Government "could never consent to the delivery in extradition of its subjects."

Upon receipt of your telegram of the 10th instant, conveying the same information, the Department communicated it to the governor of New York. No further action will be taken in the case without the request of the authorities of that State. It is deemed proper, however, that you should state to the Italian minister for foreign affairs that while this Government will not at this time insist upon its rights under the treaty between the two Governments, it, nevertheless, does not waive such rights nor acquiesce in the view taken by the Government of Italy.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

JAPAN.

FRIENDLY OFFICES TO CHINESE IN JAPAN.¹

Mr. Gresham to Mr. Dun.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 26, 1894.

Japan acceding, you may act as custodian Chinese legation and afford friendly offices for protection Chinese subjects in Japan either directly or through consuls acting under your instructions, but you will not represent China diplomatically.

Mr. Gresham to Mr. Dun.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 3, 1894.

Our minister to China was promptly instructed to exercise good offices for Japan, as requested, and he has informed the Department that he is doing so.

Mr. Gresham to Mr. Dun.

No. 101.]

DEPARTMENT OF STATE,
Washington, August 29, 1894.

SIR: The action of the Government of China in committing the interests of its subjects in Japan to the care of the diplomatic representative of the United States during the existence of hostilities between Japan and China renders it expedient that you should be instructed as to the nature of your duties in the delicate situation in which you are thus placed.

The Chinese Government, when it solicited the interposition of our diplomatic representative in Japan in behalf of Chinese subjects during hostilities, was informed that such interposition would be permitted with the consent of the Japanese Government. Such consent has been given. Moreover, the diplomatic representative of the United States at Peking has, at the request of the Japanese Government and with the consent of the Government of China, been charged with the care of the interests of Japanese subjects in the latter country pending hostilities.

¹ See also China.

The function with which you are thus charged, with the consent of the Government to which you are accredited, is one that calls for the exercise of personal judgment and discretion. It is an unofficial, not an official, function. A minister of the United States can not act officially as the diplomatic representative of another power, such an official relation being prohibited by the Constitution of the United States. But apart from this fact the circumstances under which the function in question is to be discharged imply personal and unofficial action. The state of war into which Japan and China have entered is inconsistent with the continuance of diplomatic intercourse between them. Your position is that of the representative of a neutral power, whose attitude toward the parties to the conflict is that of impartial amity. Your interposition in behalf of the subjects of one of them is not to be considered as an act of partisanship, but as a friendly office performed in accordance with the wishes of both parties. This principle you are constantly to bear in mind, in order that, while doing what you can consistently with international law for the protection of the interests of Chinese subjects in Japan, you may not compromise our position as a neutral.

By consenting to lend its good offices in behalf of Chinese subjects in Japan, this Government can not assume to assimilate such subjects to citizens of the United States, and to invest them with an extraterritoriality which they do not enjoy as subjects of the Emperor of China. It can not assume to hold them amenable to the laws of the United States or to the jurisdiction of our minister or consuls, nor can it permit our legation or consulates to be made an asylum for offenders against the laws from the pursuit of the legitimate agents of justice. In a word, Chinese subjects in Japan continue to be the subjects of their own sovereign, and answerable to the local law to the same extent as heretofore. The employment of good offices in their behalf by another power can not alter their situation in this regard.

On several prior occasions the Government of the United States has permitted its diplomatic and consular representatives to exercise their good offices in behalf of the citizens or subjects of a third power, as in Mexico in 1867, and in the Franco-German war in 1870. For many years good offices have been exercised by our diplomatic and consular representatives in behalf of citizens of Switzerland in China, as well as in other countries where the Swiss Republic is without such representatives. In this relation it is proper to refer to an instruction of this Department to its diplomatic representative in China, of July 25, 1872, in which the protection to be extended by our minister and consuls to Swiss citizens in that country is defined as follows:

The protection referred to must necessarily be confined to the personal and unofficial good offices of such functionaries. Although when exercised to this extent merely this can properly be done only with the consent of the Chinese Government, that consent must not be allowed to imply an obligation on the part of a diplomatic or consular officer of the United States in that country to assume criminal or civil jurisdiction over Swiss citizens, or to make himself or his Government accountable for their acts.

But, while you are to act unofficially, you will carefully examine any complaints that may be laid before you in behalf of Chinese subjects, and make such representations to the Japanese Government as the circumstances may be found to warrant; and in all ways you will do what you can, consistently with the principles heretofore stated, for the protection of Chinese subjects in Japan and their interests.

I am, etc.,

W. Q. GRESHAM.

Mr. Uhl to Mr. Dun.

No. 109.]

DEPARTMENT OF STATE,
Washington, September 1, 1894.

SIR: I have to acknowledge receipt of yours of the 31st of July, with which was inclosed copy of your instruction to the United States consuls in Japan to use their good offices to protect Chinese subjects in Japan.

Mr. Gresham's telegraphic instruction, sent to you on the 29th ultimo and confirmed in mine of the 31st ultimo, will suggest to you the proper limitation to be set to the exercise of the unofficial good offices of our consuls as the representatives of a friendly power and not as charged with Chinese consular functions.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Dun to Mr. Gresham.

No. 157.]

LEGATION OF THE UNITED STATES,
Tokyo, Japan, September 1, 1894. (Received Sept. 22.)

SIR: On the 27th ultimo I received from Mr. Jernigan, United States consul-general at Shanghai, a telegram to the effect that two Japanese, accused by the Chinese authorities of being spies, were at that time in his consulate; that the alleged spies were boys; that they had been students at Shanghai for three years, and that they had papers in their possession such as any intelligent boys might have. Mr. Jernigan requested me to act promptly in behalf of the accused young men.

I felt that it was difficult for me to do anything in the matter. However, I called at the foreign office here and ascertained that the young men in question were, as stated by Mr. Jernigan, students, and was assured by Mr. Hayashi, vice-minister for foreign affairs, that they were entirely guiltless of the offense charged. At Mr. Hayashi's request, I telegraphed to Mr. Jernigan to wire me the names of the young men, and also telegraphed to Mr. Denby that the young men were not spies, and asked him if the Chinese Government would not postpone action in the matter until his father, Minister Denby, arrived, stating that he was expected here on September 2. I have the honor to inclose reading of my telegram to Mr. Denby herewith.

I have since ascertained that I was misinformed as to Minister Denby's movements, and that he will not reach Japan at the time named in my telegram.

I also have the honor to inclose copy of a statement prepared by Mr. Yenjiro Yamada, late of the Japanese consulate-general at Shanghai, in regard to the two young men. I have sent a copy of this statement to Mr. Jernigan for his information.

It seems that the young men accused of being spies are students in a commercial school established some years since at Tokyo, with a branch at Shanghai, the object of which was to impart a knowledge of the commerce of China and Japan and to promote the trade relations between the two countries.

I have, etc.,

EDWIN DUN.

[Inclosure 1 in No. 157.—Telegram.]

Mr. Dun to Mr. Denby.

TOKYO, August 27, 1894.

Japanese at the consulate, Shanghai, are not spies. Your father is expected here September 2. Won't Chinese Government postpone action until arrival?

[Inclosure 2 in No. 157.—Statement.]

AUGUST 29, 1894.

The two Japanese, Kusuuchi and Fukuhara, who were arrested under suspicion of being spies, have been living in Shanghai for the past four years for the purpose of studying the Chinese language, and at the same time of investigating into the trade. It appears that last spring they made a visit to Hankow and one of them, i. e., Kusuuchi, also to Soochow, in order to study commercial transactions, but they went to no other part of the interior.

They have been wearing Chinese costumes since about a year and a half ago, but this is a very common habit among young business students in China for the reason that they can thus secure many facilities in learning the language and commercial intercourse with the natives. They do so also because they have very limited means, and they can live more economically by adopting Chinese customs. Besides these there are no other special objects in view for wearing Chinese costumes.

YENJIRO YAMADA.

Mr. Gresham to Mr. Dun.

No. 128.]

DEPARTMENT OF STATE,

Washington, September 22, 1894.

SIR: Your dispatch of the 1st instant, relative to your efforts to secure the release of two Japanese boys, under arrest at Shanghai, charged as spies, has just been received.

In exercising your good offices in Japan in behalf of Chinese subjects there you act unofficially and not officially. In this new relation you and our consuls in Japan do not sustain to China and Chinese subjects the relation which the Chinese minister and consuls in Japan sustained to them. This will appear clear enough, I think, from my instructions of August 29 and September 1, respectively, and the inclosed copy* of an instruction of the 18th instant to our chargé d'affaires at Peking.

The Chinese minister here agreed that the two alleged Japanese spies should not be tried until Colonel Denby returned to China.

I am, etc.,

W. Q. GRESHAM.

Mr. Dun to Mr. Gresham.

No. 181.]

LEGATION OF THE UNITED STATES,

Tokyo, Japan, October 23, 1894. (Received November 13.)

SIR: I have the honor to acknowledge the receipt of your instruction of the 22d ultimo relative to the two Japanese boys under arrest at Shanghai charged as spies.

* See page 117.

In connection with the last paragraph of your instruction, in which you inform me that the Chinese minister at Washington "agreed that the two alleged Japanese spies should not be tried until Colonel Denby returned to China," I regret to say that the young men in question were executed at Nankin on the 8th instant, before the colonel had reached Shanghai.

I have, etc.,

EDWIN DUN.

Mr. Adee to Mr. Dun.

No. 137.]

DEPARTMENT OF STATE,
Washington, November 1, 1894.

SIR: I inclose herewith for your information and the files of the legation copy of a dispatch of the 30th ultimo,¹ sent to Mr. Denby, United States minister at Peking, in regard to the arrest of two Japanese spies at Shanghai and their delivery into the custody of the Chinese authorities.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

CONSULAR JURISDICTION OVER CIVIL SUITS—CASE OF GEORGE W. LAKE.

Mr. Dun to Mr. Gresham.

No. 48.]

LEGATION OF THE UNITED STATES,
Tokyo, Japan, December 23, 1893.
(Received January 19, 1894.)

SIR: On the 14th instant I received information from His Imperial Japanese Majesty's minister for foreign affairs to the effect that one Lake, a citizen of the United States, had been deported from Nagasaki, Japan, in conformity with Article VII of the treaty of 1858 between the United States and Japan; that the said Lake having returned to Nagasaki without permission in January of the present year, W. H. Abercrombie, esq., United States consul at that port, had informed the Japanese authorities of Nagasaki Ken that the said Lake was an outlaw, and that he (the United States consul) had withdrawn from him the official protection of the United States, and that the said Lake was therefore no longer subject to the jurisdiction of the United States consular courts in Japan, but was in all cases subject to Japanese jurisdiction. I was further informed that Mr. Abercrombie's action in this matter did not accord with Article VII of the treaty as interpreted by His Imperial Japanese Majesty's department for foreign affairs, and I was requested, in case my views concurred with those of the department for foreign affairs, to take such action as I might deem proper to rectify what was by them considered an error in judgment on the part of Mr. Abercrombie. I at once telegraphed to Mr. Abercrombie (see first telegram embodied in inclosure 1) to the effect that, having received this information from the department for foreign affairs,

¹ See page 119.

I advised him under concluding paragraph of Department instruction No. 158, Foreign Relations, 1879, page 698, "that American consuls can in no case refuse jurisdiction over American citizens."

On the 15th instant I received from Mr. Abercrombie the telegram from him embodied in inclosure 1, and on the same day I sent him in reply my second telegram, embodied in inclosure 1. On the 18th instant I mailed to him my dispatch (inclosure 1) No. 26, of date the 18th instant, embodying copies of the above-mentioned telegrams, and giving him at some length my opinion in regard to the correct interpretation of Articles VI and VII of the treaty.

On the 20th instant I received from Mr. Abercrombie a dispatch, dated the 16th instant, a copy of which and its inclosures I have the honor to inclose herewith, giving a history of the case of G. W. Lake from the time of his deportation in 1871 and of his (Mr. Abercrombie's) action in the matter since Lake's return to Nagasaki in January, 1893, and inclosing a copy of the correspondence between the Japanese authorities at Nagasaki and himself in connection with Lake's return.

On the 21st instant I visited the foreign office, and had an interview with Mr. Mutsu, His Imperial Japanese Majesty's minister for foreign affairs, relative to the matter under consideration.

I frankly expressed to Mr. Mutsu the same views, in substance, in regard to jurisdiction that I had sent as an opinion to Mr. Abercrombie in my dispatch of the 18th instant. Mr. Mutsu said that he fully concurred in the opinion that the Japanese authorities could not, under the treaty, assume jurisdiction over an American so long as he was recognized as a citizen of the United States, and he informed me that instructions had been sent to the Japanese authorities at Nagasaki not to take jurisdiction at this time over Lake. But, he said, this man Lake is in Japan in violation of the stipulations of Article VII of the treaty, and it is in the expectation that the obligation implied by those stipulations will be fulfilled by the United States that the Japanese Government has sent those instructions; and that, in case the United States authorities should continue to refuse to exercise jurisdiction over Lake, a contingency that he did not anticipate, he could not say that in such case the Japanese Government would not regard him as a man without a country, and assume jurisdiction over him accordingly.

I informed Mr. Mutsu of the communications I had made to Mr. Abercrombie, and expressed my conviction that that gentleman would exercise jurisdiction, but that I would again telegraph to him strongly advising him to do so; and that in case Mr. Abercrombie should find himself unable to act in accordance with the opinion I had expressed I should submit the matter by telegraph to my Government for instructions. In consequence of this interview I telegraphed, on the 21st instant, Mr. Abercrombie (inclosure 3) to the effect that the Japanese authorities would not interfere with his exercising jurisdiction over Lake, and that I strongly advised him to do so. On the same day I received a telegraphic reply (inclosure 4) from Mr. Abercrombie, saying that he would assume jurisdiction as advised.

It seems to me clear that Mr. Abercrombie's action in this matter has been dictated by an erroneous construction of the treaty of 1858, of the laws of the United States, and of the instructions from the Department.

That an American citizen not beyond the reach of lawful authority, and entirely subject to any penalty that that authority may lawfully impose, can be declared an outlaw appears to me to be in conflict with

our ideas of justice and with the dictates of humanity and enlightened civilization. While the United States maintains jurisdiction over her citizens in Japan for the purpose of affording them the protection of our laws she can not, in my opinion, refuse to accept the obligation implied to at all times maintain that jurisdiction for the punishment of crime and as a means of requiring that her citizens shall respect the rights of others.

Mr. Payson, in his instruction No. 158 to Mr. Van Buren, dated November 23, 1878 (see Foreign Relations, 1879, p. 697), says:

* * * The Department has consequently disapproved sentences of deportation whenever they have been pronounced by consuls of this Government as being a mode of punishment not recognized in this country.

In the next paragraph Mr. Payson observes:

So far as the Department is informed, all requirements on the part of the Japanese authorities under the seventh article of the treaty of 1858 have heretofore been voluntarily obeyed, and there seems to be no immediate necessity of determining what course should be pursued in the hypothetical case of a refusal to comply with such demand.

In the case of John Rogers, the sentence that Rogers should "be imprisoned at hard labor for the term of one year and that he forfeit his right of residence in Japan" met with the approval of the Department. (See Department instruction to Mr. de Long, of date 16th April, 1873.)

It appears to me that the hypothetical case mentioned by Mr. Payson has in the case of Lake become a real one, inasmuch as he has refused to comply with the requirement of the Japanese authorities under the seventh article of the treaty, that he should forfeit his right of residence in Japan, by coming back to Japan without permission.

You will please observe that in the last paragraph of Mr. Abercrombie's dispatch to me (copy herewith, inclosure No. 2), he requests me to advise him, first, whether he shall resume jurisdiction over Lake; second, whether Lake shall be forcibly redeported by him on the 31st of December, and what subsequent steps shall be taken to prevent his landing at Kobe or Yokohama.

In answer to Mr. Abercrombie's first inquiry, I refer him in a dispatch of this date to my telegrams and my dispatch to him of the 18th instant on the subject. In reply to his second inquiry, I refer him to Mr. Payson's instruction to Mr. Van Buren, of date November 23, 1879, already referred to in this dispatch. In reply to his last inquiry, I inform him that I am not prepared at this time to say what steps should be taken to prevent Lake from landing at Kobe or Yokohama, but that I shall refer the entire matter to the Department for instructions. As you will observe from the correspondence between Mr. Abercrombie and the Japanese authorities, there were possibilities of serious complications arising that might have proved difficult of satisfactory adjustment. I was therefore constrained to act promptly in the matter, and to use the telegraph more freely than would under other circumstances have been deemed desirable in official correspondence without the use of a code. For the same reason I have in this case used greater freedom in giving advice relative to the course that a consul should pursue in his judicial capacity than I should have otherwise felt inclined to use.

In my last telegram to Mr. Abercrombie (see inclosure 3) I ventured to suggest to him section 4101, Revised Statutes, as a means of enforcing sentence of court in case he should find that Lake had forfeited his

right of residence in Japan. The paragraph of section 4101, referred to, reads:

* * * It shall, however, be the duty of such officer to award punishment according to the magnitude and aggravation of the offense. Every person who refuses or neglects to comply with the sentence passed upon him shall stand committed until he does comply or is discharged by the order of the consul, with the consent of the minister in the country.

This matter, in my opinion, involves questions of much importance, and therefore I deem it my duty to submit it to the Department, with a request for instructions in the premises.

I have, etc.,

EDWIN DUN.

[Inclosure 1 in No. 48.]

Mr. Dun to Mr. Abercrombie.

LEGATION OF THE UNITED STATES,
Tokyo, December 18, 1893.

SIR: On the 14th instant I was informed by His Imperial Japanese Majesty's department for foreign affairs that charges having been brought before you against a certain Lake, a citizen of the United States now resident at Nagasaki, Japan, you had refused to entertain them on the ground that, the said Lake having been deported from Japan in 1871 and having returned to Nagasaki without permission, you had withdrawn from him your official protection, and he was therefore no longer subject to your jurisdiction.

Upon the receipt of this information I telegraphed you as follows:

I am informed by foreign office that you refuse to exercise jurisdiction over Lake. I advise you under concluding paragraph, Department instruction 158, Foreign Relations 1879, page 698, that American consuls can in no case refuse jurisdiction over American citizens. Send particulars.

DUN,
Minister.

On the 15th instant I received from you telegraphic reply as follows:

Lake deported 1871, under article 7 of treaty. Returned without permission last winter. I refused protection. See letter Secretary Fish to De Long, September, 1870. Civil case now pending before Japanese court. Lake notified by Japanese to leave December 31. Shall I protect him? Wire answer.

ABERCROMBIE.

On receipt of this I at once sent you in reply the following telegram:

It is my opinion that American citizens can not forfeit their right of trial by American consular courts for offenses committed in Japan, and as Lake is still an American citizen you can not refuse jurisdiction over him in any case, civil or criminal. (See Bingham to Van Buren, Foreign Relations, 1875, part 2, p. 811.)

DUN.

I referred you to Mr. Bingham's dispatch, dated Tokyo, June 7, 1875, for the reason that it clearly covers the case now under consideration, and furthermore, that the views expressed therein by Mr. Bingham, No. 232, dated June 7, 1875, to Mr. Fish, covering his correspondence with Mr. Van Buren, apparently met with the approval of the Department, as the concluding paragraph of Mr. Payson's (Third Assistant

Secretary of State) instruction to Mr. Van Buren (see Foreign Relations, 1879, p. 697), No. 158, dated November 23, 1878, indicates as follows:

It is therefore to be regretted that you disregarded, in this case, the opinion communicated to you by Mr. Bingham, at your request, on the 7th day of June, 1875, in the case of *Rappeport*.

I so entirely concur in the views expressed by Mr. Bingham in his dispatch of June 7, 1875, to Mr. Van Buren, that I can not express my own opinion more clearly than by quoting the first paragraph of that dispatch.

Mr. Bingham says:

Referring to your dispatch, of date the 25th ultimo, No. 850, in relation to J. M. *Rappeport*, and the request of the governor of Kanagawa for his deportation, I have to say that in my opinion the provision of the seventh article of the treaty of 1858, that the Japanese authorities may require Americans who have been convicted of a felony, or twice convicted of a misdemeanor, to leave the country, does not, as your dispatch seems to imply, confer the power upon the Japanese Government either to deport such convicted Americans or subject them to Japanese jurisdiction and punishment. By such conviction of felony or such repeated convictions of misdemeanors, the American so convicted forfeits his right to go more than one Japanese *ri* inland from his residence, or to abide in Japan beyond the time allowed by the American consul, not exceeding one year; but, in my opinion, such convict does not forfeit his right to be tried for all further offenses he may commit in Japan by the American consular courts, and if found guilty, to be punished according to American law.

Instructions from the Department of State prior to 1875, and since then Mr. Payson's instruction to Mr. Van Buren, dated November 23, 1878, to which I referred you in my first telegram, seem to me to sustain the views expressed by Mr. Bingham in the paragraph just quoted. Article 6 of the treaty of 1858 says:

Americans committing offenses against the Japanese shall be tried in American consular courts, and, when found guilty, shall be punished according to American law.

And further:

The consular courts shall be open to Japanese creditors to enable them to recover their just claims against American citizens.

It seems to me that by this article of the treaty Japan ceded to the United States entire jurisdiction over American citizens resident in Japan without any reservation whatever, and the article designates clearly the courts by which that jurisdiction shall be exercised. There is no reservation providing that under certain conditions Japanese courts shall assume jurisdiction over American citizens. That jurisdiction can, in my opinion, be exercised by the authorities of the United States in Japan, and by them only. It follows that, in the event of a consul refusing to take jurisdiction over an American charged with an offense committed in Japan, he does not by his failure to exercise it transfer that jurisdiction to the Japanese courts. His action might result in a miscarriage of justice, and be considered by Japan as just cause for complaint that the United States had failed, through her consul, to fulfill treaty obligations; but certainly it would not confer upon the Japanese authorities the right to arrest, try, and, if found guilty, punish that American citizen.

In reserving jurisdiction over her citizens in Japan the United States withdrew them from the operation of laws which at the time the treaty was signed were considered repugnant to our ideas of civilization and humanity and at the same time she assumed the obligation of maintaining tribunals not only to try Americans charged with offenses against the law and punish them when found guilty, but also to enable

Japanese creditors to "recover their just claims against American citizens." This jurisdiction and its attendant obligation are in full force to-day, and it seems to me clear that in no case where a citizen of the United States is either the accused or the defendant can a consul of the United States in Japan refuse to exercise the one or accept to the other.

The foregoing is given as an opinion, not as an instruction to you in your official capacity.

I am, etc.,

EDWIN DUN.

[Inclosure 2 in No. 48.]

Mr. Abercrombie to Mr. Dun.

CONSULATE OF THE UNITED STATES,
Nagasaki, December 16, 1893.

SIR: In reply to your telegram of the 14th instant, I have the honor to transmit herewith a statement of and papers relating to the case of G. W. Lake, an American citizen.

In 1871 G. W. Lake, having twice been convicted of misdemeanor before this consular court, was, at the request of the Japanese Government, deported from this Empire in accordance with article 7 of the treaty of 1858 between Japan and the United States. I have the honor to refer you to the following copies of correspondence on file at the legation: Letter from Mr. W. P. Mangum to Hon. C. E. De Long, No. 53, of July 8, 1871; letter from Hon. C. E. De Long to Mr. W. P. Mangum, No. 19, of July 16, 1871.

Mr. G. W. Lake, having been duly notified of his sentence of deportation, and having been accorded a few months in which to settle his affairs, left Japan for the United States.

About the middle of January, 1893, without permission, he returned to Nagasaki. Mr. Lake was immediately informed by me that no official protection would be afforded him, in accordance with instructions by Hon. Secretary Hamilton Fish to Mr. De Long, September 10, 1870, and, also, by implication contained in instructions in Foreign Relations, 1879, page 697. Mr. Lake's arrival was immediately reported to T. Nakano, governor of Nagasaki Ken, January 14, 1893, a copy of which letter is herewith inclosed (marked Inclosure No. 1), and the following reply was received, the copy of which is marked Inclosure No. 2.

On January 14 Mr. Lake telegraphed for a traveling passport, which, having been sent to this office, was returned by me with a statement of facts to Hon. F. L. Coombs, dated March 3, 1893, a copy of which is marked inclosure 3. On October 10, 1893, I received the following communication from C. Ohomori, governor of Nagasaki Ken, a copy of which, with my reply thereto, are marked inclosures Nos. 4 and 5. On November 10, 1893, inclosure marked No. 6 was received. On November 27 a letter was received from S. Hatakeyama, president of the district court, Nagasaki, a copy of which, with my reply, are marked inclosures Nos. 7 and 8. At the present time two civil cases are pending against Mr. Lake before the Japanese court, to be tried on December 26 and January 11 respectively.

I have the honor to request you to advise me by telegram, imme-

diately upon receipt of this, first, whether I shall resume jurisdiction over Mr. G. W. Lake; second, whether he shall be forcibly redeported by me on the 31st of December, the time allowed by the Japanese authorities, and what subsequent steps shall be taken to prevent his landing at Kobe or Yokohama.

I have, etc.,

W. H. ABERCROMBIE,
U. S. Consul.

[Subinclosure 1 in No. 48.]

CONSULATE OF THE UNITED STATES,
Nagasaki, Japan, January 14, 1893.

Governor T. NAKANO,
Kencho:

SIR: I have the honor to inform you that Mr. George W. Lake, an American citizen, deported from Nagasaki in 1871 at the request of the Japanese Government, has returned to this city.

Will you do me the honor to advise me, at your earliest convenience, whether or not there is still existing objection to his residence temporarily or permanently in this city?

I am, etc.,

W. H. ABERCROMBIE,
U. S. Consul.

[Subinclosure 2 in No. 48.]

NAGASAKI, KENCHO, *February 14, 1893.*

W. H. ABERCROMBIE, ESQ.,
U. S. Consul, Nagasaki:

SIR: I have the honor to acknowledge the receipt of your dispatch, dated the 14th of January last, informing me that Mr. George W. Lake, an American citizen, deported from Nagasaki in 1871, has returned to this city, and asking me whether or not there is still existing objection to his residence temporarily or permanently in this country.

I regret to state, in reply, that as the said Mr. George W. Lake was deported under the seventh article of the treaty between Japan and the United States, I am prevented from allowing him to reside in this country.

I have, etc.,

T. NAKANO,
Governor of Nagasaki Kencho.

[Subinclosure 3 in No. 48.]

CONSULATE OF THE UNITED STATES,
Nagasaki, March 3, 1893.

Hon. FRANK L. COOMBS, *Tokyo:*

SIR: I have the honor to return herewith inclosed Mr. George W. Lake's traveling passport, No. 6067.

Mr. Lake was deported from Nagasaki in 1871 at the request of the Japanese Government, and returned to this city about the middle of January from the United States. I informed the governor of Nagasaki of his arrival and inquired whether or not there was still existing objections to his residence, temporarily or permanently, in Nagasaki, and received a reply that permission would not be accorded him to again reside in Japan.

Mr. Lake has been accordingly informed by me that according to article 7 of the treaty between Japan and the United States, no protection will be afforded him by this consulate as an American citizen, and any action they may see fit to take in the matter looking to his redeportation will be sustained by me; and I also advised him to leave Japan at the earliest possible moment. I would respectfully request that in future no application for a passport be considered unless coming through this consulate.

I have, etc.,

W. H. ABERCROMBIE,
U. S. Consul.

[Subinclosure 4 in No. 48.]

NAGASAKI KENCHO, *October 10, 1893.*

W. H. ABERCROMBIE, Esq.,
U. S. Consul, Nagasaki:

SIR: Since the receipt of your letter dated the 15th February, 1893, informing me that no protection would be afforded by the United States Government to Mr. George W. Lake, an American citizen deported from Japan in 1871, I learned during the month of August last that he has been allowed by your consulate to stay here until the 31st December, 1893, and upon my communication, addressed to Dr. Arnold, U. S. vice-consul, on the 22d of August, asking his reason for allowing Mr. Lake to stay here, Dr. Arnold replied to me that his reason for allowing Mr. Lake to stay here until the end of the present year is to allow him time to settle his affairs according to article 7 of the treaty between Japan and the United States. I therefore beg to request that you will kindly advise me definitely whether the said George W. Lake has since been recognized by your consulate as an American citizen.

I also would like to know if the said George W. Lake would not be recognized by you should the Japanese Government take action to redeport him in accordance with your letter of the 15th February last, and whether any necessary assistance could be afforded by your consulate to our police in carrying out the execution.

I have, etc.,

C. OHOMORI,
Governor of Nagasaki Kencho.

[Subinclosure 5 in No. 48.]

CONSULATE OF THE UNITED STATES,
Nagasaki, October 10, 1893.

C. OHOMORI, Esq.,
Governor of Nagasaki Kencho:

SIR: In reply to your communication of the 10th instant, asking information in regard to George W. Lake, I beg to reply that as George W. Lake, deported from Japan in 1871, according to article 7 of the treaty between Japan and the United States, has returned to Nagasaki, his sentence of deportation still being in force, he is no longer under the protection of the United States Government, is an outlaw, and is amenable to whatever action the Japanese authorities may see fit to take, whether in his trial before their courts, his punishment, or deportation.

No authority is vested either in the vice-consul or in the consul of the United States at Nagasaki, under the present circumstances, permitting any official order of any kind being issued to the said George W. Lake, all proceedings against him following the usual course through the Japanese courts, as in the case of a Japanese.

I would beg to suggest that as George W. Lake has been allowed to remain undisturbed for many months subsequent to the notification of the authorities by me of his illegal return, time should be given him to rearrange his affairs before his redeportation. This, however, is a matter for your consideration.

In regard to your inquiry, what assistance would be rendered the Japanese police in case of his redeportation, I have to state that, having no jurisdiction, I could render only the moral support requisite to the fulfillment of the treaty existing between our respective Governments; all other United States consuls in Japan would be immediately notified of the fact of his outlawry and the same action taken, probably, by them as by myself.

I am, etc.,

W. H. ABERCROMBIE,
U. S. Consul.

[Subinclosure 6 in No. 48.]

NAGASAKI KENCHO, *November 10, 1893.*

W. H. ABERCROMBIE, Esq.,
U. S. Consul, Nagasaki.

SIR: With reference to your letter of the 13th ultimo regarding Mr. George W. Lake, an American citizen deported in 1871 from Japan, I have the honor to inform you that I have, in accordance with the tenor of your letter, notified Mr. George W. Lake this day that he must leave this country not later than the 31st of December, 1893.

I have, etc.,

C. OHOMORI,
Governor of Nagasaki Kencho.

[Subinclosure 7 in No. 48.]

DISTRICT COURT,
Nagasaki, November 27, 1893.W. H. ABERCROMBIE, Esq.,
U. S. Consul, Nagasaki:

SIR: I have the honor to inform you that a petition claiming the payment of the price of the goods sold was produced before the court by W. S. Stone, an American citizen, the agent of the American Trading Company, resident at Yokohama, foreign settlement, against George W. Lake, an American citizen, resident at Oura, Nagasaki, and that to this petition a certificate, said to have been given by you, is annexed, the copy of which is here inclosed. In the certificate there is an item that the defendant is not entitled to receive the protection of the American flag, but (is) amenable to the Japanese laws, etc.

I should be very glad to know if you ever gave such certificate to the plaintiff as above mentioned, and if so, is there no hindrance to trying him by this court?

I have, etc.,

S. HADAKKEYAMA,
*President of District Court, Nagasaki.*U. S. CONSULATE,
Nagasaki, November 19, 1893.

I hereby certify that George W. Lake, an American citizen, is not entitled to the protection of the American flag, but is amenable to the Japanese laws, and all suits against him must be tried before Japanese courts.

W. H. ABERCROMBIE,
U. S. Consul.

[Subinclosure 8 in No. 48.]

CONSULATE OF THE UNITED STATES,
Nagasaki, November 29, 1893.S. HADAKKEYAMA,
President of District Court, Nagasaki.

SIR: I have the honor to acknowledge the receipt of your letter of November 27, and in reply I beg leave to say that the inclosed copy of certificate given by me is a true copy of the same, and that there is no hindrance to Mr. G. W. Lake's trial in the Japanese courts.

I am, etc.,

W. H. ABERCROMBIE,
*U. S. Consul.*U. S. CONSULATE,
Nagasaki, November 19, 1893.

I hereby certify that George W. Lake, an American citizen, is not entitled to the protection of the American flag, but is amenable to the Japanese laws, and all suits against him must be tried before Japanese courts.

W. H. ABERCROMBIE,
U. S. Consul.

[Inclosure 3 in No. 48.—Telegram.]

Mr. Dun to Mr. Abercrombie.

TOKYO, December 21, 1893.

Japanese authorities will not interfere with your taking jurisdiction over Lake. I strongly advise you to do so. I advise you to investigate his case judicially and suggest section 4101, Revised Statutes, as means of enforcing sentence of court if ordered to leave Japan. Wire me if you will take jurisdiction.

DUN.

[Inclosure 4 in No. 48.—Telegram.]

Mr. Abercrombie to Mr. Dun.

NAGASAKI, December 21, 1893.

Will take jurisdiction as advised.

ABERCROMBIE.

[Inclosure 5 in No. 48.]

Mr. Dun to Mr. Abercrombie.

No. 30.]

TOKYO, December 23, 1893.

SIR: I have to acknowledge the receipt of your dispatch, No. 464, of date the 16th instant, together with its inclosures, relative to the case of G. W. Lake, and the action taken by you in connection therewith and correspondence with the Japanese authorities in regard thereto.

In reply to your request for advice, as stated in the last paragraph of your dispatch, I refer you, in reply to your first inquiry, to my telegrams and to my dispatch of the 18th instant. As to the second, "Whether he shall be forcibly redeported by me on the 31st December," etc., I can only refer you to Mr. Payson's instruction, No. 158, to Mr. Van Buren, dated November 23, 1878 (Foreign Relations, 1879, p. 697), in which you will find the following:

The Department has consequently disapproved sentences of deportation whenever they have been pronounced by consuls of this Government as being a mode of punishment not recognized in this country.

In reply to your last inquiry, I have to say that at this time I am not prepared to say what steps should be taken to prevent his landing at Kobe or Yokohama. I shall refer the entire matter to the Department by this mail for instructions in the premises.

I would suggest that upon a complaint being made by the Japanese authorities you should summons Lake to appear before you in your judicial capacity, and, should the finding of the court be that he has forfeited his right of residence in Japan and is now here in violation of law, that the court should fix a time when he shall leave the country.

The part of section 4101, Revised Statutes, to which I desired to call your attention in my telegram of the 21st instant, reads as follows:

It shall, however, be the duty of such officer to award punishment according to the aggravation and magnitude of the offense. Every person who refuses or neglects to comply with the sentence passed upon him shall stand committed until he does comply or is discharged by order of the consul, with the consent of the minister in the country.

I am, etc.,

EDWIN DUN.

Mr. Uhl to Mr. Dun.

No. 47.]

DEPARTMENT OF STATE,

Washington, February 19, 1894.

SIR: Acknowledging the receipt of your No. 48, of 23d December last, relative to the jurisdiction of the United States consul at Nagasaki over civil suits there instituted against the American citizen George W.

Lake, I inclose a copy of an instruction to that consul which appears to contain an answer to your inquiries.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure in No. 47.]

Mr. Strobel to Mr. Abercrombie.

No. 25.]

DEPARTMENT OF STATE,
Washington, February 16, 1894.

SIR: Your dispatch No. 81,* of January 17 last, with its inclosures has been received and considered.

It raises the question of the status of one George W. Lake, an American citizen, who, having been twice convicted of misdemeanors by the American consular court in Japan, and consequently expelled from the country, pursuant to the provisions of Article VII of the treaty of 1858, has recently returned to Japanese territory.

The Department some time since received from Mr. Dun a dispatch and inclosures in reference to this man Lake. The specific inquiry therein raised being whether you, as American consul at Nagasaki, had jurisdiction over civil suits there instituted against Lake. You now state that the civil suits brought against him before you, which gave rise to the question submitted by Mr. Dun, have proceeded to judgment by default. You further state that on December 31, the time allowed Lake by the consular court for the settlement of his affairs, having expired, he was arrested, and upon his refusal to comply with sentence was taken to jail, where he will be kept until he either consents to leave Japan or you are otherwise advised by the Department. Finally, you request full instructions not only as to the further steps to be taken in Lake's case, but as to the principles which should govern your action in similar cases, *ab initio*.

In reply, I have to say in the first place that you undoubtedly had jurisdiction over the civil suits brought against Lake, and the Japanese courts had no jurisdiction over them. Lake did not, either by being twice convicted of misdemeanors or by his expulsion from Japan, cease to be an American citizen, and upon his return to Japanese territory the jurisdiction of our consul over civil suits against him arose just as it would arise in respect to any other American citizen coming into Japan. Japan, it is true, might exercise her right under the treaty to expel Lake from the country, but so long as the Japanese authorities take no steps for his expulsion the treaty provisions as to consular jurisdiction apply no less to him than to other American citizens. The right of expulsion, however, belongs to and must be exercised by the Japanese Government. The expulsion can neither be decreed nor executed by our consul. The party's refusal to leave the country is not a criminal offense of which our consular courts can take cognizance.

The party having been convicted of a felony or twice convicted of misdemeanors in the consular court, the right of the Japanese Government to expel him from the country arises without further action on the part of the consul. That officer's duty in respect to the expulsion is merely to abstain from interference where the Japanese Government has the right to expel, unless this right should be exercised in an unnecessarily harsh and oppressive manner.

* Not printed.

The same is true in respect to the means to be adopted to prevent the person expelled from returning to the country. The consul has no authority to prohibit or prevent his return. That is exclusively a matter for the Japanese authorities.

I infer from your dispatch that Lake has been arrested and is now confined under your order for refusing to leave the country. As the preceding observations indicate, it was in the opinion of the Department no part of your duty to take this action. Lake's expulsion must be effected by the Japanese authorities and they can not call upon you to assist in accomplishing it. You should therefore release him, and abstain from all participation or interference in the proceedings which those authorities may take for his expulsion, except to see that he is not subjected by them to harsh treatment further than may be necessary to compel him to depart.

I am, etc.,

EDWARD H. STROBEL,
Third Assistant Secretary.

Mr. Gresham to Mr. Dun.

No. 70.]

DEPARTMENT OF STATE,
Washington, June 25, 1894.

SIR: I inclose herewith for your information, in connection with your No. 48, of December 23, 1893, and the Department's No. 47, of February 19 last, copy of a dispatch, No. 88, of the 5th ultimo, from the consul of the United States at Nagasaki, and of the Department's reply, No. 28, of the 22d instant, in relation to the case of George W. Lake.

I am, etc.,

W. Q. GRESHAM.

[Inclosure 1 in No. 70.]

Mr. Abercrombie to Mr. Uhl.

No. 88.]

CONSULATE OF THE UNITED STATES,
Nagasaki, Japan, May 5, 1894. (Received June 1.)

SIR: I have the honor to make the following further report in relation to the case of George W. Lake:

Previous to the receipt of instruction No. 25, of February 16, Lake consented to leave Japan and sailed for Shanghai on March 25. Upon learning in Shanghai of decision of the Department in regard to his redeportation, he made application to the governor, through me, for permission to return to Japan. A copy of the governor's reply denying his request is herewith inclosed (marked No. 1). Notwithstanding this, Lake returned to Nagasaki on April 9. In an interview with the governor of Nagasaki Ken, he informed me that Lake would be again deported on receipt of instructions from his Government at Tokyo in regard to the payment of Lake's passage money, as he refused to pay it himself.

I immediately sent for Mr. Lake and informed him that he would be forcibly deported by the Japanese authorities, and advised him to leave voluntarily without causing any further trouble. This he consented to do, and left Nagasaki on the *Empress of China* on April 16, ostensibly for America. His conduct after arriving at Yokohama and the action

of the Japanese authorities are described in the Japan Daily Advertiser of April 21, 1894 (marked inclosure No. 2).

On May 1 the governor of Nagasaki Ken informed me that a telegram had been received by the chief of police notifying him of Lake's departure from Yokohama to Shanghai. As the steamer would stop at Nagasaki, and there being little doubt that Lake would again attempt to land here, a sufficient force of police would be detailed to watch the steamer to prevent his landing. In this way Lake may continue to annoy and harass the Japanese authorities indefinitely.

The character of Mr. Lake has been, I think, well shown in the history of his case already furnished to the Department of State. In a hypothetical case of Lake committing some crime while being deported by the Japanese, he being an American citizen under my jurisdiction, would be brought to this consular court for trial, and, if convicted, would the Japanese have a right to demand his delivery to them for deportation?

I have the honor to request the fullest instructions covering, if possible, the complications which may arise in this anomalous case.

I have, etc.,

W. H. ABERCROMBIE.

[Subinclosure 1 in No. 70.]

Governor Ohomori to Mr. Abercrombie.

NAGASAKI KENCHO, April 13, 1894.

SIR: I have the honor to acknowledge the receipt of your letter dated the 9th instant, inclosing a petition of Mr. George W. Lake, an American citizen, you received from Mr. F. P. Catterall, solicitor, in Shanghai.

I beg to request in reply that you will be so kind as to advise the petitioner that as the said Mr. George W. Lake was deported from Japan before under article 7 of the treaty between Japan and the United States, as I informed you in my dispatch dated the 14th February, 1893, and in accordance with the instructions I received from my Government, I am prevented from allowing him to reside in Japan.

I have, etc.,

CH. OHOMORI,
Governor of Nagasaki Ken.

[Subinclosure 2 in No. 70.—Extracts from Yokohama papers.]

THE CASE OF MR. G. W. LAKE.

A considerable amount of excitement was caused on board the C. P. steamer *Empress of China* yesterday in connection with Mr. G. W. Lake, a passenger on board, who was recently redeported from Nagasaki. Without going into the particulars of the original case, it appears that Mr. Lake was deported from Japan in January, 1871, upon what he considered illegal grounds. He returned to Nagasaki in December last, and soon afterwards action was entered for his redeportation, which resulted in his imprisonment for two months or so and his departure from Nagasaki to Shanghai, whence he came by the C. P. steamer *Empress of China* to Yokohama. Upon the arrival of the *Empress* boat in this port on the 19th the Japanese police took every step possible to prevent the landing of Mr. Lake. Steam launches and boats with officers of all ranks, from inspectors downward, surrounded the steamer, while other police officers in plain clothes boarded the vessel to keep a watch on the deportee. Capt. Archibald, of the *Empress of China*, was in a bit of a quandary as to what to do with his passenger, who was only booked to Yokohama, and applied to the British consul for assistance, with the result that instructions were given to the consular constable to go off to the steamer before her departure and see that Mr. Lake, as a passenger on a British steamer to Yokohama, was allowed to leave the vessel.

We understand that if opposition to this course was displayed by the Japanese police or others, the constable was empowered to call upon the captain of the *Empress* for any assistance required. The *Empress of China* was over an hour late in

getting away, and when the C. P. Company's steam launch ran alongside of the steamer just outside the breakwaters about 1 p. m. yesterday to take off the visitors from ashore, two or three launches and boats with police officers and constables on board surrounded the gangway of the vessel. Just before the *Empress* boat left the harbor the Japanese authorities, through an officer on board, offered to pay the passage of Mr. Lake to Vancouver, but the offer was refused by Mr. Lake as he was not prepared for a trip to the other side. The first to leave the steamer after she was outside the harbor, to board the C. P. Company's tender *Spindrift*, were Mr. Lake and the British consular constable, Mr. Kircher, and no opposition was offered by the Japanese police, some of whom were on board the steamer in private clothes, while a strong detachment were in steam launches alongside. The latter followed the *Spindrift* to the English Hatoba, where Mr. Lake, at the invitation of Mr. Morse, of the C. P. Company, elected to stay on board the tender for the time. The landing place at the Hatoba was lined with police, in addition to the party which landed from the launches and boats, including Inspector Kawada and other officers in plain clothes.

After landing the other passengers the *Spindrift* left the landing stage for her anchorage off the Hatoba, with Mr. Lake on board. Later in the afternoon, it appears, fresh instructions were issued to the police from the Kencho to the effect that Mr. Lake was to be permitted to land, but was to be arrested and detained at the police station, and at the same time a note from Mr. Mitsuhashi, secretary of the Kencho, was received by Messrs. Frazer & Co. to the effect that if they harbored Mr. Lake on board their launch they did so at their risk. About 6 o'clock Mr. Pope, who is in charge of the C. P. Company's launch *Spindrift*, went on board and acquainted Mr. Lake with the position of affairs, and after packing up his baggage that gentleman landed in a sampan at the Hatoba, where he was received by Mr. Inspector Kawada and some other police officers and conducted to the settlement station, arrangements being made for his detention there pending further instructions.—(Japan Daily Advertiser, 21st April.)

MR. LAKE STILL TROUBLESOME—HE DECLINES TO BE DEPORTED.

When we made inquiries before going to press last night, Mr. G. W. Lake was making himself as comfortable as possible on the C. P. R. steam launch *Spindrift*. Shortly afterwards, as the result of communications between the Kencho and the C. P. R. agents, he went ashore in a sampan and immediately on landing was taken charge of by the police. He spent the night in the settlement police station. This morning his passage was booked to San Francisco in the *City of Rio de Janeiro*. Lake asserts that the passage was booked by the police with his own money. Wherever the money came from, his passage was booked, and he was taken on board by the police; but the difficulties did not end here.

When the arrest was removed Lake refused to go to San Francisco, and the police had no option but to again take him in charge. This they did, and on landing he was again escorted to the settlement police station. There, for the present, he remains, and so far as we can see he is likely to remain unless he consents to leave the country or the police confess themselves beaten. That he is under arrest is beyond question. The police decline to allow him to be interviewed, and Inspector Kawada informed representatives of the press this afternoon that he could give no information as to the intention of the authorities. The reporters next visited the police department in Honcho-dori, but were there informed that the chief of police was engaged at the English hatoba. They accordingly repaired to the hatoba, but the chief of police could not be found.—(Japan Gazette, 21st April.)

[Inclosure 2 in No. 70.]

Mr. Uhl to Mr. Abercrombie.

No. 28.]

DEPARTMENT OF STATE,
Washington, June 22, 1894.

SIR: I have received your dispatch No. 88, of the 5th ultimo, in further relation to the case of George W. Lake, from which it appears that, having quitted Nagasaki under the Japanese order of deportation on April 16, he had subsequently taken passage from Yokohama for Shanghai, and it was thought he might attempt to land at Nagasaki when the steamer touched at that place on the way. In view of this

you suggest the hypothetical case of Lake committing some crime while being deported by the Japanese, and ask whether, in the event of his being convicted thereof in the consular court, the Japanese authorities would have a right to demand his delivery to them for deportation.

While it is not the Department's custom to deal with hypothetical cases, the antecedents of Lake, his apparent disposition to defy the authority of the Japanese in his regard, and the difficulty and delay you might find in communicating with the Department should a question arise, seem to warrant some general observations supplementing Mr. Strobel's instruction No. 25, of February 16, 1894.

An American citizen falling under the inhibitions of Article VII of the treaty of 1858 loses the treaty right of sojourn in Japan, but he loses nothing else. All other rights of American citizenship remain intact, and with them all its obligations, including subjection to consular jurisdiction for any new offense or misdemeanor he may thereafter commit in Japan. Mere defiance of or resistance to a Japanese order of deportation would not be such a triable offense, unless, indeed, he should commit some violently criminal act, which is hardly to be anticipated. In such a case expulsion could only take place after punishment for the offense had been imposed and completed. This is not expressly declared in the treaty, but it must be so, otherwise the crime, although duly ascertained by trial, might go unpunished, since deportation can in no case be regarded as a punishment for the offense, but is merely an administrative act which is left by the treaty to the discretion of the Japanese authorities.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

MEXICO.

BANCO VELA DISCUSSION.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,

Washington, January 15, 1894. (Received January 18.)

MR. SECRETARY: I have the honor to forward to you a copy of a report of the special boundary commission (*Mesa especial*), of the department of foreign relations of Mexico, from which it appears that the authorities of Texas are performing acts of jurisdiction on the Banco Vela, in violation of the agreement concluded between the Government of Mexico and that of the United States to submit this incident, for examination, to the International Boundary Commission organized under the convention of March 1, 1889, and in contravention of the express stipulations of the said convention.

The annexed copy contains all the data relative to this matter, and in view of them the Government of Mexico has instructed me to present a complaint to that of the United States, and to request it to obtain from the authorities of Texas the release of Rómulo Sanchez, the exercise of jurisdiction over that Banco which led to his arrest having been unwarranted, pending the adoption of a proper decision by the International Boundary Commission, and by both Governments in turn, in conformity with the aforesaid convention of March 1, 1889.

Accept, etc.,

M. ROMERO.

[Inclosure.—Translation.]

[Department of state and office of foreign relations, section of America, Asia, and Oceanica. Special boundary commission. No. 540. Question of Banco Vela.]

MEXICO, *January 3, 1894.*

Notwithstanding the fact that no decision has yet been pronounced concerning the right of jurisdiction over the Banco Cuauhtemoc, in the municipality of Reynosa, on the River Bravo, which, because of a change in the current, has passed to the American side, the authorities of Texas have again appropriated it, as stated by the governor of the State of Tamaulipas in his note of November 29, 1893, which occasions this report.

By a letter from the auxiliary judge of Reynosa, the governor of that State was informed that the American citizen Miller had, on the 24th of September, crossed to the Mexican bank and entered by force the dwelling of Vela, notifying the person in charge of it, Rómulo Sanchez, to vacate it at once, leaving there the fourth part of the crops as the price of the rent of the land, threatening, if he disobeyed these orders, to imprison him in the jail at Hidalgo, which threat was carried out on the 21st of October, the apprehending parties refusing to take an inventory of the goods which, under summons, Sanchez had to deliver, as he had been notified by the Mexican authority.

Rómulo Sanchez has been sentenced to pay a fine of \$100 and to remain in prison until he and his employer wholly relinquish possession of the Banco Cuauhtemotzin to the Salinas, as is shown by the inclosures to the note of the governor of Tamaulipas, a *résumé* of which I give below for the elucidation of this report.

From these documents it appears that the district court of the county of Hidalgo

commenced its regular sessions on the 2d of October of this year, and that in several successive sessions the following points were decided:

1. To declare (October 4) that the claimants, Patricio Pérez and Martina Salinas de Pérez, had a right to be heard, and to institute proceedings against the defendant, Antonio H. Vela, for the possession of a lot which is said to belong to the county of Hidalgo, Tex., and for a part of the concession of lands by the vice-royal Government to José Maria Tijerina, the declaration of the said court determining the limits of the lot of the former jurisdiction of Reynosa, and to adjudge the lands and their appurtenances to Pérez and his wife, to which end the issuance was granted of the necessary orders for taking possession and its confirmation, prohibiting Vela and his associates from any interference on said lands that might disturb or molest the claimants or their agents, employés, tenants, and servants, either in the possession or use or enjoyment of them, and finally sentencing said Vela to pay the costs of the suit.

2. To decree, the same day, that the British-American mortgage company might recover from the accused, Antonio H. Vela, a piece of land situated 22 miles north of the county of Hidalgo, which is the ground disputed and described in the petition of the claimant, known by the name of section 45, originally conceded to Miguel Cano by the Spanish Government. It appears that this land has formed the subject of another dispute, which has been submitted to the jurisdictional action of the government of Texas, and which will, in due time, be decided by the international commission.

3. To order the arrest (October 17) and to sentence Rómulo Sanchez, an employé of Vela, to pay a fine of \$100 for having disobeyed the order of the court, and to remain in the public jail at Hidalgo until he and his employer relinquish to the plaintiff absolute and entire possession and control of the Banco.

Washington, January 15, 1894.

A copy.

M. COVARRUBIAS.

Mr. Uhl to Mr. Romero.

DEPARTMENT OF STATE,

Washington, February 24, 1894.

SIR: I have to say with reference to your note of the 15th ultime that, as I learn by a letter of the 20th instant from the governor of Texas, Rómulo Sanchez was discharged from jail more than a month previous to the date of his letter. He adds, "At no time was any question raised as to the jurisdiction of the court by reason of the land in litigation being foreign territory."

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,

Washington, March 28, 1894. (Received March 28.)

MR. SECRETARY: I have the honor to inform you that I have received from Señor Mariscal, secretary of foreign relations of the United Mexican States, instructions, dated at the City of Mexico the 15th of the current month, to state to you that the governor of the State of Tamaulipas has sent to the Mexican Government a report of the municipal president of Reynosa, in which he relates various acts done by residents of Hidalgo County, Tex., upon a Mexican "banco" (cut-off) of the Rio Bravo (Rio Grande) in front of Granjeno.

From the report it appears that, by reason of the change of the current of the Rio Bravo—which is frequently repeated—a piece of land situated in Mexican territory has become an object of dispute between citizens of the two nations.

The Mexican citizens Don Manuel Garza and Don Juan Garza Chavarría have been in possession of this piece of land on the banks of the Rio Bravo since it was adjudicated to them by the authorities of Reynosa in 1868, and have not ceased to cultivate it, having been recognized as the owners thereof by the citizens of Texas themselves; but, by reason of the deviation of the river, the latter are now endeavoring to deprive the owners of the land of their legitimate rights, and stimulated by the judge of Hidalgo, Honorable William P. Dougherty, several citizens of Texas have undertaken operations on the aforesaid "banco," opening breaches, plowing, and doing other works within the walls of the said piece of land, and when the owners of the same attempted to close a gateway which had been opened in this wall, the judge of Hidalgo County opposed it, and threatened with imprisonment whomsoever should attempt to close that gateway.

From the report received in the department of foreign relations of the Mexican Government, it appears that both the owners of the aforesaid Mexican "banco" and the authorities of Reynosa have proceeded with the utmost prudence and circumspection, deferring the decision of this matter until the International Boundary Commission shall have determined the point relative to the ownership of the "banco" in question.

Under these circumstances and in conformity with the convention of March 1, 1889, it is incumbent to suspend all proceedings until the International Commission created by that convention, or the respective Governments, as the case may be, shall decide concerning the nationality of the piece of land in dispute.

To the complaints and protests of the Mexican authorities of Reynosa against the above-mentioned acts, the authority of Hidalgo County has replied, denying to the owners of the piece of land their right to the same, and stating that in the United States it is not the custom to prevent citizens from the exercise of their rights, both personal and as touching their property, which statements would be well grounded were the piece of land under consideration within the territory of the United States, but which are wholly out of place when, in conformity with what has been stipulated by the two Governments, all proceedings are to be suspended in any disputed piece of land until the nationality thereof shall be decided conformably with the basis agreed upon.

In view of this, the Mexican Government has given me instructions to ask the Government of the United States that it shall make the proper communication to the authorities of the State, to the end that they and the residents of Hidalgo County shall suspend all acts against the owners of the Mexican "banco" in the Rio Grande, in front of El Granjeno, until the question of the nationality shall be decided according to the stipulations of the first article of the convention of March 1, 1889.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Romero to Mr. Gresham.

[Translation.]

MEXICAN LEGATION,

Washington, June 30, 1894. (Received July 2.)

MR. SECRETARY: I have the honor to inform you that I have received instructions from the Government of Mexico to request that of the United States to issue anew such instructions as it may deem proper in

regard to the release of the Mexican citizen Antonio H. Vela and the observance of the *status quo* with respect to the bank in the River Bravo, which bears the name of "Banco Cuauhtemoc" or "Banco Vela" as I requested in advance, pending the decision of both Governments, in conformity with the provisions of the convention in force in regard to the nationality of that territory.

The Mexican consul at Brownsville, Tex., informs the secretary of foreign relations of the Mexican United States, under date of the 12th instant, that Vela has been summoned by the Federal court in that place, and that he has been arrested and taken to jail.

The judge of the Federal court, moreover, informed the Mexican consul that he had no knowledge whatever that your Department had taken any measure respecting that matter.

Accept, etc.,

M. ROMERO.

Mr. Gresham to Mr. Romero.

DEPARTMENT OF STATE,
Washington, July 5, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 30th ultimo, requesting the release of Antonio H. Vela and the maintenance of the *status quo* in respect to the "Banco Vela" until the nationality of that territory be adjusted by the International Boundary Commission.

The matter has been brought to the attention of the governor of Texas for appropriate action. Upon the receipt of his reply you will be informed of its purport.

Accept, etc.,

W. Q. GRESHAM.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, July 11, 1894. (Received July 11.)

MR. SECRETARY: I have the honor to inform you, with reference to our previous correspondence respecting the arrest at Brownsville, Tex., of the Mexican citizen Antonio H. Vela, that I have received instructions from Señor Mariscal, secretary of foreign affairs of the United States of Mexico, dated City of Mexico, June 26, 1894, to inform your Department that the Mexican consul at Brownsville reports that Vela's arrest has been insisted upon on the charge of smuggling to the Vela bank and of having shot from one to the other side of the river; that he is further charged with having disobeyed the order of the Texas authorities to leave the bank, and a summons that was sent him from Hidalgo County, and that only under bail has he been able to obtain his liberty.

The Mexican consul at Brownsville calls attention to the fact that the prosecuting attorney has stated that he has no knowledge of the understanding that has been reached between the Mexican Government and the United States Government with respect to submitting to the International Boundary Commission the question of the nationality of the Vela bank, in order that it be decided in conformity with the convention of March 1, 1889.

For this reason I am again instructed by Señor Mariscal to call this matter to the attention of the United States Government in order that it may renew its orders for a stay of all proceedings against Antonio H. Vela pending the decision, in the terms aforesaid, respecting the nationality of that bank.

Accept, etc.,

M. ROMERO.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,

Washington, October 12, 1894. (Received October 12.)

MR. SECRETARY: I have the honor to transmit to you, referring to our previous correspondence on the subject, a copy of a communication from the consul of Mexico at El Paso, Tex., bearing date of the 4th instant, which shows the urgent necessity that exists for a decision of the question relative to the taking of water from the Rio Bravo (Rio Grande) del Norte in the State of Colorado and the Territory of New Mexico, which has so seriously affected the existence of the frontier communities for several miles below Paso del Norte, above the confluence of the tributary rivers with the Rio Grande, and points out the danger lest otherwise those communities may be annihilated.

My object in sending you the inclosed copy is to solicit, very specially, an examination and decision of this grave question by the Department of State, in order that the evils referred to by the Mexican consul at El Paso, Tex., may be remedied.

Be pleased to accept, etc.,

M. ROMERO.

[Inclosure.—Translation.]

Mr. Guarneros to Mr. Romero.

No. 2.]

CONSULATE OF MEXICO,

El Paso, Tex., October 4, 1894.

For some time past, as you are aware, the difficult question of the right of both peoples to make use of the water of the Rio Grande has been agitated by the inhabitants of the frontier towns of Paso del Norte and El Paso, Tex. This question is an element that is destined to decide with regard to the existence or the disappearance of the frontier towns. Thus has been estimated, with good reason, in my opinion, the importance of this most serious question.

As you are likewise aware, our Government has never abandoned its claim to that right, and no one doubts that the matter will be settled in a manner favorable to the interests of both countries; but that which now renders it imperatively necessary that some step be taken, even if it be merely of a temporary character, is that the alternative "to be or not to be" is daily drawing nearer, an alternative which has so long been feared by persons who know the needs which press so hard upon Ciudad Juarez. The nearness of that danger is what compels me to address this report to you, the depopulation of our aforesaid city staring me, so to speak, in the face.

Of course it is not my purpose here to touch upon the points of public law which the question involves, since that does not come within my

province, nor would I ever presume thus to elucidate it; I must simply confine myself to a statement of what is actually taking place to the detriment of the interests of Paso del Norte, leaving it to you to infer what the results will probably be.

Agriculture, which is already impoverished on this entire frontier, is threatened with total destruction within perhaps two years, if the scarcity of the river water continues during that short period; and the destruction of agriculture will inevitably entail the ruin of the infant industries which are now kept in existence with so much difficulty.

Almost all articles of prime necessity are brought from places situated at a distance of from 500 or 1,000 miles, because they can not be produced here, and this circumstance occasions a condition of things that is well nigh unbearable, since, owing to it, the prices of commodities are not proportionate to the limited means of the majority of the inhabitants.

It is already impossible for employers to pay the wages of their employés with their accustomed liberality or regularity; large numbers of the laboring class are absolutely unable to find employment, and leave the country. As this class of persons forms the majority of the inhabitants, it is evident that, if this state of things continues, the city must go to decay and ruin.

There remains no other recourse for the maintenance of tranquility pending the settlement of the main question—the only one which will remedy so many evils—than the equitable division of the waters of the river.

There is a scarcity of that water here, not because the supply in the river has been naturally exhausted, in which case there would, of course, be no ground for complaint, but because of the numberless drains which have been made by the farmers of Colorado and New Mexico, who have settled the pending question by appropriating the water of the Rio Grande to their own exclusive use.

Companies, moreover, are still being organized and plans are being formed, more or less seriously, for the purpose of monopolizing on the American side the small amount of water brought down by the river in those months when it is so abundant that it can not be exhausted by the drains in New Mexico and Colorado. A meeting of stockholders has just been held at Denver for the purpose of removing the political and material difficulties which have hitherto stood in the way of the accomplishment of their plans for irrigation, and I am informed that it is attempted to create the impression that these plans involve certain concessions in favor of Ciudad Juarez, such as selling it the water which it requires, when Ciudad Juarez has quite as much right as they have to use the water.

The plans, which have heretofore threatened our city with destruction, are not unknown to you, and it is probable that you also have knowledge of those to which I have referred as having been discussed by the meeting at Denver, but, as a supplement to this report, I have the honor to inclose four clippings from *The Times*¹ newspaper, published in this city, which have reference to that meeting, and, as I have already remarked, I leave it to you to consider the consequences that must necessarily follow the accomplishment of those plans.

All that I desire to do is to discharge my duty by reporting the foregoing to you and to our Government, and, in doing so,

I have, etc.,

JOSÉ ZAYAS GUARNEROS.

¹ Not printed.

USE OF THE RIO GRANDE FOR IRRIGATION.

*Mr. Gresham to Mr. Romero.*DEPARTMENT OF STATE,
Washington, November 1, 1894.

SIR: I have the honor to acknowledge receipt of your note of the 12th ultimo, in relation to the use of the waters of the Rio Grande River in Colorado and New Mexico for irrigation and other purposes.

Having referred your previous note of September 10, last, in regard to the same matter, to the Secretary of Agriculture for examination, I am in receipt of the response of that Department, stating that it is by no means certain that the low state of the Rio Grande at Ciudad Juarez and vicinity is due to the utilization of water for irrigation along the upper course of the river to a greater extent than heretofore. A failure of the supply has frequently occurred at Ciudad Juarez in the past, and this is satisfactorily explained by the drought that has prevailed over the headwaters of the Rio Grande for the last two or three years, and over the territory around El Paso for six or eight years. The evidence in the possession of the Department of Agriculture does not show any material increase in the utilization of water for irrigation on the Upper Rio Grande for several years past.

Your present note of October 12 has been in like manner referred to the Secretary of Agriculture with a recommendation that the matter be investigated.

Accept, etc.,

W. Q. GRESHAM.

DISCRIMINATING TONNAGE AND CARGO DUES IMPOSED ON MEXICAN
VESSELS IN AMERICAN PORTS.*Mr. Romero to Mr. Gresham.*

[Translation.]

LEGATION OF MEXICO,
Washington, December 26, 1893. (Received December 26.)

MR. SECRETARY: For the reason that the Congress of the United States of Mexico passed a law on the 12th of December, 1883, whereby certain reductions in import duties were granted to foreign goods imported into Mexico in Mexican vessels, and since there was no commercial treaty in force between our two countries that provided otherwise, the Secretary of the United States Treasury decided, on the 24th of May, 1889, by circular 9402, that, in pursuance of section 2502 of the Revised Statutes of the United States, a discriminating duty of 10 per cent ad valorem, in addition to the import duties paid by goods imported in vessels of the United States of America, should be levied upon Mexican goods imported in Mexican vessels.

For the same reason, the Secretary of the Treasury also decided that, instead of the 3 cents per ton which, according to article 11—marked—14, of the act of June 19, 1886, Mexican vessels entering United States ports were required to pay, \$1 per ton should be collected from them.

The Congress of the United States of Mexico, desiring to place foreign vessels on the same footing with Mexican vessels as regards the payment of import duties, has repealed articles 1 and 2 of the act of December 12, 1883, which provided for those reductions, and it has to

that end passed another act, which was approved December 14, 1893, a copy of which I inclose.

The cause having been removed which led to the imposition, in the United States of America, of duties which discriminated against Mexican vessels, it is proper to enforce the provisions of section 4228 of the Revised Statutes of the United States, which provides that when satisfactory evidence is furnished to the President that the imposition of discriminating duties upon United States vessels, and upon goods imported in the same, has been suspended by any nation, the President of the United States of America may issue his proclamation declaring that the foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, so far as respects the vessels of such foreign nation, and the produce, manufactures, or merchandise imported into the United States from such foreign nation, etc.

The Government of Mexico has consequently instructed me to notify that of the United States that the act of the 14th instant is now in force, and to state that the Mexican Government therefore trusts that that of the United States will order, in behalf of Mexican vessels, and of goods imported by them into the ports of the United States, the suspension of the provisions of the circular of the Treasury Department dated May 27, 1889, which was issued in pursuance of section 2502 of the Revised Statutes of the United States, and which is still in force, and that it will likewise order the discontinuance of the discriminating tonnage dues.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Gresham to Mr. Gray.

No. 177.]

DEPARTMENT OF STATE,
Washington, January 29, 1894.

SIR: I inclose herewith copies¹ of the communications enumerated below in relation to the discriminating duties levied by the Mexican Government upon American vessels.

In view of the request contained in the note of the Mexican minister here, you are instructed to ascertain whether or not the Mexican Government continues to discriminate in any manner, either by rebates or otherwise, against American steam vessels or American sailing vessels; or the cargoes of either, imported into or exported from Mexico, from or to the United States, or from or to any other foreign country.

In this connection your attention is invited to Mr. Butler's No. 205, of the 16th ultimo.

I am, etc.,

W. Q. GRESHAM.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, April 7, 1894. (Received April 7.)

MR. SECRETARY: I have the honor to inform you that I have received instructions from the Mexican Government to inquire of that of the United States if any decision has been accorded in regard to the note

¹ Not printed.

which I addressed to your Department on the 26th of December, 1893, with which I forwarded to you a decree of the Congress of the United Mexican States, promulgated the 14th of the said month of December, which derogated articles 1 and 2 of the law of December 12, 1883, which granted some abatement of import duties on merchandise imported in national vessels.

Some time having elapsed without there having been communicated to this legation the decision of the Government of the United States in regard to this matter, the Mexican Government advises me to inform it what is its present situation.

Accept, etc.,

M. ROMERO.

Mr. Uhl to Mr. Romero.

DEPARTMENT OF STATE,
Washington, April 10, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 7th instant, in which you refer to your note of December 26, last, requesting, for reasons therein given, a suspension by this Government of discriminating duties on tonnage and cargo now imposed in our ports in the case of Mexican vessels.

The subject of your note was referred to the Treasury and is still under consideration by that Department. As soon as a conclusion is reached it will be made known to you.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Uhl to Mr. Gray.

No. 208.]

DEPARTMENT OF STATE,
Washington, April 10, 1894.

SIR: Referring you to instruction No. 177 of 29th January last, in which you were desired to "ascertain whether or not the Mexican Government continues to discriminate" in the matter of certain duties against American vessels, I have to ask, in view of a recent note of the minister of Mexico here, and in order to reply to the Treasury letter of 22d January last, that you will report the facts required at your very earliest convenience.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Gray to Mr. Gresham.

No. 275.]

LEGATION OF THE UNITED STATES,
Mexico, April 16, 1894. (Received April 23.)

SIR: I have the honor to acknowledge receipt of the Department's dispatches Nos. 177 and 208, respectively, dated January 29 and April 10, 1894, relative to discriminating duties levied and collected by the Mexican Government from American vessels.

On receipt of your No. 177, and under date of February 12, 1894, I addressed letters of inquiry, to obtain the information desired by the

Department, to the American consuls at Vera Cruz, Tampico, Mérida, Acapulco, Mazatlan, and Guaymas, ports of Mexico. These letters were identical with the one addressed to Mr. Schaefer (see inclosure No. 1).

The delay of this reply to your No. 177 has been occasioned by the failure of the consuls fully to answer my inquiries. I herewith inclose copies of all correspondence in the case, including requests by me for further information.

It appears from advices (see inclosures) that the Mexican Government continues to levy and collect discriminating duties from American vessels.

I am, etc.,

ISAAC P. GRAY.

[Inclosure 1 in No. 275.—Discrimination by Mexico against American vessels.]

Mr. Gray to Mr. Schaefer.

LEGATION OF THE UNITED STATES,
Mexico, February 12, 1894.

MY DEAR SIR: The Mexican Congress enacted a law on the 12th of December, 1883, granting certain deductions in import duties upon foreign goods imported into Mexico in Mexican vessels. In view of said discrimination by the Mexican Government in favor of Mexican vessels, the Secretary of the United States Treasury, in pursuance of section 2502 of the Revised Statutes of the United States, issued on the 24th of May, 1889, circular 9402, directing that a discriminating duty of 10 per centum ad valorem, in addition to the import duties paid on goods imported in vessels of the United States, should be levied and collected upon goods imported in Mexican vessels, and it was further ordered by the Secretary of the Treasury that \$1 per ton should be collected from Mexican vessels entering United States ports, instead of 3 cents per ton therefor, collected under the act of June 19, 1886.

The Mexican Government, through its minister at Washington,¹ has informed the Department of State that the provisions of the Mexican law of December 12, 1883, under which said discrimination was made in favor of Mexican vessels, has been repealed, that foreign vessels are now placed by Mexico on an equal footing with Mexican vessels, and requesting the Government of the United States to suspend its said circular 9402, and to discontinue its discriminating tonnage dues.

I am instructed to ascertain whether or not the Mexican Government continues to discriminate in any manner, either by rebates or otherwise, against American steam vessels or American sailing vessels, or the cargoes of either, imported into or exported from Mexico, from or to the United States, or from or to any other foreign country. For a full understanding of the nature of this inquiry your attention is invited to the inclosures enumerated below.

You will please give the matter your particular attention and report to me at your earliest convenience.

Sincerely yours,

ISAAC P. GRAY.

¹ See correspondence with Mexican legation at Washington, pp. 397, 398.

[Inclosure 2 in No. 275.]

*Mr. Schaefer to Mr. Gray.*CONSULATE OF THE UNITED STATES,
Vera Cruz, Mexico, February 22, 1894.

SIR: I have the honor to acknowledge receipt of your communication of February 12, with inclosures as stated.

In reply will say that the discrimination against all foreign sailing vessels still continues, and if any orders not to collect the \$1.50 tonnage duty have been given, I have no knowledge of its noncollection; in fact, the contrary is the case. An American schooner, the *Millie Williams*, arrived here from Pascagoula, Miss., on January 18, 1894, laden with lumber, and the \$1.50 per ton was collected on her cargo. Since then no American sailing vessel has arrived at this port laden with anything on which these dues could be collected. As you are doubtless aware, this duty is collected only from sailing vessels, steamers not being charged any tonnage duty. The discrimination is against all foreign sailing vessels. The Mexican sailing vessels do not pay the tonnage duty. I would say, however, that no Mexican vessel has come into this port from the United States since my arrival here, some eight months since, but that previous to that time the only charge against them was \$50 for light-house dues. In all other respects, so far as I can learn, this tonnage duty is the only difference between charges for Mexican vessels and foreign.

While on this subject I wish to call your attention to a matter that appears to me could be remedied and would redound to the benefit of the American marine. I allude to the Mexican law governing masters and officers of national (Mexican) steamers. This law, in common with the general maritime laws of all nations, provides that masters, chief officers, and engineers of all vessels flying the Mexican flag shall be naturalized Mexican citizens.

The exceptions to this law should, in my opinion, be that a properly qualified engineer of any nationality should be permitted to ship in charge of the mechanical department of any national Mexican steamship. My reason for this is, that a thorough knowledge of the art of mechanical engineering can only be obtained by the Mexican citizen outside the limits of his country. As a consequence of this law, owners of steamships who would find it greatly to their advantage are prevented from nationalizing their steamers on account of being compelled to place the most important department of their vessels in the hands of inexperienced men. Could this concession be obtained, the American mariner would be benefited in other respects; the law could be complied with by the utilization of so-called "paper officers," leaving the ship actually in command and under the management of practical American seamen and engineers.

I am, etc.,

CHARLES SCHAEFER,
U. S. Consul.

[Inclosure 3 in No. 275.]

*Mr. Gibson to Mr. Gray.*CONSULATE OF THE UNITED STATES,
Guaymas, Mexico, March 10, 1894.

SIR: I have been detained in answering your inquiry of February 12, 1894, for the fact that I could (not) until now get the necessary information.

In replying I herewith inclose statement from William Lunn & Co., lumber merchants at this port. The same is self-explaining, though by no means as explicit as I would have liked.

You will see from this that all American vessels are required to pay \$1.50 per ton at landing, also 5 per cent pilotage, as well as light-house dues in and out, which amounts to \$50.

The inclosure shows plainly the amount paid by Lunn & Co. on six lumber vessels all landing between January 14, 1893, and January 14, 1894, and also shows the difference in the measurement here and the actual register tonnage. I wish to call your attention to the fact that there are no Mexican vessels landing at this port with cargo from ports in the United States. All of the six mentioned in inclosure are lumber vessels from Puget Sound and sailing under our flag.

I will make further investigations when the *St. Paul* arrives from San Francisco on the 4th of the coming month, and should I get further facts will report to you at once.

I am, etc.,

JOHN S. GIBSON, JR.,
U. S. Consul.

[Subinclosure A in No. 275.]

Statement of dues paid by American vessels from January 14, 1893, to January 14, 1894, consigned to William Lunn & Co.

Name.	Tonnage.	Light-house.	Pilot-age.	Total.	Measure-ment here.	Register tonnage.	Discrep-ancy in measure-ments here and register tonnage.
American schooner Corona.....	\$724. 77	\$50. 00	\$51. 12	\$825. 89	483. 19	374. 65	108. 40
American schooner Zampa.....	583. 74	50. 00	56. 37	690. 11	389. 16	306. 48	22. 68
English bark Mysterious Star...	1 coal.	50. 00	71. 37	121. 37			
American schooner Mary E.							
Russ	362. 09	50. 00	55. 00	467. 09	241. 40	223. 70	17. 70
American schooner Robert							
Suden	939. 35	50. 00	70. 12	1, 059. 47	626. 23	585. 22	41. 01
American schooner Newsboy...	938. 96	50. 00	75. 12	1, 064. 08	625. 98	559. 37	65. 51
American schooner Hueneme ..	704. 31	50. 00	44. 25	798. 56	469. 54	346. 77	112. 77
American schooner Zampa.....	583. 74	50. 00	56. 87	690. 61			
Total.....	4, 836. 96	400. 00	480. 22	5, 717. 18			

[Inclosure 4 in No. 275.]

Mr. McCasky to Mr. Gray.

CONSULATE OF THE UNITED STATES,
Acapulco, Mexico, March 12, 1894.

SIR: Your letter relative to discrimination against American shipping with its several inclosures, under date of February 12, reached this office February 27.

I have secured a list of charges imposed at this port and which I copy below. As far I can learn they are assessed without discrimination and follow the provisions of the general federal laws.

I. Foreign steamers and sailing vessels with cargo of general merchandise pay the following charges: Tonnage dues, \$1.50 per register ton, paid only in the first port; pilotage, \$1.75 per foot draft coming in, and the same going out; discharging, \$8 in stamps; clearance of the custom-house, having cargo, \$8; clearance of the captain of the port,

\$4; bill of health, etc., \$4.50; certificate of call, 50 cents. The light-house at this port being the property of the Pacific Mail Steamship Company, no light-house dues are paid here.

II. Foreign steam and sailing vessels having no special contract pay the charges enumerated in No. I, except tonnage dues. No tonnage dues are collected in this instance.

III. Steamers of the Pacific Mail Steamship Company, and vessels carrying coal for the Pacific Mail Steamship Company, and vessels carrying coal for the Pacific Mail Steamship Company under a contract with the Mexican Government pay no tonnage dues, and pilotage is reduced to \$2 for each vessel, but payable at every port, at which all other charges are the same as in No. I.

IV. As you are aware, vessels that come to Mexican ports to take out of the country lumber or timber are measured again in order to ascertain their capacity in cubic meters, in conformity with the international treaty of Constantinople, and tonnage dues are then paid on tons of cubic meters. German vessels are not subjected to remeasurement, but the captain of port takes the ship's certificate, which, in the case of German sailing vessels and steamers, gives the measurement of the vessels in cubic meters.

V. I have never known, nor can I discover, that a vessel of any character, under the Mexican flag, ever discharged cargo here which she loaded in a foreign port.

VI. Beside the Pacific Mail Steamship Company's steamers there have been but four calls at this port in three years from vessels carrying the flag of the United States; two of these, loaded with coal, were consigned to the Pacific Mail Steamship Company and paid no tonnage dues, and a pilotage fee of only \$2; the other two came to this port to have their capacity determined in cubic meters; this done, they took their cargoes at several small ports north of Acapulco. Vessels of all nations are treated the same in this particular, as far as I can learn.

From the information given above it will be perceived that data do not exist here to determine "whether or not the Mexican Government discriminates, in any way, either by rebates or otherwise against American steam vessels or American sailing vessels, or the cargoes of either, imported into or exported from Mexico from or to the United States, or from or to any other foreign country."

This report would have been transmitted at an earlier date had I been able to secure the information which I desired sooner.

Trusting I may have given you some little information which may be of some value to you in the investigation which you are making, I beg to remain, etc.,

JAMES F. McCASKY,
U. S. Consul.

[Inclosure 5 in No. 275.]

Mr. Davis to Mr. Gray.

CONSULATE OF THE UNITED STATES,
Merida, Mexico, March 27, 1894.

SIR: I have thus far delayed responding to your dispatch of February 12, 1894, with inclosures from the Secretary of Treasury requesting information concerning discriminating rebates, etc., in favor of Mexican vessels, in the hope of soon being able to formulate a reply based upon official records. This, however, I have not yet been able to do. Mean-

while I beg to advise you that, from all the information I have been able to procure from ship masters and agents, as well as from inquiries prosecuted by John Waddle, consular agent at Progreso, a copy of whose letter bearing date March 19, 1894, I herewith inclose, I am satisfied that no such discrimination as is contemplated in your dispatch or its inclosures exists in my consular district.

I am, etc.,

M. L. DAVIS.

[Inclosure 6 in No. 275.]

Mr. Waddle to Mr. Davis, the consul at Merida.

U. S. CONSULAR AGENCY,
Progreso, March 19, 1894.

SIR: The result of my inquiry *re* information required by U. S. legation, Mexico, is as follows:

The rebate of 2 per cent custom duties on Mexican vessels, given as a stimulus to their own flag, has been removed at this port; that American vessels bringing foreign merchandise to this port pay equal to any other nationality except those carrying mails, which pay no light dues; also Mexican coasting vessels carrying mail are free from light dues. This favor is extended to all nationalities trading with Mexico. Called mail steamers by permission of the Mexican Government run free of light dues.

My informant, although a Government employé, does not give this officially, as it should come from the collector of customs; therefore, call it casual information collected in the port. Otherwise, authority to ask the collector personally if you think it necessary.

I am, etc.,

JOHN WADDLE.

[Inclosure 7 in No. 275.]

Mr. de Cima to Mr. Gray.

CONSULATE OF THE UNITED STATES,
Mazatlan, March 30, 1894.

SIR: Your favor of the 12th ultimo has not been answered sooner on account of my being ill.

I have looked up the matter closely, and have been in consultation with several officials and prominent merchants at this port and two American sea captains, and have ascertained that there is no discrimination going on either in favor or against any nationality as regards port charges.

As to the collections of duties on goods from the United States, nothing can be said, as only American vessels do the traffic, there being no Mexican vessels in this consular district that can do other than coast traffic, excepting the steamship *Alyandro*, which formerly made yearly trips to San Francisco to be repaired, but is now so disabled that she had to be put here in the docks for repairs.

All foreign vessels are put on a level with American vessels, and the fees they have to pay are alike. In only one particular is there any difference.

The German vessels pay their tonnage dues according to the number of tons represented in their register, whereas the American vessels are remeasured, and always pay from 30 to 50 per cent more than they should pay according to their register.

I also take the liberty of calling your attention to the poor will shown our vessels. On the 23th of February the American schooner *Viking* sailed from this port to Altata with general freight from San Francisco. She arrived at the bar of Altata, according to the vessel's log book, March 3 at 6 p. m., and was compelled to wait for a pilot. On the fourth day after their arrival they saw a small steamer about 100 yards ahead of them, and, thinking it was the pilot, they hove anchor, but the chain broke, losing 15 fathoms of chain and the anchor. They waited for awhile, and, seeing that no pilot appeared, they sailed back to Mazatlan to buy a new anchor, being absolutely necessary so as to enter the port of Altata, and arrived here March 8 at 5 o'clock p. m., according to the log book. Forty-five minutes after anchoring, seeing that the authorities did not visit the vessel, the captain came ashore so as to inform his agents of the cause of his return, and get a new anchor.

The captain of port, hearing this, went to the vessel to take possession of her, but the captain had already returned; however, they fined him \$500, but the fine was reduced to \$25. After purchasing a new anchor the vessel set sail again for Altata.

Hoping to receive your further orders, I am, etc.,

ARTHUR DE CIMA,
Acting Consul.

[Inclosure 8 in No. 275.]

Mr. Maguire to Mr. Gray.

CONSULATE OF THE UNITED STATES,
Tampico, Mexico, April 6, 1894.

DEAR SIR: I have the honor to acknowledge receipt of your letters of February 12 and March 28, in relation to discriminating charges against American tonnage.

I beg leave to state that I have presented the question to the honorable collector of customs and he now has the matter under advisement. On next Monday I am promised a reply in an official form.

The fact is that discriminations are made to the extent of \$1.50 a ton against registered sail vessels of the United States. This charge applies to all sail vessels other than national Mexican vessels arriving at a port in Mexico laden with general cargo or lumber.

On February 12, 1894, the American schooner *Fannie Whitmore* arrived at the port of Tampico with a cargo of pine lumber from Sabine Pass. On the 7th day of March the said schooner paid to the collector of customs \$881.22 as a tonnage tax on 587.48 tons.

The official United States registered-tonnage certificate is not recognized; a new measurement is made or an addition of 28.3 per cent is added to the United States register to make the tonnage conform to the Constantinople standard, by which the authorities claim to be governed. This method of measurement is said to apply to all vessels, national or foreign. The charge against a United States registered sail vessel of 1,000 tons at \$1.50 per ton equals \$1,500. By this new

measurement this sail vessel would be charged as of 1,283 tons at \$1.50 per ton, which would equal a payment of \$1,924.50.

A registered American sail vessel arriving at a port in Mexico coal or coke laden is exempted from the payment of the aforesaid tax of \$1.50 per ton; if said vessel takes in cargo outward bound, she has to pay the tonnage tax.

All steamers, no matter with what laden, are admitted without paying a tonnage tax.

The tariff of the Republic of Mexico promulgated January 25, 1885, and now in force, article 18, imposes a duty, or tax, of \$1.50 per ton on all foreign sail vessels laden otherwise than with coal or coke.

Article 20, page 4, exempts Mexican vessels from tonnage dues. Article 21 makes pilotage compulsory on foreign vessels. In addition to pilotage, a compulsory fee of \$12 is exacted at this port, said to be for the use of the pilot boat. With Mexican vessels the employment of a pilot and the use of the pilot boat is optional. This is a decided discrimination, from the fact that the so-called pilot boat is merely an open yawl boat, unfit to go outside except in a smooth sea. Frequent instances occur that masters of vessels become impatient at the delay, and sail or steam inside the jetties without the aid of a pilot or the use of a boat, yet payment has to be made for boat and pilotage. No doubt but that the Federal authorities would remedy the evil by supplying a proper pilot boat if their attention were directed to the subject.

I am, etc.,

JNO. MAGUIRE,
U. S. Consul.

[Inclosure 9 in No. 275.]

Mr. Maguire to Mr. Gray.

CONSULATE OF THE UNITED STATES,
Tampico, Mexico, April 13, 1894.

DEAR SIR: I inclose you the official response to my inquiry as to discriminations against American vessels.

I find that I was misinformed as to one particular; that is, the charge of tonnage dues in sail vessels arriving with coal. This response asserts that sail vessels arriving with coal or arriving in ballast are not charged tonnage dues upon going out when laden with national goods.

The item of discrimination is against American sail vessels arriving at a Mexican port laden with lumber or general cargo. They are charged \$1.50 Mexican currency per ton, not of the register, but upon a new measurement, which makes them pay 28.3 per cent in addition to their United States register; for instance, a 1,000-ton vessel pays dues on 1,283 tons.

Pilotage for American steam or sail vessels is compulsory also. At this port a fee of \$6 in and \$6 out is collected for the use of a pilot boat. The pilotage of Mexican national vessels is optional. The charges per foot are based on the Mexican standard of 11 English inches to the foot.

No legal discrimination is made as to American steam vessels. No tonnage tax is collected under any circumstances.

Hoping that I have made myself clear on this subject, I am, etc.,

JOHN MAGUIRE.

[Subinclosure A in No. 275.—Translation.]

Mr. Castello to Mr. Maguire.

MARITIME CUSTOM-HOUSE, TAMPICO.

Agreeably to your verbal request bearing on the memorandum you handed me touching information you sought regarding the light-house and tonnage dues imposed on Mexican and foreign vessels in their movements at this port, I beg to hand you a statement explanatory of the different methods pursued, as set forth in your memorandum.

Tampico, April 9, 1894.

Your obedient servant,
JOSÉ F. CASTELLO.

[Subinclosure B in No. 275.—Translation.]

Data given by the Maritime Custom-House to the consul of the United States of America, Mr. John Maguire, as to the manner in which light-house and tonnage dues are paid by foreign steam and sailing vessels, and cases wherein Mexican vessels are subject to charges.

Foreign steam vessels are exempted in all cases from tonnage dues, paying only light-house charges, \$100 at entry and \$100 on departure, in the following manner:

When they arrive in ballast and depart in the same manner they do not pay dues, but if they come in ballast and depart loaded with national products, they pay, on departure, \$100.

Should they enter loaded and depart in ballast or loaded with national products, they shall pay in either case \$100 on entrance and \$100 on departure.

Foreign sailing vessels are subject to tonnage and light-house dues amounting to \$25 entrance and \$25 on departure, as follows:

When these vessels enter loaded with general merchandise they shall pay tonnage in proportion to their register and light-house dues of \$25 on entrance and \$25 on departure, even if in ballast.

If they arrive in ballast and depart loaded they shall not pay any tonnage dues, and pay only light-house dues of \$25 on departure.

If they arrive loaded with coal and general merchandise they shall pay tonnage charges only on the said general merchandise and not on the coal, which is exempted therefrom; but they must pay light-house charges, to wit, \$50 on entry and departure.

When they arrive loaded with coal alone, whether they depart in ballast or loaded, they shall not pay tonnage dues, but light-house dues on entry and departure.

If they come in ballast and depart likewise they are not subject to these charges.

In general: Foreign sailing ships shall not pay tonnage dues, provided they enter loaded with coal or in ballast, and shall only pay light-house dues in the rare event of entries in ballast and departing in the same manner.

Mexican steam and sailing vessels are only subject to light-house dues when they are loaded with foreign merchandise bound for any of the ports of the Republic. They are exempted from tonnage dues in all cases.

Mr. Gray to Mr. Gresham.

No. 284.]

LEGATION OF THE UNITED STATES,

Mexico, May 1, 1894. (Received May 10.)

SIR: In sequence to my No. 275, of the 16th ultimo, I beg to inclose copies of additional correspondence in regard to the discriminating duties levied by the Mexican Government on American vessels.

I am, etc.,

ISAAC P. GRAY.

[Inclosure 1 in No. 284.]

Mr. de Cima to Mr. Gray.

CONSULATE OF THE UNITED STATES,

Mazatlan, April 7, 1894.

DEAR SIR: Yours of the 28th ultimo at hand, and beg to state that the information sought has been answered the 30th ultimo.

No discrimination has been going on at Mazatlan, in any manner, against American vessels, as they are the only vessels that carry on any traffic between Mexico and the United States, as explained in my previous letter.

I am, etc.

ARTHUR DE CIMA,
Acting U. S. Consul.

[Inclosure 2 in No. 284.]

Mr. de Cima to Mr. Gray.

CONSULATE OF THE UNITED STATES,
Mazatlan, Mexico, April 21, 1894.

SIR: Your favor of April 9 is at hand, and beg to state that after close investigation I have ascertained that all vessels, American and foreign, pay the same port charges, which are as follows:

Light-house dues.....	\$50.00
Tonnage dues, \$1.50 per ton; pilot, \$1.75 per foot; pilot's boat, from \$3 to \$8..	3.00
Stamps on permit to discharge.....	8.00
Stamps, solvency.....	.50
Stamps on certificate of tonnage dues.....	.50
Stamps on certificate to captain of port.....	.50
Bill of health.....	4.75
Crew list.....	3.50

The only difference between foreign and our vessels is that their register is accepted as it is, whereas our vessels are remeasured and compelled to pay about 50 per cent more than the register calls for.

I am, etc.,

ARTHUR DE CIMA,
U. S. Consul.

[Inclosure 3 in No. 284.]

Mr. Gilkey to Mr. Gray.

CONSULATE OF THE UNITED STATES,
Merida, April 25, 1894.

SIR: I have the honor to acknowledge receipt of your two communications dated the 3d and 11th instant, respectively. Herewith inclosed you will find letters from Consular Agent John Waddle, of Progreso, and the house of E. Escalante & Son, which will show you the result of my inquiries in regard to the information you ask for, and which I transmit as a reply to your favor of the 3d instant.

I am, etc.,

JOHN M. GILKEY,
Vice and Deputy U. S. Consul.

[Subinclosure A in No. 284.]

Mr. Waddle to Mr. Gilkey.

U. S. CONSULAR AGENCY,
Progreso, April 23, 1894.

SIR: *Re* the subject of your communication, bearing date 20th instant, I refer you to articles No. 17 to 21 of Mexican Custom-House Regulations. There I find steamers pay \$200 and sailing vessels \$50 light-house dues; the former, no tonnage dues; latter,

\$1.50 on the net register. If a steamer comes in ballast and loads outward, pays half light-house dues. If a steamer coming from another Mexican port where she has paid light-house dues it serves for any other port touched in the voyage. Although the date of these regulations is 1891, I find the schooners *Palos* and *Edwards*, which discharged at this port fourteen days since, were charged light-house and tonnage; both these vessels brought lumber from the United States of America and are American vessels.

To steamers carrying mails by permission of Mexican Government these charges do not apply.

I am, etc.,

JOHN WADDLE,
U. S. Consular Agent.

[Subinclosure B in No. 284.]

Escalante é Hijo to Mr. Gilkey.

MERIDA, YUCATAN, April 25, 1894.

DEAR SIR: Replying to your esteemed lines of the 23d instant, we beg to answer the various questions in the following order:

1. American vessels are not charged with tonnage dues at Progreso.
 2. The light-house duties are charged as follows: \$200 to steam vessels bringing cargo; \$100 to the same when they arrive in ballast and load here. When they arrive and leave in ballast, no duty is charged.
 3. There are no other charges besides the above mentioned.
 4. There are no charges levied on the cargo carried by American steam vessels save the fine of from \$1 to \$50 for each package discharged without being manifested, or for package manifested and not discharged. The import duties on goods are charged according to tariff.
 5. The tonnage dues collected by the Mexican Government for sailing vessels is \$1.50 per ton. When the cargo is coal no tonnage is charged. If the cargo is both coal and general merchandise, the tonnage is not charged on the coal, but only on the merchandise at the same rate.
 6. The light-house dues charged on American sailing vessels is \$50 if they bring cargo, and half that amount if they arrive in ballast and load here. If they arrive and sail in ballast no dues are charged.
 7. There are no other charges.
 8. No charges are levied on cargoes carried by American sailing vessels save fines and duties, as explained in answer No. 4 above.
- The steam vessels of a regular line are generally exempted from light-house dues according to their special mail contract with our Federal Government.

Hoping the above information will be useful to you, we remain, etc.,

E. ESCALANTE É HIJO.

Mr. Uhl to Mr. Romero.

DEPARTMENT OF STATE,
Washington, May 12, 1894.

SIR: Referring to your note of the 7th ultimo, in regard to the suspension by this Government of discriminating duties on tonnage and cargo imposed in our ports in the case of Mexican vessels, and to my note of the 10th of the same month, wherein a reply was promised as soon as information could be obtained, I have now the honor to inform you that it appears from reports received from our consuls in the various ports of Mexico that a discriminating duty in the nature of a tonnage duty of \$1.50 a ton is still being levied on all sailing vessels not owned by Mexican citizens and having on board lumber or general cargoes (coal and coke excluded). This duty is levied under article 18 of the Mexican tariff of 1885. This duty is, it may be incidentally remarked, levied not on the United States register, which is not recognized by Mexico, but on a new admeasurement, which is 28.3 per cent larger.

It is in view of this discriminating tonnage due that this Govern-

ment is unable to comply with the request of the Mexican Government to suspend the Treasury circular of May 27, 1889, issued in pursuance of section 2502 of the Revised Statutes, imposing a discriminating duty of 10 per cent ad valorem upon Mexican goods imported in Mexican vessels.

'Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, May 14, 1894. (Received May 15.)

MR. SECRETARY: I received to-day the note from your Department, dated the 12th instant, which informs me that the consuls of the United States in Mexico have reported that a discriminating duty in the nature of a tonnage duty at the rate of \$1.50 per ton is still levied on sailing vessels whose owners are not Mexican citizens, with the exception only of those that carry coal and coke, for which reason the Government of the United States can not accede to the recommendation of that of Mexico to suspend the circular of the Treasury Department of the 27th of May, 1889, issued in pursuance of article 2502 of the Revised Statutes, which imposed a discriminating duty of 10 per cent ad valorem upon Mexican goods imported in Mexican vessels.

I have communicated the note of your Department to the Government of Mexico for its information and decision, but I believe it proper to state to you now that article 18 of the tariff of June 12, 1891, now in force, and not that of 1885, quoted by the consuls of this country, does not establish discriminating tonnage duties against sailing vessels of the United States with respect to like vessels of other foreign countries, but which fixes the tonnage duty paid by all foreign sailing vessels that arrive at Mexican ports, provided they do not carry coal or coke, which exemption is established in order to lessen the price of pit coal in Mexico.

As I understand that article, it seems that national sailing vessels are exempt from all tonnage duty, and foreign sailing vessels pay a duty of \$1.50 per ton, with the exception already referred to, which does not create a discriminating duty against the United States, especially, since that duty is not imposed on all sailing vessels of which the owners are not Mexican citizens, as stated in your note, but on all vessels flying a foreign flag, exempting only those which carry pit coal. In this case there would be a trifling advantage accorded to national vessels with regard to foreign vessels; but all these are treated alike.

As regards the method of tonnage admeasurement, if the system adopted by the Government of Mexico gives an excess of 28.3 per cent over the tonnage of the vessel the result is that the duty is equivalent to something more than \$1.50 per ton, but as the same system is applicable to all sailing vessels subject to the duty, there is no discrimination prejudicial to the vessels of the United States.

Accept, etc.,

M. ROMERO.

QUESTION OF CITIZENSHIP.

Mr. Gray to Mr. Gresham.

No. 232.]

LEGATION OF THE UNITED STATES,
Mexico, January 30, 1894. (Received February 8.)

SIR: Herewith I have the honor to transmit the application, in duplicate, of August Huguet, of Monterey, Mexico, for a passport. The affiant states that he was born at Houston, Tex., on or about the 25th day of February, 1861; that his father was a naturalized citizen of the United States; that affiant left the United States in September, 1866; that he is temporarily residing at Monterey. His application shows that affiant was only 5 years of age when he left the United States, and I infer that he has resided in Mexico continuously since 1866, and intends to continue to so reside, as he makes no declaration of his intention to return to the United States. Mr. Joaquin Mais, who signs the certificate of identification, I understand to be a prominent and responsible citizen of Monterey, and will qualify to his certificate. I desire, as early as may be convenient to the Department, instructions whether Mr. Huguet's application is sufficient to entitle him to a passport.

I am, etc.,

ISAAC P. GRAY.

Mr. Gresham to Mr. Gray.

No. 188.]

DEPARTMENT OF STATE,
Washington, February 10, 1894.

SIR: I have received your No. 232 of the 30th ultimo, in which you transmit the application in duplicate of August Huguet, of Monterey, for a passport.

The application is defective in not adducing proof of the father's naturalization, but in view of the American birth of Mr. August Huguet, he has a good claim to lawful citizenship by origin, independently of his father's status. The circumstance that he quitted the United States when 5 years old, and has not for twenty-seven years since had a domicile in the land of his birth, is not consistent with the *bona fide* conservation of his native allegiance, which should necessarily appear to entitle him to protection as a citizen of the United States. When a minor is removed from this country, as in this instance, the best proof he can give on attaining his majority, of his honest purpose to discharge the duties and bear the burdens of the citizenship he claims, is to return to and dwell in the United States. In the present instance, Mr. Huguet has permitted eleven years to lapse since he became of age without taking steps to resume his natural domicile; and as he gives no satisfactory proof of his intention and ability to do so at any future time, the facts do not warrant the issuance of a passport to him.

I am, etc.,

W. Q. GRESHAM.

DEMARCATION OF BOUNDARY.*Mr. Gresham to Mr. Romero.*DEPARTMENT OF STATE,
Washington, January 24, 1894.

SIR: I have the honor to inform you that the Department has received for its consideration a copy of the rules adopted by the Bound-

ary Commission organized under the convention of March 1, 1889, between the United States and Mexico.

Colonel Mills, the American commissioner, in his letter written from El Paso transmitting these rules, says that he desired the adoption of a rule by which the commission could proceed at once upon its approval to mark the international bridges as provided in Article IV of the convention of 1884.

The Mexican commissioner objected to this, being of the opinion that no action as to marking the line on the bridges can be taken until both Governments provide therefor.

The American commissioner suggests that both Governments should at once by telegraph give instructions to their respective commissioners to mark the line on the bridges "for two important reasons: First, that of definite jurisdiction over crimes and disorders on the bridges, all of them much traveled and several hundred yards long, and, second, being now on the ground, to mark them will occupy but a few hours, whereas if we have to return here from the lower river for that purpose it will be at an expense of several hundred dollars and loss of much time."

Colonel Mills's suggestions strike me as forcible, and I should be very glad if you would call to-morrow at the Department in order that we may, if possible, arrange to have the bridges marked as proposed by him.

Accept, etc.,

W. Q. GRESHAM.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, February 9, 1894.

MR. SECRETARY: I have the honor to inform you that, in accordance with the contents of your note of the 24th ultimo, and with the desire expressed by you during the interview which we had at the Department of State on the 25th, I suggested to the Government of Mexico by cable to instruct the commissioner of Mexico on the International Boundary Commission which was organized in pursuance of the convention of March 1, 1889, to proceed to the demarcation of the boundary line on the international bridges between El Paso, Tex., and Paso del Norte, Mexico, according to Article IV of the convention of November 12, 1884, thus taking advantage of the presence of the commissioners at El Paso, Tex.; and that I have received a reply from the Government at Mexico, bearing date of the 30th ultimo, whereby I am informed that the Mexican commissioner had already been authorized to proceed to the determination of the boundary line between the aforesaid towns in strict harmony with the convention of 1889.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Gresham to Mr. Romero.

DEPARTMENT OF STATE,
Washington, February 21, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 9th instant, apprising me that the Mexican Boundary Commission

has been authorized to proceed with the demarcation of the boundary line between the United States and Mexico on the bridges between El Paso and El Paso del Norte in strict conformity with the conventions of November 12, 1884, and March 1, 1889.

I have so advised the commissioner on the part of this Government.
Accept, etc.,

W. Q. GRESHAM.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,

Washington, March 12, 1894. (Received March 12.)

MR. SECRETARY: I have the honor to inform you that I communicated to the Government of Mexico your note of the 21st ultimo in reply to mine of the 9th of that month, whereby I advised your Department that the Government of Mexico had instructed its commissioner on the International Boundary Commission which was organized under the convention of March 1, 1889, to proceed to the demarcation of the dividing line between the towns of El Paso del Norte, Mexico, and El Paso, Tex., in strict conformity with said convention, availing himself of the presence of the commissioners in the latter of the aforesaid towns, and that I have now received a communication from Mr. Mariscal, secretary of foreign relations of the Mexican Government, dated City of Mexico, March 2, 1894, instructing me to state to this Government that the notice of the Government of Mexico was attracted by the fact that your reply refers merely to the demarcation of the line on the international bridges, whereas the authority given to the Mexican commissioner was to demark the boundary line between El Paso del Norte, Mexico, and El Paso, Tex., on which demarcation that of the bridges connecting them depends.

The Government of Mexico has reason to think that the bed of the Rio Grande has changed in that place since the boundary was determined in pursuance of the treaty of Gaudalupe Hidalgo, and the first question to be decided is where the boundary line between those towns passes.

The Government of Mexico has desired to make this explanation to that of the United States in order to prevent any misunderstanding with regard to this matter.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,

Washington, July 2, 1894. (Received July 2.)

MR. SECRETARY: I have the honor to inform you that Señor Mariscal, secretary for foreign affairs of the United Mexican States, notified me by cable that the President of Mexico disapproved the decision of the International Boundary Commission in fixing the dividing line on the

bridges over the River Bravo, and has sent me by mail a detailed report on the subject.

Immediately on the receipt of these particulars I shall have the honor to communicate them to you.

Accept, etc.,

M. ROMERO.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, July 9, 1894. (Received July 9.)

MR. SECRETARY: I have the honor to forward to you, with reference to my note of the 2d instant, in regard to marking the boundary line on the bridges over the River Bravo between Paso del Norte, Mexico, and El Paso, Tex., a copy of a communication that Señor Mariscal, secretary of foreign relations of the Mexican United States, addressed on the 29th June last to Señor Don Francisco Javier Osorno, Mexican commissioner on the Mexican and United States International Boundary Commission, which contains the grounds of the disapproval by the Government of Mexico of the provisional designation by both commissioners of the boundary line on those bridges.

As this communication fully states these grounds, which to me appear unanswerable and which determined the Government of Mexico to adopt the decision stated, I do not think it necessary to say more on this subject.

Accept etc.,

M. ROMERO.

[Inclosure.—Translation.]

Señor Mariscal to Señor Osorno.

MINISTRY OF STATE AND OFFICE OF FOREIGN RELATIONS,
Mexico, June 29, 1894.

I reported to the President of the Republic your note No. 16, dated the 22d instant, with the proceeding of the International Boundary Commission which temporarily fixes the dividing line on the three bridges which cross the River Bravo del Norte, called international bridges of El Paso, pending the approval of the two Governments. In order to decide this matter, it has been considered—

First. That the treaty of March 1, 1889, does not confer upon the commission the power to make temporary regulations, as, in accordance with its articles 1, 4, and 5, it has only the power to adjust questions which arise respecting the dividing line on account of the change in the channel of the rivers Bravo and Colorado, when duly submitted to it.

Second. That although it was proposed on the part of the United States that the commission should be authorized to mark the line across the middle of the said bridges, the Government of Mexico did not accept the proposition, confining itself to authorizing its commissioner to mark the dividing line between Juarez City and El Paso, Tex., in strict accordance with the treaty of March 1, 1889, it having first to be decided

if the bridges are upon the dividing line recognized in the treaties; and thus it was made known to the Government of the United States, to avoid all future misunderstanding whatever in the matter.

Third. That article 4 of the first of the mentioned treaties on which it has been erroneously desired to base the tracing of said line is inapplicable to the case, through not authorizing a temporary but a definitive demarcation, in the opinion that the bridges are truly international, they having been constructed on the true boundaries determined by the rivers.

Fourth. That citizen Pedro Y. Garcia, having formally presented a claim, alleging that land called "El Chamisal," belonging to Juarez City, became joined to lands of the United States through a violent change in the course of the River Bravo, in order that it may be declared to belong still to Mexico, the commission must examine and decide that case, and, consequent upon the decision, not before, to settle the dividing line between Juarez City and El Paso, Tex.

For the reasons set forth, the President of the Republic has decreed that the temporary designation of the boundary line which has been made on the bridges referred to is not approved, and that this decision be notified to the International Boundary Commission by you and to the Government of the United States of America, through our legation at Washington, in order that it may consider null and void the demarcation referred to.

I renew to you, etc.,

MARISCAL.

FREE REENTRY OF CATTLE INTO THE UNITED STATES.

Mr. Gresham to Mr. Gray.

No. 169.]

DEPARTMENT OF STATE,
Washington, January 17, 1894.

SIR: I inclose for your information a copy of a joint resolution of Congress, approved the 15th instant, authorizing the Secretary of the Treasury to permit the owners of cattle and horses which have been removed into Mexico to bring the same thereafter into the United States before January 15 next without charge for import duties. I inclose, also, a copy of my note to the minister of Mexico here, asking him to bring the matter to the attention of his Government, so that by concurrent action the full benefit of the law (which expires January 14, 1895) may be enjoyed by those interested.

I am, etc.,

W. Q. GRESHAM.

[Enclosure.]

Mr. Gresham to Mr. Romero.

DEPARTMENT OF STATE,
Washington, January 17, 1894.

SIR: Referring to our recent conversation, I now have the honor to inclose for your fuller information a duly authenticated copy of a joint resolution of the Congress of the United States, approved by the President on the 15th instant, authorizing the Secretary of the Treasury to

permit the owners of cattle and horses transporting them into Mexico for grazing purposes to reimport the same into the United States at any time within twelve months from the date of the passage of the resolution.

I shall be much gratified if you will promptly bring the matter to the attention of the Mexican Government by telegraph or otherwise, as your judgment may determine best, to the end that by the concurrent action of Mexico the full benefit of the law, which by the third section of the resolution will expire January 14, 1895, may be enjoyed by those directly interested.

Accept, etc.,

W. Q. GRESHAM.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, January 19, 1894. (Received January 19.)

MR. SECRETARY: To-day I had the honor to receive by mail your note of the 17th instant, with which you send me a certified copy of the decree (resolution) approved by the Congress of the United States and sanctioned by the President on the 15th instant, which authorizes the Secretary of the Treasury to permit owners of cattle and horses in the United States to pass over into Mexico for the purpose of pasturing and to reimport them into the United States free of duties within twelve months from the date of the resolution, at the same time requesting me to communicate it by telegraph, or in some other manner, to my Government, to the end of obtaining its concurrence in order that those interested in this matter may enjoy the benefits which the resolution affords them.

In conformity with your wishes I to-day send by telegraph to the Mexican Government the recommendation which you make to me, and in due season I will communicate such reply as I receive.

Notwithstanding that, as I stated in our interview of the 13th instant, to which you refer in the note to which I reply, I did not regard the resolution in question as embracing any real reciprocity in favor of the Mexican stock raisers, I hope that the Government of Mexico, in order to aid the stock raisers of Texas as far as possible in their present difficult situation, will do whatever is within its competence to contribute to the accomplishment of the intentions of the Congress of the United States.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, March 8, 1894. (Received March 8.)

MY DEAR MR. GRESHAM: I have the honor to inform you that the Honorable Thomas M. Paschal, of Texas, having suggested to me to ask the Government of Mexico if it had come to any decision in regard

to the decree of the Congress of the United States, approved by the President on the 15th of January last, permitting the free reentry into Texas of cattle grazing in Mexico, I cabled the secretary of the treasury of the Government of Mexico and received from him a reply in which he tells me that, owing to the convention on this subject which was signed by both countries on July 11, 1888, being still before the Senate of Mexico, and owing to the opposition of the Mexican border stock raisers, it has not been possible to arrive at an immediate decision on the subject.

I am, etc.,

M. ROMERO.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, March 16, 1894. (Received March 16.)

MR. SECRETARY: I have the honor to forward to you, with reference to your note of the 17th of January last, copy of a note from Señor Mariscal, secretary of foreign relations of the United States of Mexico, dated City of Mexico, the 5th instant, which I received to-day, in which he communicates to me the reply of the ministry of Hacienda (treasury) to the efforts made in order that the Government of Mexico should determine what is proper with regard to the decree approved by the Congress of the United States on the said 15th of January to permit the reimportation, duty free, of Texan cattle that may pass to Mexican territory for pasture.

Accept, etc.,

M. ROMERO.

[Inclosure—Translation.]

Mr. Mariscal to Mr. Romero.

DEPARTMENT OF STATE, OFFICE OF FOREIGN RELATIONS,
Mexico, March 5, 1894.

The secretary of the treasury (de Hacienda) tells me in a communication dated the 2d instant, as follows:

Your polite notes of 2d, 20th, and 22d of January last have been received at this office, in which you are pleased to transmit copies of those of our minister at Washington relative to cattle that cross the frontier to pasture on our territory and concerning the passage of the draft of a law presented to the Congress of that nation by Mr. Thomas M. Paschal, one of its members.

In reply I have the honor to inform you that as there is still pending before the Senate a convention concluded in 1888 between Mexico and the United States for the reciprocal crossing of cattle from one country to the territory of the other, the President of the Republic does not consider it opportune to make any decision at present with regard to the decree approved by the American Congress on motion of the member, Mr. Thomas M. Paschal, because it would seem that the Executive was endeavoring to prejudge in some way an affair which the Senate has not found it convenient to take into consideration; thus the President thinks he should with all the more reason abstain from a determination in the matter, so marked is the opposition to that proposed convention by the inhabitants and representatives in the federal Congress of the frontier States, and on the other hand the same American citizens who initiated the said convention state that in May next will cease the reasons which serve as the basis of their claim.

I copy this for you, referring to your note No. 666 of the 19th January last.

I renew, etc.,

MARISCAL.

RECOVERY OF STRAYED OR STOLEN CATTLE.

Mr. Uhl to Mr. Gray.

No. 234.]

DEPARTMENT OF STATE,
Washington, June 16, 1894.

SIR: I inclose herewith copy of a letter¹ from Hon. T. M. Paschal, a member of Congress from Texas, covering communications from Mr. J. C. Loving, secretary of the Cattle Raisers' Association of that State, and Mr. Robert W. Prosser, relative to the unsuccessful efforts of the latter to recover a horse stolen from him and held by the Mexican authorities in Ciudad Porfirio Diaz.

Mr. Paschal has been informed that no treaty stipulation in regard to the recovery of straying or stolen stock exists between the United States and Mexico, and, in the absence of exceptional regulation of the matter, owners of such stock on either side of the border have the same access to the courts of the other country in substantiation of their claim to ownership as citizens of the country.

A convention on the subject was signed at Washington by Mr. Bayard and Mr. Romero June 11, 1888, and was ratified, with amendments, by the Senate of the United States on October 1, 1888. By the fifth article thereof it was stipulated that—

When cattle belonging in one country have been stolen and driven by thieves to the territory of the other, and subsequently recovered by the proper authorities, they shall be held for return to their lawful owner when he shall appear, in which case no duty shall be payable, and no charges save for the keep of the cattle.

This convention has not yet been ratified by Mexico.

It is the Department's desire that you confer with the minister for foreign affairs, to the end of seeking a remedy for the state of things represented in the inclosed correspondence, and ascertaining the disposition of the Mexican Government in regard to the uncompleted convention of 1888.

In this connection I refer you to Department's instruction to your predecessor, No. 523, of May 25, 1891, and his reply, No. 657, of the 2d of the following month.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

THE BALDWIN CLAIM.*Mr. Romero to Mr. Gresham.*

[Translation.]

LEGATION OF MEXICO,
Washington, February 17, 1894. (Received February 19.)

MR. SECRETARY: Referring to the conversations which we have had in relation to the claim that has been laid before the U. S. Government by Mrs. Baldwin, wife of a citizen of the United States who was murdered in Durango, Mexico, and to the efforts which have been made by the U. S. legation to induce the Mexican Government to pay an indemnity to that lady, I have the honor to apprise you that I have received

¹Not printed.

instructions from the Mexican Government to inform that of the United States that Mexico does not consider itself under obligations to pay any indemnity to Mrs. Baldwin on account of the death of her husband, because he was the victim of a common crime in which the Mexican authorities were in nowise concerned, and because the perpetrators of that crime have been tried and punished, whereby the obligations of the Government of Mexico in this case were fulfilled.

The condition, moreover, of the Mexican treasury, which has been occasioned by the great depreciation in the value of silver, renders any extra payment very difficult.

Nevertheless, in consideration of the reiterated requests which have been made by you, through me, in order that something may be paid to Mrs. Baldwin, the Government of Mexico has decided to offer, as an act of equity, which is not to establish a precedent, or to imply the recognition of any obligation toward Mrs. Baldwin, the payment to the U. S. minister in the City of Mexico of the sum of \$3,000 at the expiration of three months, reckoned from the date of the conclusion of the arrangement with the U. S. Government, and the remainder, until the sum of \$20,000 shall have been paid to the aforesaid officer, in twelve monthly installments of \$1,416.66 each.

The Mexican Government proposes this arrangement, bearing in mind the fact that a similar one was approved in the case of the indemnity of \$7,000 that was paid to Deputy Sheriff Shadrack White, who lost the use of one of his arms in an encounter which took place at Eagle Pass, Tex., on the 3d of March, 1888, between Texan police officers and Mexican soldiers who had come to that place, without authority, in pursuit of a deserter.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, March 8, 1894. (Received March 9.)

MR. SECRETARY: I have the honor to inclose herewith a copy of a note from Mr. Mariscal, dated City of Mexico, February 27, last, which removes the doubt left by his previous note as to the currency in which the indemnity to Mrs. Baldwin is offered.

Be pleased to accept, etc.,

M. ROMERO.

[Inclosure.—Translation.]

Mr. Mariscal to Mr. Romero.

DEPARTMENT OF FOREIGN AFFAIRS,
Mexico, February 27, 1894.

I have taken note of the contents of your note No. 791, of the 17th instant, with the accompanying copy of your note to Mr. Gresham, relative to the offer of \$20,000 on account of the claim of the widow of Baldwin.

In reply I have to say that this amount is in silver, that being the legal currency of Mexico, and that if it were in gold the amount would

be more than doubled, according to the present rate of exchange, which payment it was not his intention to propose, there being no reason whatever for imposing this extraordinary burden in a matter of mere favor and equity.

I renew, etc.,

MARISCAL.

Mr. Gresham to Mr. Romero.

DEPARTMENT OF STATE,
Washington, March 20, 1894.

SIR: In your note of February 17, ultimo, the receipt of which I have the honor to acknowledge, you convey the gratifying information that the Mexican Government, in view of the efforts of the U. S. Government to induce the payment of an indemnity to Mrs. Baldwin, widow of an American citizen murdered at Durango, has decided, as an act of equity and without recognizing any obligation in the case or permitting the act to form a precedent, to offer the sum of \$20,000, payable in installments as described.

This offer corresponds with the result reached in our several conferences on the subject.

Permit me, however, to say that it was my distinct understanding, upon which alone I consented to this friendly adjustment, that the offer of the Mexican Government was to pay \$20,000 in gold. If the offer is so made, it will be accepted, the payments to be made to the U. S. minister in Mexico in the manner and at the times you indicate, to wit: \$3,000 at the expiration of three months from the conclusion of the agreement, and the remainder thereafter in twelve monthly installments of \$1,416.66 each, making a total of \$19,999.92, payable within fifteen months.

Your reply confirming this understanding will complete the arrangement by exchange of notes, thus assigning the date from which the payments are to be computed.

Accept, etc.,

WALTER Q. GRESHAM.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, March 21, 1894. (Received March 21.)

MR. SECRETARY: I have the honor to acknowledge the receipt of your note of yesterday, in which you state to me, with reference to the note I wrote to you on the 17th of February last, whereby I communicated to you the determination of the Government of Mexico to give, by way of equity, to Mrs. Baldwin the sum of \$20,000 in the installments expressed in that note, that you understood from our previous conversations on this matter that this sum was to be paid in gold, and that on such terms the offer would be accepted by the Government of the United States.

I have the honor to state to you in reply that the Government of Mexico authorized me to offer to that of the United States the sum of \$20,000 in gold, payable out of the fund which is in deposit and which

belongs to the La Abra and Weil claims, in the event of the Court of Claims of the United States, before which the respective awards are pending, declaring that this fund belongs to the Government of Mexico and is to be returned to it in conformity to the provisions of the act of December 28, 1892.

I communicated this offer to you in the interview which we had in the Department of State on the 6th of June, 1893; but, the condition fixed by the Government of Mexico not having appeared acceptable to you, I made the necessary negotiations in this relation, and in the end the Government of Mexico authorized me to make to you the offer which I conveyed in my note of the 17th of last February.

Not being authorized to alter the terms of that offer, I now transmit your note to the Mexican Government, in order that in view thereof it may decide as it deems proper; but nevertheless I believe I can say to you forthwith that if the offer of \$20,000 payable from the fund in question should be deemed by the Government of the United States preferable to the last submitted offer, I am sure that the Government of Mexico will abide by it.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Uhl to Mr. Romero.

DEPARTMENT OF STATE,
Washington, March 27, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 21st instant, touching the manner of payment of the sum of \$20,000 to Mrs. Baldwin by the Mexican Government, as a voluntary and equitable indemnity for the death of her husband at the hands of bandits in Mexico.

I do not understand that the offered gratuitous payment from the possible return of the retained Weil and La Abra moneys under the awaited decision of the Court of Claims has at any time been entertained by this Government. As I have heretofore informed you, that proposition is merely a contingent offer of something your Government may never receive.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, March 28, 1894. (Received March 29.)

MR. SECRETARY: I have had the honor to receive your note of yesterday in which, while acknowledging the receipt of mine of the 21st, relating to the payment of an indemnity which the Government of Mexico on equity tendered to Mrs. Baldwin for the death of her husband in Mexico, you state that the Government of the United States has never taken into consideration the proposal to pay \$20,000 out of the fund appertaining to the La Abra and Weil claims in the event of the Court of Claims of the United States deciding that it should be turned over to Mexico.

When I made this proposal to you under instructions of the Government of Mexico, you declared to me that the Government of the United

States could not take it into consideration for the reasons stated in your note, and several others which seemed to me well founded. I so informed the Government of Mexico, recommending there and then that the condition set for this payment be withdrawn, and thence arose your impression that the Government of Mexico would pay the \$20,000 in gold coin of the United States, without the above-stated condition.

The straitened condition of the Mexican treasury, chiefly due to the depreciation of silver, has not permitted the Government of Mexico to offer a payment in gold of the \$20,000 if it were made from its ordinary funds, and its last proposal, as you know, is to pay \$20,000 in Mexican currency.

Accept, etc.,

M. ROMERO.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, April 21, 1894. (Received April 21.)

MR. SECRETARY: I have the honor to hand you, with reference to my note of March 28 last, being a reply to yours of the preceding day on the subject of the indemnity offered out of equity by the Government of Mexico to Mrs. James M. Baldwin, a copy of a note from Señor Mariscal, secretary of foreign relations of the United States of Mexico, dated in the City of Mexico the 10th instant, by which the terms of the proposition made in the matter by the Government of Mexico to that of the United States of America are explained.

Please accept, etc.,

M. ROMERO.

[Inclosure.—Translation.]*

Mr. Mariscal to Mr. Romero.

No. 888.]

DEPARTMENT OF FOREIGN RELATIONS,
Mexico, April 10, 1894.

I have received your note, No. 965, of March 28, with the accompanying copies of the last notes exchanged with the Department of State, in regard to the mode of payment by the Mexican Government of \$20,000 to Mrs. Baldwin for her husband's death, and have noted its contents.

In reply, I have to inform you that the determination to pay \$20,000 in Mexican currency is confirmed in the terms expressed in the note of this Department, No. 621, of the 29th of January last.

I renew, etc.,

MARISCAL.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
White Plains, N. Y., August 14, 1894. (Received August 15.)

MR. SECRETARY: I have the honor to inform you, referring to our previous correspondence on the subject, that I duly reported to my Government our conversation of the 28th of June last, in the course of

which, and in view of the way in which you understood the offers made by the Mexican Government to indemnify, by way of equity, Mrs. Baldwin for the death of her husband, who was murdered by bandits in the State of Durango, Mexico, and as an act of personal deference to you, I inquired of you whether the U. S. Government would be satisfied if the indemnity of \$20,000 in gold, to which reference has been made, should be paid in one installment of \$3,000, payable at the time of concluding the arrangement on the subject, and the remaining \$17,000 in monthly installments of \$1,000 each, and you were pleased to tell me that you would accept that way of making the payment.

I have to-day received a dispatch from Mr. Mariscal, secretary of foreign relations of the United States of Mexico, dated City of Mexico, August 13, 1894, a copy of which I herewith inclose, whereby he informs me that my Government has accepted that arrangement, and that, without waiting for me to propose it to you in writing, he has carried it out himself, having sent that very day to the U. S. minister in Mexico a draft, numbered 63119, of the National Bank of Mexico on Messrs. Müller, Schall & Co., of New York, to the order of the treasurer general of the federation, and indorsed by that officer to your order, for the sum of \$3,000 in gold, being the amount of the first installment. I presume that Mr. Gray has advised you of the receipt of this draft.

Be pleased to accept, etc.,

M. ROMERO.

[Inclosure.—Translation.]

Mr. Mariscal to Mr. Romero.

No. 94.]

DEPARTMENT OF FOREIGN RELATIONS,
City of Mexico, August 3, 1894.

With a view to the settlement of the large and much-debated claim presented against the Government of Mexico by the widow of Leon McLeod Baldwin, an American citizen, and supported by the U. S. Government, on account of the aforesaid foreigner's having been murdered by a party of bandits led by Heracho Bernal, Mr. Gresham, Secretary of State of the United States, proposed, through you, that a moderate indemnity should be granted to the claimant by Mexico, as a matter of simple equity, this act not to imply a recognition that in the case in question the Mexican Government was, strictly speaking, responsible, so that the proposed arrangement could not be cited as a precedent in future cases of a similar nature.

The President thought proper to accede to the wishes of the U. S. Government, which were reiterated with special insistence by the Secretary of State; and, after a long correspondence, held with the view of fixing the amount of the indemnity, you, still mediating in this case, proposed as an equitable arrangement, subject to the approval of the Government of Mexico, the payment of \$20,000 in gold, \$3,000 of which were to be paid to the U. S. minister in Mexico at the time when the arrangement should be approved and the remaining \$17,000 in seventeen monthly installments of \$1,000 each.

Although the consideration of the high premium of gold over our ordinary silver money occasioned some delay in the settlement of this matter, the President, in view of the reiterated solicitations addressed to him by you, has decided that the arrangement referred to shall be accepted; and, in order to effect this, he has instructed the treasurer-general of the federation to send to this department a number of bills

of exchange on New York, made payable to the order of the Secretary of State of the United States, as follows: One for \$3,000 in gold, immediately; and for the remaining \$17,000, seventeen bills of exchange, payable in the same coin, in the months following, reckoned from the date of the first bill of exchange.

Accordingly, I to-day send to the minister of the United States of America the first and second of exchange of a bill drawn by the National Bank of Mexico, numbered 63119, on Messrs. Müller, Schall & Co., of New York, payable to the treasurer-general of the federation, and indorsed to the order of the Hon. W. Q. Gresham, Secretary of State of the United States of America, for the sum of \$3,000 in gold, being the amount of the first installment, as provided by the aforesaid arrangement.

Be pleased to communicate this information to the Secretary of State, Mr. Gresham, by sending him a copy of this dispatch.

MARISCAL.

Mr. Gresham to Mr. Romero.

DEPARTMENT OF STATE,

Washington, August 20, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 14th instant, with which you communicate copy of an instruction addressed to you by Señor Mariscal, under date of August 3, 1894, in relation to the payment of \$20,000 in United States gold to the widow of Leon McLeod Baldwin, a citizen of the United States, who was murdered by bandits in the State of Durango, Mexico.

This arrangement, including the stated terms of payment by installments, is in conformity with the understanding heretofore reached by you and me in the course of conference and correspondence, and I am gratified to learn through your present communication that His Excellency the President of the United Mexican States has decided that the arrangement referred to shall be accepted, and to that end (without waiting for your formal completion of the agreement by exchange of notes) he has directed the immediate delivery, through the U. S. minister in Mexico, of the first installment, in the form of a bill of exchange on New York, made payable to my order, for the sum of \$3,000, the same to be followed by the successive monthly delivery of like drafts for \$1,000 each.

Señor Mariscal's declaration that this payment is granted to the claimant by Mexico as a matter of simple equity without implying any admission that in the case in question the Mexican Government was, strictly speaking, responsible, and that it is not to constitute a precedent for the future treatment of similar cases, is likewise in accordance with the understanding which we reached in the premises.

The draft to which Señor Mariscal refers has been duly forwarded hither by Mr. Gray, and I shall have the pleasure of delivering it to Mrs. Baldwin in the course of a few days, taking her receipt therefor, which will be promptly transmitted to you.

The agreement being thus closed to the mutual satisfaction of the two Governments, your note of the 14th instant and my present reply may be taken as the formal documentary completion of our understanding, by exchange of notes.

Expressing the President's gratification and my own that the diplomatic discussion of the Baldwin case is now ended, I renew, etc.,

W. Q. GRESHAM.

ST. LOUIS AND ZACATECAS ORE COMPANY.

Mr. Butler to Mr. Gresham.

No. 183.]

LEGATION OF THE UNITED STATES,
Mexico, November 20, 1893. (Received December 4.)

SIR: The inclosed copies and translations of correspondence will acquaint you with replies I made on the 17th instant to certain interrogatories addressed to this legation by the Hon. Angel Zimbron, second civil judge of first instance, this city, in connection with the suit of Señor M. Yslas against the St. Louis and Zacatecas Ore Company, the object being to verify the date of an act of the U. S. Congress "to reduce the revenue and equalize duties on imports," etc., approved October 1, 1890.

Trusting in your approval, I am, etc.,

E. C. BUTLER.

[Inclosure 1 in No. 183.—Translation.]

Judge Zimbron to Mr. Gray.

SECOND CIVIL COURT, MEXICO.

In the case of specific performance, pending before the court, of Mr. Marcial Yslas against the St. Louis and Zacatecas Ore Company, the attorney for the company sued has asked, as a part of his proof, and basing it on articles 357 and 515 of the Code of Civil Procedure, that communication be addressed you, that you may be pleased to testify in conformity with the interrogations presented. Having ordered in accordance with said request, I have the honor to address you herein, so that you may be pleased to testify in accordance with the interrogations hereinafter inserted, returning the present communication with your deposition.

Having affirmed to state the truth, state—

First. Your name, nationality, residence, age, profession, and relation, if any, to the litigant parties.

Second. If you know, and it so appears, that on the 1st of October, 1890, the Congress of the United States passed a law burdening in 30 per cent the importation of ores to that nation.

Third. State why you know it

On behalf of Mr. Yslas, it was requested that you may also be pleased to state in accordance with the following question, which was granted:

Only one: State if you have authority from your Government to testify in the present case.

Permit me to assure you of my consideration.

Liberty and Constitution, Mexico, November 16, 1893.

ANGEL ZIMBRON.

[Inclosure 2 in No. 183.—Translation.]

*Mr. Butler to Judge Zimbron.*LEGATION OF THE UNITED STATES,
Mexico, November 17, 1893.

MY ESTEEMED SIR: I have had the honor of receiving your communication of yesterday, in which you are pleased to request my statement, as a witness suggested by the attorney of the St. Louis and Zacatecas Ore Company, in the case pending of Mr. Marcial Yslas against

the former, and complimenting your request I proceed to make my statement in accordance with the interrogations inserted in the communication.

Affirming to state the truth in all that I am to state, I answer—

To the first question: My name is Edward C. Butler; a native of Massachusetts, United States of America, residing in this city; 40 years of age; in the diplomatic service of the United States, my residence being at No. 10 on the Fourth Providencia street, in this city, and not subject to the objection of law; that is, I am not related to the parties litigating, nor have I any interest of any kind in this or similar case, nor friendship or unfriendly feeling toward any of the parties litigating in the matter wherein I testify.

To the second: It is true, and I know it.

To the third: What I state is true, because I know the law well.

In regard to the only question of the interrogatory of Mr. Yslas, I answer it, No.

With what I have stated your request is satisfied, all of which I confirm.

I have the pleasure to assure you of my consideration.

EDWARD C. BUTLER,
Chargé d'Affaires ad interim of the United States.

Mr. Gresham to Mr. Gray.

No. 167.]

DEPARTMENT OF STATE,
Washington, January 12, 1894.

SIR: I have received Mr. Butler's dispatch of the 20th ultimo, No. 183, giving a copy of his testimony, at the instance of the second civil judge of first instance, in the suit of Marcial Yslas *vs.* The St. Louis and Zacatecas Ore Company. The subject upon which he was called to testify was purely official, he being asked whether he knew, and whether it was of record, that the Congress of the United States had enacted a tariff law on October 1, 1890, by which 30 per cent duty was levied on the importation of metals. And he was further asked how and why he knew it. Mr. Butler asks approval of his action.

It is a well-established rule that no public minister can testify in a civil or criminal case without the authorization of his Government. Moreover, he can not even testify as a private individual, for he may not waive his official character and immunities without express authorization of his Government.

I am, etc.,

W. Q. GRESHAM.

THE OCHOA CASE.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, January 9, 1894. (Received January 9.)

According to information communicated to the Mexican Government by the governor of the State of Chihuahua, Victor Ochoa, profiting by the circumstance that there were a number of people thrown out of employment by the recent paralysis of business, and ready for any adventure, organized on United States territory, and especially at El

Paso, gangs of bandits who attacked and plundered the custom-house at Las Palomas, of which assault your Department was duly informed. On account of the crimes which he had committed in Mexico, the consul at El Paso, Tex., requested his extradition; but, unfortunately, the U. S. commissioner set him at liberty, on the ground that his Mexican citizenship was not proven, whereas, this being an exception to be alleged in order to place obstacles in the way of extradition, it should have been presented and proved by the accused and not by the agents of the Mexican Government.

Encouraged by the impunity accorded to his crimes on this account, Ochoa again organized a band of thirteen mounted and armed men, with which, on the 5th instant, he attacked and robbed several private individuals at a place called El Borracho, about 10 leagues distant from Paso del Norte, going thence to Las Vacas. The governor of the State of Chihuahua detached a force sufficient to pursue Ochoa and his band, and it is certain that, upon the approach of this force, Ochoa will again seek refuge in the territory of the United States.

As in this case, the Government of Mexico will again have occasion to request his extradition, I have thought it proper to make this communication without delay to your Department, in order that it may be informed of what is taking place on the frontier and may, with full knowledge of the matter, determine, at its convenience, what steps it deems appropriate to take in view of its interest, that crimes committed upon the frontier shall not go unpunished.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Uhl to Mr. Romero.

DEPARTMENT OF STATE,
Washington, January 11, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 9th instant, relative to one Victor Ochoa. You state that this person was, in proceedings for his extradition instituted before a U. S. commissioner by the Mexican consul at El Paso, released on the ground that his Mexican citizenship was not proved. You express the opinion that, under an extradition treaty, it is incumbent on a person demanded in extradition, who claims exemption on account of his citizenship, to prove affirmatively that citizenship.

Mentioning that Ochoa since his release has again been guilty of crime in Mexican territory, and intimating that his extradition may be again requested by your Government, you state that this information is given in order that, should such request be made, this Government may advisedly determine what it will be expedient to do in view of its own interest, in order that crimes committed on the frontier may not go unpunished.

In reply I have to say that this Department, whatever its own views may be as to the burden of proving citizenship, when that is relied on as a defense against extradition, can not compel the U. S. commissioner or other judicial officers to act upon its views.

You may rest assured that any communication or request from you, in respect to the party of whose acts you complain, will receive the careful consideration of this Department.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, January 12, 1894. (Received January 12.)

MR. SECRETARY: I have had the honor to receive your Department's note of yesterday, in reply to that which I addressed to you on the 9th instant with respect to Victor Ochoa, whose extradition was asked by the Mexican consul at El Paso, Tex., and whom the commissioner of the United States set at liberty because the Mexican nationality of the accused had not been proved.

My object in writing you that note was, as I therein stated, to acquaint you with the facts to the end that they would appear should the extradition of Ochoa be asked anew, and not to request the Department of State to exert any intervention in the matter with the U. S. commissioners which may not be permitted by the laws of this country.

To obviate in any future case the difficulties presented in the Ochoa incident, the Government of Mexico will be careful to prove the nationality of this individual, waiving the interpretation which it attaches to the treaty, since in this regard it must necessarily submit to the interpretation which is given thereto by the judicial functionaries of this country.

For the rest, I greatly thank your Department for the good disposition it has shown to take into consideration the statements made to it by this legation with respect to the person in question.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, January 17, 1894.

MR. SECRETARY: I have the honor to inform you that I have received, by cable, information from my Government that the band commanded by Victor L. Ochoa, which has been marauding on the border of the State of Chihuahua, is about to take refuge in the United States in the direction of Silver City, N. Mex., or of San Vicente, and for this reason the Government of Mexico has instructed me to forward this intelligence to the Government of the United States, in order that, should it deem proper, it may please give orders to the end that those individuals may be captured in crossing to this country.

Accept, etc.,

M. ROMERO.

Mr. Uhl to Mr. Romero.

DEPARTMENT OF STATE,
Washington, March 12, 1894.

SIR: I have the honor to inclose herewith the opinion of the Attorney-General upon the case of Ochoa, given in response to a communication from this Department transmitting your request that Ochoa be prosecuted in the U. S. courts for violation of the neutrality laws.

The Attorney-General, as you will note, states that "this law clearly is directed against the invasion of foreign territory by *organized military bodies* for the purpose of conducting military operations against the foreign government in its political capacity." Such being the case, he thinks the law is not applicable to common criminals like Ochoa and his associates.

I concur in the sentiment of regret expressed by the Attorney-General that this Government is unable to comply with your request, and hope the governor of Texas, to whom a copy thereof was also transmitted, may be able to take action in the matter.

Accept, etc.

EDWIN F. UHL,
Acting Secretary.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, March 13, 1894. (Received March 13.)

MR. SECRETARY: I have the honor to acknowledge the receipt of a note from your Department of yesterday's date, inclosing a copy of the Attorney-General's opinion in the case of Victor L. Ochoa, received by you on the 8th instant, in answer to the request made on the 6th instant, pursuant to instructions from the Government of Mexico for the apprehension and punishment of Ochoa in this country for his recent, invasion of Mexican territory.

The Attorney-General is of opinion that Ochoa having committed a common crime, and one which had no political character, the Federal courts of the United States have no jurisdiction in the case, which opinion is shared by the Department of State.

With due respect for the opinions of persons in such high authority, I think it appropriate to call your attention to a precedent which sustains the request of the Mexican Government in this case. A number of persons, led by Francisco Benavides, Maximo Martinez, Pablo Gomez, and Cecilio Echeverria, organized in United States territory an expedition very similar to that which, a year later, was carried into effect by Ochoa, for the purpose of committing depredations in Mexico, and upon their return to the United States they were tried and sentenced by the Federal courts.

I see no reason whatever why the case of Ochoa can not be proceeded with in the same manner.

I have communicated to the Mexican Government your note and the opinion of the Attorney-General, to the end that, in view of them, I may be furnished with suitable instructions.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, March 19, 1894. (Received March 19.)

MR. SECRETARY: I have the honor to inform you that I have received instructions from Señor Mariscal, secretary for foreign relations of the United States of Mexico, dated City of Mexico, the 7th instant, to call

the attention of the Government of the United States to a letter from Victor L. Ochoa, published in the Citizen, of Albuquerque, N. Mex., of the 6th instant, and dated the 18th of the previous February, which has been reproduced in several newspapers, and among them The Two Republics, of Mexico, as you will see in the inclosed clipping. That letter shows that Ochoa is still intent upon organizing in the United States new expeditions against Mexico, and this, in the opinion of the Government of Mexico, makes it the more urgent that he should be imprisoned and brought to trial.

Accept, etc.,

M. ROMERO.

Mr. Gresham to Mr. Romero.

DEPARTMENT OF STATE,
Washington, March 28, 1894.

SIR: Referring to your note of the 19th instant, representing the importance to your Government of the arrest and trial of Victor L. Ochoa, alleged to be organizing in the United States expeditions against Mexico, I have the honor to inform you that I am in receipt of the reply of the Attorney-General to the letter addressed him on the subject, of which you were advised in my note of acknowledgment of the 22d instant.

The Attorney-General states that he will be happy to instruct the proper district attorney to proceed at once to prosecute any violation of the neutrality laws of the United States upon being furnished with any tangible evidence of such violation. The supposed letter of Ochoa published in the Albuquerque Citizen he thinks only creates a suspicion, but gives no facts upon which a prosecution by the Government of the United States can be initiated, and he will be pleased to receive any such facts that may come to your knowledge.

Adding that the War Department will be happy to cooperate toward the ends of justice whenever the Attorney-General may be in a position to act upon positive information of actual or attempted infraction of the statutes in this regard, I take the occasion to renew, etc.,

W. Q. GRESHAM.

Mr. Romero to Mr. Gresham.

LEGATION OF MEXICO,
Washington, March 29, 1894. (Received March 29.)

MR. SECRETARY: I have the honor to acknowledge receipt of your note of yesterday in which, referring to mine of the 19th instant touching the importance of the arrest and punishment of Victor L. Ochoa, who is endeavoring to prepare in the United States expeditions against Mexico, you state that the Attorney-General informs you that he will take pleasure in instructing the proper district attorney to institute proceedings against Ochoa for violation of the neutrality laws whenever he is furnished with positive evidence of violation of said laws, and that he does not consider as evidence of that nature the letter of Ochoa published by the Citizen of Albuquerque which I submitted to you in my above-mentioned note.

You also state that the War Department will cordially cooperate on its part with the Attorney-General to the same purpose.

I have the honor to say, in reply, that if the letter published by Ochoa in the *Citizen of Albuquerque* is not sufficient in order to institute proceedings against him—and granting that the opinion of the Attorney-General on this point is of great weight—it affords no reason why he should not be prosecuted for the expedition which he organized in the United States in 1893 and carried out into Mexico, where he committed many crimes, being ultimately driven off by the Mexican forces.

I have, under instructions of the Government of Mexico, requested the arrest and trial of Ochoa for violation of the neutrality laws in the United States in organizing in this country an expedition in arms against a friendly nation, of which the facts can be proved before the competent Federal court of this country, and I am confident that the Government of Mexico will assist in adducing all the evidence that may be necessary in the case. Should the Attorney-General of the United States think it necessary to examine the evidence before proceeding against Ochoa, I shall apply for the same at once.

Please accept, etc.,

M. ROMERO.

Mr. Uhl to Mr. Romero.

DEPARTMENT OF STATE,
Washington, April 6, 1894.

SIR: I have the honor to inclose herewith copy of a letter¹ from the Attorney-General touching the subject of your note of the 29th ultimo, in which you requested the prosecution of Victor L. Ochoa for organizing in the United States in 1893 an armed expedition against Mexico.

The Attorney-General calls attention to the fact that your note does not specify in what State or Territories the alleged armed expedition was organized, and he states that if you will furnish him with the evidence to establish the violation of the neutrality laws of the United States, he will at once forward it to the U. S. attorney for the proper district with instructions to immediately institute such proceedings as the evidence will justify.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Romero to Mr. Gresham.

[Translation.]

LEGATION OF MEXICO,
Washington, June 20, 1894. (Received June 20.)

MR. SECRETARY: With reference to our previous correspondence in regard to the organization by Victor L. Ochoa of a band of people armed in the State of Texas for the purpose of invading Mexico, I have the honor to inform you that I am in receipt of authentic information to the effect that Ochoa, who had left the State of Texas to escape from prosecution on the ground of violation of the neutrality laws of the

¹ Not printed.

United States, is now at the Hotel Espanol e Hispano Americano, No. 116 West Fourteenth street, at New York.

The Government of Mexico has instructed me to secure the apprehension and punishment of Ochoa, and with the wish that he may be brought to justice so that this may serve as a warning and prevent the organization of similar bands in the future which are the cause of so many evils on the frontier of both countries, I advise you of Ochoa's whereabouts so that the proper proceedings may be taken in conformity to the laws of this country.

Be pleased to accept, etc.,

M. ROMERO.

Mr. Uhl to Mr. Romero.

DEPARTMENT OF STATE,

Washington, June 20, 1894.

SIR: I have the honor to acknowledge the receipt of your note of this day's date, giving the present whereabouts of Victor L. Ochoa, who, you state, has left Texas to escape prosecution for a violation of the neutrality laws of the United States in organizing an armed force for the invasion of Mexico.

A translation of your note has been furnished to the Attorney-General for his information.

In this relation I have the honor to inform you that the evidence submitted with your note of the 14th ultimo has been forwarded to the U. S. attorney for the western district of Texas, with instructions to present the same to the grand jury for indictment.

Accept, etc.,

EDWIN F. UHL,

Acting Secretary.

Mr. Uhl to Mr. Romero.

DEPARTMENT OF STATE,

Washington, June 29, 1894.

SIR: Referring to previous correspondence on the subject of the prosecution of Victor L. Ochoa for an alleged violation of the neutrality laws of the United States, I have the honor to state that I am informed, through the Attorney-General, that the grand jury at El Paso, at the April term, 1894, returned a true bill of indictment against Ochoa on that account.

The U. S. district attorney for the western district of Texas has been informed of the whereabouts of Ochoa, as furnished by you.

Accept, etc.,

EDWIN F. UHL,

Acting Secretary.

NICARAGUA.

RIGHTS OF FOREIGN RESIDENTS.

Mr. Baker to Mr. Gresham.

No. 132.]

LEGATION OF THE UNITED STATES,
Managua, Nicaragua, November 1, 1893.

(Received November 23.)

SIR: Since my dispatch No. 121, of October 24, there has been quiet in the politics of Nicaragua. The persons who were imprisoned on the night of the 22d, as reported in said dispatch, have been assigned respectively to close confinement in Leon, Chinendega, and El Viejo, but no new arrests or banishments have taken place.

The constituent assembly has continued its sessions and has spent the last four days in rather heated debate on the articles of the new constitution relating to the rights of foreign residents in this Republic. I beg to send you inclosed a copy and translation of the articles which were finally adopted on the 31st ultimo.

Article 12 created the greatest amount of discussion and was finally approved yesterday by a vote of 15 to 14.

Considerable excitement has prevailed among the foreign residents of this city on account of the new measures taken, and much irritation has been felt by them at their intended subjection to the extraordinary taxes, as well as to the provisions of the above-mentioned articles 10 and 12.

But I have not felt called upon to take any official notice of the action taken by the assembly. I have had, however, two personal interviews with President Zelaya, during which the question came up. One of them has been reported in my dispatch No. 121; the other I had yesterday morning, a short while before article 12 was definitely approved.

In the latter, President Zelaya and Vice-President Ortiz both assured me that while a number of members wanted to place the provision mentioned in the new constitution, on account of former instances in which foreigners had made unjust claims, the more enlightened element thought it might prove a menace or hindrance to immigration, and they both believed there would be ultimately a majority against the article. In this, however, they were mistaken, as the same morning it passed the assembly with a majority of one vote.

I am still in the hope that, before the constitution will be adopted as a whole, some changes may be made to the articles in question.

I beg, etc.,

LEWIS BAKER.

[Inclosure 1 in No. 132.—Translation.]

Articles relating to foreigners in the new constitution of Nicaragua, now under discussion.

NOVEMBER 1, 1893.

ART. 9. Foreigners shall enjoy in Nicaragua all the civil rights of Nicaraguans.

ART. 10. They may acquire all kinds of property in the country, but they shall be subject, in regard to this property, to all ordinary and extraordinary charges to which

the natives may be subject. They can not make any claim whatever nor ask for any indemnity except in the cases and in the manner in which Nicaraguans could do so.

ART. 11. The Republic of Nicaragua is a sacred asylum for any person taking refuge within its territory. Extradition for political crimes is prohibited, even if common crimes should result from them. The treaties shall establish the cases in which extradition may take place on account of common crimes.

ART. 12. Foreigners who may bring unjust diplomatic claims shall, unless the latter be adjusted in a friendly manner, lose all right to reside within the territory of the Republic.

RELATIONS WITH HONDURAS.

Mr. Baker to Mr. Gresham.

No. 135.]

LEGATION OF THE UNITED STATES,
Managua, Nicaragua, November 3, 1893.

(Received November 23.)

SIR: In the line of keeping you informed upon the condition of affairs in Central America, I inclose herewith a telegram detailing certain action by the Government of Honduras, which seems to threaten the peace of this country. I also inclose a copy of a personal letter which I addressed to Hon. Pierce M. B. Young, U. S. minister to Guatemala and Honduras, covering this telegram. The telegram and letter are self-explanatory.

I also transmit herewith copy of a telegram which tends to show the existence of a very unfriendly feeling in Salvador toward Nicaragua, and another mentioning some troubles on the frontier of Honduras.

I am, etc.,

LEWIS BAKER.

[Inclosure 1 in No. 135.]

Mr. Baker to Mr. Young.

LEGATION OF THE UNITED STATES,
Managua, Nicaragua, November 3, 1893.

MY DEAR SIR: I take the liberty of handing you herewith a copy of a telegram which has come into my possession. It will give you a glimpse of the uneasy condition of political feeling in this section of the country. My excuse for troubling you with this communication is founded upon the threatening attitude of Honduras, which country is within your jurisdiction as a public official, refuges Nicaragua. While it is true that a small number of political refugees from Honduras are now and have been for some time residing in Nicaragua, I feel reasonably well assured that the Government of this country entertains no hostile feelings toward its neighbor on the north. On the contrary, I am convinced that it is the earnest and honest desire of the present Government of Nicaragua to cultivate the most friendly relations with all its neighbors, and that it is the highest ambition of the President and his colleagues to give to this people a good and stable government, guaranteeing peace to the citizen and personal rights to all.

President Zelaya, Vice-President General Ortiz, and the ministry are young men of good ability, and they have governed, considering the unsettled condition of affairs when they came into power, wisely and

conservatively in the main. I do not pretend, Mr. Minister, to indorse all the acts of this Government, for the wisest men make mistakes, but I say that in the main they have acted well, and they seem to be striving for the good of their people.

I write to you this personal letter upon my own impulse, and without having given a hint of the fact to any one, and I do so in the hope that you may feel inclined to exert your influence in such a way as seems to you best in the interest of the preservation of the peace and the promotion of the prosperity of these naturally rich countries.

I am the more earnest in my desire to avert war between Honduras and Nicaragua because of the fact that we have an important colony of Americans near the borders of Honduras, who are investing quite largely in the culture of coffee. I refer to the localities of Matagalpa and Jinotega. Further, a wise effort is at this time being made to induce capital and enterprise from abroad to build a railroad for the opening up of that section of Nicaragua.

I have recently returned from a month's visit to Costa Rica, and I am sure that I am not mistaken in saying that the Government in that country earnestly desires the preservation of peace throughout Central America. The Costa Ricans are engaged in a laudable effort directed to the development of the resources of their country, and I am of the opinion that those in authority will find better uses for the expenditure of their means and energies in this direction than in destructive wars.

I leave here to-morrow morning for Salvador, where my best offices shall be judiciously exerted toward a good understanding between the Governments to which I am accredited and in favor of the maintenance of peace among them.

It would afford me much pleasure to have you visit us at the legation in Managua at your convenience. Besides the pleasure such a visit would afford, I am sure that in the interest of the public service good would come of it. In fact, were it convenient for you to do so, I would be gratified to have you join me during my present visit to Salvador and to accompany me to this city during the latter part of this month. I am sure that such a visit, affording you an opportunity to make the personal acquaintance of the men in power in these two countries, as well as a comparison of views and the exchange of information between ourselves, would result in much good to all concerned.

I am, etc.,

LEWIS BAKER.

[Inclosure 2 in No. 135.—Translation.]

From Honduras. Señor Don Ascencion P. Rivas.

To-day the Congress of this Republic issued the following:

DECREE No. 108.

Whereas although the people of Nicaragua have taken no part in the disturbance of the peace in Honduras—repeatedly caused by aggressions from that Republic, and which have brought about such great and lamentable evils, and that, on the contrary, their natural sentiments of fraternity and sympathy for the Honduran people have been increased—this Republic must, as a security against new outrages, take the necessary measures to prevent future disturbances, and thus protect the national honor and dignity and safeguard the various interests of the country already so severely damaged, the National Congress decrees:

Sole article. The executive power is authorized to declare and make war upon the

Government of Nicaragua as soon as the peace of this Republic shall be disturbed and any invasion shall take place from that of Nicaragua.

Given in Tegucigalpa on the 30th of October, 1893.

V. WILLIAMS,
D. President.

JOAQUIN SOTO,
D. Secretary.

SOTERO BARAHOUA,
D. Secretary.

To the executive power.

VASQUEZ.

There are many Nicaraguan fugitives here, among whom,
Yours, affectionately,

ALBERTO RIVAS.

Mr. Baker to Mr. Gresham.

No. 148.] LEGATION OF THE UNITED STATES,
San Salvador, November 18, 1893. (Received December 12.)

SIR: I have advised you, under date of November 3, of impending troubles between Honduras and Nicaragua. I learn here from reliable source that Salvador has been appealed to by Honduras to intervene against Nicaragua, and that the Honduran Government is recruiting troops. The Government of Salvador has replied to Honduras by wire, asking that hostilities be suspended until it may communicate by mail.

In this connection, I desire to call your attention to the treaty of peace and arbitration, which was signed in this city on May 23, 1892, by the commissioners from Guatemala, Salvador, Honduras, and Nicaragua, and ratified since that time by the Governments of Salvador, Honduras, and Nicaragua.

Article 11 of that treaty provides that "it is not indispensable for the validity of this treaty that it be ratified completely by all the Republics who sign it. The one who may approve it shall communicate the fact to the Government of Salvador, so that it may be communicated to the other contracting powers. This procedure shall serve in lieu of exchange of ratifications between the parties who may have approved it."

And, therefore, the fact would be valid in so far as the Republics of Salvador, Honduras, and Nicaragua are concerned, although the latter, while it approved the treaty, never advised Salvador of the fact.

The President of Salvador considers the treaty in force between the three nations, and, in accordance with that view and in the interest of peace, he has communicated by wire with the Governments of Honduras and Nicaragua, asking them to send each a commissioner to La Union of Salvador to meet there a commissioner from this country who will offer the friendly offices of this Government in an effort to submit to arbitration the questions at issue between Honduras and Nicaragua.

To this Honduras has replied that, while the Government appreciates the friendly intervention of Salvador in this matter, it desires to await the reply of the other Central American Governments to its communication, similar in tenor to that sent to Salvador, mention of which was made above.

Nicaragua has replied, thanking the Government of Salvador for its intervention, and advising that a minister would be sent. I am informed also by a private letter from Costa Rica that that Government has offered its friendly offices to Honduras and Nicaragua in the interest of.

a peaceful settlement of the matters at issue between them. This was done, in all likelihood, in reply to the communication of Honduras to the administration at San Jose, of which I speak in the preceding paragraph.

I beg, etc.,

LEWIS BAKER.

[Inclosure in No. 148.—Translation.]

Treaty of peace and arbitration of San Salvador.

MAY 23, 1892.

The Governments of Honduras, Nicaragua, Salvador, and Guatemala, represented in the Central American peace congress, through their respective plenipotentiaries, viz: Dr. Don Adolfo Zuñiga for Honduras, General Isidro Urtecho for Nicaragua, Dr. Don Manuel Gallardo for Salvador, and Dr. Cayetano Diaz Merida for Guatemala, wishing to insure the benefits of peace between the Republics of Central America and to strengthen at the same time the sentiments of brotherhood which must serve as basis for the settlement of the disputes which may arise between them, have agreed to enter into a treaty covering these points, and to that end, after having exhibited their respective full powers, and after conferences and discussions on the subject, have agreed upon the following stipulations:

ART. 1. The high contracting parties recognize and guarantee to each other, as a basis of their international public law, the following principles:

- (1) Nonintervention in the internal affairs of the respective Republics.
- (2) The strictest neutrality in the questions or difficulties which may occur between two or more of the contracting Republics. Notwithstanding this, if any of these Republics shall permit, encourage, or protect the organization of factions within its territory, or shall invade another state, causing a "de facto" rupture, then the neutral Republics shall make common cause and shall constitute themselves into a defensive alliance with the state offended or invaded, until they shall obtain the reestablishment of peace; and
- (3) Arbitration as the sole method of settling or solving all questions or difficulties which may arise between the signatory Republics, whatever their cause, nature, or object may be.

ART. 2. For the safeguard and application of these fundamental principles a periodical delegation is established, composed of five plenipotentiaries, one being named by each of the Governments of Central America. This delegation shall be called the "Central American Diet," and it shall hold its inaugural session on the 1st of January of the year 1893.

The sessions of the Central American Diet shall last ninety days, which may be extended, at the will of said diet, when the affairs of which it must take cognizance or the public interest demand it; and it may adjourn before the expiration of the term mentioned if it should deem it expedient.

The meetings of the Central American Diet shall take place, in turn each year, in the capitals of the contracting Republics, Guatemala, Salvador, Honduras, Nicaragua, and Costa Rica.

ART. 3. The Central American Diet has the following functions:

- (1) To offer its pacific mediation when there is danger of any disagreement between the contracting Republics.
- (2) To settle, as arbitrators, questions which may be submitted to it if pacific mediation should not suffice to end the dispute.

ART. 4. The Central American Diet has moreover the following functions:

- (1) To draw up all the treaties involving private international law in criminal, civil, commercial, and judicial matters.
- (2) To draw up treaties for the Central American customs, monetary, postal, and telegraphic union.

ART. 5. When the signatory Republics wish to submit their disagreements or questions to the arbitration of the Central American Diet, the Republic believing itself menaced or offended shall present to the diet, through its plenipotentiary, a memorandum stating the grounds of complaint. The plenipotentiary of the Republic against which the memorandum shall have been drawn up shall present one of explanations. If in that one there should also be complaints, the plenipotentiary who took the initiative shall reply.

With these documents before them the plenipotentiaries of the Republics not directly interested in the question shall deliberate in regard to the means of conciliation which may appear the most equitable and efficacious, and shall submit them to the consideration of the plenipotentiaries of the differing Republics, in order to try to reach an agreement.

If such agreement can not be attained, the competent plenipotentiaries shall name arbitrators to complete the diet from among the ministers of the friendly nations, residing in Central America.

The majority of votes shall constitute a decisive award.

ART. 6. If when the Central American Diet is not in session any question should arise between two or more of the contracting Republics, the Governments having no interest in the dispute shall, upon hearing thereof, interpose their friendly offices to bring about a settlement. If this should not be possible, they shall advise the contending parties to submit their disagreements to the arbitral award of the diet or of any friendly nation.

If the Governments concerned should express the desire that the diet settle the pending question or disagreement, the latter shall be called together, without any loss of time, by one or more of the mediating or neutral Governments.

In this case the diet shall proceed in conformity with the provisions of article 5.

ART. 7. If the disagreeing Governments should not wish to submit their disagreements to the arbitration of the Central American Diet, the designation of the arbitrator, the terms of the question, and the rules to be observed until the rendering of the award, shall be the subjects of a special treaty.

Such treaty shall be signed within the term of four months after the grounds of disagreement shall have become known.

ART. 8. Until the contracting Governments shall agree upon special treaties regulating asylum and the recognition of their public documents, it is provided that the removal from the frontier of political refugees, stipulated in the treaties, shall take place without any further proceedings than the demand of the Government of the nation whence they come, to the Government of the nation in which they took refuge.

And it is also stipulated that the verification of the authenticity of public documents issued by any of the contracting Republics shall be sufficient to establish the validity and force of such documents and their effectiveness in securing in any of the Republics the results inherent to their nature as if they had been issued by that Republic itself.

ART. 9. The treaties and conventions entered into heretofore by and between the Republics of Guatemala, Salvador, Honduras, Nicaragua, and Costa Rica in matters relating to peace, friendship, commerce, and extradition, and in any other matters not in conflict with the present stipulations, are considered valid and in force in conformity with the internal constitutional law of these countries.

ART. 10. The present treaty shall be submitted to the Government of Costa Rica for its adhesion.

ART. 11. It is not indispensable to the validity of this treaty that it be formally ratified by all the Republics who sign it. The one who may approve it shall communicate the fact to the Government of Salvador, so that it may be communicated to the other contracting powers. This procedure shall serve in lieu of exchange of ratifications between the parties who may have approved it.

In testimony whereof the respective plenipotentiaries sign this treaty in quadruplicate, at San Salvador, on the 23d day of May, 1892.

ADOLFO ZUÑIGA,
M. GALLARDO,
ISIDRO URTECHO,
CAYETANO DIAZ MERIDA.

Mr. Baker to Mr. Gresham.

No. 195.]

LEGATION OF THE UNITED STATES,
Managua, January 12, 1894. (Received February 2.)

SIR: I beg to inform the Department that I am in receipt of a communication of the minister of foreign relations of the Republic of Nicaragua advising me that on the 25th ultimo the Government of Nicaragua decreed that—

ART. 1. Nicaragua, for the purpose of providing for its exterior security, recognizes as the sole legitimate power of Honduras the provisional Government established in Los Amates, yesterday, under the presidency of Dr. General Policarpo Bonilla.

ART. 2. The Government of Nicaragua will act as ally of the provisional Government of Honduras.

Given at Managua, December 25, 1893.

J. S. ZELAYA.

I beg to remain, etc.,

LEWIS BAKER.

BOUNDARY BETWEEN NICARAGUA AND COLOMBIA.

Mr. Baker to Mr. Gresham.

No. 168.]

LEGATION OF THE UNITED STATES,
Managua, December 7, 1893. (Received January 3, 1894.)

SIR: I beg to transmit herewith copies of a note addressed by me to his excellency the minister of foreign affairs of Costa Rica, in relation to the boundary question between Costa Rica and Colombia, dated September 1, and a copy and translation of his reply thereto, just received.

I am, etc.,

LEWIS BAKER.

[Inclosure 1 in No. 168.]

*Mr. Baker to Mr. Jimenez.*LEGATION OF THE UNITED STATES,
Managua, September 1, 1893.

SIR: I am instructed by the President of the United States to open correspondence with the Government of Costa Rica upon the subject of the arbitration of the long-pending boundary dispute between Costa Rica and Colombia. Under the convention between those States of December 25, 1880, and the additional convention signed at Paris, January 20, 1886, an arbitration was agreed upon and initiated with the acceptance of the office of arbitrator by the Queen Regent of Spain on behalf of His Majesty King Alfonso XIII; but I am instructed a contention has arisen touching the date from which to compute the twenty months prescribed by the convention for the presentation of the cases of the respective parties to the arbitrator. It has been alleged by Colombia that the cases have not been presented within the stipulated term. and that the power of the arbitrator to act in the premises has lapsed. The cases have not, in fact, been presented, as I am informed, and the Queen Regent's Government has accepted the position of Colombia, although not without expression of its view that the prescribed period was still open, and with expression of cordial readiness to resume the function of arbitrator should the Governments of Costa Rica and Colombia compose their differences in this regard and request continuance of the arbitration.

The Government of Costa Rica has on several occasions solicited the good offices of the United States toward continuing the arbitration, and requested this Government to represent to that of Colombia the propriety and advantage of so doing.

The Government of the United States, maintaining the friendly and impartial consideration for both the parties to the dispute which it has consistently shown since the settlement thereof by arbitration was first broached, is as indisposed to support the claim of Costa Rica that the arbitration is still validly open as it is to accept the converse claim of Colombia that it has lapsed. Not being in any sense a party to the arbitration, and moved only by the desire to preserve the rights of its citizens in the territory of dispute and to fulfill the international obligations of existing treaties, the Government of the United States has consistently testified its lively interest in the controversy and its earnest desire that a settlement be reached. It is especially led in this course by the fact that the United States are, by the treaty of 1846 with New Granada, now Colombia, guarantors of the rights of sovereignty and property which Colombia has and possesses over the terri-

tory of the Isthmus of Panama "from its southernmost extremity until the boundary of Costa Rica," and this Government is therefore interested in knowing the limits of the guarantee it has so assumed; regards it as a solemn duty of friendship and good neighborhood to do what it can toward the determination of its own rights and duties in respect to a territory the bounds of which are unfixed and in controversy.

Without, therefore, expressing any opinion touching the merits of the dispute now pending between Costa Rica and Colombia concerning the continuing validity of the boundary arbitration under the treaty of December 25, 1880, and without relinquishing the stand it has heretofore taken in regard to the rights of third parties in such arbitration, the Government of the United States, in a spirit of complete disinterestedness, feels constrained to present to the two Governments of Costa Rica and Colombia its earnest desire and hope that they shall waive the comparatively trivial obstacle to the accomplishment of the larger purpose of amicable arbitration which they have both advocated, and that they shall come to an understanding whereby that high aim shall be realized, either by the continuance of the arbitration under Her Majesty the Queen Regent of Spain, or, if Her Majesty be indisposed to resume her functions, then by the alternative method already agreed upon, or by resort to any impartial arbitrator.

The President of the United States, in directing me to convey these views to the Government of Costa Rica, especially desires me to impress upon the minister of foreign relations his sincere conviction that the agreement of arbitration entered into by the two nations constitutes an obligation between them which neither is morally free to disregard on grounds of technical formality; and his confidence that they will use their concurrent endeavors to promote its successful issue.

It will give me great pleasure to forward to the President of the United States your favorable reply to this communication.

I am, etc.,

LEWIS BAKER.

[Inclosure 2 in No. 168.]

Mr. Baker to Mr. Jimenez.

LEGATION OF THE UNITED STATES,
Managua, October 30, 1893.

SIR: I am in receipt of a communication from my Government requesting me to advise it of the disposition taken by your excellency's Government in regard to my communication of September 1, relating to the boundary question between Costa Rica and Colombia, and beg to call your attention to this matter in the hope of receiving a reply at your convenience.

I am, etc.,

LEWIS BAKER.

[Inclosure 3 in No. 168.—Translation.]

Mr. Jimenez to Mr. Baker.

MINISTRY OF FOREIGN RELATIONS OF COSTA RICA,
San Jose, November 20, 1893.

MR. MINISTER: In reply to your courteous communication of September 1 and October 30 last, I have the honor to advise your excellency that the Government of Costa Rica, in a communication of the 19th

instant, offered to the Government of Colombia to submit to arbitration the question of the validity of the convention of arbitration to solve the question of limits existing between both Republics, entered into respectively the 25th of December, 1880, and the 20th of January, 1886, by diplomatic representatives of both countries; this, however, not to prevent the high interested parties to negotiate through legations named for that purpose a treaty of limits or a new convention of arbitration, and to fix the provisional frontiers between both countries.

Having given you the views of my Government on this subject, I hope that your excellency will communicate them to the Government of the United States of America, which we confidently hope, will exercise its good and most important friendly offices with that of the Republic of Colombia to that effect.

In conclusion, I beg to advise your excellency that your dispatch of September 1 had not been answered before this. The cause of this delay is that this ministry awaited a reply to a communication addressed to the ministry of foreign relations of Colombia on the subject of the present dispatch.

I am, etc.,

MANUEL V. JIMENEZ.

WAR WITH HONDURAS.

Mr. Baker to Mr. Gresham.

No. 162.]

LEGATION OF THE UNITED STATES.

Managua, Nicaragua, December 6, 1893.

(Received January 3, 1894.)

SIR: It is the purpose of this communication to give you, as briefly as possible, an idea of the present condition of things in Nicaragua.

In my dispatch No. 148 of November 22, I have advised you of the different situation of affairs between Nicaragua and Honduras, and I mentioned therein a circular letter of the Honduran foreign office addressed to the Governments of Guatemala, Salvador, and Costa Rica, in which bitter complaints are made against the administration of Nicaragua, which is accused of aiding the Honduran refugees in that country in their efforts to begin a new revolution against the Government of Vasquez.

Under date of November 28 the minister of foreign relations of Nicaragua, Don José Madriz, addressed a counter circular to the Governments above named and to the diplomatic corps resident in Central America deploring the fact that the Congress of Honduras should have seen fit to decree full powers to Vasquez to make war when such a declaration was merely intended as a provocation against Nicaragua, refuting in every manner the charges made by Honduras and throwing upon the latter the onus of having precipitated a war, in case the latter should take place.

The communication is a very lengthy one, quoting in detail numerous expressions of friendship from former notes exchanged between the two countries, and calling attention, among other things, to the existence of a treaty between Nicaragua and Honduras by which the two countries submit to arbitration any disagreement between them before adopting the method of settling difficulties by a war. For the purposes of an

insight into matters, the final passage of Mr. Madriz's letter will suffice. It is as follows:

The menace made against us by the Government of Honduras lacks foundation absolutely, and can not, therefore, but inspire in us sentiments of profound sorrow at seeing that our neighbor retrogrades in the road to civilization. We thought that, notwithstanding our domestic troubles, the relations between state and state were advancing toward the point of union, which is one of the most beautiful ideals of Central American patriotism, but we see the contrary with the utmost regret. Perhaps the unfortunate period of war shall return for Central America; perhaps cruel discord will drown friendliness. The seeds of our welfare can not germinate in a field sterilized by blood.

If it is possible to avoid this fateful result, Nicaragua whose spirit is quiet, who loves peace, and who is interested in the honor of her sister Republics as in her own, is ready to effect a reconciliation which shall conclude in an honorable manner the question causing the present situation. But if, unfortunately, this good desire should be ineffective, she is ready to defend herself alone, because her right is sufficient arm, and the patriotism of her sons a powerful defense.

In prevision, therefore, of the serious evil menacing her, and assured of having justice on her part, she throws on those provoking it the responsibility of whatever may happen, and, as the Government of Honduras has failed signally to comply with the engagement contracted with that of Nicaragua in the treaty of peace and friendship mentioned above, and in making offensive comments upon our country it has endeavored to bring the enmity of the remaining friendly nations upon us, this Government considers itself free to take the measures most convenient for the security of the sacred national interests intrusted to its loyalty and patriotism, until the Government of Honduras shall return spontaneously to the path pointed out by justice and the interest of people joined in history by the sacred ties of brotherhood and by the perspective of an identical and glorious future.

A copy of this circular was received by me to-day. Five days ago, viz, on December 1, General Ortiz, vice-president of the Republic, minister of war, and general in chief of the armies, left Managua for Leon, and two days afterwards 600 armed men from Chinendega and 600 from Leon were leaving their barracks for the frontier of Honduras.

The trouble is primarily caused and now developed by the Honduran refugees in this country who have been given employment in civil and military posts, and whose only aim is to overthrow Vasquez's administration regardless of the consequences of such action upon the country which has given them asylum.

The Government has by recent decree levied a forced loan of \$400,000, and is engaged now in collecting it. I send you herewith a translation of the decree.

The ministry has been nominally reorganized, but on account of illness of the one or the absence of the other the various departments are under the charge of two ministers for the present. The assignments are as follows: Foreign relations, J. Madriz; Gobernacion, Feo. Baca h.; Fomento, J. D. Gómez; Guerra y Marina, A. Ortiz; Hacienda, Leonardo Lacayo.

The Constituent Assembly is still in session, but is expected to adjourn in a few days.

I beg to remain, etc.,

LEWIS BAKER.

[Inclosure 1 in No. 162.—Translation.]

MINISTRY OF HACIENDA.

The President of the Republic has issued the following decree:

In prevision of a conflict between this Republic and that of Honduras on account of the hostile attitude which the Government of that nation has assumed against

Nicaragua, and as it is absolutely necessary to prepare ourselves conveniently for the defense of the national honor and sovereignty, and as it is indispensable to secure the means necessary for that purpose by a forced loan because the exhausted condition of the public treasury does not permit their being taken out of the ordinary revenues, the Government, using the faculties given it by decree of the Constituent Assembly of October 19 last, decrees:

1. Let there be assigned in the Republic a forced loan of \$400,000, which shall be distributed in the following manner:

Department of—

Granada	\$100,000
Managua	80,000
Leon	60,000
Carazo	28,000
Chinandega	24,000
Rivas	24,000
Masaya	20,000
Matagalpa	18,000
N. Segovia	14,000
Chontales	12,000
Finotega	10,000
Estelé	10,000

Total 400,000

This loan shall be paid in three parts—the first, twenty-four hours after the notice shall have been given; the second, eight days after, and the third, fifteen days thereafter.

2. The collection of the present loan shall be made by the authorities, and the respective prefects shall name the assigning committees. The repayment to the voluntary lenders shall be made in the form and with the profits determined in decree No. 3 of last August.

3. The distributing committees shall be guided in the assignment of the contribution by article 6 of the decree of the Constituent Assembly of October 19, already mentioned, which exempts from loans those owning less than \$5,000 besides their dwelling house.

4. Lenders who should not make their payments within the dates mentioned in article 1 of this decree shall be obliged to lend double the amount assigned to them; and they shall be paid by notes at two years' time, earning only 6 per cent annually.

5. The prefects shall publish immediately the present decree, which shall be in force from this date, proceeding to the organization of the committees for compliance therewith.

Given at Managua, on the 25th day of the month of November of 1893.

J. S. ZELAYA,

The Subsecretary of War, in charge of the Ministry of Hacienda ad interim.

RAM. MAYORGA.

Mr. Baker to Mr. Gresham.

No. 170.]

LEGATION OF THE UNITED STATES,

Managua, Nicaragua, December 9, 1893.

(Received January 3, 1894.)

SIR: I beg to advise you that hostilities have begun on the frontier between Honduras and Nicaragua. A picket of Honduran soldiers is said to have invaded the village of Santa Maria in this Republic. This has brought forth the following manifest from President Zelaya to the National Constituent Assembly:

Citizen representatives:

In moments of difficult transition for Nicaragua, and when the Government born of the revolution of July was using all its efforts to heal the wounds of the country and to give powerful impulse to the national progress, a grave difficulty has arisen with the Government of Honduras, as you will be able to see by the documents which I send herewith.

General Domingo Vasquez, President of that Republic, jealous of the asylum granted by us to the Honduran refugees, or perhaps badly informed in regard to our frank and respectful policy, has provoked us to a war without consulting

justice, convenience, international practices, nor even the stipulations of the treaty of peace and friendship between Nicaragua and Honduras.

Perhaps we shall shed blood on Central American soil on account of the hatred of a chief inimical to Nicaragua, and little interested in the honor of his people; and although friendly Governments have interposed their generous mediation to avoid that conflict, I believe it my duty, in order to take proper measures in the direction of such a grave affair, to consult expressly the national will, whose faithful interpreters you are in your character of representatives of the Nicaraguan people, and jealous defenders of its honor and its sovereign rights.

J. SANTOS ZELAYA.

The Congress, upon receipt of this, issued the following decree:

Let the executive power be authorized to employ all means leading to the safeguard of the national honor, security, and integrity, which are menaced by the present head of the Government of Honduras, and, in the regrettable case of not being able to reach a pacific and decorous solution, to accept or declare war.

I understand that hostilities are continuing on the frontier, but have no reliable data so far.

I beg to remain, etc.,

LEWIS BAKER.

Mr. Baker to Mr. Gresham.

No. 179.]

LEGATION OF THE UNITED STATES,

Managua, Nicaragua, December 26, 1893.

(Received January 12, 1894.)

SIR: Referring to my dispatch No. 170, of December 9, I beg to say that the troubles between Nicaragua and Honduras still continue.

The Honduran refugees in this country, about 1,600 strong, and armed and equipped by Nicaragua, crossed the border of Honduras and marched against the Honduran villages of Cholutua and Corpus. No details are known of their success so far, though there are reports of their defeat by the forces of Vasquez. The Nicaraguans, about 3,000 strong, are on the border as an army of observation, and are awaiting acts of hostility of Vasquez against Nicaragua to cross the frontier also and aid the Honduran invaders, who are now under the leadership of Policarpo Bonilla.

It is very difficult to obtain authentic news, as the means of communication with the frontier are exceedingly meager, and the Government jealously keeps from the public any information in the least unsatisfactory.

It has been the general impression here, since the time the Honduran refugees aided the Leon Liberals in taking Managua, that there was an understanding with them to help them in a revolution against Vasquez, and present events seem to justify that belief. I shall keep the Department advised of all authentic news I shall get from the seat of war.

I beg to remain, etc.,

LEWIS BAKER.

Mr. Baker to Mr. Gresham.

No. 194.]

LEGATION OF THE UNITED STATES,

Managua, Nicaragua, January 11, 1894.

(Received February 2.)

SIR: Since my dispatch No. 179, of December 26, referring to the war between Nicaragua and Honduras, the Nicaraguan troops under General Ortiz have invaded Honduras and are reported to have taken

several places in the south of that country, among them Corpus, Yuscacán, Cholutua, and Nacaome.

It is also reported that they have suffered two defeats, one at the Robrerai, another at Santa Maria.

President Vasquez is supposedly intrenched at Cerro de Hule, a mountain pass in the neighborhood of the capital of Honduras, whence he can keep an attacking army in check.

The invading Honduraneans and their Nicaraguan allies under General Ortiz occupy the whole territory in the southwest, but a new development makes them fear to advance. Salvador is said to be massing troops on the frontier of Honduras, and it is difficult to say what attitude President Ezeta will take or whom he will support—Vasquez or Bonilla.

* * * * *

Everywhere men are being recruited and commerce and agriculture are in a state of paralysis, every available man being engaged for military service.

The money collected in the last loan is fast disappearing in the necessities of the war, and another forced loan may soon be expected.

It is very difficult to get reliable data from the seat of war, the Government carefully giving out only such information as is favorable.

I beg to remain, etc.,

LEWIS BAKER.

Mr. Baker to Mr. Gresham.

No. 277.]

LEGATION OF THE UNITED STATES,
Managua, March 12, 1894. (Received April 4.)

SIR: I am pleased to be able to report that the war between Nicaragua and Honduras is over. It resulted in the overthrow of Vasquez, the late President of the latter country, and the establishment of the authority of Dr. Policarpo Bonilla over all Honduran territory. The Nicaraguan troops have returned to this country, and were greeted with great demonstrations of applause at all towns through which they passed. These demonstrations culminated in a mammoth parade and a feast to the returning heroes at Leon, which lasted three days, and which has just now been brought to a close.

President Zelaya and his advisers now express the greatest confidence that a long era of peace for these two countries is now before us.

Mr. Vasquez made his escape into Salvador, and, having attempted to escape from that country to Amapala for the purpose of continuing the turmoil, he was arrested by order of President Ezeta, and taken to the capital of that country. I understand that he will be permitted to proceed to the United States.

General Ortiz, who commanded the Nicaraguan troops, proved himself a level-headed, self-contained, and humane commander.

I have, etc.,

LEWIS BAKER.

POLITICAL SITUATION IN NICARAGUA.

Mr. Baker to Mr. Gresham.

No. 121.]

LEGATION OF THE UNITED STATES,
Managua, Nicaragua, October 24, 1893.

(Received November 13.)

SIR: I carried out my intention of leaving San Jose, Costa Rica, on the evening of the 18th, reaching Punta Arenas on the evening of the 20th. I sailed from there on the following morning by Pacific Mail steamer and arrived in Corinto Sunday afternoon, the 22d.

At that place I found a very uneasy condition of public feeling. The air was full of rumors of an impending revolution and reports that General Zelaya had assumed dictatorial powers and has placed in confinement or banished a large number of prominent citizens of the opposition party. I was also shown a copy of a decree, of which I inclose a translation.

The main points of this decree, issued by the Constituent Assembly, are to suspend individual guarantees, to establish martial law, to empower the President to raise forced loans, and to authorize him to imprison or banish those convicted or suspected of intention to change the present order of things.

I arrived in Managua last evening, and this morning had a conference with President Zelaya. He assured me that but five citizens in all—two from this place and three from Granada—had been placed under arrest, and I found this statement to be correct. The President's explanation of the reasons for the decree was that a large number—between 3,000 and 4,000—of arms were missing, and were thought to be secreted with a view of being used in an attempt to overthrow the present Government. He claimed also to have strong evidence of the existence of a conspiracy intended for the destruction of the present peaceful condition of things.

In the same conversation the President intimated that the purpose of the administration was to place an export tax upon coffee, as has recently been done in Costa Rica. He also assured me that in levying the forced loan which is provided by the decree, Americans and other foreigners doing business in this country would be exempt.

It has been rumored that the constituent convention would provide, in the new instrument, that all foreign citizens should take the oath of allegiance to this country, and should agree not to call upon their home Government for protection. This the President denies absolutely, but explains that hereafter all persons entering into contracts with this Government for the purpose of doing Government work, would be required to enter into such an agreement. He assured me also that it is the earnest wish of the Government to encourage the immigration of enterprising people of means who are willing to engage in the development of the country, and that every reasonable encouragement would be held out to such.

I beg, etc.,

LEWIS BAKER.

[Inclosure in No. 121.—Translation.]

DECREE OF OCTOBER 19, 1893.

The Constituent Assembly:

Whereas it has been discovered that plans are being made for the purpose of destroying public order and that the executive must be vested with powers required by existing conditions, the assembly decrees:

ART. 1. Individual guaranties are suspended.

ART. 2. The executive power shall be authorized to exact forced loans from private parties, as well as general ones, and to fix the method and time in which they are to be paid.

ART. 3. Persons committing any of the crimes mentioned in article 635 of the Military Ordinances shall be subject to the military authorities.

ART. 4. The executive power shall be authorized, in accord with the council of ministers, to place in confinement or to banish any person convicted or suspected of plans or projects which have for their object the change of public order.

ART. 5. The executive power is also authorized to legislate in matters relating to war, finance, and public works.

ART. 6. In case the loan mentioned in article 2 should be general, no quota shall be assigned to persons owning less than \$5,000 besides their dwelling house.

ART. 7. The present law shall be in force from the time of its promulgation, and shall continue in vigor until the new fundamental law shall have become obligatory; the executive power is authorized, if he deems it advisable, to reestablish the enjoyment of the suspended guaranties.

To the executive power. Hall of the sessions of the National Constituent Assembly of the Republic, Managua, October 19, 1893.

FRANCISCO BACA,
Presiding Deputy.
AG. DUARTE,
Secretary.
T. GUZMAN,
Secretary.

AUTHORITY OF DIPLOMATIC OFFICERS TO CELEBRATE MARRIAGES.

Mr. Baker to Mr. Gresham.

No. 199.] LEGATION OF THE UNITED STATES,
Managua, January 22, 1894. (Received February 23.)

SIR: Captain T. W. Tucker, commander of the *Victoria* on Lake Nicaragua, has applied to me to perform the marriage ceremony for himself and a young lady of this country. Both are Americans and Protestants. Captain Tucker informs me that there is no ordained Protestant minister or other person authorized to conduct a marriage ceremony in Nicaragua other than Catholic clergymen.

Can you authorize me to perform this ceremony?

I have, etc.,

LEWIS BAKER.

Mr. Uhl to Mr. Baker.

No. 126.] DEPARTMENT OF STATE,
Washington, February 24, 1894.

SIR: I have received your No. 199, of 22d ultimo, relative to the application made to you by Captain T. W. Tucker, commander of the *Victoria*, on Lake Nicaragua, to perform a marriage ceremony.

This Department is not competent to authorize you to perform the marriage ceremony, even where both the parties are citizens of the United States. It is essential that marriages of American citizens abroad shall be performed according to the laws of the country where the marriage takes place. In this connection you may consult the circular of February 8, 1887. (F. R., 1887, p. 1133.)

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

RECIPROCITY ARRANGEMENT.

Mr. Guzman to Mr. Gresham.

[Translation.]

LEGATION OF THE REPUBLIC OF NICARAGUA,
Washington, January 9, 1895.

SIR: I have received instructions from my Government to state to your excellency that, in view of the present tariff law of the United States, Nicaragua considers abrogated by said law the arrangement of commercial reciprocity concluded between the two countries, and that consequently it will henceforth be regarded as nonexistent.

In giving this information to your excellency, I have the honor to renew to you the assurances of my highest consideration.

H. GUZMAN.

Mr. Gresham to Mr. Guzman

DEPARTMENT OF STATE,
Washington, January 12, 1895.

SIR: I have the honor to acknowledge receipt of your note of the 9th instant, and to accept the notification therein made that your Government considers the reciprocity arrangement between the United States and Nicaragua abrogated by the existing tariff law of the United States.

Accept, etc.,

W. Q. GRESHAM.

FINANCIAL SITUATION.

Mr. Baker to Mr. Gresham.

No. 412.]

LEGATION OF THE UNITED STATES,
Managua, Nicaragua, October 11, 1894.

(Received November 3.)

SIR: The financial condition of Nicaragua has been, for some time past, a source of anxiety, as well as inconvenience, to the public officials of the State. It is understood that the country felt itself unable to pay the semiannual interest due on July 1 to its foreign bondholders, although the sum was not large, amounting to but £8,500 sterling. The Government treasury is empty, and money must be had to meet current obligations. The revenues from every source are already anticipated and mortgaged for some time to come. In this dilemma, the Government sought a home loan of \$500,000 to tide over, but they had no security to offer, and their naked credit did not attract investors; especially in view of the fact that payment had been suspended upon the outstanding custom-house bonds, of which there are about \$428,000 unliquidated.

These bonds were issued three years ago, in 1891, by the Sacasa administration, and were sold at 85 cents on the dollar. They bore 12 per cent interest per annum on their face value, and were received at par in payment for customs dues to the extent of 40 per cent of those dues; 40 per cent was paid in cash, and a premium of 20 per cent was

credited to the importer as "benefits." In other words, supposing I hold one of these bonds whose face value is \$100. Upon this the accumulated interest is now \$38; interest and principal \$138. I go to the treasury to pay my import duties and present this bond. My rebate amounts to \$27.60, being 20 per cent upon the principal and interest; then, with my credit of 40 per cent on the face value, I pay into the treasury but \$32.40 in settling my \$100 of dues, and receive a credit on my bond of \$40, leaving it still worth, for revenue purposes, \$98. In using this same bond in the next transaction, I am again entitled to my premium or rebate of 20 per cent.

The Government finding itself pressed for cash with which to pay their ordinary expenses, announced that, until the year 1896 at least, these bonds would no longer be received; that all dues to the Government must be paid in cash.

In addition, the Government announced that unless a loan could be negotiated they would be compelled to make an issue of paper money.

The two announcements created great consternation in commercial and financial circles. A meeting of the business men of the country was called at Managua for consultation. The conference was held on the 5th and 6th instant, and the situation was carefully gone over. The result was the Government agreed to take up the outstanding customs bonds, adding to their face all the benefits, privileges, and interests, for which a new bond would be issued. The face of the new bond will show a value of \$2.056 for each \$1 of the face of the old bond for which the Government received 85 cents. Under the agreement with the merchants these new bonds are to bear 6 per cent interest, and are to be received for customs dues to the extent of 30 per cent of such dues, 70 per cent being payable in cash. This conversion swells this class of indebtedness of the Government to about \$877,000.

It was also agreed that the Government will issue \$500,000 of paper money, which shall be received for all Government dues, a premium of \$5 to be allowed on each \$100 paid into the treasury in this currency. The Government further agrees to call this money in and cancel it at the rate of \$25,000 per month, commencing January 1, 1896.

It is noted, however, that the Government has not agreed to limit the issue of paper money to \$500,000; but it announces that, unless the loan of \$500,000 can be negotiated, it will probably be forced to make a second issue of \$500,000. As a matter of fact, it is ascertained that an edition of \$1,000,000 has been printed and is only awaiting the signatures of the proper officers.

Bonds to the amount of \$300,000, gold, were some time ago issued, pledging the export coffee tax for the next year in payment; and these bonds were recently negotiated in Belgium in exchange for rifles and other munitions of war. New fortifications are also to be erected in the vicinity of Managua.

The present export tax on coffee is 2 silver soles per 100 pounds. The next year's crop is estimated at about 150,000 sacks of 100 pounds each. As silver is now at a heavy discount, it is understood among the merchants here that the present export coffee tax is to be increased to \$2, gold, per 100 pounds, in order to meet the obligation above noticed. The Government has not, however, taken official action on this point.

Going back a couple of years, a year or so after the original issue of the custom-house bonds, the Government, finding the amount of cash which was coming into the public treasury small, conceived the idea of increasing it by making a large increase in the import duties. The

increase resolved upon was 100 per cent. But this proved to be a great disappointment. It was another case of inordinate blind greed devouring the goose which had been giving up golden eggs. Importations fell off to nothing for many months, and have never recovered anything like their former volume. People have learned to do without many articles of import, but no home industry has been developed thereby except the manufacture of intoxicating liquors.

This measure has, therefore, proved to be neither a revenue measure nor one of protection to any valuable home industry, notwithstanding the very liberal "rebates" and "benefits" allowed to merchants. The merchants themselves are not altogether guiltless, for the reason that, in spite of the extremely liberal "drawbacks" allowed them at the custom-house by the Government, they immediately marked up their goods to "high-water mark" on the passage of the bill increasing tariff duties, and consequently their sales of imported goods have been much lighter than would otherwise have been the case.

I have, etc.,

LEWIS BAKER.

Mr. Baker to Mr. Gresham.

No. 420.]

LEGATION OF THE UNITED STATES,
Managua, Nicaragua, October 24, 1894.

(Received November 13.)

SIR: In my No. 412, of October 11, 1894, I gave you an account of some financial changes which this Government proposed, for the benefit of its treasury.

After the lapse of a number of days the Government concluded that the basis for the liquidation of certain custom-house bonds which had been agreed upon at a conference of the merchants and other business men and the Government could not be carried out; and the latter sent out invitations to the former, inviting them to a second conference to be held at the palace on the evening of the 18th instant, in order to reconsider the matter.

It appears that very few of the bondholders attended this conference; and I think none of the foreign citizens, who happen to be in possession of the larger share of the bonds.

At this meeting the Government announced its conclusion that, in issuing the new bonds in liquidation of the old, it would not recognize the "bonuses" and "benefits" guaranteed by the laws authorizing the original issue, but would include only the principal and accumulated interest. Therefore, the new bond will represent 100 cents principal and 38 cents interest—\$1.38 instead of \$2.05, on the face value of the original bond, as at first agreed. The merchants are much stirred up over this action and express deep dissatisfaction.

A peculiarity of the action of the Government in this regard is found in their first declining to receive these bonds for 40 per cent of the customs, as provided for in the law authorizing their issue—cash only would be received; and when the merchants protested against this breach of contract and faith, they now declare that after the 1st of next March 30 per cent of all customs must be paid in these bonds, whether the merchant has the bond or not. All cash will not be received. The bonds are held in few hands.

I have, etc.,

LEWIS BAKER.

[Inclosure in No. 420.—Translation.]

The President of the Republic decrees:

ART. 1. To name the last day of the present month for the liquidation and conversion of the custom-house bonds for obligations against the treasury. In the liquidation, the principal and interest only will be included.

ART. 2. From the 1st of next March, the general treasury will indispensably require the payment of 30 per cent of the total amount of the policies (*pólizas*) in said obligations.

ART. 3. The bonds which are converted from now until the last of this month will be received as obligations in payment of the policies liquidated since the 20th of September last, at the rate of 10 per cent, the remaining 90 per cent to be collected in cash.

ART. 4. Orders against the general treasury, which may be received in 20 per cent cash payment of the policies, will [be] liquidated the last day of next February, and the remainder will be recognized and paid as a debt of state.

ART. 5. Bonds which may not be converted during the present year will be paid in legal money from the 1st of March, 1896, by a drawing of the numbers which may not have been entered in the conversion of the bonds up to the last of December of the present year, and at the rate of \$25,000 monthly, to be liquidated according to the manner which the National Assembly may designate.

ART. 6. On the 21st instant, the minister of finance will commence the conversion according to the provisions of this reglamentary law, and he shall take all prudential measures which he may see fit.

ART. 7. From the 1st of next December, 10 per cent or more must be paid in legally coined silver for the value of the policies which exceed \$200. But this will be rebated to those who pay said customs dues in national treasury notes.

Let it be known. Managua, October 19, 1894.

J. SANTOS ZELAYA.

The Minister General,
BACA, H.

FORCED CONTRIBUTIONS.

Mr. Baker to Mr. Gresham.

No. 161.]

LEGATION OF THE UNITED STATES,
Managua, December 5, 1893. (Received January 3.)

SIR: I desire to call your attention to the case of Mrs. Josefa Jacoby, of Granada, widow of an American citizen who spent long years in Nicaragua and acquired considerable property. Mrs. Josefa Jacoby was called upon to pay a forced contribution under decree of August 3. This was levied for the purpose of partly paying the expenses of the war just closed, and the administration has insisted upon the payment of it, calling among others on Mrs. Jacoby for her quota. She remonstrated to the ministry of hacienda and received in reply the communication of which I inclose a copy and translation. As you will see, the claim is made by the mini ter in charge that the fact of her being the widow of an American citizen does not exempt Mrs. Jacoby from the payment of this tax.

Mrs. Jacoby is a native of Nicaragua, but I presume became a citizen of the United States by her marriage to Mr. Jacoby, and has not forfeited her rights as such by marrying again.

The new constitution containing articles subjecting the foreigners resident in the Republic to the same taxes imposed upon the citizens, referred to in my communication No. 132, of November 1, has not been promulgated as yet, but I fear that even under the old constitution the administration may endeavor to secure forced loans from foreigners; and I should like to know in an emergency the position which the Department wishes me to take in cases of this nature, in view of our treaties with this country. Awaiting your instructions,

I beg to remain, etc.,

LEWIS BAKER.

[Inclosure in No. 161.—Translation.]

Mr. Callejas to Mrs. Jacoby.

MINISTRY OF HACIENDA, REPUBLIC OF NICARAGUA,
Managua, November 21, 1893.

I have before me your petition of the 17th instant, in which you ask to be exempted from the payment of the contribution which, in accordance with the decree of the 3d of August last, the authorities of Granada demand of you. The Government regrets not to agree with you. It thinks that the fact mentioned—of your being the widow of an American citizen—does not exempt you from the payment of the contribution aforesaid, and I beg therefore that you will pay in the shortest time possible the quota assigned to you. I answer thus your courteous communication and remain, etc.,

The minister in charge of the department,

CALLEJAS.

Mr. Baker to Mr. Gresham.

No. 164.]

LEGATION OF THE UNITED STATES,
Managua, December 6, 1893. (Received January 3.)

SIR: Referring to my communication No. 161, of December 5, I beg to say that I received last night the following telegram from Mrs. Jacoby:

GRANADA (11.45 A. M.).

LEWIS BAKER, *Minister of the United States:*

I am being forced to pay contribution, and fine, an escort being placed at my door and forbidding all communication. Mr. Low, consul, told me he had passed at the ministry asking them to suspend until Washington heard from. I beg you will protect me. Answer.

The governor telegraphed to the ministry, and they answered that before all I am a Nicaraguan citizen.

JOSEFA JACOBY.

This morning I accompanied Mr. Low, our vice-consul, to the Presidential palace to make inquiries in the matter. I saw the President, who, upon hearing of the object of our errand, sent for his minister of foreign relations, Mr. Madriz. Mr. Low explained that Mrs. Jacoby's husband was an American citizen; that upon his death he left her in charge of his estate, equally divided between her and her sons; that she is the curator of her sons' property, and that recently, when a forced contribution of \$600, for purposes of paying the expenses of a civil war, was demanded of her, she appealed to him for protection against the demand. Mr. Low had then gone to see the minister of finances and was promised verbally that the matter would be left in abeyance until he could get instructions from Washington. Notwithstanding that promise the authorities had insisted upon the payment of the amount, and had pursued for that purpose the means related in Mrs. Jacoby's letter to me.

Mr. Madriz said that above all things Mrs. Jacoby was a Nicaraguan; that by the death of Mr. Jacoby the legal fiction under which she had acquired the nationality of her husband, and which was recognized by some nations but denied by others, was abrogated, and that she naturally returned to her antenuptial conditions of nationality and citizenship, as far as a woman can be a citizen.

Mr. Low and I called attention to the fact that in the United States a woman is not supposed to lose the privileges acquired by her mar-

riage on account of the death of her husband; on the contrary, that in the case of pensioners, for instance, the widow enjoys the pension of her deceased husband until she renounces the privilege by a new alliance; that the United States do not recognize the tenets that nationality of birth is an unalterable condition, and that the American ideas of naturalization are beginning to be recognized the world over.

Mr. Madriz cited the case of a woman claiming exemption from certain contributions in 1869, which, he said, was ably argued on Nicaragua's side by Mr. Tomas Ayon, then minister of foreign affairs, and which was the occasion of a diplomatic incident between the United States and Nicaragua. In that case the husband was living.

After further conversation the President offered that Mrs. Jacoby deposit the money under protest, but, not satisfied with that, we insisted that the case remain *in statu quo* until definite instructions could be had from the Department to establish a precedent for our guidance. This we obtained at last, and I now beg to ask your decision in the matter.

I have absolute documentary evidence that Mr. Jacoby was an American citizen by naturalization. I have her certificate of marriage. She has just handed me a letter of a former minister of gobernacion of Nicaragua in reply to a protest made by her against the payment of a similar tax in 1885, a translation of which I send. The argument used then was similar to the one used at present, that she ceased being an American citizen by the death of her husband. But the authority of Carlos Calvo, vol. 2, 1868, was quoted as follows (p. 538): "Modern jurisprudence has accepted in all its parts the logical and undisputable maxim of the Roman code which assigns to the married woman as legal domicile that of her husband, whose name and rank she takes, and which establishes, therefore, that the widow retains it unless she should contract a new marriage, in which case she will acquire that of her new husband," and the demand was withdrawn.

He also hands me a statement signed by Don Alejandro Chamorro, prefect of Granada, to the effect that "the undersigned prefect of the department states that he exempted Dona Josefa Mayorga, widow of Jacoby, from the contribution, because the latter has proved that she is a North American citizen. Granada, May 21, 1893. The Prefect: Alejandro Chamorro."

I have asked Mrs. Jacoby to notify me in case she should be subjected to further vexations, but I hope that the case will remain *in statu quo* until I may hear from you. But should she be interfered with again, I shall make an energetic protest, as from present lights I can not fail to recognize her right to the protection of our Government.

I beg to remain, etc.,

LEWIS BAKER.

Mr. Baker to Mr. Gresham.

No. 169.]

LEGATION OF THE UNITED STATES,
Managua, December 9, 1893. (Received January 3.)

SIR: I wish to add, in connection with my communications No. 161 and 164, that I received yesterday a letter from Mrs. Jacoby, the translation of which is as follows:

Mr. LEWIS BAKER, Managua:

MASAYA, December 8, 1893.

MY DEAR SIR: I concluded to remain in this city until I should know whether or not they had given orders to suspend the loan. Last night my son telegraphed me that the governor of police had come yesterday to demand the contribution. I beg

that, to spare my suffering an outrage, you will send me a statement of the minister to the effect that he has given orders for the suspension, or that you will indicate to me what I should do.

With the highest consideration, I remain, etc.,

JOSEFA JACOBY.

The day of Mrs. Jacoby's visit, viz, the 6th, I gave her the following note:

MANAGUA, NICARAGUA, *December 6, 1893.*

MY DEAR MADAM: In an interview this morning in relation to the case which you have submitted to this legation, viz, the demand from you, as an American citizen, of a forced loan, His Excellency the President agreed that no further demand shall be made upon you until the matter may be adjusted by instructions to me from Washington.

This you may use and show to whom it may concern; and should you be subjected to further trouble please telegraph me at once.

Yours, respectfully,

LEWIS BAKER.

I reply thereto to Mrs. Jacoby to-day as follows:

MANAGUA, NICARAGUA, *December 9, 1893.*

MY DEAR MADAM: I beg to acknowledge the receipt of your favor of December 8, and in reply thereto I will say that the note which I gave you on the day you were here is the only document I can furnish you, stating that His Excellency the President has agreed to leave the matter of the forced loan exacted from you in abeyance until I may receive definite instructions from Washington. I have entire confidence that the President will give instructions in order that this agreement may be complied with, and that, therefore, no trouble will be caused you until I may get a reply from the State Department.

I beg to remain your obedient servant,

LEWIS BAKER.

This morning I have verbal and extra-official notice that the contribution from Mrs. Jacoby will be collected, and that it is claimed the contribution can be levied on every foreigner; I am also informed that the Government does not want to recognize the sons of Mrs. Jacoby as American citizens.

Should this be the case, I shall make a most energetic protest, basing my action on paragraph 146 and 147 of the Consular Regulations of 1888 and on Department dispatch No. 15, of June 16, taken in connection with the treaty of 1867 between the United States and Nicaragua, and the preambles of the decrees of July 24 and August 3, under which said loan is collected, and which read as follows:

Decree of July 24, distributing throughout the Republic a forced loan of \$500,000.

Whereas the ordinary resources are not sufficient for the maintenance of the forces raised for the purpose of reestablishing the public order subverted in Leon; and whereas it is indispensable to provide for those expenses by means of a forced loan, the President of the Republic decrees * * *

Decree of August 3, by which the forced loan decreed on the 24th of July last is reduced to \$200,000.

Whereas the provisional Government, presided over by General Joaquin Zavala, made with the Bank of Nicaragua a contract for a loan of \$100,000, to be paid by the product of a forced loan of \$500,000, decreed on July 24;

Whereas the ordinary revenues of the nation are not sufficient to comply with this engagement in the short period stipulated, nor to finish to pay the extraordinary expenses incurred by the war; and whereas, on the other hand, the forced loan for the total amount of \$500,000 is not necessary and should be reduced to what is strictly indispensable, the Junta of Government, in use of its faculties decrees * * *

I beg to remain, etc.,

LEWIS BAKER.

Mr. Baker to Mr. Gresham.

No. 178.]

LEGATION OF THE UNITED STATES,
Managua, December 22, 1893. (Received January 12, 1894.)

SIR: I wish to report further proceedings in the matter mentioned in my dispatches Nos. 161, 164, and 169.

On December 11 Mrs. Jacoby called in person on President Zelaya with my letter of the 9th to her, a copy of which I inclose¹. After that interview she addressed me the note¹ of which the inclosed documents are respectively a copy and a translation. According to them the President refused to comply with the promise made a few days before that he would await the answer from Washington before insisting upon the collection of the contribution from Mrs. Jacoby.

Under date of December 14 Mrs. Jacoby wrote me a communication, a copy and translation of which are inclosed herewith. From it you will notice that armed force was used to compel her to pay the contribution, which she did under protest before notary. (See inclosures.)

I therefore made the protest to this Government, a copy of which I inclose, and, in compliance with Mrs. Jacoby's request, I sent her a letter advising her of the course to pursue in the future in reference to those forced war loans.

The minister of foreign affairs has merely acknowledged the receipt of my communication so far, and advised me that he is awaiting instructions from the President on the subject.

I submit these documents for your consideration, and respectfully request your instructions on the subject.

I have, etc.,

LEWIS BAKER.

[Inclosure 1 in No. 178.—Translation.]

Mrs. Jacoby to Mr. Baker.

GRANADA, December 14, 1893.

MY DEAR SIR: Day before yesterday, between 2 and 3 in the afternoon until 8 o'clock at night, an agent of police with eight soldiers was stationed at my house to compel me to pay the contribution, using force therefor, as I wanted to close my door, and he forbade my doing so. He came into the inner part of my house looking for some means of communication with the outside; he asked for the keys to open an inner door which I have, and which communicates with another independent house; he closed all my means of communication, and forbade the entrance of visitors or telegrams and the exit of any correspondence, and finally attempted to prohibit the entrance of provisions. The governor came. I spoke to him in a pleasant manner, convincing him that I had no intention of leaving the house, and I offered to go the following day at 1 o'clock to hand him the contribution, which I did, making at the same time the protest which I have the honor to inclose. I have witnesses for everything which I have related.

I expect to receive at any moment a notice of the second contribution.

Please advise me if the protest is in due form, and whether I should make another each time payments are demanded of me, and if I shall suffer the imposition of a guard or pay before being forced to it by those means.

With all consideration, I remain, etc.,

JOSEFA JACOBY.

¹Not printed.

[Inclosure 2 in No. 178.—Translation.]

Before me, Alonzo Peralta, appeared Doña Josefa, widow of Jacoby, aged 55, a resident of this city and employed in domestic occupations, who said that she comes before me to make formal protest to the representative of the public treasury of this city against the act of the supreme Government in imposing upon her a forced contribution, she being an American citizen as the widow of the American citizen William Jacoby; that she ignores and refutes, therefore, the right under which said contribution has been demanded from her twice; that she is going to pay solely on account of the use of main force and to avoid personal vexations the amount of 600 pesos fuertes; but protesting once, twice, three times, and as many times as may be necessary in law, reserving the right to claim the amounts exacted and the damages, and to preserve always the character of American nationality, therefore that of foreigner in Nicaragua.

Don Alberto Reyes, of age, of this city, bookkeeper and administrator of public revenues of this district, in representation of the public treasury, being present, said that he does not admit the protest made to him, because Mrs. Jacoby is before all things a Nicaraguan, and therefore subject to the laws of the country; that, therefore, he refutes the present protest and formalizes the collection made from Mrs. Jacoby, because she is neither considered nor recognized as a transient or resident foreigner, but as a Nicaraguan.

So said the parties to this in presence of the witnesses, Messrs. Segundo Almazer de la Rocha and Don Francisco Tomas Jimenez, both of age, amanuenses, residents of this city, and with the remaining qualifications under the law, without any kinship to the undersigned notary, before whom I read this protest to the parties thereto. They averred that it is written in accordance with their wishes, and all sign with me. Testimony whereof I give in the city of Granada on the 13th day of December of 1893, at 1.45 in the afternoon. Amended. Supreme Government. Don. Interlineation r. Approved.

JOSEFA JACOBY,
ALB. REYES,
A. DE LA ROCHA,
F. TOMAS JIMENEZ.

Before me:

ALONZO PERALTA, *Notary*.

This took place before me, from folios 82 to 84 of my protocol of the present year, and I seal and sign it in the city of Granada, Republic of Nicaragua, December 13, 1893.

[SEAL.]

ALONZO PERALTA.

[Inclosure 3 in No. 178.]

Mr. Baker to Mr. Madriz.

SIR: I am in receipt of a communication from Mrs. Josefa Jacoby, a copy of which I beg to inclose, together with a copy of a protest which she has filed at this legation.

From these documents your excellency will see that Mrs. Jacoby has been compelled by the authorities to pay a contribution to a forced loan, raised under a decree of the junta of Government of Nicaragua of August 3, 1893.

From documentary evidence in my possession Mrs. Jacoby is a citizen of the United States, and as such entitled to all the privileges and immunities accruing to American citizens under the treaty of 1867, which provides "that the citizens of the United States, residents in the Republic of Nicaragua, shall be exempted from forced loans in time of war."

The decree referred to above mentions in its preamble that the forced loan levied upon Mrs. Jacoby is "to finish to pay the extraordinary expenses incurred by the war," while the former decree of July 24, which said decree of August 3 modifies as to amount, also recites in its preamble that—

Whereas the ordinary resources are not sufficient for the maintenance of the forces raised for the purpose of reestablishing the public order subverted in Leon; and whereas it is indispensable to provide for those expenses, etc. * * *

I beg to submit, therefore, that the forced loan which has been collected from Mrs. Jacoby is, within the clear intent of the treaty, a war loan, from which American citizens are exempt; and under general and specific instructions from my Government to that effect, and in its name, I hereby protest against the action of your excellency's Government in collecting said loan from Mrs. Jacoby, as well as against the forcible means used by the authorities of Granada in its collection.

I beg to ask also that the amount collected be refunded to Mrs. Jacoby, and remain, etc.,

LEWIS BAKER.

[Inclosure 4 in No. 178.]

Mr. Baker to Mrs. Jacoby.

LEGATION OF THE UNITED STATES,
Managua, December 16, 1893.

MY DEAR MADAM: I am in receipt of your communication of the 14th, and note the vexations to which you have been subjected, as well as the fact that you have made the payment of \$600 under a protest, a copy of which you inclosed.

I have filed that paper, and have made a formal protest to the Government of Nicaragua against the act of collecting war loans from an American citizen. I have also asked that the money be refunded to you.

It is difficult for me to comply with your request for specific instructions as to your action in the future payments, but as the new loan of November 25 is also a war loan, according to its preamble, you are likewise exempted from it, and can therefore refuse to pay it, letting the authorities levy on any of your property for its collection. But if you choose to pay it, a formal protest must by all means accompany each payment, and the document sent me is in proper form therefor.

I beg to remain, etc.,

LEWIS BAKER.

Mr. Baker to Mr. Gresham.

No. 184.]

LEGATION OF THE UNITED STATES,
Managua, December 31, 1893. (Received January 12, 1894.)

SIR: I beg to transmit herewith an affidavit made before me by Mrs. Josefa Jacoby as to the treatment she suffered at the hands of the authorities of Granada in the collection of a second forced loan imposed by decree of November 25.

In connection with my former communications, No. 164 and 178, I beg to say that the inclosed letter of Mr. Luciano Gomez, formerly minister of hacienda, and brother-in-law of Mrs. Jacoby, shows that the President on the 12th instant renewed to him the promise made to me that the collection of the forced contribution from Mrs. Jacoby would be held in abeyance until advices could be received from Washington, and notwithstanding this promise the forcible means related in Mrs. Jacoby's affidavit were resorted to afterwards, and pending the decision.

The preamble of the decree of November 25, 1893, referred to above, reads as follows:

In prevision of a conflict between this Republic and that of Honduras, on account of the hostile attitude against Nicaragua assumed by the Government of that nation, and as it is peremptorily necessary to prepare in time for the defense of the national honor and sovereignty; and it being indispensable, for that purpose, to secure the necessary means by a forced loan, because the state of depletion of the public treasury does not permit their being drawn from the funds of ordinary revenue, in use of the faculties conferred by decree of the Constituent Assembly of October 19 last, the Government decrees, etc.

I have, therefore, taken this decree to cover, within the clear intent of the treaty of 1867, a forced war loan which should not be collected from American citizens.

I have, therefore, made another protest to the Government against this new collection, a copy of which I beg to inclose.

All of this I beg to submit, with a request for instruction from the Department; and remain, etc.,

LEWIS BAKER.

[Inclosure 1 in No. 184.]

Affidavit of Mrs. Jacoby.

MANAGUA, December 25, 1893.

I, the undersigned, Josefa Jacoby, widow of William Jacoby, a citizen of the United States of America, resident in the Republic of Nicaragua, by these presents state and declare that on the 12th day of December of the current year I was notified that the "distributing committee (junta calculadora) of Granada had levied from me the sum of \$1,666 as a forced loan, to be paid in accordance to the decree of November 25 of the current year, in three parts; the first part twenty-four hours after the notice, the second eight days thereafter, and the third within two weeks, at the office of said committee. Granada, December 11, 1893. Signed: Trinidad Ccón, Manuel Lacayo, Juan I. Urtecho, Salvador Cuadra." On the 13th I advised the vice-consul of the United States at Managua of this new contribution imposed upon me. On the 20th of this month two agents of the police came into my house and penetrated into my sleeping room, where I was ill in bed. They notified me that I should pay them the third part of the contribution, viz, \$555.33. I begged them to let me do so the next day, when I could do so under protest before notary public, as I considered myself exempt from such loans. They refused to do so, and added that I must draw at once for that amount, because otherwise they would not allow anything to eat to come into the room and that we could then die of hunger. As in the former instance, they really forbade all communication, and then, convinced that they would carry out their menace, I called two persons, Don Rafael Alegria and Miss Mercedes Alegria, to witness that I paid over the money under compulsion, and I signified this to the

committee in writing, advising them that I should make a formal protest as soon as I could appear before notary public. The agents took the money to the committee and a receipt was given to Don Rafael Alegria with the statement that they did not admit any protest.

This is the third time a squad of soldiers has been put at my house to force me to pay like contributions. The first time they remained outside; the second an agent entered the house and forbade my going out, receiving visits, correspondence, or telegrams or provisions, while eight soldiers remained outside and I was kept under strict supervision to prevent my escape. Of all this I can bring witnesses.

I certify to all related above as being true in all particulars.

JOSEFA JACOBY.

Witness:

LOUIS CHABLE.

Sworn to and subscribed before me, Lewis Baker, minister of the United States of America at Managua, by Mrs. Josefa Jacoby, who is personally known to me, and whose signature is also known to me.

In testimony whereof I have appended hereto my name and the seal of this legation, this 25th day of December, 1893, at Managua, Nicaragua.

[SEAL.]

LEWIS BAKER.

[Inclosure 2 in No. 184.—Translation.]

Mr. Gomez to Mrs. Jacoby.

MANAGUA, December 13, 1893.

DEAR SISTER-IN-LAW: From the time I arrived here I took the opportunity to speak with Gen. Zelaya and most of the ministers, to advise them that you had been made a prisoner in your house on account of the contribution, and after discussion of the point it was decided that the promise made to the American minister through his secretary would be complied with, viz, to await the six weeks. An order to that effect was given last night.

So keep quiet and await the answer which the minister will receive. Nothing else of importance.

Your affectionate brother-in-law,

LUCIANO GOMEZ.

Mr. Baker to Mr. Gresham.

No. 185.]

LEGATION OF THE UNITED STATES,
Managua, December 31, 1893. (Received January 12.)

SIR: I beg to transmit for your consideration a copy and translation of the reply of the minister of foreign relations of Nicaragua to my protest of December 15, against the collection of a forced war loan from Mrs. Jacoby, an American citizen, a copy of which was sent in my dispatch No. 178, of December 22.

Awaiting your instructions on the subject,

I beg to remain, etc.,

LEWIS BAKER.

[Inclosure in No. 185.—Translation.]

Mr. Madriz to Mr. Baker.

MINISTRY OF FOREIGN RELATIONS,
 REPUBLIC OF NICARAGUA,
Managua, December 26, 1893.

MR. MINISTER: I have taken the necessary information in regard to the claim of Mrs. Josefa Mayorga, widow of Jacoby, and it results therefrom that the local junta of Granada, charged with the repartition of the loan decreed lately, assigned to her the quota considered in proportion to the properties of the said lady, because she is a native and a resident of Nicaragua and has not lost her character of daughter of the country by any methods recognized by our laws.

I have the honor to answer thus your excellency's communication of the 15th of this month, and expressions of high esteem and respect I subscribe myself, etc.,

JOSE MADRIZ.

Mr. Gresham to Mr. Baker.

No. 117.]

DEPARTMENT OF STATE,
Washington, January 24, 1894.

SIR: I have received your Nos. 161 of 5th, 164 of 6th, 169 of 9th, 178 of 22d, and 184 and 185 of 31st ultimo, relative to the collection by Nicaragua of a forced loan from Mrs. Josefa Jacoby, the widow of an American citizen, a resident of Granada.

It is your duty, as indicated in Department's instruction No. 15 of June 16 last, to enter an emphatic protest against the collection from citizens of the United States resident in Nicaragua of any forced contribution of the character indicated.

Mrs. Jacoby, by her marriage to a citizen of the United States, undoubtedly acquired the nationality of her husband by virtue of section 1994, Revised Statutes. After his death the widow, if dwelling in the United States, might retain American citizenship. But, being a native of Nicaragua and continuing to reside in the country of her origin, there is room for contention that she has resumed her original nationality. She has not since her husband's death, so far as is known to the Department, manifested any intention of coming to the United States; and it is not believed that there is any duty on the part of this Government to intervene to secure her immunity from obligations imposed upon her by the country of her birth and continued domicile.

I am, etc.,

W. Q. GRESHAM.

NICARAGUAN CANAL.

Mr. Guzmán to Mr. Gresham.

[Translation.]

LEGATION OF THE REPUBLIC OF NICARAGUA,
Washington, April 30, 1894.

SIR: I have the honor, referring to our conversation of this morning, herewith to transmit to your excellency copies of the documents which

I showed you, and which relate to the important question of an interoceanic canal through Nicaragua.

My Government, being anxious to see that great highway between the two oceans opened up for navigation as speedily as possible, always views with the greatest satisfaction the interest which the United States have for a long time manifested in the completion of that most important enterprise.

I reiterate, etc.

H. GUZMÁN.

[Inclosure.]

Translation of two paragraphs of a communication addressed to the legation of Nicaragua at Washington by the ministry of foreign relations of Nicaragua, under date of April 7, 1894.

MR. MINISTER: The U. S. minister in Nicaragua had a conference a few days since with the President and vice-president of the Republic, and with the undersigned, his object having been to state to the Government his views with regard to the canal company.

The minister said that he thought that the said corporation, in view of its present circumstances, could not accomplish the piercing of our isthmus, and that, as he understood that the U. S. Government did not consider it possible for it to associate its name with those of the promoters of that enterprise, in the accomplishment of the work, he desired to know whether the Government of Nicaragua, in case of the lapse of the Cardenas-Menocal contract, would be willing to enter into negotiations with the United States, with a view to settling the question of the construction of the interoceanic highway.

A true copy.

H. GUZMÁN.

WASHINGTON, April 30, 1894.

Mr. Gresham to Mr. Guzmán.

DEPARTMENT OF STATE,
Washington, May 1, 1894.

SIR: I have much pleasure in acknowledging the receipt of the note with which you have favored me under date of the 30th ultimo, and in which, referring to our conversation of that morning, you send me copies of the important canal documents of which we spoke, and express the anxious desire of your Government to see that great highway between the two oceans opened up for navigation as soon as possible, and its appreciation of the interest the United States have so long shown in the enterprise.

For myself, Mr. Minister, I can add little to what has been so ably and earnestly said on many occasions heretofore touching the deep conviction felt by this Government that the completion of the interoceanic canal under distinctively American auspices and in the interest of the independent States of this hemisphere and of the world's commerce is a necessity, the importance of which is shown to grow more vital with each passing year. In the President's judgment, the speedy realization of the work is one of the highest aims toward which the two Govern-

ments can move in friendly accord, and no effort will be wanting on our part to bring about so desirable a result, with due regard to all the vast interests involved therein.

Accept, etc.,

W. Q. GRESHAM.

Mr. Guzmán to Mr. Gresham.

LEGATION OF THE REPUBLIC OF NICARAGUA,
Washington, May 10, 1894.

SIR: Pursuant to the conversation I had with your excellency on the 7th instant, I have sent to the President of Nicaragua a cablegram in which I state that the Government of the United States would be pleased to see that the utmost harmony may prevail between Nicaragua and the canal company, and that it would be much gratified if all proceedings against the said company were revoked.

I reiterate, etc.,

H. GUZMÁN.

Mr. Baker to Mr. Gresham.

No. 293.] LEGATION OF THE UNITED STATES,
Managua, June 5, 1894. (Received July 3.)

SIR: On Sunday, the 3d instant, I received your further cable instructions in regard to the Nicaraguan interoceanic canal, and on Monday morning I made an early call upon Mr. José Madriz, the minister for foreign affairs of this Government. There were present Mr. Román Mayorga Rivas, the subsecretary, and Gen. Daniel Macauley. Mr. Madriz had been out of the city for a week, and Gen. Macauley's letter addressed to the Government, a copy of which I here inclose, had just been referred to him for report. The minister informed us that he would take up the matter at once, and would very soon make a written report thereon to the President and cabinet.

A few minutes before leaving the legation I received from Capt. J. C. Watson, commander of the U. S. S. *San Francisco*, then at Colon, a cable message informing me that he had received copies of instructions, sent to me from Washington, dated the 12th and 24th of May, concerning the Argiello case, and that he was ready to assist with all his force. Unfortunately my latest Washington dates by mail were May 1, therefore I was in the dark as to the instructions referred to; but I assumed, for my purpose with this Government on this occasion, that they were something pretty perpendicular, containing a genuine American ring. Remarking upon Capt. Watson's cable and the supposed tenor of my instructions referred to, I said that it was to be deeply regretted that the recent course of Nicaragua toward Americans and American interests, both in the matter of the canal and in affairs at Bluefields and Rama, was of such a nature as to make a most serious impression at Washington of the apparent unfriendliness of this administration toward the United States, a great Government which is and desires to continue to be a sincere friend to Nicaragua.

You express to me, Mr. Minister, your friendship for the United States, and the President does the same; and then you jump on us with both feet and spit in our faces. Your action in the canal matter has advertised to all the civilized world your own lack of good faith and your indisposition to protect the capital that would come here and develop your naturally splendid country. Nothing is so sensitive as credit; not even capital is so timid, for credit—good faith—must go

before capital. This is the rock upon which capital builds. Your notice of the forfeiture of the canal concession, even though it be upon a frivolous ground and one not warranted and not founded in law, not only destroys the credit of the Interoceanic Canal Company, but it is the most ghastly stab under the fifth rib of the credit of your own Government which could be inflicted by the keenest Damascus blade.

Your Government will, I am sure, Mr. Minister, withdraw the offensive notice of forfeiture; but every hour's delay is dangerous. I feel authorized to say to you that President Cleveland, his Cabinet Ministers, and the Senatorial Committee on Foreign Affairs are all awaiting with deep concern the early and further action of the Nicaraguan Government, in both the canal and the pending troubles at Bluefields. This is evidenced by the presence of two powerful war steamers on your eastern coast. You must admit, Mr. Minister, when you reflect candidly, that the United States has been most forbearing and patient with your Government, and that their action toward you has been in marked contrast with the brusque manner in which some of your other good neighbors have dealt with you. I hope it is not true that you have failed to appreciate this kindly spirit, that you have misconstrued it, and that, therefore, you have ventured to treat us with a measure of contempt which is usually only accorded to an adversary who is sadly lacking in spirit. I am sure you could not have held this view, albeit your actions might be so construed.

Gen. Macauley then presented the case of the canal company to the minister in brief terms, and we withdrew.

I have, etc.,

LEWIS BAKER.

[Inclosure.]

Gen. Macauley to the Minister of Foreign Affairs.

HOTEL SUPONE,
Managua, Nicaragua, May 30, 1894.

In behalf of the Maritime Canal Company of Nicaragua, which holds your concession to construct the Interoceanic Canal, I have the honor to present to you the following facts:

Article 14 of the concession provides, in brief, that within three years from commencement of the work upon the Interoceanic Canal (October 8, 1889) the company shall construct the Tipitapa Canal.

For many reasons—some of them certainly not the fault of the company—the Tipitapa Canal has not been finished within the specified time.

On the 26th of April, 1894, the president of the Maritime Canal Company received in New York from Minister Horacio Guzmán a copy of a letter addressed on April 2 or 7, 1894, by Minister Gamez to the "Agent of the Interoceanic Canal Company" in "Granada," reading as follows:

NATIONAL PALACE, *Managua, April 7, 1894.*

To the Agent of the Interoceanic Canal Company, Granada:

In amplification of my communication of the 20th of September last, I have the honor of stating to you that the representative of Nicaragua in Washington, Dr. Horacio Guzman, has not carried into effect up to this date the instructions given him to sue the Interoceanic Canal Company in the courts of the United States for its failure to construct a canal on the Tipitapa River, as it agreed to do under article 14 of the contract entered into with this office on the 23d of March, 1887, because he did not want to render worse the sad condition of the company, which it was desired to help, hoping that it might rise from its present prostration; but the Government of Nicaragua, being now convinced that the rights of Nicaragua may be injured by a continuation of such a condition of affairs, and being convinced that the said contract

has already been forfeited by default in compliance with one of its principal stipulations, believes that it is the Government's duty to avail itself of article 55 of the said contract in order that a court of arbitration may decide about the point in dispute.

My Government, as I have before stated, declares as terminated the aforesaid contract, and protests that only for the purpose of adjusting itself to the provisions of the said contract it submits this point to the decision of arbitrators.

Therefore, it appoints as arbitrators on the part of the Republic, the lawyers Messrs. Buenaventura Selva and Augustin Duarte, and in case of the failure of any of them not acting, and any impediment that may arise from this time to the date on which the court may assemble, the lawyers Messrs. Modesto Barrios and J. Francisco Agnita will act in the order in which they are named.

I hope you will please acknowledge receipt of this present communication, because from this date will commence to run the four months that said contract grants to the company for the appointment of arbitrators on its part.

I am, etc.,

José D. GAMEZ.

The letter of September 20, 1893, to which the above letter refers, has not yet been received by our company, nor have we any knowledge of its contents, and Minister Gamez's letter above copied had lost nearly one month before we received even a copy—the original not having yet reached us.

And now, sir, in the most respectful and amicable manner, permit me to suggest that whatever may have been the fault of our company in the noncompletion of the Tipitapa Canal, the remedy sought to be applied by Minister Gamez is not feasible, has no existence in the concession itself, and I am certain will be pronounced by your friendly and honorable Government as untenable and to be withdrawn and canceled without delay.

Article 53 of the concession contains the five distinct and only grounds of forfeiture of this concession, not one of them being in default and not one of them bearing any relation to article 14 or to the construction of the Tipitapa Canal.

That the concession may contain many agreements and stipulations upon breach of which action or claim might rest, including article 14, is perhaps true; but, as said above, there are only five permitting the extreme penalty of forfeiture, and they are clearly and unmistakably set forth in article 53.

I purposely refrain from complicating this single, solitary question with any other in any form, omitting all argument, countercharge, or discussion of any other point as tending to direct attention from the remarkable sentence thus passed upon our company and its great work. I have full faith that your Government, in consideration of its friendly neighbor, the United States (whose good will and confidence our company also enjoys), will promptly remove this surprising obstruction, and permit us to go forward to thorough and rapid success upon the conditions of the concession as they actually exist.

We do not ask or suggest that you waive or abandon any right falling to you under the articles of the concession. We are ready, separately from the question of this attempted forfeiture, to consider in good faith and act upon any claim you may wish to present, whether under article 14 or any other, but we sincerely and respectfully protest that your sentence of forfeiture, where no forfeiture can lie, gravely damages our progress and tends in many ways to retard the prosperity of your own country, for whose fame and happiness you would gladly do so much.

I conclude by giving you the most profound assurances that all clouds, except this one, are dispelled from the company's horizon, and that the construction of the Nicaragua Canal now, without delay, is an absolute certainty.

But primarily we must be released as quickly as possible from the shadow of the mistaken conditions of the letter above referred to, and to that end I submit the petition to your Government.

Pardon me if I modestly suggest in conclusion, that a company which has paid you \$150,000 in gold and has expended over \$3,000,000 under your concession, might well invoke your kindly forbearance and its continuance under more serious faults than yet appear against us in Nicaragua.

Urging upon you that the emergency calls for your promptest action, I am, etc.,

DANIEL MACAULEY,
Agent of the Maritime Canal Company of Nicaragua.

MURDER OF WILLIAM WILSON.

Mr. Baker to Mr. Gresham.

No. 248.]

LEGATION OF THE UNITED STATES,
Managua, April 10, 1894. (Received May 15.)

SIR: I cabled you the news of the shooting of a Mr. Wilson, an American, by the Nicaraguan military governor at Bluefields. I had received no particulars. I called upon the authorities here for an explanation, and I inclose the response of the Government.

I have, etc.,

LEWIS BAKER.

[Inclosure 1.—Translation.]

Mr. Rivas to Mr. Baker.

NATIONAL PALACE,
Managua, April 3, 1894.

MR. MINISTER: The minister of the interior has addressed himself to this secretaryship informing it that the commissioner of the Mosquito Reservation has given him notice that on the 20th of last March, about 10 o'clock in the evening, Mr. Norberto Argüello, police inspector, temporarily in charge of the Government, seriously wounded the American citizen William Wilson.

In bringing to the knowledge of your excellency this deplorable incident, of which my Government has not, as yet, any details, it is my duty to manifest to your excellency that Mr. Argüello was immediately deposed, and that the commissioner appointed Col. Luis Cartin in his place, who will carry on the legal prosecution so that the culprit may be punished.

The Government on its part, desirous that full justice be administered in the affair, has sent, through the honorable minister of the interior, telegrams to San Juan del Norte and Bluefields, of which I inclose to your excellency an authorized copy.

I will not close this communication without deploring what has come to pass, and without manifesting that, as soon as the Government receives information which it has called for, I will again address myself to your excellency.

I am, etc.,

R. MAYORGA RIVAS.

[Inclosure 2.—Translation.]

APRIL 2, 1894.

MR. COMMISSIONER OF THE RESERVE,
San Juan del Norte:

Recommended to the governor and comptroller.

With much regret the executive has been informed of your telegram, dated the 31st of last month, in which you give an account of the wound inflicted on the American citizen, Wilson, by the temporary governor, Argüello.

The Government trusts that the courts of justice of San Juan del Norte will know how to fulfill their duty by investigating the aforesaid act and punishing the offender.

The Government does not approve of the practice which has been observed on the coast of withdrawing the high functionaries to send them on commissions; much less if these are substituted by employés of inferior category, who may not possess all the qualities which those dignitaries require.

The President trusts that, owing to the lamentable accident to Wilson, the cordial relations which Nicaragua happily cultivates with the United States of America may not be impaired. He hopes that the superior authorities of the littoral will see that complete justice be done in the trial of the deed against Wilson, and that in the future they may know how to avoid, with prudence and caution, occurrences of this nature.

The minister of the interior by the law,

MATUS.

This is a true copy. Managua, April 3, 1894.

M. C. MATUS.

[Inclosure 3.—Translation.]

APRIL 2, 1894.

GOVERNOR AND COMPTROLLER,
San Juan del Norte:

With grief the executive power has been informed of the dangerous wound inflicted on Mr. Wilson by an officer of that port, and, through me, commands that you make the courts proceed with all possible energy and activity in the repression of that crime.

The minister of the interior by the law,

MATUS.

This is a true copy. Managua, April 2, 1894.

M. C. MATUS.

Mr. Gresham to Mr. Baker.

No. 161.]

DEPARTMENT OF STATE,
Washington, April 26, 1894.

SIR: It is desired that you take advantage of your visit to Bluefields to investigate the killing of William Wilson, a citizen of the United States, by the Nicaraguan governor of Rama, on March 22, and secure, if possible, the arrest and trial of his slayer.

From Mr. Braida's dispatches it appears that Wilson was a drayman in the employ of Messrs. Brown & Harris, at Rama, and slept above their shop to protect their property. About 10.30 p. m., on March 22, an attempt was made by several persons, among them a policeman, to arrest a drunken man on Brown & Harris's doorstep. Wilson came downstairs in his night shirt, and seeing the scufflers at his door

ordered them away, pushing the policeman off the doorstep. The Nicaraguan governor of the city, Don Norberto Argüello, attracted to the spot by the tumult, drew his revolver and shot Wilson in the back as he was retreating up the stairs. He fell, mortally wounded, whereupon a policeman (an American negro, named Charles Noyles) attempted to shoot him after he was down, but was prevented by a bystander. Noyles was arrested.

The governor ordered the wounded man to be taken to the barracks. A resident physician, Dr. A. L. Chapman, was summoned by Wilson's friends, and asked permission to send a boat to Bluefields for another doctor. The governor refused to allow this. Wilson died at 6.45 the next morning, about eight hours after being shot.

Mr. Braid, on learning these facts, applied on the 25th ultimo to Señor Madriz, who had just arrived at Bluefields as the special commissioner of Nicaragua, and asked that Argüello be arrested. Señor Madriz promised to send General Cabezas to Rama to deal with the matter.

It appears that Argüello was not arrested, but made his escape a few days later, with the connivance, it is asserted, of the local police. Some policemen were arrested for assisting his escape, but were subsequently released. The policeman Noyles, who had attempted to dispatch Wilson after the governor had shot him, was at last accounts under surveillance.

This incident, which has naturally produced a most painful impression, calls for prompt and energetic action on the part of the authorities to secure the apprehension and trial of Argüello. You will express the President's earnest hope that full justice shall be done.

I am, etc.,

W. Q. GRESHAM.

Mr. Baker to Mr. Gresham.

No. 268.]

UNITED STATES LEGATION,
Bluefields, May 11, 1894. (Received May 21, 1894.)

SIR: I desire to submit to you a letter from Gen. C. A. Lacayo in regard to the escape from prison in this city of Norberto Argüello, who rests under the charge of deliberately murdering an American citizen named William Wilson, at Rama, on the night of the 22d of March last. I also submit three affidavits made by three reputable young men personally known to me, going to show that on the day the prisoner walked away from the jail he was seen both in the forenoon and the afternoon lounging outside of the jail unguarded. His cell door was open on the two occasions referred to, as was the outside door of the jail, and the prisoner went and came at his pleasure. A woman, known as his mistress, had been permitted to come and go with perfect freedom, and she had, it is stated to me on good authority, been with him for the past several days. This last fact was admitted last evening by Gen. Lacayo, and in the same conversation he stated that she had \$300 or \$400, and had undoubtedly bribed the jailer to allow him to escape.

* * * * *

I now most respectfully submit that the dignity of the United States makes it incumbent upon the Government to demand in unequivocal terms the removal of Gen. Lacayo from this post.

I am, etc.,

LEWIS BAKER.

[Inclosure.—Translation.]

General Lacayo to Mr. Baker.

BLUEFIELDS, May 10, 1894.

HONORABLE MINISTER: Last night, between 7 and 8 o'clock, I was very disagreeably surprised by receiving notice of the escape of two prisoners from the jail of the city; and, inquiring who they were, was informed that one of them was Norberto Argüello, accused of the murder of the American, William Wilson.

This incident is very disagreeable to me, as I gave very explicit orders to the governor of police of this town to keep the criminal in close confinement.

This employé assures me that the orders he gave the jailer could not be more clear. Immediately on receiving this information I called the governor of police with the object of employing all necessary activity for the capture of Argüello, and to return him to jail. There are enough people assisting the police to capture the criminal by guarding the various points in the bush and the outlets close to the city, and to intercept his passage to another point.

Besides, I have written to the authorities of the Republic in the interior, so that the criminal will be captured wherever found.

In this incident I have fears that there is a hidden hand, an enemy of Nicaragua, lent as an instrument to raise difficulties with a friendly Government.

You must believe me, and in the name of my Government I promise that Argüello shall be tried according to our laws and in accordance to justice.

The case was following its course. The criminal has been examined, and after his confession of faults, and on Friday, the 11th instant, was to have been taken to Rama for final trial before a tribunal of justice.

With my highest considerations, I have the honor to sign myself,
CARLOS A. LACAYO.

Mr. Gresham to Mr. Baker.

No. 169.]

DEPARTMENT OF STATE,
Washington, May 12, 1894.

SIR: Instructions were addressed to you on the 26th ultimo, at Bluefields, directing you to investigate the killing of William Wilson by the Nicaraguan acting governor of Rama on the 22d of March last, and to secure, if possible, the arrest and trial of his slayer.

Since then the report of Captain Watson, of the *San Francisco*, on the same subject, has been received, as also your dispatch of May 2, on the general situation at Bluefields, in which reference is made to the Wilson murder.

As it appears from your dispatch to be doubtful whether, in view of the irregularity of mail communications with Bluefields, you will have then received my instructions of the 26th ultimo, I send you a duplicate copy thereof.

Captain Watson's report, and the evidence in the case, leave no doubt that Wilson was shot by the acting governor of Rama, Norberto Argüello, without provocation; that Noyles, one of his policemen, was accessory to the murder and was himself only prevented from actually dispatching Wilson by the snapping of his cartridge; that the dying man was most harshly treated by his unfeeling jailers; and that the promises of the superior agents of Nicaragua touching the arrest and punishment of the murderer have not been kept.

Notwithstanding these specific orders stated to have been given by Señor Madriz to Governor Torres, of Rama, to arrest Argüello and hold him for trial, the governor has permitted the murderer to go at large. It is notorious and uncontradicted that Argüello has been at liberty in the town of Bluefields under circumstances which establish the culpability of Governor Torres in sheltering him from the consequences of his crime, and emphasize the indifference of the superior Nicaraguan agents to their plain duty in the matter. More than this, Governor Torres has replaced Argüello's accomplice, Noyles, in active police service, he having been, as you report, promoted to the position of chief of police of the town of Rama.

The whole business is marked by such contempt for the most obvious dictates of justice, and such disregard of the simplest obligations of international duty, as to call for urgent and solemn protest on the part of this Government.

I am directed by the President to instruct you to demand that the Government of Nicaragua shall manifest its disapproval of the conduct of its officers in terms admitting of no misapprehension. You will ask that the culprit, Argüello, be brought to immediate trial, that his protector, Governor Torres, be dismissed from office, that the murderer's accomplice, Noyles, be dealt with according to his deserts, and that besides the atonement so to be made by the Government of Nicaragua for the action of its agents in this case, it shall adopt such measures as will leave no doubt of its sincere purpose and ability to protect the lives and interests of the peaceable citizens of the United States dwelling in the reservation, and to punish crimes committed against them.

Captain Watson's report shows that he fully understands his duty in the premises and is prepared to perform it. Your course in fulfillment of this instruction should make it clear that you, as well as Captain Watson, are obeying the instructions of this Government.

I am, etc.,

W. Q. GRESHAM.

Mr. Uhl to Mr. Baker.

No. 173.]

DEPARTMENT OF STATE,
Washington, May 14, 1894.

SIR: * * * The additional affidavits you submit abundantly confirm the Department's judgment upon the evidence previously reported, and establish the justice of the demands in every particular which Mr. Gresham's instruction of the 12th instant directed you to make. You now state that you have "a pledge that the petty military governor of Rama shall be deprived of his office."

It will be gratifying to learn that this pledge had been fulfilled in advance of the reasonable demand you were instructed to make, and it is confidently expected that the further assurance given you of the prompt trial of the guilty parties and their consequent punishment upon conviction will be faithfully observed.

Adding that the views and wishes of this Government in relation to this aggravated case may be best made known by reading to the minister for foreign affairs Mr. Gresham's instructions of the 12th instant, furnishing him with a copy thereof, and that it is assumed you will have followed the usual course,

I am, etc.,

EDWIN F. UHL.

Mr. Baker to Mr. Gresham.

No. 270.]

LEGATION OF THE UNITED STATES,
Managua, May 21, 1894. (Received June 12.)

SIR: It is a pleasure to be able to announce my safe return to the legation from my visit to the Mosquito Reservation, which visit was of exactly one month's duration.

On arrival at this place I promptly called upon the President to discuss the condition of affairs in the reserve and to bring to his immediate attention the grievances of my Government in the Braida and the Wilson cases.

There were present at this conference the vice-president and minister of war, General Ortiz; the minister for foreign affairs and special commissioner to the reserve, Hon. José Madriz, in addition to the President and myself.

At this conference I was assured by all three of the gentlemen named, and in the most earnest manner, that no effort would be spared to recapture the culprit Argüello. I was told, also, that Argüello's trial would not be postponed on account of his escape, but that he would be cited to appear in court, and that a most searching investigation would be made of the whole criminal affair, and that then, when caught, he should be adequately punished.

I was also privately assured by the President, in the most positive terms, that he would remove Commissioner Lacayo for his part in this affair, and for other reasons, in response to my numerous complaints of his arbitrary, unlawful, and insulting course toward American citizens.

I have, etc.,

LEWIS BAKER.

Mr. Uhl to Mr. Baker.

[Telegram.]

WASHINGTON, May 22, 1894.

Your dispatch and Watson's report prove culpable responsibility for Argüello's escape. Ask instant effective rebuke and redress. Instruction mailed 12th to demand Torres' removal. Lacayo's culpability appears even greater because more directly responsible.

Mr. Baker to Mr. Gresham.

No. 274.]

LEGATION OF THE UNITED STATES,
Managua, May 24, 1894. (Received June 12, 1894.)

SIR: Your dispatch dated April 26, in regard to the insecure manner in which Norberto Argüello was imprisoned, was awaiting my return from Bluefields. I at once addressed to the Government of Nicaragua the inclosed note, to which a verbal statement was made, that a complete answer would be furnished me in writing within a short time. I have patiently waited until this moment for that promised explanation, now nearly four days, without realizing the fruits of that promise. Not having received the answer, I dispatched to the palace another communication, numbered inclosure 2, of this date.

I have, etc.,

LEWIS BAKER.

[Inclosure 1.]

*Mr. Baker to the Minister of Foreign Affairs.*LEGATION OF THE UNITED STATES,
Managua, May 21, 1894.

MR. MINISTER: On my return from the Mosquito Reservation I find instructions from the U. S. Government awaiting me in regard to the treatment which has been accorded by the Nicaraguan officials to Don Norberto Argüello, the murderer of William Wilson, at Rama, at a time when said Argüello was acting as an official of your Government. These instructions contain a review of the case, and close with the following paragraph:

This incident, which has naturally produced a most painful impression, calls for prompt and energetic action on the part of the authorities to secure the apprehension and trial of Argüello. You will express the President's earnest hope that full justice shall be done.

It is my duty to ask from your Government an early official statement as to what steps have been taken for the apprehension and bringing to trial of the man who, at latest accounts received by me, was still at large, having walked out of the prison, whose doors were open and unguarded, on the evening of May 10.

Embracing this opportunity to renew to you, Mr. Minister, my high consideration and regard,

I am, etc.,

LEWIS BAKER.

[Inclosure 2.]

*Mr. Baker to the Minister of Foreign Affairs.*LEGATION OF THE UNITED STATES,
Managua, May 24, 1894.

MR. MINISTER: In a personal interview on the 21st instant with His Excellency the President, I was assured of his purpose to do what laid in his power and in the power of his Government to recapture and properly punish the escaped prisoner Argüello, who, while a public officer of Nicaragua, shot down and murdered an American citizen, William Wilson by name. In the same conversation, in order to show the friendship of this Government for its good friend, the United States, he announced his purpose of punishing the culpable officer through whose lax administration, if not actual connivance, the prisoner was allowed to walk out of an unguarded jail.

I have waited with much patience until this time for an announcement of the fulfillment of this purpose. Having heard nothing further from his excellency on the subject, I now must carry out my imperative cable instructions from the President of the United States, in "asking instant and effective redress," and "to demand the immediate removal of Governor Torres," whose failure to obey the instructions of his superior officers in regard to the confinement of the prisoner was a scandal to your own Government and an insult to mine, and "the removal from the office of commissioner to the Mosquito Reservation of Carlos A. Lacayo," who is held by the President "to be even more culpable than Torres."

I have, etc.,

LEWIS BAKER.

Mr. Baker to Mr. Gresham.

No. 278.]

LEGATION OF THE UNITED STATES,
Managua, May 28, 1894. (Received June 12.)

SIR: This Government has officially notified me that, responding to the desire of the Government of the United States, they have removed Governor Torres from the office which he occupied at Rama.

I have also been assured in two separate personal interviews with the President that Commissioner Lacayo's removal had been fully determined upon, and that the delay was occasioned only on account of the difficulty of securing as his successor a man possessing the necessary qualities for the position, and one who would be likely to make himself fully acceptable to the American residents of the reserve.

I have, etc.,

LEWIS BAKER.

Mr. Baker to Mr. Gresham.

No. 304.]

LEGATION OF THE UNITED STATES,
Managua, June 11, 1894. (Received July 3.)

SIR: Referring to yours, dated May 12, and received by me June 6, I have to say: After carefully reading this communication, I had a copy made of it, which I lost no time in taking in person to the office of the minister of foreign affairs. I slowly read the communication over in the presence of that officer and his subsecretary. In closing, I repeated the reading of the closing paragraph in full, that no misapprehension might possibly exist. * * *

I deemed it not inappropriate to make known to the minister, in this connection, the following cable from Captain Watson, which I had received before your instructions reached me:

Have copies of instructions sent you dated May 12 and 24 concerning demands in Argüello case. Ready to assist with all my force.

After the conclusion of my official visit I quietly called attention to the tenor of Captain Watson's cable and remarked that I would be pleased to have this Government's response at the earliest convenient moment, since Captain Watson was awaiting at Colon a reply from me. A response was promised within a few hours, positively that afternoon at latest. Just fifty-three hours had elapsed when I received the paper marked inclosure No. 1. I regret to find no assurance in this communication "that the murderer's accomplice, Noyles, shall be dealt with according to his deserts," or that this Government will "adopt such measures as will leave no doubt of its sincere purpose and ability to protect the lives and interests of the peaceable citizens of the United States dwelling in the Mosquito Indian Reservation and to punish crimes committed against them."

In this unofficial conversation I stated that I was at Bluefields at the time Argüello walked out of prison the second time; that it was a misnomer to call his going an escape; that he simply walked out of a door that had stood wide open all day and through which he had passed in and out at pleasure, substantially unguarded; that his mistress had come and gone at intervals during the day and for some time previous; that he deliberately walked out in the full light of day, going into the forests near by at an hour so near nightfall as to make a successful pursuit, unless promptly made, difficult; that Mr. Lacayo's chief officer, General Rühling, who was immediately responsible under Lacayo for the safe-keeping of the prisoner, had been notified by an American resident,

whose affidavit I had to that effect, of the manner in which Argüello was left unguarded and permitted to walk about the grounds, 100 yards distant from the prison building; that General Ruhling made no move, until after the news of the prisoner's absence had been received, looking to a greater degree of security; that General Lacayo stated his conviction that Argüello's mistress had bribed the guard to allow him to escape, and when inquired of as to whether this derelict (or bribed) guard had been placed in prison for his supposed crime, replied that he had been sent to recapture the prisoner.

I stated to him that I had General Ruhling's admission, made to me in person, that during the afternoon of the day following the prisoner's walkout, he (General Ruhling) saw him (Argüello) in the outskirts of Bluefields, not 100 yards from him; and when asked why he did not give the alarm and arrest the culprit, replied with a smile that he (Argüello) did not wait to be arrested. I mention this as an evidence of the lack of energy and earnestness which characterized the pursuit of the so-called fugitive.

I stated further, in this unofficial way, and for the purpose of contributing my mite to the minister's information assisting him in seeing his duty in the premises, that Mr. Lacayo's everyday actions created uneasiness among the foreign residents; that his continuance in office is a menace to the peace of that community, and made it impossible (if there were no other reason) for the United States to withdraw her war ships from those waters; that Nicaragua, by the continuance of this irresponsible man in this highly responsible position, was her own worst enemy.

Accompanying inclosure No. 1 are many documents bearing upon the Wilson murder and the efforts to discover and punish his murderer, which I may not succeed in having translated in time to accompany this in the mail which should depart to-morrow. They are telegrams and orders to officers in regard to the imprisonment, trial, etc., of the culprit, and throw no new light upon the transaction. I shall forward them in this mail if possible; if not possible, then in the next mail.

Inclosure No. 2 is a communication in answer to one I sent to the minister on the day of my arrival from Bluefields, May 21. Although dated May 26, it did not reach me until the 27th, too late to get into the mail that was due to depart on that day for the United States.

All of which is respectfully submitted.

I have, etc.,

LEWIS BAKER.

[Inclosure.—Translation.]

Mr. Madriz to Mr. Baker.

NATIONAL PALACE,
Managua, June 8, 1894.

MR. MINISTER: The day before yesterday morning I had the honor to receive a visit from your excellency, during which you read me a dispatch from the Secretary of State of the United States, dated at Washington on May 12, last, relative to the murder of an American, William Wilson, at Rama, and that Government's complaints against the Nicaraguan authorities who had charge of the custody and trial of the culprit.

After briefly reviewing the information received by that Government concerning the incident, Mr. Gresham says that the whole business is marked by such contempt for the most obvious dictates of justice and such disregard of the simplest obligations of international duty as to call for urgent and solemn protest on the part of that Government.

He concludes by demanding (1) that the Government of Nicaragua shall manifest its disapproval of the conduct of its officers in terms admitting of no misapprehension; (2) that the culprit, Argüello, be brought to immediate trial; (3) that Governor Torres be dismissed from office; (4) that the murderer's accomplice, Noyles, be dealt with according to his deserts; (5) that the Government of Nicaragua shall adopt such measures as will leave no doubt of its sincere purpose and ability to protect the lives and interests of the peaceable citizens of the United States dwelling in the Mosquito Indian Reservation and to punish crimes committed against them.

On many different occasions, by word and letter, this Government's feelings regarding this matter have been explained to your excellency, and the pain with which it has seen Governor Torres fail so greatly in his path of duty by not complying with the demands of public vengeance. Its disapproval of that officer's conduct, demonstrated by his prompt removal, as your excellency knows, has been made clear and manifest, so that the responsibility resulting from his acts can not be attributed to the Government.

The Government has not made those explanations merely as a matter of duty, but because it wishes to demonstrate the fact that its course is prompted by a high sense of right and justice.

As commissioner of the Supreme Government to the Atlantic Coast I did everything in my power, always conforming strictly to law, in the case of ex-Governor Argüello, and it was the undersigned who dismissed Governor Torres as soon as he had evidence of his culpability. I think, therefore, that the following words, quoted from the said dispatch, can not apply to the officer who now addresses your excellency: "And emphasize the indifference of the superior Nicaraguan agents to their plain duty in the matter."

In regard to the other remarks of Mr. Gresham in the dispatch, I inclose documents which will go to prove that from the beginning this Government has been animated by an unchangeable purpose of having justice done.

Consequently I decline the protest which was directed to you, and trust that your excellency's Government will find the explanations satisfactory.

Your excellency's Government may rest assured that mine will strictly fulfill its duty with as much zeal as you defend your rights.

Captain Watson's telegram, a copy of which was joined to the dispatch, seems to indicate the possibility of his employing forcible means in our territory; and my Government sees a certain similarity between his ideas and your excellency's, as expressed to me in a recent interview when you said that Captain Watson was awaiting your instructions to commence action.

My Government, feeling sure that it has faithfully fulfilled its duties, awaits calmly and without fear anything which may occur. In the same interview your excellency explained this point to me more clearly, but conforming to your desires it will be considered as a personal statement.

I hope that your excellency will inform me of any objections you may have to this explanation.

I have the honor to reiterate to your excellency the expressions of my esteem and most distinguished consideration.

JOSÉ MADRIZ.

Mr. Gresham to Mr. Baker.

No. 187.]

DEPARTMENT OF STATE,
Washington, June 13, 1894.

SIR: Your dispatches of May 21 and 28, 1894, have been received. They both relate to the case of Argüello, the murderer of William Wilson at Rama.

It will be gratifying to the President to learn that his just expectations have been fulfilled by the visitation of the condign displeasure of the Nicaraguan Government upon the culpable officials whose connivance frustrated the immediate ends of justice by effecting the culprit's escape; and it would be additionally satisfactory to be informed that Argüello has been retaken and that the course of law in this singularly aggravated case will be assured.

I am, etc.,

W. Q. GRESHAM.

Mr. Guzmán to Mr. Gresham.

[Translation.]

LEGATION OF THE REPUBLIC OF NICARAGUA,
Washington, July 9, 1894.

SIR: As I have had the honor to state to you orally on more than one occasion, my Government is firmly convinced that the Government of the United States has received erroneous reports as well relative to the murder of the American citizen Wilson as in regard to the supposed complicity of the commissioner of Mosquito, Señor Lacayo, in the flight of the criminal Argüello.

The homicide in question aroused the greatest indignation in the Government and in the people of Nicaragua, and public opinion was at once pronounced against the perpetrator of that horrible act.

Commissioner Lacayo acted from the first with energy and diligence, and, faithfully interpreting the wishes of our Government, ordered the speedy capture of the delinquent and his confinement in the most secure prison which exists in the reservation. At the same time he reported the unfortunate occurrence to the superior authority and expressed the sentiments of sorrow awakened in him by that monstrous crime.

From the investigations made by my Government there is not found even the slightest suspicion that Señor Lacayo may be responsible in any way whatever for the escape of Argüello, an event which he sincerely laments, as every honorable man would do under similar circumstances. It is known that the commissioner, as well as the other Nicaraguan authorities, has made and is making all possible efforts to accomplish the capture of Argüello, his subjection to trial, and his punishment as he deserves. In the meanwhile he is being tried *in contumaciam*, in conformity with the prescriptions of our laws.

Zealous as my Government has ever been that the administration of justice in Nicaragua be speedy, effective, and equitable, it can but feel a lively interest, and does in fact so feel, that the murder of a foreign citizen shall not go unpunished. Consequently, your excellency must rest assured that all needful means and recourses will be invoked for the apprehension of the fugitive delinquent, thus averting the impunity of the author of the horrible act of which the American citizen Wilson was the victim.

Your excellency is not unaware that my Government decreed the removal of Governor Torres as soon as he was suspected of complicity in the flight of Argüello, and that step was taken before Mr. Baker brought

to the knowledge of our minister of foreign affairs the purport of your excellency's note of the 12th of May last, thus conspicuously demonstrating that it acts with rectitude and severity in the punishment of the guilty.

In so far as relates to Charles Noyles, my Government has already ordered that he be put on trial. Thus, it may be affirmed that nothing has been left undone on the part of Nicaragua to cause justice to follow its course in respect to the bloody crime committed by Argüello.

In view of the foregoing statements and given (dada) the innocence of Commissioner Lacayo, so far as the flight of the delinquent is concerned, my Government believes that that of the United States, upon learning the truth of the facts, will reconsider and withdraw the request that Señor Lacayo be removed from his post, as an act of friendship toward a sister Republic which has ever looked up to this great nation as the safeguard of the sovereign rights, autonomy, and independence of the Latin-American peoples.

Knowing the uprightness of views which characterizes President Cleveland, and in view of his high sentiments of justice manifested under all circumstances, my Government thinks that upon informing himself of the true state of things he will wish to offer to my country an additional proof of friendship and sympathy by acceding to that which Nicaragua asks through me.

I beg your excellency to be pleased to bring this matter to the high knowledge of His Excellency the President of the United States, and to accept, once more, the protests of my highest consideration.

H. GUZMÁN.

Mr. Guzmán to Mr. Gresham.

[Translation.]

LEGATION OF THE REPUBLIC OF NICARAGUA,

Washington, July 27, 1894.

SIR: As I had the honor yesterday verbally to inform your excellency that I would do, I now send you two documents which go to show that my Government has acted with the utmost rectitude and good faith in the case of the murder of the American citizen, Wilson, which is so much to be deplored. All possible efforts have been and will continue to be made in order to capture the offender, for, as I have repeatedly assured your excellency, my Government earnestly desires to prevent so heinous a crime from going unpunished.

I reiterate, etc.,

H. GUZMAN.

[Inclosure 1.—Translation.]

Mr. Madriz to the American Consul.

BLUEFIELDS, April 2, 1894.

HONORABLE SIR: I have the honor to transcribe to you a communication which I have this day addressed to the inspector-general of the Atlantic coast:

While you are at Rama, engaged in the performance of the duty which I this morning had the honor to assign to you, I wish you to devote special attention to securing the arrest and imprisonment of the criminal Norberto Argüello, who murdered the American, Mr. Wilson. This is urgently required by justice and by the necessity of giving a warning to others who may be criminally disposed. I trust that you will spare no pains to attain this end.

In bringing the foregoing to your notice, I take pleasure in further stating that I have sent a telegram, via San Juan del Norte, to the minister of justice, requesting him to communicate with the judicial authorities of all places in the interior where the aforesaid criminal may be arrested, and that I have sent a circular note to the governors of San Juan del Norte, Rio Grande, Prinzapolka, and the district of Cape Gracias a Dios.

With all consideration, etc.,

JOSÉ MADRIZ.

[Inclosure 2.]

Mr. Madriz to the Governor and Intendent of San Juan del Norte.

BLUEFIELDS, April 2, 1894.

SIR: Norberto Argüello, who killed an American citizen, has escaped from the jail at Rama. If he comes to San Juan del Norte arrest him and send him under a strong guard to the governor (of Pol.) of the district of Siquia, who is the proper magistrate to take cognizance of his case.

Your obedient servant,

J. MADRIZ.

[Inclosure 3.—Translation.]

Mr. Cabezas to the Governor of Bocas del Toro.

BLUEFIELDS, June 20, 1894.

SIR: I have learned that Norberto Argüello, who has committed the crime of murder, is at Bocas del Toro. This criminal made his escape from the jail here on the 9th ultimo, and the aggravating circumstance in the case is that this is his second offense, he having previously escaped from the jail at Rama. Argüello killed an American citizen named William Wilson, and, owing to the fact that the murdered man was a foreigner, the act has given rise to a difficulty with the American Republic. In view of the cordial relations existing between the Government of Columbia and that of Nicaragua, and of the fraternal bonds which have united the two nations, I have thought that a request from me would be favorably received by you, especially since public justice has been doubly outraged by the criminal, and since the credit of the Nicaraguan authorities may be said to be at stake, inasmuch as they are charged, although unjustly, with partiality in this matter.

I beg you, in virtue of the foregoing, to be pleased to issue orders for the arrest of the aforesaid Argüello, and to place him in secure custody until the minister of foreign affairs can present a formal demand for his extradition.

Offering you reciprocity in similar cases, I have the pleasure, etc.,

R. CABEZAS, *Commissioner.*

WITHDRAWAL OF CONSUL BRAIDA'S EXEQUATUR.

Mr. Baker to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
Managua. (Received April 1, 1894.)

With telegraph down and low water in river, communication with Bluefields uncertain and almost impossible. Government here without late advices. Braida went to Bluefields to report facts of situation.

Have heard nothing from him. British brought Nicaragua soldiers away and disarmed them. By agreement mixed commission of seven governs temporarily. American merchants dissatisfied. British troops on ship. Nicaragua withdrawn exequatur from Braida. Important you send judicious successor immediately.

Mr. Gresham to Mr. Baker.

No. 160.]

DEPARTMENT OF STATE,
Washington, April 26, 1894.

SIR: In yours of March 20, you report the complaint made to you by the Government of Nicaragua that Mr. Braida, the U. S. consul at San Juan del Norte, has been in active sympathy with the British armed occupancy of Bluefields.

The Department approves your letter to Mr. Braida of March 19, calling for a statement of his action, and especially commends the following passage of that letter:

I deem it my duty to caution you against doing anything by word or deed which could properly be construed into unfriendliness to the Government of Nicaragua, or to its claim of sovereign rights over that territory [the Mosquito Reservation].

Your later telegram of April 1 reported that the Nicaraguan Government had withdrawn Mr. Braida's exequatur.

In a dispatch dated March 26, reporting his correspondence with you on the subject, Mr. Braida says:

Furthermore, I beg to state that, having been without instructions, I have not "acted" at all, and have most conscientiously restricted myself to maintain order and peace and to quiet the prevailing excitement during day and night. I was in duty bound not to make ourselves a party in the arrangement between Great Britain and Nicaragua, knowing that [the] arrangements they were about to enter into would be detrimental to the best interests of the United States, and also against the most vital interests of our citizens residing and doing business in the Mosquito Reservation.

In his letter to you of March 26, Mr. Braida disclaims any action inimical to Nicaragua.

It is proper that you should, upon receipt of this instruction, if you have not already done so, invite from the Government of Nicaragua a full statement of the grounds upon which it has withdrawn the exequatur of Mr. Braida. It is desirable that this Department's appreciation of Nicaraguan action in this regard should not rest upon mere inference.

I am, etc.,

W. Q. GRESHAM.

Mr. Gresham to Mr. Baker.

No. 170.]

DEPARTMENT OF STATE,
Washington, May 12, 1894.

SIR: I note what you say in your report of the Mosquito situation, dated the 2d instant, concerning the revocation of Consul Braida's exequatur.

The Nicaraguan minister has advised me of its temporary renewal along with that of his British colleague, Mr. Bingham.

I am disposed to await the result of the formal inquiry which my instruction of the 26th ultimo directed you to make, and meanwhile I am reluctant to attribute to the course taken by Nicaragua the biased motives you apprehend, and am content to suspend judgment until the full facts shall be elicited.

I am, etc.,

W. Q. GRESHAM.

Mr. Uhl to Mr. Baker.

No. 188.]

DEPARTMENT OF STATE,
Washington, June 14, 1894.

SIR: I have to acknowledge the receipt of your dispatch dated May 28 last, in which you recite a conversation had by you on the 21st of May with the President of Nicaragua relative to the restoration of Mr. Sigmund C. Braida to his office as consul of the United States at San Juan del Norte, in the conduct of which he was suspended some weeks ago in consequence of the withdrawal of his exequatur by the Nicaraguan Government.

The President informed you that he had temporarily restored Mr. Braida's exequatur; but you replied that at the time of Mr. Braida's "removal from office" you had "appointed" Dr. Henry De Soto consul in his stead, that the Nicaraguan Government had recognized Dr. De Soto as such consul, and that Mr. Braida could not be restored to the office without first procuring Dr. De Soto's resignation, which step you did not regard as advisable until and unless Mr. Braida's permanent restoration should be assented to.

The withdrawal of Mr. Braida's exequatur did not operate as a removal from office, but only as a suspension of his authority to perform the duties thereof. No vacancy was thereby created which required filling by the appointment of another person; and, furthermore, a minister has no authority to appoint a consul. The President of the United States alone is authorized to appoint a consul, and then by and with the advice and consent of the Senate. Your authority extended only to the temporary installation of an unofficial person to preserve the consular archives and to perform such duties as in the emergency he might lawfully undertake without authorization according to law. Your action in designating Dr. De Soto to act in Mr. Braida's stead, and in obtaining local permission for him so to act, was in legal effect nothing more than appointment of a custodian of the consulate and archives during the suspension of the regularly appointed officer. The restoration of Mr. Braida's exequatur, therefore, whether temporary or permanent, would operate as a rehabilitation of his suspended authority to perform consular functions and qualify him to supersede Mr. De Soto in the custody of the office, without the formality of a resignation or other express determination of Mr. De Soto's connection therewith.

You are therefore instructed to assent to the President's offer to restore Mr. Braida's exequatur, and to permit him to resume charge of the office.

I am, etc.,

EDWIN F. UHL.

PROTECTION OF MORAVIAN MISSION AND MISSIONARIES IN MOSQUITO TERRITORY.

Mr. Baker to Mr. Gresham.

No. 415.]

LEGATION OF THE UNITED STATES,
Managua, October 22, 1894. (Received November 13.)

SIR: In acknowledging receipt of your No. 251 of September 25, 1894, relative to the fears expressed for the safety of the Moravian Mission and missionaries in the Mosquito territory, I have the honor to

report that I addressed a communication to the Government of Nicaragua on the subject and have received a reply, in which it is stated that as long as the said persons devote themselves strictly to a mission of Christianity and civilization, refraining from infringing upon the laws of Nicaragua or jeopardizing the peace of the country, they will be fully protected.

Copies of the above correspondence are herewith inclosed

I have, etc.,

LEWIS BAKER.

[Inclosure 1 in No. 415.]

Mr. Baker to Mr. Baca.

No. 76.]

LEGATION OF THE UNITED STATES,
Managua, Nicaragua, October 18, 1894.

MR. MINISTER: As you are aware, the Moravian Church has, for the past forty-six years, carried on mission work among the Indians of the Mosquito Reserve, under the protection of the Government which has heretofore existed in that territory.

It is believed that this work has done much to improve the condition of the Indians and to develop the country. There are, I am informed, some thirteen stations, with a membership of nearly 6,000. These stations are located at different places along the coast from Bluefields to within the vicinity of Sandy Bay. There are fourteen day schools, with between 600 and 700 scholars, under the care of the missionaries.

I am frank to say to you that I do not share in the apprehensions expressed to me that the change in the Government of the country will injuriously affect these missionaries and their work; but it will be a satisfaction to them to know from your honor that they will be as completely protected in the future as they have been in the past.

With high respect, etc.,

LEWIS BAKER.

[Inclosure 2 in No. 415.—Translation.]

No. 514.]

MINISTRY FOR FOREIGN AFFAIRS,
Managua, Nicaragua, October 22, 1894.

MR. MINISTER: The day before yesterday I had the honor of receiving your note of the 18th instant.

Your excellency states that for many years past missionaries of the Moravian Church have resided on the Atlantic coast of this Republic, and that you desire to know if, contrary to the fears which have been expressed to you, but to which you do not give credit, my Government intends to observe toward them a conduct of protection.

I must state to your excellency, with the same frankness with which you spoke to me of the matter, that my Government being in duty bound to maintain peace, respect for the laws, and the absolute supremacy of our national sovereignty, has taken, and shall take, only such measures as are imposed upon it by duty; therefore, those who devote themselves to a mission of civilization and Christianity may count, without reserve, upon the ample protection of our laws.

And thus satisfying your excellency's desires, I take pleasure, etc.,
F. BACA, H.

PERSIA.

TAXATION OF FOREIGNERS ENGAGED IN TRADE.

Mr. Sperry to Mr. Gresham.

No. 60.]

LEGATION OF THE UNITED STATES,
Teheran, Persia, July 3, 1893. (Received August 11.)

SIR: I have the honor to report that I have received from the minister for foreign affairs a communication in regard to the taxation of foreigners, resident here, who are engaged in trade. This communication was received at this legation about ten days after the Persian date of it. A copy of this communication is herewith inclosed, with the translation. I have forwarded copies of this communication to each of the several groups of American citizens residing in Persia, with an explanatory note, a copy of which is inclosed. It is only in regard to their medical operations that the American missionaries could be brought under the terms of this new order. As both medical services and drugs are furnished by them without cost in those cases where the patient is unable to pay, I am of the opinion that they will not be held by the Persian Government to be engaged in trade, within the meaning of the new order.

I have, etc.,

WATSON R. SPERRY.

[Inclosure 1 in No. 60.—Translation.]

Minister of Foreign Affairs to Mr. Sperry.

TEHERAN, PERSIA, 27th of the month Zee Radah, A. H. 1310.

YOUR EXCELLENCY AND KIND FRIEND: It will be evident to your mind that when any foreigner proposes to engage in any business, such as the weaving of woollen fabrics, the sale of dry goods, medicines, and haberdashery, or take up the trade of a tailor, in any of the provinces in the Kingdom of Persia, he must participate with his fellow-tradesmen in the payment of the Government dues.

If this incident of taxation should not fall on all alike, foreigners being exempt from payment, that which has been remitted from them will fall upon the native trader and render his business unsafe and unprofitable.

Following on the repeated complaints of the native traders, the imperial foreign office has for several years past brought this matter to the notice of the foreign legations resident in Teheran, and has requested that they will give orders to all their subjects that whenever they shall engage in any local trade they shall pay the Government dues the same as others.

As some of the foreign legations have made representations to the effect that their subjects might enjoy the most-favored-nation privileges, this matter has just been discussed with the imperial Russian

legation, and it has been concluded and established that the subjects of that state shall pay their taxes in the same proportion as the natives of Persia.

I beg to trouble your excellency with this information and respectfully request that you will communicate this matter to all citizens of your Government, and inform them that should any one of them from henceforth engage in any trade he must pay the Government taxes to the administrative officials of the Government of Persia. The officers appointed to carry out these duties will collect the usual trade taxes from your citizens forty days from the date of this letter, on the same assessment as that made against the subjects of other nations enjoying the most-favored-nation privileges.

I take this occasion to renew, etc.,
[Seal of Kavam ed-Dowlah.]

[Inclosure 2 in No. 60.]

Mr. Sperry to American citizens in Persia.

LEGATION OF THE UNITED STATES,
Teheran, Persia, June 27, 1893.

MY DEAR SIR: I send you herewith, for the information of all concerned at your place, a copy of note recently received by me from the minister for foreign affairs. This note was not sent to me by the foreign office until ten days after its date. My personal opinion is that it will be made to apply only to those who are actually engaged in trade or business for the purpose of making money. Where, as in your case, drugs are handled for benevolent purposes, and not for personal profit, I think that there will be no attempt made to collect a tax.

Sincerely yours,

WATSON R. SPERRY.

Mr. Gresham to Mr. McDonald.

No. 11.]

DEPARTMENT OF STATE,
Washington, August 15, 1893.

SIR: I have received Mr. Sperry's dispatch No. 60 of the 3d ultimo, diplomatic series, in relation to the order of the Persian Government for the taxation of foreign residents engaged in trade in Persia. He states that he has submitted a copy of this order to each of the American missionaries in Persia and has expressed to them the opinion that where, as in their case, drugs are handled for benevolent purposes and not for personal profit, no attempt would be made to collect the tax.

Consideration of the question would have been facilitated had Mr. Sperry reported the basis upon which native traders are taxed, and the manner in which it would affect the missionary dispensers of drugs, if applied to them. It would seem from Mr. Sperry's statements that the gratuitous practice of medicine and supply of drugs is confined to indigent patients. If the missionary doctors receive fees from those able to pay and furnish drugs to them for a price, there will be no valid objection to their being taxed for engaging in trade to the extent of their operations.

The question is whether the tax is scaled according to the amount of trade, or takes the form of a fixed license tax. If the latter, and it should be disproportionate to the limited fee practice of the missionaries, it is probable that the Persian Government would allow their gratuitous practice, if they should agree to confine themselves to that and abandon competition with natives who practice medicine for gain.

Awaiting such observations as you may think prudent to offer in regard to the matter,

I am, etc.,

W. Q. GRESHAM.

Mr. McDonald to Mr. Gresham.

No. 15.]

LEGATION OF THE UNITED STATES,
Teheran, September 21, 1893. (Received October 27.)

SIR: I have the honor to acknowledge the receipt of your No. 11 of August 15, 1893, in reply to Mr. Sperry's No. 60, diplomatic series, in regard to the order of the Persian Government for the taxation of foreign residents engaged in trade in Persia. The word trade as used in its general sense hardly expresses the term used in the Persian Government circular, which formed the subject of Mr. Sperry's dispatch. "The trades" would be the more correct form, meaning thereby such kinds of occupation as carpentry, tailoring, blacksmithing, shoemaking, hatmaking, drapery, etc. Wholesale exporters and importers are exempt from these taxes, on the ground that they pay their proportion of the general taxation in customs duty. Men engaged in professions, such as doctors, lawyers, and the priestly class generally, are also excluded.

The taxation of the trades is one of the oldest methods of raising revenue, and dates from about the time of the Mohammedan conquest of Persia, or upward of one thousand years ago; and, notwithstanding revolutions and the changes of dynasties, the amount collected from each trade has been rarely altered. Each trade is taxed according to some general computation of the profits gained in the course of the year. For instance, all the shoemakers of Teheran pay a tax of 12,000 krans, or about \$1,500 a year; the sellers of native medicines (herbs), who also keep in their shops a few other articles, such as sugar, tea, tobacco, etc., pay a tax of 6,000 krans, or about \$750 a year. The payment of these taxes has to be made during ten months of the year—two holy months, the months of Ramazan and Muharram are excluded. The levying and collecting the taxes are somewhat peculiar, although they secure to each person a certain degree of protection from unjust exactions. Once in six months a meeting of all the members of the trade is called at some appointed place, when the position and standing of each individual is inquired into, and the amount that each person is to pay is determined by themselves, in such proportion as to make up the full amount due to the Government. One person, generally the chief of the trade, is appointed, with an officer on the part of the Government, to collect the tax from each individual according to his assessment. Thus, it appears, that no one engaged in any trade is taxed without his having first had an opportunity of being heard on the subject.

I have not yet heard of any claim being made against an American citizen for the payment of these taxes, and I do not think that any will be made.

I have, etc.,

ALEX. McDONALD.

Mr. McDonald to Mr. Gresham.

No. 57.]

LEGATION OF THE UNITED STATES,
Teheran, Persia, January 11, 1894. (Received February 17.)

SIR: I have the honor to transmit herewith a copy of the translation of the memorandum sent from the foreign office respecting the taxation of foreigners engaged in various trades in Persia, and a copy of the translation of the reply thereto.

I am, etc.,

ALEX. McDONALD.

[Inclosure 1 in No. 57.]

Memorandum from the Persian foreign office.

It has been decreed that all subjects of foreign powers engaged in the different trades and businesses of and residing in Persia shall pay the ordinary assessed taxes, in the same proportion as the natives of the country.

As the various legations of foreign countries have sent in the names of their subjects employed in the trades, it is respectfully requested that the legation (the United States) will also send into the foreign office a list of its subjects, that regulations may be issued regarding them.

[Seal of the Kavam-ed-Dowlah, minister of foreign affairs.]

[Inclosure 2 in No. 57.]

Memorandum from United States legation in reply to the above.

LEGATION OF THE UNITED STATES,
Teheran, January 10, 1894.

In reply to the memorandum of the imperial foreign office, dated the 28th of Jamadi-es-Sani, corresponding to the 5th of January, respecting the taxation of foreigners engaged in the various trades of Persia, this legation begs to report, for the information of the foreign office, that, having made careful inquiries, it finds that throughout Persia there are no citizens of the United States engaged in any of the taxable trades referred to in the memorandum.

ALEX. McDONALD.

ASSIGNMENTS OF CLAIMS BY PERSIAN SUBJECTS TO FOREIGNERS.

Mr. McDonald to Mr. Gresham.

No. 21.]

LEGATION OF THE UNITED STATES,
Teheran, September 25, 1893. (Received November 3.)

SIR: I have the honor to inclose for your information a copy and translation of a circular memorandum, received from the Persian foreign minister on the 22d instant.

The practice to which the memorandum refers is of long standing. When a Persian subject fails to recover a claim from a fellow-citizen to which he thinks he has a bona fide right, he very often transfers the

documents relating to the claim to the citizen of a foreign state for some valuable consideration or on the pretext that the transferee has some counter claim against him to the full or even a greater amount. The purchaser or transferee then presses the claim through the intermediary of his legation, and, rightly or wrongly, very often succeeds in recovering the whole of the claim.

I have no reason to think that any United States citizen has ever resorted or will ever resort to this practice, either to prevent an injustice or to make profit; yet I have nevertheless sent a copy of the memorandum to each of the missions in Persia, so as to prevent misunderstanding.

I have, etc.,

ALEX. McDONALD.

[Inclosure in No. 21.—Translation.]

Memorandum from the minister for foreign affairs.

In consequence of certain persons, subjects of Persia, negotiating and transferring some of their old, unjust, and irrecoverable claims to citizens of foreign Governments, causing loss and damage to traders, and producing confusion in the proceedings of the courts of justice and disorganizing trade, besides violating the solemn rights of the Government and otherwise causing annoyance and inconvenience, His Majesty has ordered that these negotiations and transfers are to be considered as groundless and entirely null and void until, according to international engagements, the papers or documents have the indubitable seal of the foreign office; and on the faith of that security the legation legalizes them. It is therefore evident that the honorable legation will give strict injunctions to its subjects that this matter may be unquestionably complied with and by no means allowed to continue, lest the claim (by the foreign citizen) be refused.

It is furthermore hoped that the honorable legation will have this subject in mind and so help to put a stop to the irregularity. We give no further trouble at this time.

Dated 9 Rubi-ul-avval (20th of September), A. H. 1311.

[Seal of the Kavam-ed-Dowlah, minister for foreign affairs.]

Mr. Gresham to Mr. McDonald.

No. 26.]

DEPARTMENT OF STATE,
Washington, November 11, 1893.

SIR: I have received your No. 21 of 25th September last and the copy therewith of a memorandum of the Persian foreign office on the subject "of Persian subjects transferring their claims" to subjects of other powers in order that the claims may be recovered through the legation of the transferees. I have to say with reference thereto that this Government will never recognize an assignment of a claim against a foreign country made by a citizen or subject of that country to a citizen of this for the purpose of invoking diplomatic aid in the recovery thereof. Still less will it undertake to aid in the recovery of claims against subjects of foreign countries which originally accrued in favor of their fellow-subjects and have been assigned by the latter to American citizens. Your action is therefore approved.

I am, etc.,

W. Q. GRESHAM.

ESTABLISHMENT OF A MISSIONARY SCHOOL AT KERMANSHAH FORBIDDEN.

Mr. McDonald to Mr. Gresham.

No. 61.]

LEGATION OF THE UNITED STATES,
Teheran, Persia, January 22, 1894. (Received March 5.)

SIR: I beg leave to transmit for your information copies of two letters I have quite recently received from the Rev. James W. Hawkes, an American missionary stationed at Hamadan, asking me to use my good offices with the Government here to procure from the Shah permission to rent premises and open a school for the benefit of the Jews and Christians in the town of Kermanshah, a city a little more than midway between here and Bagdad.

I also inclose a copy and translation of my letter to the prime minister on this subject, to which there has yet scarcely been time for a reply.

I have, etc.,

ALEX. McDONALD.

[Inclosure 1 in No. 61.]

*Mr. Hawkes to Mr. McDonald.*KERMANSHAH, PERSIA, *December 19, 1893.*

DEAR SIR: In reply to a request from a number of Jews of this city several times preferred in writing, and at the expressed desire of the Christians residing here, my wife and I are here for the purpose of starting a school for their children. On my second visit to his excellency the Ameer-i-Nizam, governor of this province, he informed me that his Government is not willing we should establish a school here without first obtaining, through you, permission from the central Government at Teheran.

Being ignorant that such a permission would be required, I did not take the precaution to arm myself with said document before coming down. Now I will be greatly obliged if you will make request in my name, from the prime minister, for the necessary papers to meet the case. Should it be demanded, I have no objection to restricting the attendance of Moslem pupils to such as shall first obtain permission of their own Government.

Hoping for a favorable answer,

I remain, etc.,

JAS. W. HAWKES.

[Inclosure 2 in No. 61.]

Mr. Hawkes to Mr. McDonald.

KERMANSHAH, PERSIA,

January 9, 1894.

DEAR SIR: We have been here six weeks and all our efforts to rent a house for the winter were ineffectual. Finally we succeeded in effecting the lease of the house of Mirza Ahad, Scrishtadar of the custom house, for a term of three years in consideration of 50 tomans per year, one-half cash down and the other half to be used in repairing the property next summer. I send you herewith the papers pertaining to this lease.

Now the said Mirza Ahad affirms he has sold the house and wishes us to vacate. I tell him I will do so when the lease has expired. Will you kindly obtain a line or two from the central Government establishing us in our rights in this case, since I understand the governor here, his excellency the Ameer-i-Nizam, is not likely to sustain us without authority from the capital.

Hoping for a favorable reply,
I remain, etc.,

JAS. W. HAWKES.

[Inclosure 3 in No. 61.]

Mr. McDonald to the Sadi Azam.

LEGATION OF THE UNITED STATES,
Teheran, January 24, 1894.

YOUR HIGHNESS: The Rev. James W. Hawkes, an American missionary, residing in Hamadan, having received several very pressing invitations from the Jews and Christians in Kermanshah to visit that city and open a school for the education of their children, has now, accompanied by his wife, been in Kermanshah for about six weeks, making inquiries into the condition and wants of the children of these people, and he has come to the conclusion that a school would be a great benefit and advantage to them.

Mr. Hawkes is now prepared to accede to the desire of these religious bodies, and will undertake to provide the necessary funds and means for the equipment and maintenance of the school; and he has asked me to bring this matter to the notice of your highness, and on his part most respectfully request that you will have the kindness to obtain His Imperial Majesty's gracious permission and sanction to rent suitable premises, and to open the school.

Your highness will so readily admit that this is a most useful work in satisfaction of a great need, that it is not, on my own part, necessary to urge any plea on behalf of this proposal of Mr. Hawkes, but I feel confident that I am justified in saying that the privilege, now asked for by Mr. Hawkes, when granted will in no sense be abused.

Permit me to renew, etc.,

ALEX. McDONALD.

Mr. McDonald to Mr. Gresham.

No. 64.]

LEGATION OF THE UNITED STATES,
Teheran, Persia, February 8, 1894. (Received March 22.)

SIR: In continuation of my dispatch of the 22d of January, transmitting copies of two letters from the Rev. James Hawkes, an American missionary residing in Hamadan, asking me to obtain permission from the Persian Government for him to open a school for the education of Jewish and Christian children in the town of Kermanshah, and my communication to the Grand Vizier preferring Mr. Hawkes's request, I now have the honor to transmit for your information a copy and translation of the prime minister's reply refusing permission to allow the school to be opened, on the ground that it might be the cause of trouble and dispute.

As Mr. Hawkes appears to have gone to some trouble and incurred considerable expense, and as the work he proposes to undertake would be of practical benefit and utility to the Jewish and Christian communities in Kermanshah, I propose to have an interview with the prime minister as soon as possible, to speak with him on this and one or two other subjects; but as his highness is unwell I may not be able to obtain it for a few days at the least.

I have, etc.,

ALEX. McDONALD.

[Inclosure 1 in No. 64.]

The Prime Minister to Mr. McDonald.

YOUR EXCELLENCY: The contents of your letter dated the 12th of the month Rajah, A. H. 1311, with reference to the opening of a school in Kermanshah for the instruction of the children of the Jewish and Christian communities in that city, have been understood.

In considering the objections to this institution in Kermanshah it is evident that it would result in trouble and disputes. I wish to bring these objections plainly to the mind of your excellency, and to state that the Imperial Persian Government begs to be excused from granting the permission for Mr. Hawkes to start a school in Kermanshah.

I take, etc.,

Dated the 22d of the month Rajah, 1311, the 30th of January, 1894.

Mr. Gresham to Mr. McDonald.

No. 51.]

DEPARTMENT OF STATE,
Washington, March 29, 1894.

SIR: I have received your No. 64 of the 8th ultimo, reporting the denial of the application of the Rev. James Hawkes, a citizen of the United States, for permission to open a school for the education of Jewish and Christian children at Kermanshah.

In his reply to your note submitting Mr. Hawkes's application, the prime minister states that "it is evident" that the establishment of the proposed school "would result in trouble and disputes;" wherefore the Imperial Persian Government begs to be excused from granting the solicited permission.

The vagueness of the minister's reply presents a dilemma, either aspect of which is unsatisfactory. If his excellency charges the projectors of this benevolent school with a purpose to raise trouble and disputes, it would be but fair to state the grounds of so serious an aspersion against men whose humane profession and law-abiding record are well known. If, on the other hand, his excellency apprehends trouble and disputes being raised by Persian subjects against these peaceable doers of good among their fellow-men, his statement amounts to an admission of either inability or unwillingness to enforce in Persia the guarantees of the treaty of 1856, the third article of which stipulates that—

The citizens and subjects of the two high contracting parties—travelers, merchants, manufacturers, and others—who may reside in the territory of either country shall be respected and efficiently protected by the authorities of the country and their agents, and treated in all respects as the subjects and citizens of the most favored nation are treated.

The anticipated violation of Persian law, by persons amenable to that law, is no ground for denying treaty rights of residence and calling to the menaced alien when he himself shall conform to law.

Moreover, the fifth article of our treaty provides for the orderly and legal settlement of all suits and disputes between Persian subjects and citizens of the United States before the competent tribunal. What "trouble and disputes" not comprehensible under this article are intended by his excellency I am unable to conjecture. It is regretted that his excellency did not "bring these objections plainly to the mind of" the diplomatic representative of the United States, as he expressed a wish to do. Under any circumstances, however, it is clear that nothing in the treaty contemplates the avoidance of such disputes by the restriction or prohibition of the residential rights of American citizens.

Dr. Hawkes has given the best proof of his intention to respect the law and peace of Persia by the form and manner of his application.

The result of your intended supplementary appeal to his excellency the prime minister is awaited with interest.

I am, etc.,

W. Q. GRESHAM.

Mr. McDonald to Mr. Gresham.

No. 83.]

LEGATION OF THE UNITED STATES,
Teheran, April 4, 1894. (Received May 9.)

SIR: In regard to the Kermanshah school his highness, as will be seen by the inclosed note, adheres to his previous decision not to grant permission for the opening of the same. In pressing this matter on his highness I spoke in the highest terms of the character and accomplishments of my countrymen, the missionaries; of the good they are doing by their disinterested and self-sacrificing labors through the media of their schools, their hospitals, and churches; of the seeming inconsistency of allowing schools at other places (where they were working smoothly and well) and denying one for Kermanshah, where there was loud call for it—all of which his highness admitted, saying the humane work of the missionaries in Persia was fully appreciated by the Government; but still for some reason he has seen proper to withhold the permission asked for in this instance. I think there is some secret history about the matter which is not understood—perhaps some interference by rival and jealous religious propagandists. Our missionaries had secured property and made other arrangements for opening the school at Kermanshah, and are disappointed and placed at inconvenience by this decision of the Government; but I think I have pressed the matter as far as is advisable for the present and will, therefore, let it drop unless there are new developments.

I am, etc.,

ALEX. McDONALD.

[Inclosure in No. 83.—Translation]

The Prime Minister to Mr. McDonald.

YOUR EXCELLENCY: I beg to inform you that the contents of your letter of the 7th of the month of Ramazan (15th of March), 1894, with reference to the opening of a school at Kermanshah, at the request of the Jews and Armenians of that city, have been understood.

At another time, if it should be advisable to open this school, there would be no objection to the issue of the order granting permission, but to open a school of this kind at the present in Kermanshah is open to objection.

I beg to trouble you with these few lines in reply to your letter.

I hereby renew, etc.,

[Seal of the prime minister.]

Mr. Tyler to Mr. Gresham.

No. 95.]

LEGATION OF THE UNITED STATES,

Teheran, May 7, 1894. (Received June 8.)

SIR: I have the honor to report that in the absence of Mr. McDonald I have taken the liberty to open your No. 51, diplomatic series, dated March 29, 1894, commenting on the refusal of the Persian Government to allow the Rev. James Hawkes, a citizen of the United States, to open a school for the education of Jewish and Christian children in the town of Kermanshah.

The result of the further negotiations with the prime minister on this subject was communicated in Mr. McDonald's dispatch of the 4th of April.

If a favorable opportunity should present itself for reopening this question I shall not fail to take every advantage of the very pertinent and forcible arguments contained in your dispatch.

I am informed that Mr. Hawkes has returned to the mission station at Hamadan.

I have, etc.,

JOHN TYLER,
Vice-Consul-General in charge.

Mr. Tyler to Mr. Gresham.

No. 108.]

LEGATION OF THE UNITED STATES,

Teheran, June 18, 1894. (Received July 19.)

SIR: In reverting to the decision of the Persian Government on the application of the Rev. James Hawkes, of Hamadan, for permission to open a school for the education of Christian and Jewish children at Kermanshah, I respectfully beg to report that on the 15th instant I received a friendly visit from the Mushir-ul-Mulk, the official charged with the foreign business in the department of the prime minister.

In the course of conversation with his excellency, who is a friend of mine, I took advantage of the opportunity to introduce the subject of the proposed school. I told him that the Department of State, in view of the entirely benevolent and unselfish feelings which had prompted Mr. Hawkes, who was a gentleman of the most blameless character and superior intelligence, to accede to the pressing invitation of the Christians and Jews of Kermanshah, regretted very much the prime minister's decision; and I added that I should be very glad if he would give me the reasons which had induced his highness to come to this adverse conclusion.

He told me that the application had been laid before His Majesty the Shah, who, in consequence of the distance of Kermanshah from the capital, and the turbulent and fanatical character of the people and the tribes in that neighborhood, was afraid that some evil-disposed persons might stir up opposition and strife which would jeopardize the safety of those in charge of the school, and be a source of trouble to the state, and he, therefore, did not think it would be advisable to open a school there at the present.

The Mushir-ul-Mulk said that they all recognized and admitted to the fullest extent the civilizing and beneficial work of the missionaries; and that when, from a more extended intercourse with the outside world, more liberal views pervaded the population, there would be no objection offered to the work of the missionaries in Kermanshah. I remarked that I was under the impression that the Catholics were already, in some character or other, established there. He said he was not aware of it, but if I could prove that a mission of any kind was already in existence it would be an argument in favor of the application, and he would see what further could be done. I promised to make the necessary inquiries and let him know the result.

As the final decision had been given by His Majesty I did not think it prudent, in my position, to discuss the rights and obligations of the treaty.

In consequence of some maladministration and tyrannical exactions on the part of the late governor of Kermanshah, at the end of last year there was a serious rising of the populace against that official, and the Government was obliged to recall him. This circumstance may possibly have had some influence on the mind of the Shah, when this proposal was laid before him, and inclined him to an adverse decision.

I have, etc.,

JOHN TYLER,
Vice-Consul-General in charge.

Mr. Tyler to Mr. Gresham.

No. 118.]

LEGATION OF THE UNITED STATES,
Teheran, August 6, 1894. (Received September 6.)

SIR: In my No. 115 of July 25 I had the honor to transmit a copy and translation of a letter which I had addressed to the Mushir-ul-Mulk regarding the proposal of Mr. Hawkes, a missionary in Hamadan, to open a school in Kermanshah for the instruction of Jewish and Christian children in that city. I now beg to forward his excellency's reply, which, it will be observed, is still unfavorable.

Whether the troubles in Hamadan have had anything to do with this refusal I do not know, but at any rate the Government seem to have made up their minds on the subject, and I think that any further application would be useless at the present.

I am, etc.,

JOHN TYLER,
Vice-Consul-General in charge.

[Inclosure in No. 118—Translation.]

Mushir-ul-Mulk to Mr. Tyler.

22D OF MUHARRAN, A. H. 1312. (JULY 26, 1894.)

SIR: I have to acknowledge the receipt of your esteemed favor of the 15th of Ramazan, A. H. 1312, in regard to the proposal of Mr. Hawkes to open a school at Kermanshah for the instruction of Jewish and Christian children, and have understood its contents. I have reported the matter to the proper quarter, but in view of the unfavorable surroundings in connection with this proposal, and which have already been communicated to the legation, and which, should a favorable opportunity present itself, I may report in more detail to you personally, it seems that to open a school of this kind in that city would unquestionably give rise to troubles and disputes; and the Persian Government apologizes for not being able to concede the permission to Mr. Hawkes to open a school in that city.

I take, etc.,

MUSHIR-UL-MULK.

RELIGIOUS PERSECUTIONS AT HAMADAN AND DOMICILIARY RIGHTS OF AMERICANS.

Mr. Tyler to Mr. Gresham.

No. 113.]

LEGATION OF THE UNITED STATES,

Teheran, Persia, July 12, 1894. (Received August 15.)

SIR: I have the honor to forward for your information copies of (1) a letter from the Rev. James Hawkes, an American missionary at Hamadan, relating to the renewed persecution of the Jews by a certain ecclesiastical dignitary in that city, and the forcible removal of a man who had taken refuge in Mr. Hawkes's house; (2) a letter from Dr. Holmes, the medical missionary at that station, in regard to the same subject; (3) extract from a letter from Dr. Holmes reporting the arrest of some of their teachers and pupils, probably Jews, who were, however, speedily released; (4) a letter from myself to Dr. Holmes expressing my views of the situation, and requesting to be informed by telegraph in case affairs in Hamadan should assume a more serious aspect; (5) a letter from Mr. Conyningham Greene, the English chargé d'affaires, to myself affirming his belief that Mullah Abdullah, the author of all these troubles, who was ordered up to Teheran by the Shah, was, before he was permitted to return, obliged to give securities for his future good behavior, and stating that the Sadr Azem had informed him that orders had been sent by the Shah which would have the effect of putting an end to these oppressions.

It appears from what I have been able to gather from various sources that for some time past there has been a considerable movement amongst the Jewish population in Hamadan towards Christianity. This may or may not be a reaction against the persecutions and indignities which they have suffered at the hands of the ecclesiastical and ruling authorities. It may also be, and on which I do not profess to offer an opinion, the result of religious convictions. Whichever may be the active cause, or it may even be both, it is quite evident that the Akhund, Mullah Abdullah, considers it a reflection on himself and the Moslem

religion as well. He is a violent bigot and fanatic, and this phase of his character, in the eyes of the common people, throws a halo of sanctity around his person. It is satisfactory to find from Mr. Greene's letter that the Shah has again asserted his authority in favor of peace, order, and good government.

I have, etc.,

JOHN TYLER,
Vice-Consul-General in charge.

[Inclosure 1 in No. 113.]

Mr. Hawkes to Mr. Tyler.

HAMADAN, June 28, 1894.

DEAR MR. TYLER: Having received your favor of the 19th instant, I am pleased to learn that you still interest yourself in our efforts to establish a school at Kermanshah. I hope you may be eventually successful in obtaining the necessary permit.

The Catholics have no mission at present in Kermanshah, but I understand they are making preparations to open one shortly. Last winter during our stay there the Catholics gave us a separate petition, which I forwarded to our U. S. minister. You can no doubt find it in its proper place. The Christian community at Kermanshah numbers about six or eight families, almost entirely Catholic, and the Jewish community about four hundred families, or more.

As a matter of information I wish to report the following particulars of a little encounter with the Akhund, Mullah Abdullah.

On Sunday last he caused to be arrested a former pupil and teacher of our school, Mirza Salazar Faraj, who, since his older brother's death, has been carrying on that brother's business as a merchant. When he was present the Akhund reviled him for accepting Christianity instead of Islam, and ordered him to be taken to the said Akhund's house. The attendants beat him in the Akhund's presence. On his way to the Akhund's he slipped out of the hands of the attendants as he was passing near my house and came into my yard.

The attendants followed him, and after a contest, in which I tried to rescue him from their hands, they carried him off by force. I, being single-handed on account of the absence of my servants who were eating their dinners, was not able to effectually resist so many. Some of the number turned upon me, but a neighbor and a sayed helped me to put them out and close the door. Shortly afterwards the Akhund's servant returned, ordering me to appear before the Akhund immediately, and threatened violence in case I did not respond. This I refused to do, and again closed the door in his face; (he is an exceedingly impudent sayed and the cause of almost all the Akhund's contests).

Dr. Holmes, who had arrived before this sayed's return, went out by another door and pacified him and brought him in. After considerable talk Dr. Holmes went with him to see the Akhund and talked the whole matter over with him. He attempted to make me out a transgressor, which Dr. Holmes denied, asserting that I had only asserted my right within the bounds of my premises.

Among many things which were said, the Akhund virtually defied the Shah, etc., but the interview ended in a friendly parting and the promise of another interview. That evening the missionaries called upon Hussein Khan Sarteab, Beglar Begi (who has always proved a

faithful friend on such occasions), and he afterwards arranged for a meeting between the Akhund and the missionaries. On Tuesday morning we went to the house of Hadji Mirza Mehde, where we understood we were to meet the Akhund, but we found that they had not so arranged, expecting us to go from thence to the Akhund's house. At this we demurred but we finally consented to go for a friendly call on condition that these two men would take charge of our case. We asked but two things of them: First, that those Jews who had been free from wearing the patch and suffering other indignities on account of their relation to the missionaries should continue to enjoy this liberty; and second, that while we had nothing to say about their relations with the Jews of this city we reserved the right to report to our own and other foreign Governments any violence or indignities which may be imposed upon them. They accepted these conditions, and we made a call on the Akhund, at which time nothing but good will was expressed.

In this connection I would ask two favors: First, that you would kindly give the above report to the English legation as a matter of information; and second, that you would let us know on what conditions Mullah Abdullah returned to Hamadan. We understand, through English papers, that he gave bonds to keep the peace, and we would be glad to know if this is true.

Yours, very sincerely,

JAS. W. HAWKES.

[Inclosure 2 in No. 113.]

Dr. Holmes to Mr. Tyler.

HAMADAN, *June 29, 1894.*

DEAR SIR: Mr. Watson and Mr. Hawkes are writing you to-day in regard to the renewal of the persecution of the Jews, which we have anticipated ever since the Akhund Abdullah returned from Teheran. The forcible entry of Mr. Hawkes's premises in pursuit of one of our Christian converts, who was taken by the Akhund's men literally out of Mr. Hawkes's hands, and severely beaten for his failure to wear the red patch which the Akhund has decided that the Jews, whether Christian converts or not, should wear, gave us an opportunity of making a vigorous protest against the imposition of such insignia of dishonor upon Christians; and also against the renewal of the cruel persecution of the Jews which was carried out by his orders last year. We have satisfied him that we propose to keep our own and the European Governments advised of any unusual acts of oppression perpetrated upon the Jews, and of any demonstrations menacing their lives or property.

We have, however, had a very pleasant interview with the Akhund himself, and also with Hadji Mirza Mehde, who is in sympathy with him, and we have assurances from the latter that our rights and those of the Jews shall be respected.

Mirza Hussein Khan, the Beglar Begi, who has just recently been promoted to Sarteab, has in this matter, as at all times, shown himself a warm and efficient friend. We called to-day upon the vizier of the governor, Mirza Mahomet Reizza Khan, the prince himself being absent, and had a very pleasant interview. We have no doubt of his disposition to protect us; also the Jews, to the extent of his power; though if an emeute should occur, he could probably do little. Mehdi Khan Ser-tib Mansur-ed-Dowleh sent to me yesterday to inquire about the affair, and Ali Islam Serhaug, his lieutenant, intimated that the city was in a

ferment, and that we were in danger of mob violence. I told him that we were in no danger at all if the Sertib and his friend the Zea-ul-Mulk, and the other men in authority and influence, did their duty in asserting the authority of the Shah, and not allowing a hostile demonstration to gain headway. We have seen a statement from the British foreign office that the Akhund was not permitted to return to Hamadan until the assent of the British minister had been obtained, and this was not given until he had given bonds to keep the peace. If this is correct, as I doubt not it is, he should be required to respect the conditions of his release. I sent word to Mansur-ed-Dowleh and to the Zea-ul-Mulk that we had every confidence in their desire to protect us, but that, if they expected to do so, they must exert their influence and authority, they having the command of the most of the troops, I believe, to keep the peace; particularly as the Moharem is approaching, and the disorderly and fanatical elements are easily acted upon then by designing men. We do not feel that the situation is as yet at all critical, and hope that the excitement will entirely quiet down.

I had a personal interview with the Akhund after the affair at Mr. Hawkes's, and though everything was said pleasantly, I made it plain that the violation of our premises must not be repeated.

My purpose is not to invoke any assistance from Teheran, but to keep you advised of the situation, so that on receipt of a letter you would know how to act, and could, if necessary, advise the British and other legations.

It has been reported that Sayed Ali, the servant of Akhund, had two ribs broken in the affair at Mr. Hawkes's. This was absurd, as Mr. Hawkes was alone at the time and no blows were struck; but it was evidently believed by the native physician in attendance. At the request of Sayed Ali, I visited him and found him suffering from an attack of asthma to which he was subject, and for which I had previously treated him. He had a pleuritic pain, which was thought to depend on a fracture of the rib. It is needless to say that the sayed had no fracture, nor did he make any pretense that he had been hit by anybody.

Everything is now quiet and we come and go as usual. We do not wish to have any special action taken in the matter unless we should be compelled to do so by the action of the Akhund.

Yours, very truly,

GEO. W. HOLMES.

[Inclosure 3 in No. 113.]

Dr. Holmes to Mr. Tyler.

HAMADAN, July 6, 1894.

DEAR SIR: I wrote you last week about the trouble here, which I thought then was quieted down. Soon after this other of our teachers and pupils were arrested, but on our application were promptly released by the Akhund. It turns out that the aggressor in this instance, and the instigator in the other case, was a former servant of Miss Schenck's, who used this method of revenging himself for his dismissal from her service and her unwillingness to meet his demands for more pay, etc. We hope to have the man punished, as he has made threats of violence to our missionary ladies. But the authorities are disposed to protect our interests, and the Akhund has done nothing about which we care to make complaint since I wrote you last week.

Yours, etc.,

GEO. W. HOLMES.

[Inclosure 4 in No. 113.]

*Mr. Tyler to Dr. Holmes.*LEGATION OF THE UNITED STATES,
Teheran, July 10, 1894.

DEAR SIR: I wrote a few lines on the 3d instant, to inform you that Mr. Hawkes's letter of the 28th and yours of the 29th ultimo had just arrived; and I have now to acknowledge the receipt of yours of the 6th instant.

It appears from what you report concerning the persecution of the Jews of Hamadan, and the forcible removal from Mr. Hawkes's premises of a former pupil and teacher of your school, that these are matters requiring serious consideration. They may not be of very grave import in themselves, but it is possible that if they are allowed to go on unchecked and unredressed, time after time, they may eventually assume alarming proportions. You are, no doubt, being on the spot, better able than I am to judge of the actual state of public feeling and the general position of affairs in Hamadan, and therefore, in accordance with your expressed wishes, I shall, at the present time, make no official representation to the central authorities on these irregularities. I think, however, that it would not be advisable to allow too many repetitions of this lawlessness or too frequent threats to be used toward the ladies of the mission without some remonstrance being made, if the local governor is powerless to act effectively. I feel it, therefore, my duty to ask you, that in case the position should assume a more threatening aspect, you will let me know by telegraph.

I trust you will be able to get the instigator of these acts of aggression and indignity, Miss Schenck's late servant, punished by the authorities. If this is carried out in an exemplary manner, it will probably have the effect of deterring others in the future. * * *

Any complaint that you may feel it necessary to make to this legation will be attended to with the utmost expedition.

I have already communicated Mr. Hawkes's report to the English legation, where, I have no doubt, it will receive due attention.

I remain, etc.,

JOHN TYLER.

[Inclosure 5 in No. 113.]

*Mr. Conyngham Greene to Mr. Tyler.**SULHEK, July 9, 1894.*

SIR: In reply to the inquiry contained in the last paragraph of your letter of the 7th instant, I beg to state that I believe it is the case that Mullah Abdullah gave securities for his good behavior before his return to Hamadan, but whether at the instance of Sir Frank Lascelles or not, I can not say. Sir Frank, I know, made strong representations to the Persian Government on the subject of the action of the Mullah.

I myself received a petition last month purporting to come from the Jewish community of Hamadan, complaining of the oppression of Mullah Abdullah, but, as it was neither signed nor sealed, I do not know if it was authentic.

I spoke to the Sadr Azem on the subject, who told me that orders have been sent by the Shah which would have the effect of putting an end to the oppression complained of by the Jewish community of Hamadan.

I am, etc.,

CONYNGHAM GREENE.

Mr. Gresham to Mr. Tyler.

No. 72.]

DEPARTMENT OF STATE,
Washington, August 18, 1894.

SIR: I am in receipt of your No. 113 of the 12th ultimo, inclosing correspondence relating to renewed persecution of Jews at Hamadan and the forcible removal of a man who had taken refuge in the house of the Rev. James Hawkes, an American missionary at that place.

With regard to the invasion of Mr. Hawkes's premises by the Persian authorities and the forcible arrest of a fugitive therein, it is regretted that this act should have been brought about by an untenable assertion of asylum for a Persian subject. This Government does not claim that its official agents have the right to afford asylum.

By the seventh article of the treaty of 1856 between the United States and Persia, it is stipulated that—

The diplomatic agent or consuls of the United States shall not protect, secretly or publicly, the subjects of the Persian Government, and they shall never suffer a departure from the principles here laid down and agreed to by mutual consent.

The domiciliary rights of citizens of the United States in Persia may not be expanded to embrace the protection by them of Persian subjects, when such protection is explicitly disclaimed by the Government of the United States, and when its assertion by their diplomatic and consular representatives is positively inhibited.

I am, etc.,

W. Q. GRESHAM.

Mr. Tyler to Mr. Gresham.

No. 122.]

LEGATION OF THE UNITED STATES,
Teheran, Persia, August 23, 1894.
(Received September 27.)

SIR: In continuation of No. 116,¹ diplomatic series of the 6th instant, relating to the religious persecutions in Hamadan by the fanatic, Akhund Mullah Abdullah, and the danger to the lives and property of American citizens and their dependents by his reckless, cruel, and wanton proceedings, I have the honor to transmit copies of further local correspondence on this subject.

* * * * *

I have inclosed the whole of the correspondence up to date, so that the Department might be put into possession of all the material facts. At one time it appeared as if the situation was becoming grave, and that the missionaries were in real danger. I had, however, the satisfaction of knowing that they would do nothing to complicate matters or infuse a bad spirit into the disputes.

The immunity from severe punishment which members of the priestly class enjoy always makes them insolent and reckless, and they can generally depend upon the support of the lowest and most dangerous part of the population. They are not generally liked by intelligent and independent people, and very uncomplimentary terms are used of them, but, on account of their great numbers and their wide influence, outward deference and respect are observed toward them.

¹ Not printed.

It is satisfactory to find that Mullah Abdullah has not altogether allowed his fanaticism to outrun his discretion, and I hope that he will in the future be kept effectually in check by the Government.

I have, etc.,

JOHN TYLER.

[Inclosure 1 in No. 122.]

Mr. Tyler to Mr. Holmes.

LEGATION OF THE UNITED STATES,
Teheran, August 7, 1894.

DEAR SIR: I beg to acknowledge the receipt of your and Mr. Hawkes's letters of the 26th ultimo, which reached the legation on the evening of the 1st instant.

From your detailed, though unimpassioned, account of the general unsatisfactory state of affairs in Hamadan, and of the cruel and oppressive conduct of the Akhund Mullah Abdullah and his bribed and irresponsible minions in particular, I think the time had come, nay, more than come, for the central Government to be put into possession of the facts of the case, and an opportunity afforded them of exercising their authority in the interests of peace, order, and good government.

I have reason to believe that the executive authorities, both here and in Hamadan, are averse to the Akhund and all his proceedings; and if he had been a lay instead of an ecclesiastical offender he would have suffered the full penalty of his misdeeds. But you, as well or even better than I, have observed that within the last four or five years the priestly class has assumed pretensions and authority probably never before aimed at since the days of the caliphate. Mullah Abdullah would never, after his recent visit to Teheran, have been permitted to return to Hamadan but for the intervention (I won't say intercession) of the religious dignitaries of this city.

* * * * *

There is evidently in Persia at the present time a progressive and a reactionary party, but neither appears as yet to have imbibed the genuine spirit of patriotism, but on the contrary the ideas of both, I am afraid, are sadly adulterated with selfishness. If the ruling authorities felt confident of their position and strength, and could compel the obedience and good behavior of all classes, I believe they have intelligence enough to discern and prudence to foresee that the work in which you are engaged, if extended a hundred times, would be the best guaranty and safeguard of the liberty of the subject and the permanence of the Kingdom. The party of reaction sees, as it always has and I suppose always will see, that the elevation and enlightenment of the masses mean not only the curtailment of power but of emolument as well.

This is a state of affairs which we are obliged to contemplate every day, and these two sets of opinions are freely expressed at every private and social meeting. It is a question of supreme importance to Persia at the present time, and one that the Government will have to face, as to whether they shall control the destinies of the country on their own responsibility and by their own methods, or whether they shall subordinate their views and policy to the dictation of others.

* * * * *

It would possibly at the present stage be rather early to assume

that the movement in Hamadan has anything more than a local significance. * * *

I have, in my letter to the Sadr Azem, which was sent from here shortly after midday the day after yours arrived, used the word missionaries advisedly, so that in case of discussion it may be conducted on clear and unmistakable issues.

The Shah is now away on an excursion, in Mazenderan, and I hardly think in connection with a telegraph line, so I am afraid we must be prepared for a little delay. I hope, nevertheless, that you will not be kept long in suspense.

Rest assured that I shall not let the matter drop, but I hope that no further communication will be necessary.

I remain, etc.,

JOHN TYLER.

[Inclosure 2 in No. 122.]

Mr Hawkes to Mr. Tyler.

HAMADAN, PERSIA, August 3, 1894.

DEAR MR. TYLER: Since last week, when Dr. Holmes and I wrote to you how Mullah Abdullah had disturbed the peace here and bastinadoed Mirza Salazar Faraj, we have had lively times here, but fortunately for us the brunt of it all did not fall upon us.

It seems that a certain Abdullah, known as Kusaj, a servant or dependent of Hadji Mirza Mehdi, mentioned in former letters as a co-worker with Mullah Abdullah, has been talking loudly and badly against Aga Mohammed, one of the acting Mushtaheds of the city, and went so far as to strike Hadji Sadr, a prominent man. The "Agayans" (priests), a strong part of Sayeds, with the Imaum-i-Jumah (high priest) at their head—also known as Kabadians from the name of their quarter in the city—took up the matter and sent a request to Hadji Mirza Mehdi to curb in said Abdullah. He replied: "He is my man and it is proper for him to do so." Upon hearing this the Agayans sent a mob of their adherents with a number of Sayeds at their head, to fight it out with Hadji Mirza Mehdi and his party. When they arrived at his house they found the door shut and no one prepared to meet them. The party of Hadji Mirza Mehdi and Mullah Abdullah had the shops of the bazaar closed, for they are mostly shopkeepers, and came to look on, but not prepared to fight. Somehow a little skirmish took place and some on each side were hurt. One man on Hadji Merza Mehdi's side came to Dr. Holmes to have his hand dressed, which had been badly cut.

In the meantime the ferash bashi at the head of a number of Government ferashes arrived to restore peace. And at the same time Hadji Mirza Hassan, a brother of Hadji Mirza Mehdi, who is on the side of the "Agayans," arrived and publicly cursed his brother for espousing the cause of a good-for-nothing Burujerdi, the Akhund. "Oh, that my father had not given existence to such an unworthy son," etc. He also cursed the governor and the ferash bashi for not keeping the peace, etc. He then tried to turn back the "Agayan" crowd, but they refused to go without word from the Imaum-i-Jumah. He obtained their writing and, showing it, prevailed upon the crowd to return to their own quarters. All this occurred on Tuesday, and for the rest of the day and the next both parties were in conclave as to the next move. Wednesday afternoon the prince governor prevailed on some one (I

have not his name just now) to make peace between the contending parties. He succeeded to the extent that there have since been no hostilities. But no one believes that the peace is permanent.

The Akhund's party alienated the "Sheikhees" (a sect) by putting one of their young men out of a school under most humiliating circumstances, thus renewing the quarrel of 1892. Thereupon the "Sheikhees" petitioned the Shah for the Akhund's removal from the city. I also understand they telegraphed the Shah about the bastinadoing of Mirza Salazar Faraj, mentioned last week. And I also hear that the Akhund is interfering with the collecting of the revenue. He sent word to Faraj Ullah Khan, Sarteeb, "Why do you commit this oppression?" The Sarteeb replied: "It is none of your business." Then the Akhund appealed to the prince governor to take away the sword of said Sarteeb. He replied, "I did not give the sword to the 'Sarteeb' that I should take it away; that is no business of mine."

This whole matter has been reported to Teheran by telegraph and doubtless there are petitions going up from all sides to-day. I have given you the brief facts as I have been able to gather them, in the hopes that you will be able to use them in your efforts to obtain redress for us. It seems to us and all the natives we see that only the wisest and most summary action on the part of the Government will be of any use to restore peace and quiet. We hope that you will put forth the most strenuous efforts in this direction.

Very truly yours,

JAS. W. HAWKES.

[Inclosure 3 in No. 122.]

Mr. Tyler to the Mushir-el-Mulk.

LEGATION OF THE UNITED STATES,

Teheran, August 11, 1894.

SIR: On the 2d of this month I had the honor to forward through your excellency a letter addressed to the Sadr Azem with reference to the state of lawlessness prevailing in the city of Hamadan. As the state of the city is becoming worse every day, and no reply having been received to my communication, our citizens residing in the midst of these proceedings are becoming anxious.

I have therefore to request that you will inform me of the views of the Persian Government on the situation and of the measures that have been adopted for putting a stop to these proceedings.

I avail, etc.,

JOHN TYLER.

[Inclosure 4 in No. 122.—Translation.]

The Mushir-el-Mulk to Mr. Tyler.

TEHERAN, PERSIA.

SIR: In reply to your letter just received regarding events in Hamadan, I beg to inform you that stringent orders have been issued and will be telegraphed to the authorities in Hamadan to-day.

A formal reply to your previous letter on this subject will be sent later on.

I take this opportunity, etc.

Dated the 9th of Safar, 1312. (11th of August, 1894).

[Seal of Mushir-el-Mulk].

[Inclosure 5 in No. 122.—Translation.]

The Sadr Azem to Mr. Tyler.

TEHERAN.

SIR: I beg to inform you that the contents of your letter, dated the 29th of Muharram (corresponding to the 2d of August, 1894), relative to events that had taken place in the city of Hamadan, have been understood.

Stringent orders have been sent to the authorities of Hamadan with strict injunctions to have them put into execution. Orders have also been sent for a thorough investigation to be made into the affair, and measures to be taken for the tranquillity of American citizens.

These matters are set forth for your information.

I take this opportunity, etc.

[Seal of the Sadr Azem.]

Dated 18th of Safar, A. H. 1312 (20th August, 1894).

[Inclosure 6 in No. 122.]

Mr. Hawkes to Mr. Tyler.

HAMADAN, August 13, 1894.

DEAR SIR: I trust you received my letter of last week giving you particulars of the state of affairs here. There has been no change in the situation since then and all is quiet. I learn that Mullah Abdullah had a message proclaimed in the bazaars to the effect that no one must beat or hurt the Jews. If any are found without the "vasleh" (patch), they are to be brought before him, but without violence. We are awaiting a reply from our former letters to you, but trust that no further efforts need be put forth.

* * * * *

Yours, etc.,

JAS. W. HAWKES.

[Inclosure 7 in No. 122.]

Mr. Tyler to the Sadr Azem.

LEGATION OF THE UNITED STATES,

Teheran, August 20, 1894.

YOUR HIGHNESS: On the 2d instant I had the honor to address a letter to you on the subject of the unsatisfactory state of affairs in Hamadan, and the danger to the lives and property of United States citizens, and those connected with them in that town, through the lawless and unjustifiable proceedings of the Akhund, Mullah Abdullah, and a set of dangerous and irresponsible characters whom he employs to execute his orders. At the same time I most respectfully requested that your highness would take prompt and efficient measures to restore order and afford effective protection to our peaceful and law-abiding citizens and their dependents in Hamadan. As I have not yet received from your highness any reply to my communication, I beg to be informed as early as possible what steps have been taken to secure those objects.

I take this opportunity, etc.,

JOHN TYLER.

[Inclosure 8 in No. 122.]

Mr. Tyler to the Sadr Azem.

LEGATION OF THE UNITED STATES,
Teheran, August 21, 1894.

YOUR HIGHNESS: I have the honor to acknowledge the receipt of your letter of the 18th of Safar, A. H. 1312 (corresponding to the 20th of August), informing me that stringent orders had been sent to the authorities of Hamadan to preserve the peace of the town and to afford all protection to the lives and property of American citizens.

I beg to tender on the part of the U. S. Government and the missionaries their sincere thanks for this action of your highness, which I trust will have the effect of curbing the turbulent elements and of permitting the missionaries to carry on their work of charity in the future, free from anxiety and annoyance.

I take this opportunity, etc.,

JOHN TYLER.

Mr. Tyler to Mr. Gresham.

No. 123.]

LEGATION OF THE UNITED STATES,
Teheran, Persia, August 29, 1894.
 (Received October 3, 1894.)

SIR: I have the honor to inclose a copy of a letter, dated August 24, which I have just received from the Rev. James W. Hawkes, of Hamadan, conveying the gratifying intelligence that the Shah, in the exercise of his authority, had telegraphed to the governor insisting that he preserve order in the town and prevent any further molestation of the Jews and Christians, and that the missionaries be permitted to live in peace, that no occasion be given to the U. S. legation to make representations of this character.

It is a source of satisfaction to learn that the Shah took the matter into his own hands, and in his orders to the governor has given it to be understood that he looks with undisguised displeasure at the persecution of the Jews and Christians, whilst at the same time he conveys the sanction of his approval at the work of the missionaries.

I have, etc.,

JOHN TYLER.

[Inclosure 1 in No. 123.]

Mr. Hawkes to Mr. Tyler.

HAMADAN, PERSIA, *August 24, 1894.*

DEAR MR. TYLER: Your favor of August 14 was received by our last mail, and I wish to thank you in the name of my fellow-missionaries for the prompt measures you have taken to secure our safety and prosperity. This morning the Beglar Begi, Hussein Khan, Sarteeb, showed me two long and explicit telegrams sent in the name of the Shah to our governor, insisting that he preserve order and see to it that the Jews and Armenians of Hamadan be not molested, reciting the occurrences of the past month or so, and insisting that the missionaries be in peace, so that the U. S. legation have no further need to make

representations of this character. This is the substance of the telegrams so far as I can recall them. I did not think to ask for a copy of them just then, and when I asked for a copy they had gone back to the governor.

There has been perfect quiet here since I wrote you last week, and we have expressed our thanks to the governor for his timely aid and our gratification at its success. The Hessam-ul-Mulk arrived here about a week ago, and he took pains, during our call yesterday, to say that he holds himself ready to summarily quiet any further disturbances. We trust there may be no need for his carrying this determination into effect.

With many thanks,

JAS. W. HAWES.

Mr. Gresham to Mr. Tyler.

No. 77.]

DEPARTMENT OF STATE,
Washington, September 29, 1894.

SIR: I have to acknowledge the receipt of your No. 122, diplomatic series, of the 23d ultimo, and to commend your action in the matter of the religious persecution in Hamadan.

The Department learns with pleasure that the measures taken by the Sadr Azem for the protection of American citizens residing in Hamadan have proved effectual, and it confidently hopes that no further trouble will occur there.

I am, etc.,

W. Q. GRESHAM.

Mr. Tyler to Mr. Gresham.

No. 130.]

LEGATION OF THE UNITED STATES,
Teheran, Persia, October 3, 1894.
(Received November 6, 1894.)

SIR: I have the honor to inform you that I have just received your dispatch No. 72, of the 18th of August, regarding the forcible removal, by the authorities in Hamadan, from the Rev. James Hawkes's house in that city, of a Persian Jew who had taken refuge there; and also pointing out that the "Government does not claim the so-called right of asylum for its official agents, and discourages it on all proper occasions." Furthermore, that "according to the seventh article of the treaty of 1856 the domiciliary rights of citizens of the United States may not be expanded to embrace the protection by them of Persian subjects."

In offering a few remarks on this subject, I beg most respectfully that it may be understood that I by no means wish to oppose my views to the decision of the Government, so clearly enunciated in your dispatch.

The case under consideration is somewhat unusual and peculiar, and I am afraid I have rather complicated the question by using the phrase "taken refuge" instead of "seeking protection," which would have more correctly conveyed the significance of the facts as set forth in Mr. Hawkes's letter.

The Akhund Mullah Abdullah, whose name has been so prominent in connection with these proceedings, holds no position, either admin-

istrative or judicial, directly from the Government, consequently, when he ordered the arrest and punishment of the person who sought Mr. Hawkes's protection he was putting into action an entirely assumed, arbitrary, and illegal authority, and the men who had charge of Mirza Salazar were executing an unjustifiable and unwarranted order, and which was later on repudiated and condemned by both the Shah and his Government.

If, therefore, Mr. Hawkes, probably ignorantly, acted in contravention of the treaty, from humane motives, the opposite party willfully, knowingly, and cruelly, by the assumption of undelegated power, violated the constitution and laws of his country. It would almost seem, although I should not like to affirm the principle in opposition to the treaty, that Mr. Hawkes was justified in the action he took on that occasion. It is no doubt difficult, when the feelings and sentiments are excited, to observe the exact line which should separate the exercise of the sympathy of the individual from the submission of the will to judicial or international obligations. * * * Up to the present, however, it is satisfactory to observe that, so far as my knowledge extends, no complaint has yet been made by the Persian Government against our missionaries for infringing the provisions of the seventh article of the treaty.

I should like, in order to afford the means of possibly forming clearer conceptions of what the right or privilege of asylum, refuge, or sanctuary means, to offer a few observations on the present state and operation of this ancient custom.

It might possibly be inferred that it mainly or generally implied the protection which the domicile of the foreigner, whether official or not, gave to fugitives from the penalties attaching to their misdeeds. This, however, is but a very small fraction of the question, and is almost entirely given up.

Previously to the date of the treaty between the United States and Persia, especially during the period that the British legation in Teheran was under the direction of the Indian administration, the right of asylum possessed by the foreign legation was scarcely ever called into question. The treaty of 1857 between England and Persia abrogated that right so far as that legation was concerned, and I am not aware that it has been exercised since. The right in those days had, doubtless, political advantages, securing the services and support of influential and well-known personages.

At the present time, when intrigues are rife and competition between rival legations for political advantages is unduly keen, the right of asylum is of more than doubtful value. Notwithstanding all this, it is not more than three or four months since a Persian of considerable distinction claimed, and received, asylum in a foreign legation.

Although the right of granting asylum has been practically relinquished by foreign legations, yet it is, nevertheless, in full vigor and operation in the country, and is recognized as a very important part of the national polity. It is probably a survival, transmitted through the Arabs, of the Jewish cities of refuge and the protection afforded by the sanctity of the altar. It is not necessary to argue on the expediency or necessity of the custom, for in by far the greater majority of cases it shields the transgressor instead of affording justice to the sufferer.

It is, moreover, the general impression, founded, no doubt, on the commands of the Hebrew law, that the asylum or sanctuary is intended to protect the offender from the summary, and often cruel and unjust, vengeance of the person aggrieved. It is, however, more than this, and in

its alternate character is more effective for good than in the object of its original constitution.

There are various places where persons can claim protection or asylum, but those most sacred and inviolable are the shrines of the early leaders of the Moslem faith. Those most accessible to the people of this city and vicinity are the shrine of the venerated Masuma at Koom, about 100 miles from Teheran, and that of Shahzadeh Abdul Azim, about 6 miles south of the city, and to which the tentative and only railway in Persia is constructed. The others are the Imaum zadehs, or inferior shrines, the houses of the expounders and administrators of the Islamic law, called Mudjtaheds; the principal mosques, although the Shah's mosque in Teheran is excluded; the Shah's stable; a cannon; the Shah's harem, and sometimes the houses of the principal ministers of the Crown. These latter, however, are not considered as offering more than a temporary and rather a precarious protection, inasmuch as the asylum depends upon the will of the person responsible for the safety of the refugee; but to forcibly remove a person from the two shrines first mentioned until his guilt or innocence had been clearly proved would be considered an indignity and an assumption of unlawful power against the dead saint. When the guilt of the refugee is established on clear evidence it is not usual to screen him from the penalties of the law, for that would be tantamount to encouraging defilement and using the shrine for unlawful purposes. A strict surveillance, however, is not always kept over the refugees, and they not infrequently, when it is convenient to do so, make good their escape. It is in this respect that the asylum system fails, for while it affords an offender a ready and easily accessible place of safety, it often enables him, by gaining his liberty, to altogether avoid making satisfaction to the sufferer or the laws of the State.

The asylum is frequently taken advantage of by persons who have tried other means and have failed to obtain a hearing or a redress of their grievances by the ordinary methods. As the localities or places well known and recognized as asylums either belong to or are under the direction or control of influential persons, the complaint of the individual making this formal protest very soon reaches either the ears of the Shah or one of the responsible ministers. In the course of a long connection with the Persian law courts I have known great numbers of cases of this kind. On one occasion, being obliged to press for the settlement of a claim which had been standing over for a long time, the defendant brought his bedding and claimed asylum in the court, where he stayed for some time. About three and a half years ago I was intrusted by one of the foreign legations here with the conduct of a very complicated case; and as it did not move quite so rapidly as some of the parties expected, a large family with all their relations, numbering upward of thirty persons, threatened that unless the case was settled within a certain time they would all take asylum in my house. As my accommodation was of the most moderate dimensions, an invasion of such proportions was a serious matter, and I had to inform them that they would find very indifferent lodgings and treatment, and that they had better seek an asylum in the legation which employed me. I mention these cases as not more typical than many others that have come under my notice, to show for what various purposes the asylum can be taken advantage of.

It is generally conceded to the subjects of all foreign states that their servants and permanent employes shall not be arrested and forcibly removed from their premises without first obtaining their consent.

And so far as my experience has gone there has not been much complaint on that account, and I have known many instances where foreigners' servants have been arrested in the public thoroughfares they have been liberated as soon as it became known to whom they belonged.

In order, however, that there may be no misapprehension on the subject of asylum in the minds of the United States citizens in Persia, I propose to send a copy of the inclosure to each mission station in the country.

I have, etc.,

JOHN TYLER.

[Inclosure 1 in No. 130.]

Mr. Tyler to Mission Stations.

LEGATION OF THE UNITED STATES,
Teheran, October 4, 1894.

SIR: In connection with recent events in Hamadan the honorable the Secretary of State, in a recent dispatch, has directed my attention to a clause in the seventh article of the treaty between the United States and Persia, which stipulates that:

The diplomatic agent or consuls of the United States shall not protect, secretly or publicly, the subjects of the Persian Government, and they shall never suffer a departure from the principles here laid down and agreed to by mutual consent.

And in concluding adds:

The domiciliary rights of citizens of the United States in Persia may not be expanded to embrace the protection by them of Persian subjects when such protection is explicitly disclaimed by the Government of the United States, and when its assertion by their diplomatic and consular representatives is positively inhibited.

In order, therefore, that there may be no misunderstanding as regards this question, I have to request that in your dealings with Persian subjects you will be good enough to conform to the provisions of the treaty and the interpretation given thereof by the Secretary of State.

I remain, etc.,

JOHN TYLER.

P. S.—Please show this to the members of your station.

J. T.

Mr. Uhl to Mr. McDonald.

No. 88.]

DEPARTMENT OF STATE,
Washington, November 13, 1894.

SIR: I have received and read with great interest Mr. Tyler's No. 130, diplomatic series, of the 3d ultimo, in relation to the forcible removal of a Persian Jew from the Rev. James Hawkes's house in Hamadan by the Persian authorities, and generally in relation to the custom of asylum and the domiciliary rights of American citizens.

As the Persian Government had made no complaint of any misuse of protection by Mr. Hawkes, the Department's instruction was intended rather by way of comment and caution than as a rebuke. Nevertheless, Mr. Tyler's circular letter calls timely attention to the general subject, and will doubtless conduce to the avoidance of any cause of complaint on this score.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

MURDER OF AGA JAN KHAN.¹*Mr. McDonald to Mr. Gresham.*

No. 62.]

LEGATION OF THE UNITED STATES,
Teheran, January 22, 1894. (Received March 5.)

SIR: I have the honor to forward, herewith inclosed, a copy of a letter I have received from Dr. J. P. Cochran, of Oroomiah. * * *

It is satisfactory to observe from Dr. Cochran's letter that during the time of great anxiety following the murder of Aga Jan, and on the occasion of the outrage on Mr. St. Pierre, the missionaries have acted with most commendable self-control and circumspection, and in their communications with the Government authorities relative to these crimes they have been very careful and discreet.

I also inclose my reply to Dr. Cochran's letter.

I have, etc.,

ALEX. McDONALD.

[Inclosure 1 in No. 62.]

*Dr. Cochran to Mr. McDonald.*OROOMIAH, *December 29, 1893.*

DEAR SIR: I am in receipt of Mr. Tyler's letter of December 18.

* * * * *

A few days ago the governor sent asking me if I could help in bringing about a quiet settlement of the Aga Jan murder affair by some means which would heal rather than aggravate the present strained relations of the more fanatical Moslems and the roughs toward the Christians, reporting that strong orders had come from Tabriz for the arrest of three men supposed to be implicated. One is arrested. One has taken refuge in the house of the chief, Muztahed, who refuses to give him up, and the other is not to be found. The one at the ecclesiastic's is known positively to have been the man who made the first stab on Aga Jan. The Mullahs, Sayyeds, and roughs are reported to be bound together by an oath to take revenge should anything be done to the leaders of the mob.

After getting the opinion of the Christians as far as I am able in two days—Armenians, old Nestorians, Catholics, and Protestants—I replied that the Christians simply begged for protection. If that would be more secure in the future by having one or two of these men killed, that was what they wished. If, on the other hand, this punishment was going to bring on more hatred and blood, they wished the matter dropped. Mr. Governor, in response, asked that I write to our missionaries in Tabriz asking that they urge Aga Jan's wife to accept such redress as the Government might communicate to her. It is the plan of the governor to give out of his own pocket about 150 tomans to Laya Khanum, and get the Government to give her two sons a pension, if the authorities in Tabriz are willing to settle it in this way. I am writing to Mr. Whipple, on whose premises this Laya Khanum is, telling him of what has been suggested here.

The governor and other Oroomiah Khans insist that it will create a great disturbance should these men be all taken and sent off or pun-

¹ See Foreign Relations, 1893, pp. 502, 504, 505, 507.

ished here; if not a mob, murders in underhand ways would be perpetrated on the Christians. I thought it best to report this to your excellency and to say that for the present, at least, it seems wise to let the Government pursue this course if they choose.

Respectfully, yours,

J. P. COCHRAN.

[Inclosure 2 in No. 62.]

Mr. McDonald to Mr. Cochran.

LEGATION OF THE UNITED STATES,
Teheran, January 18, 1894.

MY DEAR SIR: I have received your favor of the 29th ultimo. I had previously been informed, through a telegram to the prime minister, of the capture and killing of the four outlaws, two of whom I was left to infer were the ruffians who assaulted Mr. St. Pierre. It is encouraging that the Government has acted so promptly and so thoroughly in this matter, and the effect, it is reasonable to believe, will be salutary on similar characters.

In regard to the Aga Jan case, you are on the ground and can act more intelligently than I can advise. It seems to me, however, that your reply to the governor was discreet. What the Christians want is peace, quiet, and good will, so far as they are attainable. While the criminals ought to be punished, that is a matter between the Persian Government and its guilty subjects. All the parties to the affair were Persians and not Americans, and I think the authorities should not seek to shove the responsibility of extreme measures on the missionaries, to their detriment no doubt; nor should they allow it. The Government should take care of its own criminals.

I repeat, therefore, that in my opinion your response to the governor was judicious in that it is in the line of conciliation and better feeling between yourselves and the natives. It is also in accord with the religion which you teach, which is not one of blood. In a contest of violence and hatred you have all to lose. In conciliating the good will and friendship of the people you have all to gain. Without these your work must be futile and fruitless and bring only grief to yourselves. At the same time do not misunderstand me as saying that the wretches who committed the atrocity should not be punished, but that you should not be led into the attitude of judge and executioner. The good of yourselves and your cause rather than a vengeance that will stir up fanatical strife and conflict is, it seems to me, what you want.

I am sorry to say that I still continue quite unwell.

Very truly yours,

ALEX. McDONALD.

PERSIAN REPRESENTATION IN THE MIXED TRIBUNALS OF EGYPT.

Mr. Sperry to Mr. Gresham.

No. 62.]

LEGATION OF THE UNITED STATES,
Teheran, Persia, July 5, 1893. (Received August 11.)

SIR: I have the honor to transmit to you herewith a copy and translation of a note which I have just received from the minister for foreign affairs in regard to the representation of Persia in the "mixed

tribunals" of Egypt. The note fully explains itself. Assuming the facts to be as stated by the Kavam-ed-Dowlah, I beg to add that his note appears to me to be an appropriate and just statement of the matter, while the matter itself is evidently of serious importance to the Persian Government. I am assured that the request for assistance from the Government of the United States is made with confidence, and I sincerely hope that due consideration by the Department of the request will show that the way is clear to render this assistance.

I have, etc.,

WATSON R. SPERRY.

[Inclosure 1 in No. 62.—Translation.]

Minister for Foreign Affairs to Mr. Sperry.

YOUR EXCELLENCY: It will be in your recollection that the present agreement between the great powers of Europe and the Government of the Khedive of Egypt relating to the judicial business in the mixed tribunals will expire in February next.

In connection with this subject I beg to inform your excellency that the Persian embassy in Constantinople has frequently protested through the Persian diplomatic agent, resident in Egypt, against the refusal of the Government of the Khedive to allow of the appointment of a Persian member to sit in this court. Your excellency is already aware that there is a large colony of Persians in Egypt who, on account of the wide extent of their business and the variety of their occupations, have very important matters requiring consideration.

The Government of the Khedive has admitted to this tribunal the representatives of countries whose subjects, residing in Egypt, are few in number, and consequently their business is of no serious account.

Up to the present moment the Government of the Khedive has neither given any reason nor produced any convincing arguments in support of its policy and behavior toward Persia regarding this subject.

A formal treaty now subsisting between Persia and Turkey provides for the attendance of a Persian member on all the mixed tribunals throughout Turkey.

It is requested, with the greatest respect, that when the treaty relating to the reappointment of the mixed tribunals shall be under discussion you will endeavor to direct the particular attention of your excellency's Government to the refusal of the Government of the Khedive to recognize the undoubted right of Persia to participate in this arrangement. I feel sure that your excellency's Government will appreciate, with the greatest facility, and also admit, the evident right of Persia in this matter.

I take advantage of this opportunity, etc.

Dated the month Zilhejjeh, A. H. 1310.

[Seal of the Kavam-ed-Dowlah.]

Mr. Gresham to Mr. McDonald.

No. 13.]

DEPARTMENT OF STATE,

Washington, August 17, 1893.

SIR: I have received a dispatch from Mr. Sperry, No. 62, of the 5th ultimo, accompanied by a note in which the Persian Government requests the aid of that of the United States to secure the representation of Persia in the mixed tribunals of Egypt.

While this Government sympathizes with the desire of Persia to see the interests of its numerous subjects in Egypt duly respected, this Government is not so situated with regard to the mixed tribunals as to intervene with a view to securing an enlarged representation of the non-European element in the constitution of the tribunals.

Our representative at Cairo will be advised of the desires of Persia, and instructed to report upon the subject when the question of reorganization comes up.

I am, etc.,

W. Q. GRESHAM.

Mr. McDonald to Mr. Gresham.

No. 20.]

LEGATION OF THE UNITED STATES,
Teheran, September 25, 1893. (Received November 3.)

SIR: I have the honor to acknowledge your No. 13, diplomatic series, replying to Mr. Sperry's No. 62, concerning the desire of the Persian Government to be represented in the mixed tribunals of Egypt and asking the intervention of the U. S. Government to that end.

The reason assigned by the Department for declining at present said intervention will be duly communicated to the Persian Government.

I am, etc.,

ALEX. McDONALD.

Mr. McDonald to Mr. Gresham.

No. 77.]

LEGATION OF THE UNITED STATES,
Teheran, March 26, 1894. (Received May 2.)

SIR: My predecessor, Mr. Sperry, on the 5th of July, 1893, transmitted to the Department of State a copy and translation of a letter from the Persian foreign minister, asking for the friendly intervention and cooperation of the Government of the United States with the European governments in securing for Persia a representative to take part in the deliberations of the mixed judicial tribunal in Egypt on the reappointment of that body by the Khedive's Government. I have now the honor to forward for your information a copy and translation of another letter I have just received from the minister for foreign affairs relating to the same subject.

In consequence of the presence of a number of Persian merchants engaged in trade in Egypt, and of a still larger number who every year pass through that country on their pilgrimage to the shrine at Mecca, a member to represent their interests on the tribunal might be of advantage. Any steps taken by the U. S. Government to secure that end would, I am sure, be highly appreciated by the Shah and his minister.

I have, etc.,

ALEX. McDONALD.

[Inclosure in No. 77.]

The Minister for Foreign Affairs to Mr. McDonald.

TEHERAN, the 12th of Ramazan (March 20), 1894.

YOUR EXCELLENCY: On the 15th of the month Zilhejzeh, A. H. 1310, I addressed you on the subject of the necessity for the presence of a representative of Persia on the mixed tribunals of Egypt. The

substance of the response of the Khedive's Government on this subject, made through the Italian consul-general in Egypt, is to the effect that as the citizens of Persia resident in the Ottoman Empire do not, as do the subjects of other countries, participate in the benefits of treaty rights, they can not, therefore, in Egypt, which is one of the provinces of that Government, partake of the same privileges which are accorded to other nations. Perhaps the intention of the Khedive's Government in this reply may be construed to mean that the Persian Government has no "capitulations" with the Turkish Government. If that is so, then its contention and argument are faulty, and contrary to the facts of the case, inasmuch as there are now treaties and conventions between the two governments, the stipulations of which are, throughout the whole of the provinces of the Ottoman Empire, in active operation, and as Egypt forms a part of that state they ought to take effect there. At the present time, in conformity with recent treaty rights, in most of the commercial courts throughout the Turkish Empire, representatives of Persia, in the same manner as those of other favored nations, or two Persian merchants in the capacity of members, sit to adjudicate on mercantile matters.

If the Persian Government had not these treaty privileges, it is manifest that the Turkish Government would never have admitted the representatives of Persia to seats in these tribunals. Leaving these considerations out of the question, it is evident from the fourteenth article of the existing treaty, concluded by the Persian embassy of this Government (in Constantinople) and the Ottoman department of foreign affairs, a translation of which into French I send for your excellency's perusal, that whatever rights and privileges are granted to the most favored nations in the Ottoman Empire have in their entirety been secured to the Persian Government, and Persian subjects in all parts of Turkey ought to be partakers of those rights and privileges to their fullest extent. Therefore the reply of the Government of the Khedive of Egypt to the consul-general of Italy is contrary to the stipulations existing between the governments of Persia and Turkey and the clear meaning of the aforesaid treaty.

Furthermore, the Persian Government has more subjects in Egypt than most other countries, and it can not therefore relinquish its clear and undoubted rights in that country.

It is therefore very respectfully urged upon your excellency's attention that on the occasion of the renewal of the convention for the reconstruction of the mixed tribunals of Egypt your Government will take into its serious consideration the injustice of the Khedive's Government in setting aside the confirmed rights of the Persian state. There is no doubt that your Government, in its enlightened sense of justice and a sincere regard for what is right, will not fail to take such steps as may appear just and necessary.

I have nothing further to trouble you with on this occasion.

[Subinclosure in No. 77.—Translation.]

Fourteenth article of Turko-Persian treaty.

Persian subjects in Turkey and Turkish subjects in Persia shall enjoy exactly the same rights as the subjects of the most favored nations in all matters which are not mentioned in the present treaty, and in case the Persian Government shall not fulfill any one of the clauses of this treaty, the Turkish Government will act, on its part, in the same manner.

The 21 Zegadé, 1292, corresponding to A. D. 1875.

Mr. Uhl to Mr. McDonald.

No. 57.]

DEPARTMENT OF STATE,
Washington, May 4, 1894.

SIR: I have received your No. 77 of the 26th March last and the copy which you inclose of a note of the Persian minister of state, and have to say in reply that the Department in its No. 13 of August 17, 1893, has already expressed its sympathy for Persia's desire to see the interests of its subjects in Egypt duly respected, but is now, as when the above instruction was written, unable to intervene to secure the desired representation in the mixed tribunal in Egypt.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

PORTUGAL.

SUSPENSION OF DIPLOMATIC RELATIONS WITH BRAZIL AND PROTECTION OF BRAZILIAN CITIZENS IN PORTUGAL.

Mr. Souza Roza to Mr. Gresham.

LEGATION OF PORTUGAL,
Washington, May 29, 1894. (Received June 12.)

SIR: Referring to the different interviews I have had with you in regard to the question that has been raised between the Brazilian and Portuguese governments, I note the following points as the principal ones, which will give an exact idea of the question referred to:

The intervention of Vice-Admiral Castilho, commander of the Portuguese naval force at Rio de Janeiro, as a mediator in the capitulation of the insurgents, and the asylum which was afterwards given to them, were effectuated without the authorization of the Portuguese Government. The instructions given by the Portuguese Government to Mr. Paraty, its representative in Brazil, were, with respect to the mediation, that it should be authorized only if it were accepted by the Brazilian Government; and, with regard to the asylum of the refugees, that it could be given only in concert with the commanders of the other foreign vessels. (Docs. Nos. 1, 2, 3, and 4.)

As soon as the Portuguese Government knew that the Brazilian Government declined to accept the capitulation of the rebels it gave positive instructions to Mr. Paraty not to have anything to do with this act. (Docs. Nos. 5 and 6.)

Asylum was finally granted by Admiral Castilho on the 14th of March, the Portuguese Government being ignorant that all the insurgents had taken refuge exclusively on board of the Portuguese ships. (Docs. Nos. 7, 8, 9, and 10.)

The Brazilian Government protested against the right of Portugal to give asylum to the insurgents; but on March 17, by amicable agreement, it consented that the vessels might depart from Rio de Janeiro. (Doc. No. 11.)

On March 19 the Portuguese corvettes *Mindello* and *Alfonso de Albuquerque* did depart for Buenos Ayres, carrying on board all the refugees. The question raised by the Brazilian Government over the right of asylum remained pending, the Portuguese Government declining to deliver up the insurgents, guaranteeing, however, to the Brazilian Government that they should be disembarked only on Portuguese territory, subject to the vigilance of the proper authorities, so as to prevent them from intervening in the political struggle of Brazil. (Docs. Nos. 12 and 13.)

On March 24 the corvette *Alfonso de Albuquerque* arrived at Buenos Ayres, and on the 26th the *Mindello*, and the Portuguese Government insisted upon its orders to the commanders not in any event to disembark the refugees, who were to be conveyed to Portuguese territory on

a transport of war expressly sent from Lisbon for this purpose, since the commanders of the two corvettes declared most positively that it was impossible for them to put to sea, from lack of accommodations and from the condition in which the vessels were found to be. (Docs. Nos. 14, 15, 16, 17, 18, 19, 20, and 21.)

As it would take a long time for a transport to arrive, and the Portuguese Government wished to convey the insurgents to Portugal as speedily as possible, it endeavored to charter a special steamer for this purpose in Buenos Ayres. (Docs. Nos. 22 and 23.)

Meanwhile the hygienic conditions resulting from the accumulation of so many persons on board of the Portuguese vessels became extremely bad, and cases of yellow fever were not slow in appearing. A lieutenant who was asylosed on the *Alfonso de Albuquerque* died of this disease, and two soldiers of the *Mindello* were sent to the hospital. The Argentine Government, in consideration of the danger, urgently besought the Portuguese representative at Buenos Ayres to solicit instructions from the Government at Lisbon to disembark the refugees at the lazaretto, or that the corvettes would leave the Argentine waters immediately. The situation on board was extremely grave, the Portuguese representative declaring that it was impossible to await the arrival of the transport. (Docs. Nos. 24 and 25.)

This situation, already of itself so difficult, was aggravated by the circumstance of its being known that the friends and partisans of the insurgents were planning to bring about their disembarkation, which, being known to Admiral Saldanha da Gama, led him to beg for the disembarkation of the refugees by telegram directed to the Government of His Majesty. (Docs. Nos. 26 and 27.)

In spite of all these difficulties and demands, the Portuguese Government, faithful to the promise it had made to the Brazilian Government, declared most positively that under no circumstances whatever would it permit the disembarkation of the refugees, not even the sick; and it insisted that every endeavor possible should be made to charter a vessel which should carry the refugees to the territory of Portugal, under the Portuguese flag, as quickly as possible. (Docs. Nos. 28, 29, and 30.)

These orders of the Portuguese Government could have been carried into effect finally, the steamer *Pedro III* being chartered at Buenos Ayres on April 8 for £8,000 to carry the refugees to the Island of Ascension. (Docs. Nos. 31 and 32.)

At this juncture the Portuguese Government was informed that 110 refugees had escaped from on board the corvette *Mindello*, in view of which it immediately gave orders that an urgent request for their restitution should be made to the Argentine Government. This Government, however, not only declined to deliver them up, but protested against the fact of some of the fugitives having been recaptured at the time when they escaped on board of the schooner *Pepito Donato*, with the Argentine flag. (Docs. Nos. 33, 34, and 35.)

The Brazilian Government having been informed of this escape, protested, and the Portuguese Government explained the circumstances, and proved that it had been solicitous to comply with its promise to the Brazilian Government, employing to that end all means within its reach, and that no responsibility could be attached to it for what had happened.

On the 15th of April the Portuguese Government received exact and circumstantial information about the escape of the fugitives at Buenos Ayres, and the communication that the two Portuguese corvettes had departed for the coast of Montevideo, where the steamer *Pedro III*

was soon going to meet them to carry the refugees to the Island of Ascension. (Docs. Nos. 36, 37, and 38.)

On April 16 the Government of Uruguay asked for the disembarkation of a refugee severely attacked with beri-beri on board of the corvette *Alfonso de Albuquerque*, promising to be responsible for his restoration to the Portuguese Government dead or alive, a petition supported even by the minister of Brazil in Uruguay. The Portuguese Government answered this with a formal declination, because it had promised the Brazilian Government to allow the disembarkation of the rebels only in the territory of Portugal. The Portuguese Government informed its representative at Rio de Janeiro of this resolution, but in view of the certification of the physicians, transmitted by the chargé d'affaires of Portugal at Buenos Ayres, that the individual in question would die on the way if he went to sea, the Portuguese Government granted that he might remain a prisoner on board the corvette *Mindello*, under the responsibility of the commander thereof. (Docs. Nos. 39, 40, 41, 42, and 43.)

Various complications with the Argentine Government followed, in consequence of the diligence which was employed in the capture of fugitives at Buenos Ayres, so that the Portuguese Government decided to leave the refugees about whom there had been contention with the Argentine Government on board the corvette *Mindello* at Buenos Ayres, taking the remainder to sea on the *Pedro III*, convoyed by the corvette *Alfonso de Albuquerque*. (Docs. Nos. 44 and 45.)

Nevertheless, in spite of all the precautions and good will of the Portuguese Government yet new complications arose. On April 28 the Government at Lisbon received word that 133 refugees had escaped from on board the steamer *Pedro III*, who had been placed upon it to be taken to Portugal, and amongst them was Admiral Saldanha da Gama. The Government immediately charged its representative at Rio de Janeiro to testify to the Brazilian Government the great regret with which it received this entirely unexpected news, and to declare that the commanders of the two corvettes had been deposed from their commands immediately, and would be court-martialed, so that those who were responsible for failure to carry out the promises so many times given and so often insisted upon should be punished. (Doc. No. 46.)

After so many mishaps and complications, the steamer *Pedro III* finally left Buenos Ayres for Portugal with 170 refugees, being convoyed by the corvette *Alfonso de Albuquerque*. After this, on May 14, the chargé d'affaires of Portugal at Rio de Janeiro received a note from the Brazilian Government, complaining that the Portuguese Government had taken the responsibility of asylum granted to the refugees, and had let them escape, and at the same time sending to the personnel of the legation of Portugal its passports. (Docs. Nos. 47 and 48.)

This note caused the greatest surprise to the Portuguese Government, because no communication had been made to it by the Brazilian Government after the most complete explanations had been given by it about the escape of the refugees, the endeavors made to keep the promises it had given, and the steps taken to punish those who were responsible. (Doc. No. 49.)

This is the explanation which I outlined to you, and submit to your appreciation. In view of the short time that I have had to make this résumé, I have been obliged to pass over entirely some circumstances which it would have been fitting to mention.

Nevertheless the main facts are here sketched, and from the careful reading and consideration of these I have not the least doubt that you

will be convinced of the extreme fidelity and complete rectitude with which the Portuguese Government has acted throughout this lamentable occurrence.

THOMASO DE SOUZA ROZA.

[Document No. 1.—From the legation of Portugal.]

RIO DE JANEIRO, March 11, 1894.

Asylum granted without my authorization. I request orders.

PARATY.

[Document No. 2.—To the legation of Portugal at Rio de Janeiro.]

MARCH 12, 1894.

Portuguese Government does not wish its agents there to do any act which can be disagreeable to the constituted Government; therefore we must know how the Brazilian Government will accept the intervention of Commandant Castilho to treat of capitulation. You will please, therefore, ascertain, informing me immediately, so that proper instructions may be given you. In order that asylum for Gama and officers may be effectuated, it is indispensable for Castilho to reach an understanding with commanders of foreign vessels.

HINTZE RIBEIRO.

[Document No. 3.—From Rio de Janeiro to Lisbon.]

MARCH 12, 1894.

Navy:

Saldanha begs with utmost urgency that I be charged with effecting negotiations for capitulation with most favorable conditions; withdrawal of the officials to go to foreign parts under protection of Portugal, guaranty of life of inferior officers, soldiers, and volunteers; delivery of fortress, ships of war, and material of every kind, and restitution of prisoners. Counting from yesterday Government fixed the term of forty-eight hours for beginning to fight with all its force. In view of great urgency in consequence of the distance from the chargé d'affaires, I decided with the greatest possible haste to visit the President of the Republic at 11 o'clock last night. President of Republic declared immediately that the importance of the subject required consultation with minister of war and minister of marine, and promised to send reply to-day if it were possible. Chargé d'affaires arrived safely; disapproved my proceeding. I ask to be relieved of command.

CASTILHO.

[Document No. 4.—From Lisbon to Rio de Janeiro.]

MARCH 12, 1894.

Command of corvette Mindello:

You should proceed there in harmony with the chargé d'affaires of Portugal, who receives instruction from the Government. Chargé d'affaires has already telegraphed to the Government about the asylum and mediation sought by Gama. Chargé d'affaires will proceed according to instructions of Government, which he will communicate to you for due performance. In the present state of affairs there it is essential for each one to do his duty, laying aside all personal feeling. I can not at this moment grant release to one who, like you, occupies a post of importance and confidence.

NEVES FERREIRA.

[Document No. 5.—From the legation of Portugal at Rio de Janeiro.]

MARCH 12, 1894.

Minister of foreign affairs says Federal Government can not accept condition proposed in behalf of military rebels.

PARATY.

[Document No. 6.—To the legation of Portugal at Rio de Janeiro.]

MARCH 13, 1894.

In view of answer of Brazilian Government, we must not mediate directly in the capitulation, merely being able to cooperate with representatives of other powers in any nonofficial action. As to asylum, the petition should be communicated to the

represented powers so that the asylum to be effectuated may be by agreement of all, Castilho for this purpose coming to an understanding with the commanders of other foreign ships, as I said yesterday.

HINTZE RIBEIRO.

[Document No. 7.—To the legation of Portugal at Rio de Janeiro.]

MARCH 15, 1894.

As to the refugees, we should act exactly like the other nations which have there important interests and ships of war in which the vanquished revolutionists may have been gathered.

HINTZE RIBEIRO.

[Document No. 8.—From the legation at Rio de Janeiro.]

MARCH 16, 1894.

Only Portuguese vessels will give asylum. Brazilian Government disputes over right. I ask if they can and should be carried away. Excitement against Portuguese.

PARATY.

[Document No. 9.—To the legation of Portugal at Rio Janeiro.]

MARCH 16, 1894.

Your telegram surprised me after instructions given by Portuguese Government about asylum sought by insurgents. Consult immediately representatives of nations which have there ships of war and which therefore ought to have instructions about the case of asylum. If these understand international laws of asylum to be applicable in the present case, and if they will therefore lend support to asylum in our ships of war, maintain asylum, combining Castilho with commanders of foreign ships of war.

HINTZE RIBEIRO.

[Document No. 10.—From the legation of Portugal at Rio Janeiro.]

MARCH 17, 1894.

Formerly all were ready to give asylum; considered the right sacred. Now representatives of foreign nations reserve opinion in the case, but at my instance seek instructions of their governments.

PARATY.

[Document No. 11.—From the legation of Portugal at Rio Janeiro.]

MARCH 17, 1894.

Arranged in a friendly manner with Brazilian Government that corvettes should depart to-morrow at 4:30, if before that no other order came from your excellency.

PARATY.

[Document No. 12.—From the legation of Portugal at Rio Janeiro.]

MARCH 21, 1894.

Corvettes departed with Brazilian Government disputing right to sail; but pending claim against right of asylum, I promised to keep the fugitives on board until claim was settled. France, England, Russia, Austria, Montevideo, minister of foreign affairs; he personally recognized right of asylum; United States equally, if it has not changed. I seek instructions for moral support. Brazil exercised this right many times. I have written by steamer *Nilo* urgent instructions; Buenos Ayres, commander *Mindello*. I ask if I shall propose arbitration. All fugitives were received; said to be followed by Brazilian steamer.

PARATY.

[Document No. 13.—To the legation of Portugal at Rio Janeiro.]

MARCH 22, 1894.

I received telegram of yesterday; difficult to decipher. I answered to-day to chargé d'affaires of Brazil here. Portuguese Government can not deliver refugees, nor therefore make corvettes return with them to Rio Janeiro, since duties of humanity, principles of international law, naval regulations common to all nations do not permit delivery of all individuals received on Portuguese ships of war, under shadow of Portuguese flag, being there as on Portuguese territory, so much the more as our treaty of extradition with Brazil expressly says that individuals shall not be delivered for political crimes. Portuguese Government gives to Brazilian Government

assurances that fugitives shall only disembark on Portuguese land, being there guarded in military depots and subject to vigilance of competent authorities, so as to prevent their taking part in the internal political struggle of Brazil. Portuguese Government trusts Brazilian Government desist from its claim in virtue of their assurance and declaration.

HINTZE RIBEIRO.

[Document No. 14.—From the legation of Portugal at Buenos Ayres.]

MARCH 24, 1894.

Corvette *Alfonso de Albuquerque* arrived to-day at quarantine Island Flores Montevideo; transport of war asked of your excellency.

FARIA.

[Document No. 15.—From Lisbon to Buenos Ayres.]

MARCH 25, 1894.

Chargé d'affaires of Portugal:

Please send following telegram to commander of *Mindello* as quickly as possible; as the arrival of the transport would take a long time, it is well to try to put in at Loanda, or at least at St. Helena, where Bartholomen Dias will probably arrive the same day. In no case whatever disembark fugitives without having received orders.

NEVES FERREIRA.

[Document No. 16.—To the legation of Portugal at Buenos Ayres.]

MARCH 25, 1894.

In accordance with my former telegram, it is absolutely necessary not to disembark fugitives. Corvettes *Alfonso de Albuquerque* and *Mindello* should not stay there, and should depart as quickly as possible for a Portuguese port, where then a war transport will go, in conformity with the direction of the minister of marine to the commander in the telegram sent you to-day.

HINTZE REBEIRO.

[Document No. 17.—From Buenos Ayres to Lisbon.]

MARCH 26, 1894.

Ministry of Marine:

The corvette *Mindello* is expected to-morrow; I will carry aboard your telegram.

FARIA.

[Document No. 18.—From Buenos Ayres to Lisbon.]

MARCH 26, 1894.

Secretary of Admiralty:

The corvette arrived to-day safely. Ten days of quarantine. I await orders from our Government to disembark 251 passengers.

TEVES.

[Document No. 19.—From Lisbon to Buenos Ayres.]

MARCH 26, 1894.

Commandant of Portuguese corvette Alfonso de Albuquerque:

Do not disembark fugitives in any case whatever without order of the Government.

SECRETARY.

[Document No. 20.—From the legation of Portugal in Buenos Ayres.]

MARCH 27, 1894.

Corvette *Alfonso de Albuquerque* ten days' quarantine. I carried your excellency's orders on board; commander declared me impossible to go on to a Portuguese port, for lack of capacity and provisions. Says it is indispensable transport of war come here. *Mindello* is expected to-morrow. Fugitives have not disembarked.

FARIA.

[Document No. 21.—From the legation of Portugal in Buenos Ayres.]

MARCH 28, 1894.

Mindello arrived to-day. I delivered your excellency's orders to the commandant, who says also it is absolutely impossible to continue the voyage to a Portuguese port. Corvette needs repairs. I believe it is urgent that a transport of war come. The council of hygiene wants the passengers to make their quarantine at the hospital. I insisted that commandant should not consent to disembark.

FARIA.

[Document No. 22.—From the legation of Portugal at Vienna.]

MARCH 29, 1894.

In reply to your excellency's telegram I have the satisfaction of informing you that the Austrian Government has given a telegraphic order to the chargé d'affaires at Rio Janeiro to take the proper steps to get the Brazilian Government to consent to desist from its claim for the political refugees on board of Portuguese ships of war.

VALMOR.

[Document No. 23.—To the legation of Portugal at Buenos Ayres.]

MARCH 31, 1894.

Received your telegram now. I confirm absolutely the order given not to disembark the Brazilian refugees there. Minister of marine telegraphed to this effect to Commander Castilho and now repeats his order, ending in telegram directed to you to immediately communicate with Castilho, making him responsible for not complying. It is necessary to carry the refugees to Portuguese territory as quickly as possible. For this the minister of marine has already telegraphed to Castilho, asking if it is possible to charter a ship there which can assist in conveying the refugees under the Portuguese flag. I recommend this also to you, an answer being urgent, so that if there be a steamer there the minister of marine may give necessary instructions for the conveyance, and if there be not, a transport may go from here promptly.

HINTZE RIBEIRO.

[Document No. 24.—From Buenos Ayres to Lisbon.]

APRIL 3, 1894.

Navy:

It would be better to buy Italian steamer on prompt payment and depart for its destination, San Vincent, without the least delay with the Italian crew and my officers.

It is known officially that a lieutenant asyumed on the *Alfonso de Albuquerque* has died. Two soldiers from the *Mindello* were sent to the floating hospital with the fever.

The situation is very grave when it rains.

CASTILHO.

[Document No. 25.—From the legation of Portugal in Buenos Ayres.]

APRIL 4, 1894.

Epidemic yellow fever corvette *Mindello*:

Argentine Government in diplomatic note of to-day asks me to solicit with the greatest urgency instructions from the Government either to disembark the passengers for the lazaretto or to remove the corvettes from Argentine waters without the least delay. General indignation against the retention of the refugees on board is raised in the press. Under such conditions I beg of you orders to answer the note. The situation on board can not be more desperate. It has become impossible to wait for a war transport here.

FARIA.

[Document No. 26.—From the legation of Portugal in Buenos Ayres.]

APRIL 2, 1894.

I have secured the Italian packet *Norte America*, 18 miles speed; carries refugees directly to a Portuguese port for 200,000 francs, but formalities of changing the flag take at least twenty days. Company can sell this steamer for £200,000 sterling. Then depart immediately with officers, marine, and flamula. Quarantine *Mindello* ends April 6; *Alfonso Albuquerque* April 3. Commandant of *Mindello* wants to draw up to wharf for a concert. Say if I shall forbid it. I believe in this case it will be impossible to keep the refugees on board. If the Government does not wish to buy a ship, immediate orders should be given by all means for the corvettes to go from this port to the Canaries, to wait there for the Portuguese war transport. All sorts of suggestions are made for the disembarkation of the refugees here, the permanence of this situation being perilous.

FARIA.

Document No. 27.—To the legation of Portugal in Buenos Ayres.]

APRIL 2, 1894.

Considering the time necessary for changing the flag, the Government is going to order a transport to go from here which will reach there in a few days more than the twenty necessary for changing the flag. In no event allow drawing up to wharf. If it be necessary, time permitting, the ships can go out along the coast for a few days to avoid difficulties there.

HINTZE RIBEIRO.

[Document No. 28.—From Lisbon to Buenos Ayres.]

APRIL 4, 1894.

Command of Corvette Mindello:

There is no possible contingency in which the Government will permit the disembarkation of the refugees. Also it can not buy the ship for £200,000. In any case depart, saying where you are going, where a transport will go which will relieve you. Telegraphic orders to this effect go to San Vincent.

NEVES FERREIRA.

[Document No. 29.—From Lisbon to Buenos Ayres.]

APRIL 5, 1894.

Chargé d'Affaires of Portugal:

Please transmit to Commander Castilho the following order:

Do not in any event disembark any refugees. The Government promised that the refugees should only be disembarked in Portuguese territory. You assume the gravest responsibility if you fail to comply with this order. With the aid of the chargé d'affaires see if you can charter a vessel there to convey the refugees to a Portuguese port under a Portuguese flag. If you can not do so a transport will go from here.

NEVES FERREIRA.

[Document No. 30.—From Lisbon to Buenos Ayres.]

APRIL 7, 1894.

Commandant Corvette Mindello:

Disembarkation of sick impossible. Dispense all possible comfort; you will charter transport which will be conveyed by *Alfonso de Albuquerque* to island of Ascension, where it will meet transport proceeding from Lisbon. *Mindello* will go to St. Thomas and await orders.

NEVES FERREIRA.

[Document No. 21.—From the legation of Portugal at Buenos Ayres.]

APRIL 8, 1894.

Commandant of *Mindello* thinks the project of being towed in acceptable. By agreement with the financial agent I have contracted for the steamer *Pedro III* for £8,000, which goes as a Portuguese ship of war. I ask of your excellency authority to sign a contract in the name of the Government and that I have funds necessary to pay for the charter.

FARIA.

[Document No. 32.—To the legation of Portugal in Buenos Ayres.]

APRIL 8, 1894.

Received your telegram to-day. You may sign the contract; to-morrow I will make provision of money.

HINTZE RIBEIRO.

[Document No. 33.—From the legation of Portugal in Buenos Ayres.]

APRIL 9, 1894.

I have just learned on good authority that several refugees escaped last night from the corvette *Mindello* on launches which had brought coals and provisions. Both corvettes will go this morning to the waters of Maldonado to await the transport. There is more reason to insist upon the necessity of having the corvette *Alfonso de Albuquerque* accompany the transport at every cost. I am waiting for details which I will forward. The refugees were sent to the lazaretto.

FARIA.

[Document No. 34.—To the legation of Portugal at Buenos Ayres.]

APRIL 10, 1894.

If any refugees escaped from the Portuguese corvette, make urgent endeavors to have them restored by the Argentine Government and go to sea with the rest of the refugees, using to this end the means most appropriate there.

HINTZE RIBEIRO.

[Document No. 35.—From the legation of Portugal at Buenos Ayres.]

APRIL 11, 1894.

As ordered by you, I requested the delivery of the fugitives in the most cordial terms; the Argentine Government declines in a note to-day. Minister of foreign affairs has just sent me another note informing me a boat from on board the corvette *Alfonso Albuquerque* took by armed force 30 Brazilian refugees who were found to have escaped from that corvette on board of a schooner, *Pepito Donato*, carrying the Argentine flag, and carried them back to the corvette in violation of territorial sovereignty; that, proceeding in accordance with the instruction of the President of the Republic, he addressed me so that a formal complaint against the unjustifiable conduct of the commander of the corvettes might be conveyed to the Government of His Majesty, asking satisfaction for this deed and consequently for the surrender of the persons seized on the schooner, relying upon the cordial relations and the bonds of friendship and sympathy which bind the Argentine Republic to the Kingdom of Portugal for assurance that a prompt response will be given. I answered that I would inform the Government earnestly, and that trusting in these good relations to which he referred, I hoped that with the good will of all we should arrive at a satisfactory and honorable settlement. I await your excellency's instruction.

FARIA.

[Document No. 36.—From the legation of Portugal at Rio Janeiro.]

APRIL 12, 1894.

The Brazilian Government is informed that some refugees have disembarked at Buenos Ayres. If this news is confirmed diplomatic negotiations will probably be broken off.

PARATY.

[Document No. 37.—To the legation of Portugal at Rio Janeiro.]

APRIL 13, 1894.

The Portuguese Government gave the most definite orders that the Brazilian refugees should be disembarked only on Portuguese territory. In spite of the corvettes being overloaded with people, and of their therefore not being able to undertake any long voyage, of yellow fever manifesting itself on board, and of the Argentine Government requiring a disembarkation to the lazaretto or a prompt departure, the Portuguese Government never, in spite of all the difficulties, authorized any disembarkation. The Government denied the position of Saldanha da Gama and the King denied the petition of the Argentine Masonic lodges. In order that the refugees might reach Portuguese territory promptly, the Government chartered a steamer at Buenos Ayres to take its refugees to the island of Ascension under the Portuguese flag and with our officers and sailors, accompanied as far as possible by the corvette *Alfonso Albuquerque*, and it chartered another steamer here, which has already gone, also with our flag, officers, and sailors, to the island of Ascension, so as to bring the refugees from there to Portugal. It is said that some refugees have tried to escape, but they were recaptured and carried aboard. The Argentine Government complains because our corvettes have retaken some of those who escaped and hid themselves on an Argentine schooner. I ask for information so as to answer the complaint. At all events the Brazilian Government can not complain of our lack of endeavor to carry the refugees aboard our ships to Portuguese territory.

HINTZE RIBEIRO.

[Document No. 38.—Chargé d'affaires of Portugal at Rio Janeiro.]

APRIL 15, 1894.

I have just received official and exact information as to the occurrences at Buenos Ayres. Some refugees escaped treacherously from the corvette *Mindello*, but amongst them were only four combatant officers of low rank. Some refugees also tried to escape from the corvette *Alfonso de Albuquerque*, but were retaken; hence the demand of the Argentine Government. Both corvettes are now in the waters of the coast of Montevideo, whither a steamer chartered in Buenos Ayres is going without delay to convey the refugees to the Island of Ascension, where the steamer *Angela*, already chartered, will be, which will bring them to Portugal.

HINTZE RIBEIRO.

[Document No. 39.—From the legation of Portugal at Buenos Ayres.]

APRIL 16, 1894.

Government of Uruguay asks authorization to disembark fugitive Antonio Santos Abren, severely ill with beri-beri, on board corvette *Alfonso de Albuquerque*, making itself responsible to restore him to the Portuguese Government alive or dead. I beg

the speedy decision of your excellency. Transport leaves to-night, intending to leave Ponta India with refugees to-morrow night.

FARIA.

[Document No. 40.—To the legation of Portugal at Buenos Ayres.]

APRIL 17, 1894.

Portuguese Government feels that it can not accede to the petition of the Government of Uruguay; but having declared to the Brazilian Government, when that Government demanded surrender of refugees and the Portuguese Government refused it, that it would disembark them only on Portuguese territory. It can not default from the declaration it made.

HINTZE RIBEIRO.

[Document No. 41.]

APRIL 17, 1894.

Chargé d'affaires of Portugal at Rio Janeiro:

According to information received to-day, the steamer chartered at Buenos Ayres to carry refugees to Portugal leaves the waters of Uruguay to-day, where our corvettes are. Government of Uruguay petitioned Portuguese Government for authorization to disembark a refugee ill with beri-beri, making itself responsible for his restoration to the Portuguese Government, dead or alive; in spite of this, I answered that I could not grant the petition in view of my declaration to the Brazilian Government that we would disembark them only in Portuguese territory.

HINTZE RIBEIRO.

[Document No. 42.]

BUENOS AYRES, April 17, 1894.

President of Ministers, Lisbon:

Physicians declare that if Santos Abren, who is sick, goes to sea he will die on the way. Could your excellency permit him to remain a prisoner on board corvette *Mindello*? The minister of Brazil in Uruguay himself asks this. I believe it would not be improper.

FARIA.

[Document No. 43.]

APRIL 17, 1894.

Chargé d'affaires of Portugal at Buenos Ayres:

In view of your telegram of to-day, the refugee, Santos Abren, may remain on the corvette *Mindello* under the responsibility of the commandant. It is urgent that the chartered steamer leave with the refugees for the Island of Ascension, whence the *Angela* will carry them to Portugal.

HINTZE RIBEIRO.

[Document No. 44.]

APRIL 19, 1894.

Chargé d'affaires of Portugal at Buenos Ayres:

It is necessary that the steamer chartered by the Portuguese Government and now under the Portuguese flag leave that port without delay. When the steamer chartered, as is our right, has departed, you will reply to the demand of the Argentine Government, showing it what your telegram refers to, that the schooner *Pepito Donato* being, without any flag, attached to the corvette *Alfonso de Albuquerque*, in the service of that corvette, a service directed by a Portuguese officer and performed in the schooner itself by sailors of the Portuguese Navy, and moreover under our authority; refugees who had surrendered to our jurisdiction, and were under the guard and responsibility of our naval force, having tried to escape by deception, leaping into the schooner; having there struggled with our naval sailors and used force, attacking them with knives and trying to cut the fastenings and to detach the schooner, against our legitimate authority; the attack having been suppressed under these circumstances a continuous act, and without the refugees having succeeded in getting out of our jurisdiction and control, and our authority over them having been maintained; the corvettes not being at Buenos Ayres even but in the open sea, where the jurisdiction of the Government to which they belong is absolute over everything which is in them; and this not being a case of extradition, it is evident that no valid reason would oblige the Portuguese Government to order such refugees delivered to the Argentine Government, even in the absence of the declaration which it made to the Brazilian Government that it would disembark them only in Portuguese territory. You will close your note with the assurance that the Portuguese Government maintains the most cordial regards for the Argentine Government.

HINTZE RIBEIRO.

[Document No. 45.—From Lisbon to Buenos Ayres.]

APRIL 26, 1894.

Chargé d'affaires of Portugal :

Please transmit to Commander Castilho:

The refugees about whom there is no dispute remain on the *Mindello*, the rest going in the *Pedro III*, conveyed by the corvette *Alfonso de Albuquerque* until beyond danger, when the corvette will return there and the fugitives will be transferred from the *Mindello* to it. I ask definite instructions.

NEVES FERREIRA.

[Document No. 46.]

APRIL 28, 1894.

Chargé d'affaires of Portugal at Rio Janeiro :

The Government has to its great surprise just received word from Buenos Ayres that the Brazilian refugees who were on board the steamer *Pedro III* have escaped, the Government having chartered that steamer to carry them to Portuguese territory, as it declared to the Brazilian Government that it would do. I send you by mail a detailed account of all the endeavors which the Portuguese Government made; in spite of innumerable difficulties, they assure the coming of the refugees to Portugal, where supervision of them would have been easy and efficaciously exercised. The Government is collecting all the indispensable information it can as to the circumstances of this escape. Call upon the minister of foreign affairs immediately and testify to him the great regret with which the Portuguese Government has received this unexpected news, and tell him that the Government has immediately removed the commanders of the corvettes *Mindello* and *Alfonso de Albuquerque* from their commands, and will have them court-martialed, so that those who are shown to be responsible for failing to carry out the definite and rigorous orders which have been given and repeated by the Portuguese Government may be punished.

HINTZE RIBEIRO.

[Document No. 47.]

PETROPOLIS, May 14, 1894. (Received afternoon of 14th.)

I have just received a long note complaining that the Portuguese Government took the responsibility of asylum granted and did not hold the refugees, and have received the passports of the personnel of the legation of Portugal.

PARATY.

[Document No. 48.]

PETROPOLIS, May 14, 1894. (Received morning of 15th.)

Résumé of note: Reminds of promise to hold refugees on Portuguese territory; that President to answer note will await result of voyage to Rio Plata; result foreseen was to resume liberty of action and to be able to enter Rio Grande do Sul. There was lack of vigilance, aggravating asylum, considered as offense against territorial sovereignty; history of revolt follows; strange that Commander Castilho should support capitulation of deserters; that asylum was granted in front of fire of batteries; that humanitarian principles are not applicable to barbarous rebels; that the right of asylum is ill defined; that extradition is not applicable to territory of fiction against territorial authority; that the proceeding degenerates into a common crime; that asylum was granted when besieged; that President makes demand without hopes, but to give occasion to disapprove of commandant; that from asylum to flight the Portuguese Government takes the responsibility in spite of dismissing the commanders; the marshal is obliged with great regret to suspend diplomatic relations; sends personal passports of legation of Portugal.

PARATY.

[Document No. 49.]

PETROPOLIS, Rio de Janeiro, May 14, 1894.

CONDE DE PARATY: Your communication of to-day confirmed by Costa Mota, surprised the Government completely, since nothing else had been communicated to me neither from there nor from here since the explanations which you gave by order of the Government in regard to the escape of the refugees and the measures taken to fulfill the promises made to punish those who were responsible. Therefore I wish you before you depart to inform me by telegraph if any cause of which we are ignorant brought about so unexpected and lamentable a result.

The Portuguese Government is conscious of having proceeded with scrupulous correctness during the whole pendency of this affair.

HINTZE RIBEIRO.

Mr. Gresham to Mr. Caruth.

[Telegram.]

WASHINGTON, *June 25, 1894.*

If you have not done so, ascertain at once whether it is agreeable to Government of Portugal that our minister at Lisbon should act for protection of Brazilian citizens in Portugal during suspension of diplomatic relations between the two Governments.

GRESHAM.

Mr. Caruth to Mr. Gresham.

[Telegram.]

LISBON, *June 27, 1894.*

The Portuguese Government entirely approves the suggestion that in case of need I should act for Brazilian citizens here during the suspension of diplomatic intercourse between the two countries.

CARUTH.

RUSSIA.

CONDITION OF ISRAELITES IN RUSSIA: THEIR EMIGRATION TO THE UNITED STATES.

Mr. Gresham to Mr. White.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 17, 1893.

Representations made here that Russian Government is about to enforce edict against Jews, which will result in a large emigration of destitute people of that class to the United States.

If there is foundation for what we hear, you will please ascertain and report as speedily as possible the terms of the edict and its probable effect.

GRESHAM.

Mr. White to Mr. Gresham.

No. 119.]

LEGATION OF THE UNITED STATES,
St. Petersburg, July 6, 1893. (Received July 27.)

SIR: Your telegram, presumably of May 17, was received on the morning of May 18, and answered at once.

Since telegraphing you I have made additional inquiries with reference to your question, and am persuaded that there has been no new edict banishing Israelites from Poland, as was stated in some of the papers of western Europe; but for some time past the old edicts and regulations against them have been enforced in various parts of the Empire with more and more severity.

Soon after my arrival at this post it was rumored that there was to be some mitigation in the treatment of them, but the hopes based on this rumor have grown less and less, and it is now clear that the tendency is all in the direction not only of excluding Israelites more rigorously than ever from parts of the Empire where they were formerly allowed on sufferance, but to make life more and more difficult for them in those parts of the Empire where they have been allowed to live for many generations.

As you are doubtless aware, there are about 5,000,000 Israelites in Russia, forming, as it is claimed, more than half of the entire Jewish race, and these are packed together in the cities and villages of what was formerly Poland and adjacent governments, in a belt extending along the western borders from northwest to southeast, but which for some years past has been drawn back from the frontier about 40 miles, under the necessity, as it is claimed, imposed by the tendency of the Israelites in that region to conduct smuggling operations. In other

parts of the Empire they have only been allowed to reside as a matter of exceptional favor. This alleged favor, under the more kindly reign of Alexander II, was largely developed and matured into a sort of *quasi* right in the case of certain classes, such as Israelites who have been admitted to the learned professions, or have taken a university degree, or have received the rights of merchants of the first or second guild, paying the heavy fees required in such cases. Certain skilled artisans have also been allowed to reside in certain towns outside the Jewish pale, but their privileges are very uncertain, liable to revocation at any time, and have in recent years been greatly diminished. Besides this, certain Israelites are allowed by special permits to reside as clerks in sundry establishments, but under the most uncertain tenure. This tenure can be understood by a case which occurred here about a month since.

At that time died an eminent Israelite of St. Petersburg, a Mr. _____, who had distinguished himself by rescuing certain great companies from ruin by his integrity and skill in various large operations, and by the fact that, while he made large and constant gains for those interested in these companies and operations, he laid up for himself only a moderate competence. He had in his employ a large number of Jewish clerks, and it is now regarded here as a matter of fact that at the expiration of their passes, say in a few months, all of them must leave St. Petersburg.

The treatment of the Israelites, whether good or evil, is not based entirely upon any one ukase or statute; there are said to be in the vast jungle of the laws of this Empire more than one thousand decrees and statutes relating to them, besides innumerable circulars, open or secret, regulations, restrictions, extensions, and temporary arrangements, general, special, and local, forming such a tangled growth that probably no human being can say what the law as a whole is—least of all can a Jew in any province have any certain knowledge of his rights.

From time to time, and especially during the reign of Alexander II, who showed himself more kind to them than any other sovereign had ever been, many of them were allowed to leave this overcrowded territory, and, at least, were not hindered from coming into territory and towns which, strictly speaking, they were not considered as entitled to enter; but for some time past this residence on sufferance has been rendered more and more difficult. Details of the treatment to which they have been subjected may be found in the report made by Mr. J. C. Weber and his associate commissioners entitled "Report of the Commissioners of Immigration Upon the Causes Which Incite Immigration to the United States," Government Printing Office. I must confess that when I first read this report its statements seemed to me exaggerated, or, at least, over-colored, but it is with very great regret that I say that this is no longer my opinion. Not only is great severity exercised as regards the main body of Israelites here, but it is from time to time brought to bear with especial force on those returning to Russia from abroad. The case was recently brought to my notice of a Jewish woman who, having gone abroad, was stopped on her return at a frontier station, and, at last accounts, had been there three days, hoping that some members of her family in Russia might be able to do something to enable her to rejoin them.

Israelites of the humbler classes find it more and more difficult to reenter Russia, and this fact will explain the case of Mrs. Minnie Lerin, referred to in Mr. Wharton's dispatch No. 60¹ as being refused a visa at

¹ Foreign Relations 1893, p. 536.

the Russian consulate-general in New York, and it will also throw light on various other cases we have had in which the legation has been able to secure mitigation in the application of the rules.

On this latter point we have been successful in obtaining such mitigation in cases of many Israelites who have been subjected to annoyance by overzealous local authorities.

It may appear strange that any nation should wish to expel a people who, in other parts of the world, have amassed so much wealth. The fact is that but a very small fraction of them in Russia are wealthy; few even in comfortable circumstances. The vast majority of them are in poverty, and a very considerable part in misery—just on the border of starvation.

Nearly forty years ago, when, as an attaché of this legation, I was for seven days and nights on the outside of a post coach between St. Petersburg and Warsaw—there being then no railway to the frontier—I had an ample opportunity to see something of these Israelites and of the region in which they live. They exist for the most part in squalor, obliged to resort to almost anything that offers, in order to keep soul and body together. Even the best of them were then treated with contempt by the lowest of the pure Russians. I myself saw two Israelites, evidently of the wealthier class and richly clad, who had ventured into the inclosure in front of the posthouse to look at the coach in which I was, lashed with a coach whip and driven out of the inclosure with blows by one of the postilions—evidently a serf.

A very few millionaire Israelites are to be found among the merchants of the first guild in some of the larger cities, but there is no such proportion of wealthy men among them as in the United States, Great Britain, France, and Germany. In the smaller towns, in some of which they form the majority of the residents, their poverty is so abject that they drag each other down, making frequently a ruinous competition with each other in such branches of business as they are allowed to pursue. This is now even more the case than ever before, since recent regulations have swept the Israelites living in many rural districts into the towns.

A case was a few days since mentioned to me in which a small town of 8,000 or 10,000 inhabitants had recently received into its population nearly 6,000 Israelites from the surrounding country.

The restrictions are by no means confined to residence; they extend into every field of activity. Even in the parts of the Empire where the Israelites are most free they are not allowed to hold property in land, or to take a mortgage on land, or to farm land, and of late they have even been, to a large extent, prevented from living on farms, and have been thrown back into the cities and villages.

As to other occupations, Jewish manufacturers have at times, even under the present reign, been crippled by laws or regulations forbidding them to employ Christian workmen, but these are understood to be not now in force. They are relics of the old legislation which, in the interest of the servant's soul, forbade a Jew to employ a Christian servant under pain of death, and which, in a mitigated form, remained on the statute book until 1865, when it was abolished by Alexander II.

There are also many restrictions upon the professions considered more honorable. A few Israelites are allowed to become engineers, and they are allowed to hold 5 per cent of the positions of army surgeons, but no more; and this in spite of the fact that from the middle ages until now their race has been recognized as having a peculiar aptitude for medicine and surgery. As a rule, also, they are debarred from dis-

charging any public functions of importance, and even as to lesser functions a Jew can not be elected mayor of a village or even member of its council.

Not more than one man in ten of those summoned to do jury duty can be a Jew, and even in the cities within the pale, where the Jews form the great majority of the population, they can not hold more than one-third of the places on a municipal council.

Perhaps the most painful of the restrictions upon them is in regard to the education of their children. The world over, as is well known, Israelites will make sacrifices to educate their sons and daughters, such as are not made, save in exceptional cases, by any other people. They are, as is universally recognized, a very gifted race, but no matter how gifted a young Israelite may be, his chances of receiving an education are small.

In regions where they are most numerous, only 10 per cent of the scholars in high schools and universities are allowed to be Jews, but in many cases the number allowed them is but 5 per cent, and in St. Petersburg and Moscow only 3 per cent. Out of seventy-five young Israelites who applied for admission to the University of Dorpat in 1887 only seven were allowed to enter. A few days since the case was brought to my notice of a well-to-do Israelite who wished to educate his son, whom he considered especially gifted, but who could not obtain permission to educate him in St. Petersburg, and was obliged to be satisfied with the permission to enter him at one of the small provincial universities remote from the capital.

To account for this particular restriction it is urged that if freely allowed to receive an advanced education they would swarm in the high schools, universities, and learned professions; and, as a proof of this, the fact is mentioned that some time since, in the absence of restrictions, at Odessa from 50 to 70 per cent of the scholars in sundry Russian colleges were Jews.

As to religious restrictions, the general policy pursued seems to an unprejudiced observer from any other country so illogical as to be incomprehensible. On one hand great powers are given to the Jewish rabbis and religious authorities. They are allowed in the districts where the Israelites mainly live to form a sort of state within the state, with power to impose taxes upon their coreligionists and to give their regulations virtually the force of law. On the other hand, efforts of zealous orthodox Christians to proselyte Israelites, which must provoke much bitterness, are allowed and even favored. The proselytes, once brought within the orthodox Russian fold, no matter by what means, any resumption of the old religion by them is treated as a crime.

Recent cases have occurred where Jews who have been thus converted and who have afterwards attended the synagogue have been brought before the courts.

So, too, in regard to religious instruction it would seem to an unprejudiced observer, wishing well both to Russia and to the Israelites, that the first thing to do would be to substitute instruction in science, general literature, and in technical branches for that which is so strongly complained of by Russians generally—the instruction in the Talmud and Jewish theology. But this is just what is not done, and, indeed, as above stated, not allowed.

The whole system at present in vogue is calculated to make Talmudic and theological schools—which are so constantly complained of as the nurseries and hotbeds of anti-Russian and anti-Christian fanaticism—the only schools accessible to the great majority of gifted young Israelites.

As to recent interferences of which accounts have been published in the English newspapers, and especially as to a statement that a very large number of Jewish children were, early during the present year, taken from their parents in one of the southern governments of Russia and put into monastic schools under charge of orthodox priests, this statement having been brought to my notice especially by letters addressed to me as the representative of the United States, I communicated with our consuls in the regions referred to and also obtained information from other trustworthy sources, and the conclusion at which I arrived was that the statement was untrue; it probably had its origin in the fact that much anxiety has recently been shown by certain high officials, and especially ecclesiastics, to promote education in which orthodox religious instruction holds a very important part.

In justification of all these restrictions various claims are made. First of all it is claimed that the Jews lend money to peasants and others at enormous rates of interest. But it is pointed out, in answer to this, that sundry bankers and individuals in parts of Russia where no Jews are permitted have made loans at a much higher rate than Jews have ever ventured to do; while it is allowed that 100 per cent a year has not unfrequently been taken by the Israelites. There seems to be no doubt of the fact that from 300 to 800 per cent, and even more, sometimes, has been taken by Christians.

This statement seems incredible, but it is unimpeachable. In a general way it is supported by the recent report of a Russian official to Mr. Sagonof; and a leading journal of St. Petersburg, published under strict censorship, has recently given cases with names and dates where a rate higher than the highest above named, was paid by Russian peasants to Christian money lenders.

Those inclined to lenity towards the Jews point to the fact that none of them would dare take any such rates of interest as Christians may freely demand; that to do so would raise against the Israelites in their neighborhood storms which they could not resist, and it is argued that, as their desire for gain is restricted in this way, their presence in any part of Russia tends to diminish the rate of interest rather than to increase it. On the other hand, it is claimed that they will not work at agriculture and, indeed, that they will do no sort of manual labor which they can avoid.

As to the first of these charges, the fact is dwelt upon, which has so impressed Mr. McKenzie Wallace and other travelers, that the Jewish agricultural colonies founded by Alexander I, in 1810, and by Nicholas I, in 1840, have not done well.

But in answer it may be stated as a simple matter of history that, having been originally an agricultural people, they have been made what they are by ages of persecutions which have driven them into the occupations to which they are now so generally devoted; that in Russia they have for generations been incapacitated for agricultural work by such restrictions as those above referred to; that even if they are allowed here and there to till the land, they are not allowed, in the parts of the Empire which they most inhabit, to buy it or even to farm it, and that thus the greatest incentive to labor is taken away.

As to other branches of manual labor, simply as a matter of fact, there are very large bodies of Jewish artisans in Poland, numbering in the aggregate about one-half the entire adult male Israelite population. Almost every branch of manual labor is represented among them, and well represented. As stone masons they have an especially high repu-

tation, and it is generally conceded that in sobriety, capacity, and attention to work they fully equal their Christian rivals.

Complaint is also made that they, as far as possible, avoid military service. This is doubtless true, but the reasons for it are evident. For the Jewish soldier there is no chance of promotion, and when he retires after service he is, as a rule, subject to the same restrictions and inflictions as others of his race. In spite of this fact the number of them in the conscription of 1886 was over 40,000.

I find everywhere, in discussing this subject, a complaint that the Israelites, wherever they are allowed to exist, get the better of the Russian peasant. The difficulty is that the life of the Israelite is marked by sobriety, self-denial, and foresight; and, whatever may be the kindly qualities ascribed to the Russian peasant—and they are many—these qualities are rarely, if ever, mentioned among them.

It is also urged against the Israelites in Russia that they are not patriotic, but in view of the policy pursued regarding them the wonder is that any human being should expect them to be patriotic.

There is also frequent complaint against Jewish fanaticism, and recently collections of extracts from the Talmud have been published here as in western Europe, and even in the United States, to show that Israelites are educated in bitter and undying hate of Christians, and taught not only to despise but to despoil them; and it is insisted that the vast majority of the Israelites in Russia have, by ages of this kind of instruction and by the simple laws of heredity, been made beasts of prey with claws and teeth especially sharp, and that the peasant must be protected from them.

Lately this charge has been strongly reiterated, a book having appeared here in which the original Hebrew of the worst Talmudic passages, with translations of them, are placed in parallel columns. It seems to be forgotten that the Israelites would be more than human if such passages did not occur in their sacred writings. While some of those passages antedate the establishment of Christianity, most of them have been the result of fervor under oppression and of the appeal to the vengeance of Jehovah in times of persecution; and it would be but just to set against them the more kindly passages, especially the broadly and beautifully humane teachings which are so frequent in the same writings.

An eminently practical course would be to consider the development of Judaism in the United States, Great Britain, and other countries, where undeniably those darker features of the Talmud have been more and more blotted out from Jewish teaching, and the unfortunate side of Talmudic influence more and more weakened.

But this charge of Talmudic fanaticism is constantly made, and Russians, to show that there is no hatred of Israelites as such, point to the fact that the Koraites, who are non-Talmudic, have always been treated with especial kindness.

To this the answer would seem to be that the Koraites are free from fanaticism because they have been so long kindly treated, and that this same freedom and kindness which has made them unobjectionable to Russian patriotism would, in time, probably render the great mass of Israelites equally so.

There is no need of argument, either in the light of history or of common sense, to prove that these millions of Israelites in Russia are not to be rendered less fanatical by the treatment to which they are at present subjected.

To prove that the more bitter utterances in the Talmud complained

of do not necessarily lead Israelites to hate Christians, and indeed to show that the teachings which the Israelites receive in countries where they have more freedom lead them to a broad philanthropy of the highest type, I have been accustomed, in discussing the subject with Russians, to point to such examples of the truest love for human kind as those shown by Judah Tours in the United States, Sir Moses Montefiore in England, Nathan de Rothschild in Austria, James de Rothschild and Baron Hirsch in France, and multitudes of other cases, citing especially the fact of the extensive charities carried on by Israelites in all countries, and the significant circumstance that the first considerable contribution from the United States to the Russian famine fund came from a Jewish synagogue in California, with the request that in the use of it no discrimination should be made between Jews and Christians. Cases like these would seem to do away effectually with the idea that Jewish teachings necessarily inculcate hostility to people of other religious beliefs.

There is also a charge closely connected with the foregoing which undoubtedly has much to do with the present severe reaction. It is constantly repeated that, in spite of the fact that the late Emperor Alexander II had shown himself more kindly toward the Israelites than had any of his predecessors—relaxing the old rules as to residence, occupation, education, and the like, and was sure, had he lived, to go much farther in the same direction, probably as far as breaking down a mass of the existing barriers, and throwing open vast regions never before accessible to them—the proportion of Israelites implicated in the various movements against him, especially in the Nihilistic movement, and in the final plot which led to his assassination, was far beyond the numerical proportion of their race in Russia to the entire population. This feeling was certainly at the bottom of the cruel persecutions of the Israelites by the peasants just after the death of the late Emperor, and has no less certainly much to do with the prejudices of various personages of high influence as well as of the vast mass of the people which still exist.

The remarkable reaction at present dominant in Russia is undoubtedly in great measure, if not entirely, the result of the assassination of Alexander II; it is a mere truism to say that this event was the most unfortunate in its effects on well-ordered progress that has occurred in this Empire; but, so far as the Israelites are concerned, the facts at the bottom of this charge against them can be accounted for, without imputing anything to the race at large, by the mass of bitterness stored up during ages of oppression, not only in Russia, but elsewhere. The matter complained of must certainly be considered as exceptional, for it can not hide the greater fact that the Jews have always shown themselves especially grateful to such rulers as have mitigated their condition or even shown a kindly regard for them.

I was myself, as minister at Berlin, cognizant of innumerable evidences of gratitude and love shown by the entire Jewish population toward the Crown Prince, afterwards the Emperor Frederick III, who, when Jew-baiting was in fashion, and patronized by many persons in high positions, set himself quietly but firmly against it. And this reminiscence leads me to another in regard to the oft-repeated charge that the Israelite is incapable of patriotism, is a mere beast of prey, and makes common cause with those of his race engaged in sucking out the substance of the nation where he happens to be. It was my good fortune to know personally several Israelites at Berlin, who as members of the Imperial Parliament showed their patriotism by casting

away all hopes of political advancement and resisting certain financial claims in which some of their coreligionists, as well as some leading and very influential Christians, were deeply engaged. There is nothing nobler in recent parliamentary history than the career of such Israelites as Lasker and Bamberger during that period, and at this moment no sane man in Germany hesitates to ascribe to the Israelite Simson all the higher qualities required in his great office, that of chief justice in the highest court of the German Empire.

The same broad and humane characteristics have been shown among the vast majority of Israelites eminent in science, philosophy, literature, and the arts. Long before the Israelite Spinoza wrought his own ideal life into the history of philosophy, this was noted, and it has continued to be noted in Russia. During my former residence here there were two eminent representatives of the proscribed race in the highest scientific circles, and they were especially patriotic and broad in their sympathies; and to-day the greatest of Russian sculptors, Antokolski, an Israelite, has thrown into his work not only more genius, but also more of profoundly patriotic Russian feeling, than has any other sculptor of this period. He has revived more evidently than has any other sculptor the devotion of Russians to their greatest men in times past, and whenever the project of erecting at St. Petersburg a worthy monument to the late Emperor shall be carried out, there is no competent judge who will not acknowledge that he is the man in all Russia to embody in marble or bronze the gratitude of the nation. This is no mere personal opinion of my own, for when recently a critic based an article against Antokolski's works, evidently upon grounds of race antipathy, a brilliant young author, of one of the oldest and most thoroughly Russian families in the Empire, Prince Sergius Wolkonsky, wrote a most cogent refutation of the attack. It is also charged that in Russia, and, indeed, throughout Europe, an undue proportion of Jews have been prominent in movements generally known as "socialistic," and such men as Ferdinand Lasalle and Karl Marx are referred to.

When this statement has been made in my hearing I have met it by the counter statement of a fact which seems to me to result from the freedom allowed in the United States, namely, the fact that at the meeting of the American Social Science Association in 1891, in which a discussion took place involving the very basis of the existing social system, and in which the leading representatives of both sides in the United States were most fully represented, the argument which was generally agreed to be the most effective against the revolutionary and antisocial forces was made by a young Israelite, Prof. Seligman, of Columbia University, in the city of New York. Here, again, results are mistaken for causes; the attitude complained of in the Israelites is clearly the result of the oppression of their race.

But there is one charge which it is perhaps my duty to say that I have never heard made against Israelites even by Russians most opposed to them—the charge that they are to be found in undue or even in any considerable proportions among inebriates or criminals. The simplest reason for this exception in their favor is found in the official statistics which show that, in the Governments where they are most numerous, diseases and crimes resulting from the consumption of alcoholic drinks are least numerous, and that where the number of Israelites is greatest the consumption of spirits is least. It is also well known, as a matter of general observation, that the Russian Israelites are, as a rule, sober, and that crimes among them are comparatively infrequent.

Yet, if in any country we might expect alcoholism to be greatly developed among them it would be in this Empire, where their misery is so great and the temptation to drown it in intoxicating beverages so constant; and if in any country we might expect crime to be developed largely among them it would be in this Empire, where, crowded together as they are, the struggle for existence is so bitter. Their survival under it can only be accounted for by their superior thrift and sobriety.

It would be a mistake to suppose that religious hatred or even deeply religious feeling is a main factor in this question. The average Russian believes that all outside the orthodox Greek Church are lost; but he does not hate them on that account, and though there has been of late years, during the present reaction, an increase of pressure upon various Christian organizations outside the established church, this has been undeniably from political rather than religious reasons; it has been part of the "Russifying process," which is at present the temporary fashion.

The rule in Russia has always been toleration, though limited by an arrangement which seems to a stranger very peculiar. In St. Petersburg, for example, there are churches for nearly all the recognized forms of Christian belief, as well as synagogues for Hebrews, and at least one Mohammedan mosque; but the only proselytism allowed is that between themselves and from them to the established church; in other words, the Greek Church may proselyte from any of them, and, within certain limits, each of them may proselyte from its unorthodox neighbors, but none of them can make converts from the Greek Church.

This regulation seems rather the result, on the whole, of organized indifference than of zeal, its main purpose being undoubtedly to keep down any troublesome religious fervor. The great body of the Russian peasantry, when left to themselves, seem to be remarkably free from any spirit of fanatical hostility toward religious systems differing from their own, and even from the desire to make proselytes. Mr. Mackenzie Wallace, in his admirable book, after showing that the orthodox Russian and the Mahomedan Tartar live in various communities in perfect peace with each other, details a conversation with a Russian peasant, in which the latter told him that just as God gave the Tartar a darker skin, so he gave him a different religion; and this feeling of indifference, when the peasants are not excited by zealots on one side or the other, seems to prevail toward the Roman Catholics in Poland and the Protestants in the Baltic provinces and Finland. While some priests have undoubtedly done much to create a more zealous feeling, it was especially noted during the fierce persecutions of the Jews early in the present reign that in several cases the orthodox village priests not only gave shelter to Israelites seeking to escape harm, but exerted themselves to put an end to the persecutions. So, too, during the past few days the papers have contained a statement that a priest very widely known and highly esteemed, to whom miraculous powers are quite generally attributed, Father John, of Cronstadt, has sent some of the charity money, of which he is almoner, to certain Jewish orphanages under the control of Israelites.

The whole present condition of things is rather the outcome of a great complicated mass of causes, involving racial antipathies, remembrances of financial servitude, vague inherited prejudices, with myths and legends like those of the Middle Ages.

But, whatever may be the origin of the feeling toward the Israelites, the practical fact remains that the present policy regarding them is driving them out of the country in great masses. The German papers speak of large numbers as seeking the United States and the Argen-

tine Republic—but especially the former—through the northern ports of that Empire, and, as I write, the Russian papers state that eight steamers loaded with them are just about leaving Libau for America.

It is, of course, said in regard to these emigrants that they have not been ordered out of the country, that they can stay in Russia if they like, and that Russia has simply exercised her right to manage her own internal affairs in her own way; but it is none the less true that the increasing severity in the enforcement of the regulations regarding the Israelites is the main, if not the only, cause of this exodus. In order that this question may be understood in its relations to the present condition of political opinion in the Empire, there is need to make some additional statement.

There has never been a time, probably, when such a feeling of isolation from the rest of the world, and aversion to foreign influence of every sort, have prevailed in Russia as at present; it is shared by the great majority from the highest to the lowest, and it is echoed in the press. Russia has been, during the last ten years, in a great reactionary period, which now seems to be culminating in the attempted "Russification" of the Empire, involving such measures as increasing pressure upon Poland, increasing interference with the Baltic provinces and the German colonies, in the talk of constitutional changes in Finland, in the substitution of Russian for German names of various western towns, in the steadily increasing provisions for strengthening the orthodox Russian Church against all other religious organizations, in the outcry made by various papers in favor of such proposals as that for transferring the university at Dorpat into the Muscovite regions of the interior, for changing the name of St. Petersburg, and for every sort of Russifying process which the most imaginative can devise.

In this present reaction, connected as it is with bitter disappointment over the defeat of Russian aspirations in the Berlin treaty and since, reforms which were formerly universally considered honorable and desirable for Russia are now regarded with aversion; the controlling feeling is for "Russification."

Peter the Great is now very largely regarded by Russians as having taken a wrong road, and, while monuments are erected to Alexander II, his services as emancipator of the serfs are rarely alluded to, and the day formerly observed in remembrance of the emancipation has ceased to be publicly noticed. This reaction shows itself in general literature, in paintings, in sculpture, in architecture, in everything. Any discussion regarding a change in the present condition of things is met by the reply that strangers do not understand Russian questions, and that these questions are complicated historically, politically, economically, and socially to such a degree that none but those having personal experience can understand them. If the matter is still further pressed and the good effects of a different policy in the United States, Great Britain, and elsewhere are referred to, it is answered that in those countries a totally different state of things exists, and that no arguments can be made from them to Russia. Any continuance of the discussion is generally met by the statement that Russian questions are largely misrepresented by the press of western Europe; that there is a systematic propaganda against Russia in England, Germany, Austria, and Italy; that England does or allows worse things in her Irish evictions and in her opium traffic, and the United States in lynch law proceedings and treatment of the Chinese, than any done or allowed in Russia; that, in short, Russia is competent to take charge of her own internal policy, and that other powers will do well to mind

their own business. This feeling is closely akin to that which was shown sometimes in the United States before the civil war toward foreign comments upon our own "peculiar institution," when representations by such philanthropists as the Duchess of Sutherland, George Thompson, M. P., and others were indignantly repelled.

This condition of opinion and the actions resulting from it are so extreme that it naturally occurs to one who has observed Russian history that a reaction can not be long deferred.

The progress of Russia thus far has been mainly by a series of reactions. These have sometimes come with surprising suddenness. In view of that which took place when the transition was made from the policy of restriction followed by the Emperor Nicholas to the broadly liberal policy adopted by Alexander II, of which, being connected with this legation at that time, I was a witness, a reaction at present seems by no means impossible or even improbable. It is by no means necessary that a change of reign should take place. A transition might be occasioned, as others have been, by the rise of some strong personality bringing to bear upon the dominant opinion the undoubted fact that the present system of repression toward the Israelites is from every point of view a failure, and that it is doing incalculable harm to Russia.

This dispatch ought not, perhaps, to close without an apology for its length; the subject is one of great importance, and it has seemed to me a duty to furnish the Department, in answer to the Secretary's question, with as full a report regarding the present stage in the evolution of the matter concerned as my opportunities have enabled me to make.

I am, etc.,

ANDREW D. WHITE.

Mr. Gresham to Mr. Webb.

No. 119.]

DEPARTMENT OF STATE,
Washington, August 28, 1893.

SIR: I have received and read with attention Mr. White's dispatch No. 119, of the 6th ultimo, in relation to the present condition of the Israelites in Russia and to the reported enforcement of repressive edicts against them, calculated to result in an increased emigration of destitute people of that class to the United States.

The thoroughness with which the minister has answered my telegraphic inquiry of May 18 is commended.

The subject is receiving the President's earnest consideration. It has been for some time evident that the measures adopted by the Imperial Government against the Jews, although professedly a domestic policy directly affecting the subjects of the Czar, were calculated to injuriously affect the American people by abruptly forcing upon our shores a numerous class of immigrants destitute of resources and unfitted in many important respects for absorption into our body politic. The continued enforcement of such harsh measures, necessarily forcing upon us large numbers of degraded and undesirable persons, who must, in great measure, be supported, can not be regarded as consistent with the friendship which the Russian Government has long professed for the United States.

I am, etc.,

W. Q. GRESHAM.

Mr. Webb to Mr. Gresham.

No. 133.]

LEGATION OF THE UNITED STATES,

St. Petersburg, September 3, 1893.

(Received September 20.)

SIR: I have the honor to send you herein the substance of a circular on the subject of the expulsion of Jews that has just appeared. It does not refer, I am informed, to Jews established in the trades—tailors, shoemakers, carpenters, etc., but to clerks, employés in banks, bank directors, apothecaries and their assistants, doctors, etc. Freely rendered the circular is as follows: The ministry of the interior has decided as follows relative to the question of expelling the Jews from localities where they are unlawfully residing, in the interest of said Jews and of peasants with whom they have business relations.

The last term for the expulsion of Jews from towns to localities granted them is extended to June 1, 1894.

Governors of provinces are informed that in no case is this term to be extended longer than June 1, 1895. This term refers to special cases, which must be reported to the ministry and receive sanction.

Special attention is also called to passports of Jews. No Jews will be allowed to remain in provincial towns excepting as travelers, residing temporarily, as cases shown in section 151 of the statutes on passports.

Expulsion of Jews from the military districts of the Caucasus.

The minister of war has ordered the authorities of the Verskoi and Kouban districts to expel all Jews from the Kouban district within a month's notice, dating from the month of August.

I am, etc.,

G. CREIGHTON WEBB,
Chargé d'affaires ad interim.

Mr. White to Mr. Gresham.

No. 165.]

LEGATION OF THE UNITED STATES,

St. Petersburg, December 15, 1893.

(Received January 2, 1894.)

SIR: Although the newspapers of western Europe inform us that local authorities in the southern part of the Empire have recently driven out a considerable number of Israelites, no corroboration of the report comes from any other source, nor is this legation receiving any of those complaints and calls for intervention which have generally accompanied increased pressure upon the Jewish community.

On the other hand, sundry Russian newspapers of late mention the fact that the Government is issuing tickets from various places within the Jewish pale in Poland to the frontier at specially reduced rates, but these journals significantly add that the reduction operates only in one direction—that is, on trains going westward, and not on return tickets.

This, of course, indicates that Jewish emigration is still desired by the authorities, and is likely to be somewhat increased.

I am, etc.,

ANDREW D. WHITE.

Mr. Gresham to Mr. White.

No. 149.]

DEPARTMENT OF STATE,
Washington, December 22, 1893.

SIR: I am in receipt of a letter from the Secretary of the Treasury of the 20th instant, calling my attention to the following United States Press dispatch from their correspondent in St. Petersburg:

LONDON, December 17.

The United Press correspondent in St. Petersburg says that the Jewish emigrants now at frontier stations, on their way to America, if officially certified to be destitute, will be provided by Russian consuls at the ports of departure with the sums necessary to insure their admission into the United States.

Mr. Carlisle requests that you be instructed to verify the foregoing report, and, should it be found to be authentic, to inform the Russian Government that assisted immigrants of the class mentioned, will not be permitted to land in the United States. You will give the matter your prompt and careful attention.

I am, etc.,

W. Q. GRESHAM.

Mr. Webb to Mr. Gresham.

No. 172.]

LEGATION OF THE UNITED STATES,
St. Petersburg, December 31, 1893.
(Received January 22, 1894.)

SIR: The Imperial Government has extended the time for the final expulsion of those Jews from St. Petersburg who are here in violation of the laws permitting their race to reside in this province to June, 1895. This is owing to the fact that the sudden withdrawal of so many laborers from the city would injure the interests of the merchant class. The explanation given by a high Government official of the entire movement, so far as it concerns this city, is that the laws permit the following classes of Jews to live here:

First. Merchants of the first and second guilds.

Second. Soldiers of the Emperor Nicholas who availed themselves of an imperial permission to register themselves as such within a certain period, long since expired, and their descendants.

Third. Artisans of a certain grade who have registered.

Fourth. Graduates of universities.

That in the past fifteen years the Jewish population has enormously increased by natural means, by the bringing in of aged relatives, marriage, visiting friends, etc., and that now the class is to be weeded out and restricted to its legal limits. While this entails great hardship, the authorities say openly that it can not be helped; that the native Russian population can not compete with the Jew; that his mental equipment, steadfastness of purpose, self-denial, and clannishness make him so superior to the Slav that, for the Slav's own preservation, he must go. They also cite, as an example of their tolerance and to prove that their action is based on reasons of social economy rather than of religious intolerance, that recently a magnificent Jewish synagogue was consecrated here with great pomp and ceremony.

* * * * *

I am, etc.,

G. CREIGHTON WEBB,
Chargé d'Affaires ad interim.

Mr. White to Mr. Gresham.

No. 189.]

LEGATION OF THE UNITED STATES,
St. Petersburg, February 13, 1894.
(Received February 28.)

SIR: Referring to your dispatch 149, relative to the alleged assistance of Jewish emigrants to the United States, I have the honor to inform you that I have this day received a note from the imperial foreign office stating that this report is absolutely without foundation.

I am, etc.,

ANDREW D. WHITE.

Mr. White to Mr. Gresham.

No. 190.]

LEGATION OF THE UNITED STATES,
St. Petersburg, February 17, 1894. (Received March 5.)

SIR: Referring to the instructions contained in your dispatch No. 149, of December 22, 1893, requiring me to ascertain from the Russian Government whether Jewish emigration to the United States had been assisted by Russian consular authorities, and to mine, No. 189, of February 13, 1894, stating that I had received an answer from the ministry of foreign affairs to the effect that no such assistance had been given, I feel it my duty to call your attention to an article which appears in this morning's number of the *St. Petersburger Zeitung*, a German paper of excellent standing published in this city.

The article, under the head of the "Jewish colonization question," gives an extract from a formal report laid before the general meeting of the directors of the Jewish Colonization Association in London, Baron von Hirsch presiding, on January 21, 1894.

The report, after giving an account of the colonization of Russian Israelites in the Argentine Republic, goes on to state that a considerable number of the colonists were found incapable of labor; that it was necessary to expel these from the Jewish colonies in that region. That from May to December, 1893, more than 500 persons were thus driven out, and that "the greatest part of these were forwarded to North America, receiving, in addition to their traveling expenses, an amount of money sufficient to support them for a short time after their arrival."

The report then goes on to speak of measures taken to bring out additional Jewish emigrants from Russia, presumably for the purpose of winnowing out the best for the Argentine Republic and forwarding those rejected as unfit to our own.

This would seem to throw some light on the question of the Secretary of the Treasury which formed the basis of your dispatch above referred to.

I may add that the official report to the Jewish Colonization Association above referred to estimates the probable number of Russian Jewish emigrants into the Argentine Republic during the present year at about 4,000 persons.

I am, etc.,

ANDREW D. WHITE.

RIGHTS OF AMERICANS TO ACQUIRE REAL ESTATE.

Mr. White to Mr. Gresham.

No. 163.]

LEGATION OF THE UNITED STATES,
St. Petersburg, December 9, 1893.
 (Received December 26.)

SIR: Mr. L. H. Smith, of Nicolaiefsk and Vladivostock, an American citizen doing a large business at those places and on the Amoor River, desires to purchase real estate for the purpose of his business in one or both of the places above named.

Some time since he telegraphed and mailed to me to find whether he could, under the treaties between the United States and Russia, and under the laws of the Empire, acquire landed property as above.

The Buchanan treaty seemed clear, but in view of various exceptions and the special regulations, I addressed a note to the foreign office, and obtained a very full and explicit reply, dated May 13/25, 1893, in which the following is the essential part:

Citizens of the United States have the right, by virtue of the laws of the Empire and under the same conditions as all other foreigners, to acquire and possess landed property in Russia, in confining themselves to certain restrictions enforced under article 1003 of volume 9 of the Russian Code of Laws.

Also—

These restrictions relate to the possession of real estate in the province of Turkestan, law of June 12, 1886, and of landed property outside of cities in the ten governments of Poland, and the governments of Bessarabia, Wilna, Vitebsk, Volhynia, Grodno, Kiev, Kowno, Courland, Livonia, Minsk, and Podolia, law of March 14, 1887.

Mr. Smith is now here, and with the aid of a lawyer is seeking to establish his right, and he has applied to me for a copy of the above-named note in full.

I have addressed to him a letter giving the essential part of the foreign office note above quoted, but have declined, under personal instructions, paragraph 95, on page 20, to communicate to him a certified copy of the note until authorized to do so by the Department of State.

I would now respectfully apply for this authorization, in case the Department sees fit to grant it.

Mr. Smith is engaged in large business, and, as I am credibly informed, stands well among all with whom he has to do. He seems to be a man of intelligence and high character. He is very anxious to have a complete copy, as his lawyer tells him that this will be of the very greatest value in establishing his right.

I am, etc.,

ANDREW D. WHITE.

Mr. Uhl to Mr. White.

No. 151.]

DEPARTMENT OF STATE,
Washington, December 28, 1893.

SIR: I have to acknowledge receipt of your No. 163, of the 9th instant, in relation to the request of Mr. L. H. Smith, an American citizen doing business in Russia, for a certified copy of a note from the foreign office concerning the right of Americans to acquire and hold real estate in Russia.

Were the Department in possession of a copy of the note referred to it could more readily reach a decision in the matter; but assuming its purport to be as represented by you there would seem to be no objection to Mr. Smith being furnished with a certified copy thereof. The full text should be sent to the Department.

I am, etc.,

EDWIN F. UHL,
Acting Secretary

Mr. White to Mr. Gresham.

No. 181.]

LEGATION OF THE UNITED STATES,
St. Petersburg, January 12, 1894.
(Received January 29.)

SIR: I have the honor, pursuant to instructions contained in your dispatch, No. 151, of December 28, 1893, to inclose a copy of a note received from the imperial department of foreign affairs, relating to the rights of Americans to acquire and hold real estate in Russia.

In accordance with the permission granted in your dispatch as above, I have forwarded to L. H. Smith, esq., an American doing business at Vladivostock and in the Amoor region, a certified copy of the same for use with the authorities.

The matter of acquiring real estate does not appear so easy in practice as the inclosed note would make it in theory.

In all parts of Russia not only laws, but special prescriptions, limitations, arrangements, and orders of various civil and military authorities have more or less force, and the result of this case is, that Mr. Smith, though aided by lawyers, has found it impossible to secure permission to buy real estate without such a certified copy.

I am, etc.,

ANDREW D. WHITE.

[Inclosure in No. 181.]

Mr. Chichkine to Mr. White.

ST. PETERSBURG, *May 13/25, 1893.*

MR. MINISTER: In a note dated the 1/13 of April you ask me to inform you of the state of the Russian law on the question: Can citizens of the United States of America hold real estate in Russia.

Accordingly I have the honor to inform you that citizens of the United States have the right, in virtue of the laws of the Empire and under the same conditions as all strangers, to acquire and possess real estate in Russia subject to certain restrictions, as set forth in article 1003 of volume 9 of our Code of Laws.

These restrictions bear upon the holding of real estate in the province of Turkestan (law of 12 June, 1886) and of land outside the city limits in the ten governments of Poland, and in the governments of Bessarabia, Vilna, Vitebsk, of Volhynia, Grodno, Kieff, Kowno, of Courland, of Livonia, Minsk, and of Podolia (law of 14 March, 1887).

I beg to renew, etc.,

CHICHKINE

CASE OF STANISLAUS C. KRZEMINSKI, CONDEMNED TO EXILE TO SIBERIA.

Mr. Uhl to Mr. White.

No. 208.]

DEPARTMENT OF STATE,
Washington, June 18, 1894.

SIR: I inclose copies of two letters¹ received from Mr. W. W. Saperston and Mr. B. B. Bloch, reporting the case of Stanislaus C. Krzeminski, a native of Russian-Poland, and alleged to be a naturalized American citizen, who, on returning to Russia during the spring of this year, is said to have been arrested and, without trial, exiled to the salt mines in Siberia.

I also inclose copy¹ of Department's reply to Mr. Saperston.

You are instructed to investigate the case, and if Mr. Krzeminski's American citizenship be established and the facts warrant it, you will do everything in your power to save this unfortunate man from the severe (and in the case of a naturalized American citizen, extraordinary) penalty of exile to the Siberian mines.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Gresham to Mr. White.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 30, 1894.

Referring instruction mailed 18th, Krzeminski citizenship established. Naturalized Newark, N. J., October 14, 1874. Continuously resided here twenty-five years. Received passport March 1, this year; name spelled Kozeminski by mistake. Never called Frank: son so known, which has given rise to confusion. The father well known and highly respected. Petition addressed to me signed by several hundred influential representatives of State and city governments, bench, bar, and mercantile community of western New York. President deems it important that you use utmost endeavors to obtain reversal of Siberian sentence, if it be a fact, which is doubted, and permission to quit Russia. Report action by telegraph.

Mr. White to Mr. Gresham.

[Telegram.]

ST. PETERSBURG, *July 2, 1894.*

Your cipher telegram received. Case shall be attended to at once fully.

¹Not printed.

Mr. White to Mr. Gresham.

No. 239.]

LEGATION OF THE UNITED STATES.
St. Petersburg, July 2, 1894. (Received July 17.)

SIR: I have the honor to receive your dispatch No. 208, of June 18, 1894, with inclosures relative to Stanislaus F. Krzeminski, otherwise known as S. F. Kozeminski, and S. C. Frank; also your cipher dispatch, presumably of July 1, referring to the same case.

To the latter I have cabled you a reply and have written to the imperial minister of foreign affairs stating the case, asking for any information in possession of this Government, and urging that the man be allowed to return to the United States.

I shall call at the foreign office personally, as soon as possible, and have a conversation with the acting minister on the subject, and I may then be able to urge some considerations which can be presented, perhaps, more cogently verbally than in writing.

All that I can do in the matter shall be done.

I am, etc.,

ANDREW D. WHITE.

Mr. Gresham to Mr. White.

No. 216.]

DEPARTMENT OF STATE,
Washington, July 3, 1894.

SIR: referring to the Department's instruction, No. 208, of the 18th ultimo, in regard to the alleged arrest and deportation to Siberia of Stanislaus F. Krzeminski by the authorities of Lowicz, Piotrkow, I now send you a certified copy¹ of Mr. Krzeminski's certificate of naturalization.

The statements of Mr. Saperston's letter, of which copy was sent to you with Mr. Uhl's No. 208, were in some respects inaccurate as to the facts and antecedents of the case. By the application upon which passport No. 7,725 was issued to Stanislaus F. Krzeminski, on the 1st of March last, it appears that he was born in Poland March 28, 1833; that he came to the United States on the steamship *Germania* from Hamburg in 1868; that he resided continuously in this country for the succeeding twenty-six years, and that he was lawfully naturalized at Newark, N. J., on October 14, 1874, as appears from the certificate herewith sent you. Owing to a clerical error his name is given in the passport as Stanislaus F. Kozeminski.

Since Mr. Krzeminski became invested with American citizenship, nearly twenty years ago, his reputation among business men has been good. A numerous signed petition in his behalf—of which a copy¹ is inclosed—was filed in this Department on the 28th ultimo by the Hon. Owen A. Welles, M. C. It shows the widespread interest felt in the fate of this highly respected citizen by reputable men speaking whereof they know.

Mr. Krzeminski's son, who has legally taken the name of Stanislaus C. Frank, and who bears a good commercial reputation in Buffalo, furnishes the affidavit¹ which will be found among the inclosed papers.

The files of your legation show many instances where this Government has intervened in behalf of naturalized citizens of Russian origin, who, on returning to Russia with passports, have been denied the treat-

¹ Not printed.

ment which this country reasonably expects will be accorded its citizens, native and naturalized.

If the facts in Mr. Krzeminski's case be as stated, his exile to Siberia, for no reason save his having quitted his native country some thirty years ago without imperial consent, would entail a hardship calling for earnest remonstrance.

The course your representations should take is in a great measure to be determined by you on the spot.

You will briefly report by cable the course of this matter and the result of your intervention.

A telegram on this subject was sent to you on the 30th ultimo, and its text is confirmed in another instruction of the 2d instant.

I am, etc.,

W. Q. GRESHAM.

Mr. White to Mr. Gresham.

[Telegram.]

ST. PETERSBURG, *July 18, 1894.*

Referring to your dispatch No. 216, have just seen acting minister for foreign affairs and have had most earnest talk with him. He expresses doubts as to facts alleged, but promises to do everything possible to meet our views speedily.

Mr. White to Mr. Gresham.

No. 243.]

LEGATION OF THE UNITED STATES,
St. Petersburg, July 18, 1894. (Received July 31.)

SIR: Having received your dispatch No. 216, with inclosures relating to Stanislaus F. Krzeminski, and having written a note to the imperial department of foreign affairs, giving the latest details regarding his case as furnished by you, I this afternoon called on the acting minister of foreign affairs, Mr. Chichkine, and presented the case to him verbally. I showed him the evident hardship of the case—if the facts were at all as alleged; dwelt on the danger of ill feeling growing up out of cases of this kind, and this in particular; showed him the embarrassment thus caused our Government and the danger of increasing embarrassment to both sides, and urged that the man, if found, be released at the earliest moment possible. Mr. Chichkine seemed to realize the situation, his former official residence at Washington enabling him to understand me all the more fully. He said that the ministry of foreign affairs was urging the ministry of the interior to examine and report at the earliest moment possible, and that he would renew an urgent request to this effect to that ministry.

He expressed strong doubts as to the alleged facts, especially as to the banishment of Mr. Krzeminski to Siberia, and spoke of the very grave difficulties of such cases at the present moment, when there is an evident increase in anarchist attempts, and especially in the region where, as it is claimed, Mr. Krzeminski has been arrested.

To this I answered that the papers forwarded by you showed that Mr. Krzeminski had, during all these years of his residence in the United States, led a quiet life, devoted to his business, and had won the

respect of those who knew him best, and that the reason for his return to Poland, as alleged, was perfectly simple and natural.

I also laid stress upon the high character and numbers of the signers of the Buffalo petition, and insisted that had he or his son ever shown any anarchist tendencies no such papers could have been obtained, especially at the present moment, when the feeling against anarchist doctrines is so bitter in the classes so fully represented in the petition; and I renewed my statement regarding the serious menace to proper relations between the two countries and the embarrassment caused our Government by an arrest of this sort, urging that prompt measures be taken for Mr. Krzeminski's release.

Mr. Chichkine assured me that he realized the force of the considerations urged by me, would do all in his power to hasten a solution of the case, and that if there were no complications with anarchist conspiracies, he hoped that Mr. Krzeminski would soon be at liberty.

I accordingly sent you the telegram. No endeavor of mine shall be spared to bring the case to a speedy and happy conclusion, and to this end I am now communicating informally with the imperial department of the interior.

I am, etc.,

AND. D. WHITE.

Mr. White to Mr. Gresham.

No. 247.]

LEGATION OF THE UNITED STATES,
St. Petersburg, July 30, 1894. (Received August 16.)

SIR: Referring to your dispatches and mine in reply relating to Stanislaus Krzeminski, arrested by the police of the government of Petrokov, in Poland, I have just secured from the imperial ministry of the interior their report, which is in substance as follows: Stanislaus Krzeminski formerly had charge of the police tribunal of the district of Sloupetz, in the government of Kalisch; was convicted of crimes committed during his police service; then fled in 1868, and was condemned in 1871 to exile to Siberia. On March 20, 1894, he was arrested by the police in the government of Piotrkow, but the tribunal of Warsaw has refrained from putting into execution the sentence against him of the year 1871, and the ministry notifies me that it will apply for the pardon of Krzeminski, under the imperial manifesto of May 15, 1883, which was, as I understand it, a sort of amnesty then granted for certain classes of crimes.

Should anything be received from the foreign office, I will at once communicate it to you.

Under the above decision, there is every reason to expect that Krzeminski will be set at liberty at some day not distant.

I am, etc.,

AND. D. WHITE.

Mr. White to Mr. Gresham.

No. 259.]

LEGATION OF THE UNITED STATES,
St. Petersburg, August 29, 1894. (Received September 11.)

SIR: An informal note has just reached me from the minister of the interior, conveying the same information regarding Stanislaus Krzeminski as that referred to in my last dispatch regarding him, namely,

that his political offense of throwing off his allegiance without permission, of which the penalty is exile to Siberia, had been pardoned, under the imperial amnesty of 1883, but that he is held under charges of embezzling funds, and of other crimes committed while in the service of the Russian Government as a police official.

The only new feature in the case, as stated in the note from the minister of the interior above referred to, is that it is now definitely in the hands of the minister of justice. Him I will see at the earliest moment possible, to-day, if he is town, and endeavor to secure the application of the principle embodied in our statutes of limitations.

I am, etc.,

AND. D. WHITE.

Mr. White to Mr. Gresham.

No. 267.]

LEGATION OF THE UNITED STATES,

St. Petersburg, September 29, 1894.

(Received October 13.)

SIR: I regret that before leaving my post I have nothing more definite to report regarding the case of Stanislaus Krzeminski. This is certainly not for want of effort.

Immediately on receiving your instructions on the subject I not only wrote but visited the foreign office, urging the earliest and most favorable attention possible to the subject. There being delay, I then applied to the minister of the interior for information, and learned informally from him that, though Krzeminski had committed a political offense in leaving the Empire without permission, he had been relieved from all penalties for this by an imperial amnesty, but that when he left the Empire he was a police official and guilty of a defalcation of more than 1,000 roubles, and that further application regarding the case would be best made to the ministry of justice.

I accordingly called at that ministry, and after a conversation with the acting minister, in which he promised to communicate at once with the local authorities in Poland and secure information for me at the earliest moment possible, I left with him a memorandum regarding the case.

As nothing more came from this source, I had two interviews with the acting minister of foreign affairs, Mr. de Chichkine, on the subject, and at the last one left with him a "personal note," earnestly requesting information regarding the progress of the case, and urging that, if possible, something like the principle of our statute of limitations might be applied and the man released on making restitution. At each of these interviews I received the most kindly assurances and promises, but nothing more has reached me.

I find that in various cases somewhat similar to this the Russian authorities have acted in much the same way toward my predecessors in office.

While personally very civil, they seem to regard it as incompatible with their national dignity to give any account to another power regarding any person whom they look upon as a Russian subject or as a violator of Russian law.

This position here taken is so fully recognized by other powers that even Great Britain, which has the reputation of protecting her subjects with the utmost care in all parts of the world, never interferes in behalf of one of its naturalized subjects who returns to the country

of his origin. In any other country she claims the right to protect him to the extent of her power, but if he revisits the land of his birth, from which he has separated himself by a formal act, he does this at his own risk and peril, and the representative of the British Government absolutely refuses to consider the case.

I hope that my successor may reap some advantage from my efforts in this case, but I can not say that I expect it. This is, I believe, the only item of importance which I shall leave unfinished, and I renew my regrets that in the face of the facts and sentiments above referred to it has been impossible thus far to bring it to a satisfactory termination.

I am, etc.,

ANDREW D. WHITE.

Mr. White to Mr. Gresham.

No. 269.]

LEGATION OF THE UNITED STATES,
St. Petersburg, September 29, 1894.
(Received October 16.)

SIR: I had but just forwarded my dispatch of this morning *in re* Stanislaus Krzeminski when I received a note on the subject from Mr. Chichkine, acting minister of foreign affairs.

In this note it is stated that Krzeminski having committed crime while in the police service at Sloupetz, in Poland, and having escaped trial by clandestinely leaving the Empire, was condemned in contumacy to be exiled to Siberia, and that having been arrested on March 20, last, at Petrikau, he is now awaiting a regular trial.

The note goes on to say that Krzeminski has not been sent to Siberia; that he must stand trial; but that as the crime was committed twenty-six years ago, he will probably receive special favors under the imperial amnesty of May 15, 1883.

My own impression, derived from the former communication from the minister of the interior and from this note just referred to, is that Krzeminski will be sentenced to make restitution and then, having been conducted to the frontier, will be allowed to resume his residence in the United States.

I am, etc.,

ANDREW D. WHITE.

Mr. Peirce to Mr. Gresham.

[Telegram.]

ST. PETERSBURG, October 8, 1894.

Consul Warsaw writes Krzeminski died in prison 17th.

Mr. Uhl to Mr. Peirce.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 8, 1894.

Investigate the cause of Krzeminski's death, and report.

Mr. Peirce to Mr. Gresham.

No. 278.]

LEGATION OF THE UNITED STATES,
St. Petersburg, October 10, 1894.

(Received October 23.)

SIR: I have the honor to acknowledge the receipt, at a late hour last night, of Mr. Uhl's telegram.

In accordance therewith I have supplemented my letter of the 8th instant, to the U. S. consul at Warsaw, wherein I urged upon him the importance of forwarding all details at the earliest practicable moment, with another specially pointing out the importance of securing full information regarding the cause of Krzeminski's death, giving also such details as to his last hours and treatment during confinement, as he is able to obtain.

I have again requested the consul to use such dispatch in forwarding this information as is consistent with accuracy.

As my predecessor in office, Mr. G. Creighton Webb, informed me before his departure, that he had learned from the minister of the interior that Krzeminski was incarcerated at Warsaw, and the news of his death comes from the United States consul in that city, it seems to me best to await his report before taking further action in this matter.

I have, etc.,

HERBERT H. D. PEIRCE.

Mr. Peirce to Mr. Gresham.

No. 282.]

LEGATION OF THE UNITED STATES,
St. Petersburg, October 23, 1894.

(Received November 6.)

SIR: I have the honor to inclose herewith copies of the certificate of the death of Stanislaus Krzeminski and of the certificate of the attending physician, stating the cause of his death to have been pneumonia, which have been received by me this day.

I will forward the originals with the other documents relating to the case as soon as these latter are received by me.

The United States consul at Warsaw in forwarding these papers writes me the letter, a copy of which I append.

In my letter of the 9th instant, to the consul, I endeavored to impress upon him the importance of using dispatch in reporting to the legation as to the cause of Krzeminski's death, certificate of which, it appears, he then had in his possession. I have therefore requested him to explain the delay in transmitting this document. It may, perhaps, be fair to infer that he did not consider the report upon the cause of death complete without evidence as to the cause of the disease and identification of the dead.

With regard to his telegram complaining of the delay in obtaining official papers, I at once, on its receipt, called upon Baron Osten Sacken at the foreign office, Mr. Chichkine being absent, and requested that telegraphic instructions be given to the authorities at Warsaw to facilitate and expedite the investigations of the consul, and obtained his promise that he would endeavor to secure this.

I observe that my predecessor in office, Mr. G. Creighton Webb, appears as witness to the signature of the attending physician. Mr. Webb had been active in informing himself regarding Krzeminski's imprisonment, and before he left here told me that he had been informed

by the minister of the interior that the unfortunate man would be released after certain formalities had been observed. This tallies with the statement made to me by the adjoint of the imperial ministry of foreign affairs before I informed him that I had been notified by the United States consul of Krzeminski's death.

What information Mr. Webb may have obtained regarding the case when he was in Warsaw and witnessed the signature of the physician on October 3, I do not know.

I have already instructed the consul to obtain all the information possible regarding Krzeminski's imprisonment. As it is not impossible that the disease may have been induced by exposure, I shall now request him to visit, if possible, the exact place of Krzeminski's incarceration and report.

I have, etc.,

HERBERT H. D. PEIRCE.

[Inclosure 1 in No. 282.—Translation.]

RECORD OF DEATH.

The rector of the Roman Catholic parish of the Birth of the Most Holy Mother at Warsaw.

It is certified by this that in the books of this parish for the year 1894 under No. 839, the following certificate of death is recorded:

In the city of Warsaw, in the office of the parish of the Most Holy Mother, on the 6th–18th day of September, in the year 1894, at 4 o'clock p. m., appeared Andrew Domorowli and Stephen Bury, both prison guardians of age and living at Warsaw, and stated here in Warsaw on Dzielna street, No. 24, in the examination prison of Warsaw, on yesterday's evening at 7 o'clock p. m., died a prisoner Stanislaus Krzeminski, married, an officer, 62 years of age, born in Intomiosk, county Lask, Government Piotrkow, Sebastian's and Elizabeth's son, leaving after his wife Valeria.

Being so notified of the death of said Stanislaus Krzeminski, this act was read to the appearing and then signed.

For the rector of the parish.

Rev. A. LAWADO.

Issuing the foregoing act out of the record books, I do certify its truth, by my signature and the official seal, city of Warsaw the (20th of September) 2d day of October, 1894 year.

[L. s.]

Rev. NIEWIAROWSKI,
The Rector.

U. S. CONSULATE AT WARSAW,
Warsaw, October 3, 1894.

I, Joseph Rawicz, consul of the United States at Warsaw, do hereby certify that the signature of Rev. Niewiarowski, the rector of the parish of the Birth of the Most Holy Mother of Warsaw, is true and genuine signature, and that the said Rev. Niewiarowski is personally known to me.

In witness whereof I have hereunto set my hand and affixed the seal of the consulate at Warsaw, this day and year next above written, and of the independence of the United States the one hundred and nineteenth.

[SEAL.]

JOSEPH RAWICZ,
U. S. Consul.

U. S. CONSULATE AT WARSAW,
Warsaw, October 3, 1894.

I, Joseph Rawicz, consul of the United States at Warsaw, do hereby certify that the foregoing translation is true and correct.

In witness whereof I have hereunto set my hand and affixed the seal of the consulate at Warsaw, this day and year next above written, and of the independence of the United States the one hundred and nineteenth.

[SEAL.]

JOSEPH RAWICZ,
U. S. Consul.

[Inclosure 2 in No. 282.—Translation.]

MEDICAL CERTIFICATE.

I, the undersigned, Nicolay Laviagin, medical doctor, do declare under oath, before Joseph Rawicz, the consul of the United States, that I am at present acting physician at the examination prison; that I knew personally Stanislaus Krzeminski, and I treated him in the hospital of the examination prison during the time about from the 1st to the 17th day of September; that I have seen him for the last time on the 17th of said month, and he was, at that time, so weak that it was impossible for him to live over a day, and so he died that same day from pneumonia (cachecticum). To the above I do place my signature, 2d day of October (20th of September.)
Dr. N. LAVIAGIN.

U. S. CONSULATE AT WARSAW,
Warsaw, October 3, 1894.

I, Joseph Rawicz, consul of the United States at Warsaw, do hereby certify that the signature of Nicolay Laviagin, M. D., is true and genuine signature, made and acknowledged in my presence, and that the said Nicolay Laviagin is personally known to me.

In witness whereof I have hereunto set my hand and affixed the seal of the consulate at Warsaw, the day and year next above written, and of the independence of the United States the one hundred and nineteenth.

[SEAL.]

JOSEPH RAWICZ,
U. S. Consul.

U. S. CONSULATE AT WARSAW,
Warsaw, October 3, 1894.

I, Joseph Rawicz, consul of the United States at Warsaw, do hereby certify that the foregoing translation is true and correct.

In witness whereof I have hereunto set my hand and affixed the seal of the consulate at Warsaw this day and year next above written, and of the Independence of the United States the one hundred and nineteenth.

[SEAL.]

JOSEPH RAWICZ,
U. S. Consul.

Signed in the presence of—

G. CREIGHTON WEBB, *New York.*

[Inclosure 3 in No. 282.]

Mr. Rawicz to Mr. Peirce.

CONSULATE OF THE UNITED STATES,
Warsaw, October 21, 1894.

SIR: Referring to your three letters of 8th, 9th, and 17th instant, also telegram received yesterday evening, "report regarding Krzeminski without delay (sig.) Pierce," I beg to communicate that to-day I have answered by wire:

AMERICAN LEGATION, PETERSBURG.

Notwithstanding personal influence, great endeavors, and official correspondence, for reasons of formalities the official papers about Krzeminski have not been received by consulate. They have been promised this day.

RAWICZ, *Consul.*

To explain the above I beg to state that on the 2d October (20th September) I sent explicit inquiry concerning the death of late Stanislaus Krzeminski to the authorities of the prison where he died, but until to-day no answer was received, although during that time the secretary of the consulate called on them in person several times, and almost every day they have been admonished by telephone.

Same time with my correspondence with the authorities I have procured the certificate of death and medical certificate, in a private way,

but not considering them sufficient proofs, I have awaited the official ones, but not having them yet, I have forwarded to-day to the legation the first ones, in a separate registered envelope, all translated and legalized.

As soon as I shall receive official particulars I shall communicate them to you, together with my report.

Your obedient servant,

JOSEPH RAWICZ,
U. S. Consul.

Mr. Peirce to Mr. Gresham.

No. 285.]

LEGATION OF THE UNITED STATES,
St. Petersburg, October 26, 1894.

(Received November 9.)

SIR: I am to-day in receipt of a letter from the United States consul at Warsaw, dated October 23, forwarding two official documents relating to the death of Stanislaus Krzeminski.

It would appear that my request at the foreign office for telegraphic instructions to the authorities at Warsaw to expedite the investigations of the consul may have been serviceable.

The consul informs me that the small amount of money belonging to the late Krzeminski, which he received from the prison authorities, he intends to hand over to the widow, who, he says, has recently called at the consulate.

The amount of money in question is, he says, 17 roubles 28 kopecs and 3 silver pieces.

I have, etc.,

HERBERT H. D. PEIRCE.

[Inclosure 1 in No. 285.]

[Translation of certificate of death. Consulate of the United States at Warsaw, city of Warsaw, No. 839. Translation for the use of the recorders. The parish of Most Holy Mother. Certificate of death issued out of the parish books.]

It is certified that Stanislaus Krzeminski, married, 62 years old, died on the 5th (17th) of September, 1894 year.

Father's name, Sebastian; mother's name, Elisabeth. (Husband and wife.)

The above is certified, city of Warsaw, 6-18 October, 1894.

[L. s.]

REV. NIEWIAROWSKI,
The Recorder.

No. 1509.]

U. S. CONSULATE AT WARSAW,
Warsaw, October 22, 1894.

I, Joseph Rawicz, consul of the United States, do hereby certify that the foregoing translation is true and correct.

In witness whereof I have hereunto set my hand and affixed the seal of the consulate at Warsaw this day and year next above written, and of the Independence of the United States the one hundred and nineteenth.

[SEAL.]

JOSEPH RAWICZ,
U. S. Consul.

[Inclosure 2 in No. 285.—Translation.]

Chief of the Prison at Warsaw to Consul Rawicz.

In answer to yours of September 21 (October 3) 1894, I have the honor to communicate to you that detained in my prison a citizen of America, Stanislaus (Sebastian's son) Krzeminski, 62 years of age, died on the 5th of September (17) at 7 o'clock in

the evening, from "cachetic pneumonia," being sick during two weeks in the hospital of the prison, was buried on September 7 in the cemetery "Bruduo," Roman Catholic denomination. The religious ceremonies have not been performed during his sickness as, on the proposition made by the guardian Dombrowski to call the priest, Krzeminski answered that he did not feel so sick as to need a priest of the prison. The burial ceremony was performed according to the prison instructions, and accordingly his body was deposited into the ground on the cemetery Bruduo at the expense of the city. As proof of the death of Krzeminski I beg to inclose the certificate of his death, adding that after the death of Krzeminski is left in Russian money 17 roubles 28 kopecks, 1 thaler 1 mark Prussian money, one-half dollar American; no other things left, while Krzeminski was buried in the clothing in which he was brought to prison. The amount of 17 roubles 28 kopecks and 3 silver pieces of money, the receipt of which I beg you to acknowledge.

MOLTCHANOF,
The Chief of the Prison.

U. S. CONSULATE AT WARSAW,
Warsaw, October 22, 1894.

I, Joseph Rawicz, consul of the United States at Warsaw, do hereby certify that the foregoing translation is true and correct.

In witness whereof, I have hereunto set my hand and affixed the seal of the consulate at Warsaw, this day and year next above written, and of the Independence of the United States the one hundred and nineteenth.

[SEAL.]

JOSEPH RAWICZ,
U. S. Consul.

Mr. Gresham to Mr. Peirce.

No. 252.]

DEPARTMENT OF STATE,
Washington, October 27, 1894.

SIR: I inclose herewith copy of a letter of the 2d instant from Mr. G. Creighton Webb,¹ in which are set forth the results of his personal investigation of the disappearance of S. C. Krzeminski.

You are instructed to transmit hither the report of the consul at Warsaw (which Mr. Webb says is in preparation), together with any other information you may be able to elicit.

Without appearing to impugn the announcement of Krzeminski's death, you should aim to collect corroborating proof of the fact in official form. Your steps to this end should be discreet, and largely guided by the statements of the consul's report.

I am, etc.,

W. Q. GRESHAM.

Mr. Breckinridge to Mr. Gresham.

No. 6.]

LEGATION OF THE UNITED STATES,
St. Petersburg, November 14, 1894.

(Received November 30.)

SIR: I have the honor to acknowledge the receipt of your dispatch No. 252, October 27, 1894, relating to the reported death of Stanislaus Krzeminski. You inclosed a copy of a letter dated October 2 and of an accompanying statement from Mr. G. Creighton Webb, relating to this matter, and direct that the report of the consul at Warsaw, etc., be sent to you.

You also direct that discreet efforts be made to collect corroborating proofs in official form of the fact. Your dispatch was addressed to Mr. Peirce, until recently chargé d'affaires.

¹ Not printed.

I find that Mr. Peirce has been following up this case with diligence and discretion, and that he has obtained some proof of the character of which you speak.

As the case is one of interest and the record both lengthy and complex, I defer sending the papers for a few days in order that I may gain a more satisfactory knowledge of the affair and be the better able to carry out your full instructions and to deal with new features and questions to which it may possibly give rise.

In a few days then I will write you more fully upon this subject, and at the same time I will transmit to you the evidence as far as this legation may have it at that time.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

Mr. Uhl to Mr. Breckinridge.

No. 12.]

DEPARTMENT OF STATE,
Washington, November 16, 1894.

SIR: Mr. Peirce's Nos. 282 and 285, of October 23 and 26, respectively, transmitting certain official documents relating to the death of Stanislaus Krzeminski, crossed the Department's instruction, No. 252, of October 27, which called for the report of the consul at Warsaw in the case and for corroboration of the reported fact.

I inclose copy of a letter from Mr. Willard W. Saperston, of Buffalo,¹ who, writing apparently in the interest of Krzeminski's son, Mr. S. C. Frank, asks that an effort be made to have the remains "turned over to this Government and forwarded to his family here." You will accordingly ascertain what formalities are requisite to effect a removal of the body of Krzeminski, should his relatives or friends provide the necessary funds for the shipment thereof to this country under the supervision of our consul at Warsaw.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Breckinridge to Mr. Gresham.

No. 11.]

LEGATION OF THE UNITED STATES,
St. Petersburg, December 4, 1894.
(Received December 17.)

SIR: I write in further reply to your No. 252, of October 27, addressed to Mr. Peirce and in response to Mr. Uhl's No. 12, of November 16, since received.

As I infer from No. 252 that copies of papers in the case meet the requirements of the Department (they being copies of the required official reports of the death of Krzeminski that Mr. Peirce sent), and as the originals may be needed in further proceedings here, I still retain the original certificates from Warsaw.

In response to the request for "any other information" in regard to this matter, and in order that you may possess the fullest view of the case that I can present, I herewith transmit copies of correspondence between this legation and the consul at Warsaw. These are in addi-

¹ Not printed.

tion to the papers transmitted with Mr. Peirce's Nos. 282 and 285, of October 23 and 26.

Attention is called to the letter from the consul at Warsaw of November 3, copy inclosed. None of the correspondence of August 3 and immediately thereafter, set forth in this letter of November 3, is of record in this legation. And Mr. Peirce informs me that so far as he knows this legation had no further information that Warsaw was the place of Krzeminski's imprisonment than that the minister of the interior had so stated in an informal conversation until the consul's letter of October 3, communicating the intelligence of the death of Krzeminski, was received. It appears, however, from a note from Mr. White to the foreign office, dated September 6/18, that he was still ignorant of the fact.

In regard to the removal of the body of Krzeminski, I this day addressed a communication to the Imperial Government in accordance with your instructions, and I will report the result to you as soon as a reply is received.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure 1 in No. 11.]

Mr. Rawicz to Mr. Peirce.

CONSULATE OF THE UNITED STATES,
Warsaw, October 25, 1894.

SIR: Referring to my communication of 21st instant, I beg to state that yesterday I received the correspondence from the chief of the prison where Krzeminski died, which I have forwarded to you in a separate envelope together with certificate of death furnished by them, all in translation, legalized.

Krzeminski's alleged crime dates from 1860, the time when the preparation for the last Polish revolution began, and perhaps this is the reason that, being counted as a political crime, such delay in answer to my inquiry was made.

It is shown by the above-mentioned correspondence that this consulate received after Krzeminski's death from the authorities of the prison 17 roubles 28 kopecks and 3 silver pieces, which I intend to return to the widow, who called on this consulate several days ago, requesting that the particulars concerning his death be communicated to her.

Your obedient servant,

JOSEPH RAWICZ,
U. S. Consul.

[Inclosure 2 in No. 11.]

Mr. Peirce to Mr. Rawicz.

LEGATION OF THE UNITED STATES,
St. Petersburg, October 23, 1894.

DEAR SIR: I am in receipt of your letter of 21st instant, and also of the documents forwarded by you under separate cover, viz, certificate of death and medical certificate.

I am very glad to get these, as they enable me to report the cause of Krzeminski's death to the State Department.

I must, however, call your attention to the fact that in my letter of October 9 I especially requested you to forward to me report upon the cause of Krzeminski's death. As it appears from the document itself that you were in possession of the physician's certificate giving the cause of the death at the time you received my letter, it seems to me strange, in view of the special request made by me for haste in this matter, that you did not forward it at once. You will be good enough to explain the delay in reporting the cause of Krzeminski's death promptly and as instructed.

I am, etc.,

HERBERT H. D. PEIRCE,
Chargé d'Affaires.

[Inclosure 3 in No. 11.]

Mr. Peirce to Mr. Rawicz.

LEGATION OF THE UNITED STATES,
St. Petersburg, October 24, 1894.

SIR: Referring to the death from pneumonia of Stanislaus Krzeminski in the examination prison at Warsaw, you will please visit the prison, and if possible inspect the cell or other apartment or room in which the said Krzeminski was incarcerated, with a view to ascertaining, if you can, whether the disease was induced by exposure owing to the manner of his treatment during confinement, and report.

I am, etc.,

HERBERT H. D. PEIRCE.

[Inclosure 4 in No. 11.]

Mr. Rawicz to Mr. Peirce.

CONSULATE OF THE UNITED STATES,
Warsaw, October 26, 1894.

SIR: Your favor of 22d instant received, and in answer I beg to refer to my letters of 21st and 23d instant, which I hope have reached the legation by this time.

To-day I have received from the prison authorities the medical certificate dated on the 30th of September (old style), or 12th of October of our calendar, which I have the honor to communicate here inclosed, together with translation, legalized.

The facts concerning the death of Stanislaus Krzeminski, which Mr. Webb may be in possession of, can not be other than those I have communicated to you in my previous letters, as Mr. Webb was introduced to the prison authorities by the secretary of this consulate, who acted at the same time as his interpreter.

During the imprisonment of Stanislaus Krzeminski nobody was permitted to visit him but my secretary, whose interviews were reported to the legation immediately.

I am, etc.,

JOSEPH RAWICZ,
U. S. Consul.

[Inclosure 5 in No. 11.]

Mr. Rawicz to Mr. Peirce.

CONSULATE OF THE UNITED STATES,
Warsaw, October 27, 1894.

SIR: Yesterday I forwarded to you, in registered letter, the official medical certificate of the cause of Krzeminski's death, which was received by this consulate but yesterday, although I sent the official inquiry on the 2d day of this month.

The two documents I forwarded to you on the 21st instant were obtained in a private way, and as I intended to compare them with the official ones previous to my report, I have detained them here; hence the delay in my report.

Yesterday, after the sending of my report to you, an officer from the governor general's office called on this consulate, and in consequence of your intervention at the foreign office at St. Petersburg inquired if the documents were furnished by the prison authorities, whom I informed that one of them was received but yesterday and immediately forwarded to the United States legation at St. Petersburg.

Trusting that you will find this satisfactory, I am, etc.,
JOSEPH RAWICZ,
U. S. Consul.

[Inclosure 6 in No. 11.]

Mr. Peirce to Mr. Rawicz.

LEGATION OF THE UNITED STATES,
St. Petersburg, October 29, 1894.

SIR: Your favors of 26th and 27th instant, with inclosed certificate of death of Stanislaus Krzeminski, received.

In the former you refer to details of interviews by your secretary with Krzeminski and state that you reported the same to this legation.

As I find no letters to this effect from you, you will please send duplicates.

I am, etc.,

HERBERT H. D. PEIRCE,
Chargé d'Affaires.

[Inclosure 7 in No. 11.]

Mr. Rawicz to Mr. Peirce.

CONSULATE OF THE UNITED STATES,
Warsaw, October 30, 1894.

SIR: In continuation of my letter of yesterday I beg to communicate to you that, not receiving permission direct from the authorities of the prison where Krzeminski died to visit his cell, I have sent to-day a request for permission to the governor of Warsaw, after receipt of which, and examination of the last abode of Krzeminski, I shall report to you accordingly.

Your obedient servant,

JOSEPH RAWICZ,
U. S. Consul.

[Inclosure 8 in No. 11.]

Mr. Rawicz to Mr. Peirce.

WARSAW, November 3, 1894.

SIR: In answer to your correspondence of the 29th instant, I beg to communicate here below the copies of my letters concerning arrest of Krzeminski, as desired.

AUGUST 3, 1894.

His Excellency ANDREW D. WHITE,
U. S. Minister Plenipotentiary at St. Petersburg:

Yesterday I received a letter from a United States citizen, Mr. Stanislaus Krzeminski, who is detained in prison in this city. On the request of said Krzeminski I have sent my secretary to the prison to interview him, and his statement I beg to communicate to your excellency. "Stanislaus Krzeminski arrived in this country invested with a United States passport, issued by the Secretary of State at Washington. On the 2d day of April, this year, said Krzeminski was arrested at Intomiosk County, Lask, Government of Piotrkow, where also his passport and his United States citizen papers were detained. He was charged with a crime of becoming a citizen of the United States without a Russian emigration passport, according to section 325 of the statutes of this country. On the 18th day of June, by the report of the attorney-general (————) of Piotrkow, under No. 9464, that charge against said Mr. Krzeminski was waived, he released, and then again, by the order of attorney-general of Warsaw, arrested, conveyed to Warsaw, and now, since the 18th day of June, imprisoned here without any trial." Mr. Krzeminski, after making above statement, requested that his case be reported to your excellency, with his prayer for your assistance.

On the 15th of August I received a telegram signed by Mr. Creighton Webb, to which I wired an answer and sent the following letter:

CREIGHTON WEBB, Esq.,
Chargé d'Affaires, U. S. Legation, St. Petersburg:

Your telegram of 15th instant, "Ascertain and telegraph immediately to me present whereabouts of Stanislaus Krzeminski. Is he still in prison? Creighton Webb," received, but as yesterday was here a holy day, therefore to-day I was able to ascertain, and have sent you an answer accordingly by telegraph: "American Ambassador, St. Petersburg, Krzeminski in the examination prison of Warsaw. Not examined yet." I have delegated my secretary to interview Mr. Stanislaus Krzeminski to-day in prison, where Mr. Krzeminski has stated that since his imprisonment, viz, since 18th day of June, he has never been called before any court for examination, and repeated his request to the U. S. legation for assistance."

My next correspondence in relation to the above case was directed to His Excellency Andrew D. White, minister plenipotentiary, on the 4th day of October, under No. 1347, which I presume is in your possession.

Referring to my last letter to you, No. 1373, of the 30th of last month, I beg to state that I have not received the answer from the governor concerning the permission to visit the cell of Krzeminski's imprisonment yet.

Your obedient servant,

JOSEPH RAWICZ,
U. S. Consul.

[Inclosure 9 in No. 11.]

Mr. Rawicz to Mr. Peirce.

CONSULATE OF THE UNITED STATES,
 Warsaw, November 7, 1894.

SIR: In continuation of my correspondence in answering yours of the 24th, I have the honor to communicate that to-day I have received from the governor of Warsaw permission to visit the prison in which Stanislaus Krzeminski died, and now I am ready to report:

The prison is situated at the Dzielna Str., and the cell, No. 15, in which Krzeminski was imprisoned, is located on the ground floor, for one inmate, about 8 by 12 feet in size, arched, with one half round small window, with a ventilator in the wall.

The hospital room in which Krzeminski died is on the third floor of the same building, situated on the south side, containing six beds, one of which is intended for the guardian of the room.

The appearance of the rooms and halls is clean, and the atmosphere throughout the building is pure.

Communicating the above I hope to satisfy fully your desire.

Your obedient servant,

JOSEPH RAWICZ,
U. S. Consul.

EXPATRIATION.

Mr. White to Mr. Gresham.

No. 264.]

LEGATION OF THE UNITED STATES,
St. Petersburg, September 13, 1894.
(Received September 28.)

SIR: William Hess, a naturalized citizen of the United States, of Austrian birth, desires to relinquish his citizenship.

Mr. Hess obtained his naturalization at Buffalo, N. Y., October 25, 1870, by application to Hon. T. G. Marsten, and bears a passport signed by Charles Emory Smith, minister, etc., February 25, 1891.

He claims that the exigencies of his business in this Empire make it desirable that he become a Russian subject, and he finds that to become such he must secure a certificate from proper authority, stating that the Government of the United States has no objection to his change of allegiance.

As I find no precedent for such a case I inclose draft of a certificate respectfully asking instructions regarding its form and issue.

I am, etc.,

AND. D. WHITE.

[Inclosure in No. 264.]

Draft of certificate.

To all whom it may concern:

Be it known that whereas William Hess, a citizen of the United States, has declared by letter his intention and desire to relinquish his citizenship and allegiance to the said United States:

Now, therefore, this is to certify that this legation, representing the Government of the United States, finds no objection to the aforesaid William Hess becoming a subject of his Imperial Majesty the Emperor of Russia.

Mr. Gresham to Mr. White.

No. 243.]

DEPARTMENT OF STATE,
Washington, October 2, 1894.

SIR: The Department is in receipt of your No. 264, of the 13th ultimo, in relation to William Hess, a naturalized citizen of the United States, of Austrian birth, who desires to relinquish his citizenship and become

a subject of Russia. He informs you, you say, that in order to accomplish this he must secure a certificate from proper authority stating that the Government of the United States has no objection to his change of allegiance. Finding no precedent for such a case, you inclose a draft of certificate and ask instructions regarding its form and issue.

I am aware of no statute authorizing or making it the duty of a diplomatic or other officer of the United States to give such a certificate. Mr. Hess's right to abandon his American citizenship, under the laws of this country, can not be questioned. This Government holds that the "right of expatriation is a natural and inherent right of all people" (Rev. Stat. U. S., sec. 1999), and it would seem that by calling the attention of the Imperial Government to that provision Mr. Hess can accomplish his purpose.

I am, etc.,

W. Q. GRESHAM.

DEATH OF ALEXANDER III.

Mr. Breckinridge to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
St. Petersburg, November 1, 1894. (Received November 1.)

Death of Emperor 2:15 this afternoon officially announced.

Prince Cantacuzene to Mr. Gresham.

RUSSIAN IMPERIAL LEGATION,
Washington, November 1, 1894.

DEAR MR. SECRETARY: I just received the following dispatch from Mr. de Giers:

It has pleased our Lord to recall to Him our much beloved sovereign. Emperor Alexander the Third died at Livadia this afternoon, the 20th October (1st November) at 2:15.

GIER.

In deep grief, very sincerely, yours,

CANTACUZÈNE.

Mr. Breckinridge to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
St. Petersburg, November 2, 1894. (Received November 2.)

Nicolas II declared Emperor.

The President to the Emperor of Russia.

[Telegram.]

WASHINGTON, November 2, 1894.

His Majesty NICOLAS II,
Emperor of Russia, Livadia:

I hasten to express my heartfelt sympathy and the sympathy of my countrymen with the Imperial family and the Russian people in their affliction by reason of the death of your honored father.

GROVER CLEVELAND.

Mr. Gresham to Mr. Breckinridge.

[Telegram.]

DEPARTMENT OF STATE,
Washington, November 2, 1894.

The President has sent to Livadia, in response to a telegram from Emperor Nicolas, a message of sincere regret and condolence. You will make this known to M. de Giers, expressing the sincere sympathy of the President and people of the United States with the Russian people in their deep grief.

Mr. Gresham to Prince Cantacuzène.

DEPARTMENT OF STATE,
Washington, November 2, 1894.

SIR: I hastened to communicate to the President the melancholy announcement of the death of His Majesty the Czar, which you conveyed to me by your note of yesterday's date; and I am charged by the President to assure you, and through you the Imperial Government, of his earnest sympathy with His Majesty's family and with the people of Russia in the loss they have sustained.

The President has already, in response to a telegraphic message received directly from His Majesty Nicolas II, sent a telegram of regret and condolence to Livadia.

Adding an expression of my own personal sorrow and respect, I take this sad occasion, etc.,

W. Q. GRESHAM.

Mr. Gresham to Prince Cantacuzène.

WASHINGTON, *November 6, 1894.*

MY DEAR PRINCE: The President and Mrs. Cleveland, the members of his Cabinet and their wives, and Mr. Bayard, our ambassador at London, and his wife, will testify their respect for the memory of the late Emperor by attending the funeral services at your legation on Friday at 10 o'clock a. m.

I have requested the chief of police to call and receive any directions you might desire to make for the occasion.

Faithfully yours,

W. Q. GRESHAM.

Mr. Breckinridge to Mr. Gresham.

No. 3.]

LEGATION OF THE UNITED STATES,
St. Petersburg, November 6, 1894. (Received November 26.)

SIR: I have the honor to inclose herewith the translation of the proclamation of His Imperial Majesty Nicolas II.

I have, etc.,

CLIFTON R. BRECKINRIDGE.

[Inclosure 1 in No. 3.—Translation.]

Manifesto of the Emperor.

By the grace of God we, Nicolas II, Emperor and Autocrat of all the Russias, King of Poland, Grand Duke of Finland, etc., to all our faithful subjects be it known:

It has pleased Almighty God, in His unfathomable way, to put an end to the precious life of our dearly loved father, the Emperor Alexander Alexandrovitch. His painful illness resisted both the care of the physicians and the beneficent climate of the Crimea, and on the 20th October he died at Livadia, surrounded by his august family, in the arms of Her Majesty, the Empress, and in those of ourselves.

Words can not express our grief, but every Russian heart will understand it, and we are sure that there is no single part of our vast Empire where tears are not shed for the sovereign prematurely gone to eternity, and having left his country which he loved with all the force of his Russian soul, and whose prosperity he had made the aim of all his thoughts, sparing neither his health nor even his life. And it is not in Russia only, but far beyond her limits, the memory of the Tzar will never cease to be venerated, in whom were embodied immutable justice and the country, which has not once been troubled during the course of his reign.

But the will of the Most High be done, a steadfast faith in the wisdom of Divine Providence comforting us; and let us console ourselves in the consciousness that our grief is also the sorrow of all our much-loved people, who can not forget that the strength and stability of holy Russia are in their union with us, and in their unqualified devotion to our person.

For us, in this sad but solemn hour of our ascension of the throne of our ancestors, the throne of the Empire of Russia, as of the Kingdom of Poland and the Grand Duchy of Finland, which are inseparable, we have ever present the memory of our dead father's teachings, and, deeply impressed with those teachings, we engage ourselves before the face of the Most High to have always for our sole aim a pacific policy, the power and glory of our beloved Russia, as well as the happiness of our faithful subjects.

As it has pleased Almighty God to call us to this great mission, may He help us. In raising toward the throne of the Master of the World our ardent prayers for the repose of the pure soul of our father of imperishable memory, we order all our subjects to take the oath of allegiance to us and to our heir, His Imperial Highness the Grand Duke George Alexandrovitch, who will be Césarévitch Inheritor, carrying that title until it pleases God to bless with a son our approaching marriage with the Princess Alice of Hesse.

Done at Livadia, the 20th day of the month of October, of the year of grace 1894 and of our reign the first.

(Signed)

NICOLAS.

Mr. Breckinridge to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
St. Petersburg, November 8, 1894. (Received November 8.)

Nations sending distinguished commissions to funeral November 20.

Mr. Gresham to Mr. Breckinridge.

[Telegram.]

WASHINGTON, November 12, 1894.

Yourself and others connected with legation are constituted a commission to represent this Government at the obsequies of the late Czar.

MISCELLANEOUS.

Mr. White to Mr. Gresham.

No. 184.]

LEGATION OF THE UNITED STATES.

St. Petersburg, January 20, 1894. (Received February 6.)

SIR: Returning from Germany recently, I was waited upon at the frontier by a wealthy manufacturer, Mr. Kirschten, of this city, who was returning on the same train from a visit to the United States, and was bringing with him, as a servant, an American citizen of African descent, Mr. Joseph Wingfield, aged 14 years.

Mr. Kirschten found, on arriving at the Russian frontier station, that the police were disinclined to admit the boy, and he therefore came to me and asked me to take him into my own suite as a servant. This I declined to do, but on talking with Mr. Kirschten, I became satisfied of his good intent, and on learning from the boy's remarks that he was of parents evidently respectable, had been brought up in the public schools, and had come abroad partly from a desire to better his position and partly in a not discreditable spirit of enterprise, I wrote a recommendation to the police authorities, and especially to Gen. De Wahl, prefect of St. Petersburg, a statement of the case, and expressed the hope that they would do all in their power to prevent harm to the boy.

The case was, indeed, a serious one, since it looked for a time as if he was to be left among utter strangers, speaking a language of which he could not understand one word, and in the depth of winter.

My note served its purpose, and he was allowed to proceed with his employer upon the train. Since his arrival in St. Petersburg, though the authorities have shown him more forbearance than is usual in such cases, they absolutely insist that he be furnished with a passport or leave the Empire.

The main objections to the boy receiving a passport are, so far as I can see, that he is not only under age, but has come with the intention to remain here for five years; still, as he is evidently in kindly hands, I have felt that ordinary humanity must in this case prevail over the usual routine, and I trust that this issue of a passport will not meet your disapproval.

I may add that the number of people of African descent here is very small; I have seen but two since my arrival, and they are servants at the Winter Palace. This fact gives to a domestic of that race considerable distinction, and is to some extent a guarantee that he will be well treated.

I am, etc.,

ANDREW D. WHITE.

Mr. Uhl to Mr. White.

No. 160.]

DEPARTMENT OF STATE,

Washington, February 7, 1894.

SIR: I have to acknowledge the receipt of your No. 184, of January, 1894 (day not given), and to approve your action in issuing a passport to the minor, Joseph Wingfield, on the assumption that his American birth and citizenship were established to your satisfaction. In the case of a minor satisfactory proof of intent to return to the United States before or on obtaining majority may be accepted, even though the intended sojourn abroad may exceed two years.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

SALVADOR.

EXTRADITION OF GENERAL EZETA.

Mr. Pollock to Mr. Gresham.

[Telegram.]

LA LIBERTAD, *June 9, 1894.*

SIR: The minister of the Provisional Government called on me yesterday submitting that Antonio Ezeta, vice-president of overthrown Government, was on our gunboat *Bennington* at La Libertad, and that, as a common criminal guilty of rape, murder, and other atrocities, he should be surrendered. I declined to entertain official relations until you recognize new Government. Nevertheless, papers were served on me by courts charging Ezeta with bank robbery committed last Thursday and asking for his extradition under treaty provision. I informed Capt. Thomas, of the *Bennington*, as to what was done, for his information merely. To-day commissioners were sent to the captain asking for surrender. He told them that having granted asylum he can not surrender Ezeta without order from your Government. He intended transferring Ezeta and compatriots to a Pacific mail steamer now in port, but I advised, for the purpose of good feeling with Salvador, to keep them until orders arrived, as another boat will soon be here. This cable is intended for your information. It and answer to it will be paid for by this Government. Yesterday fight took place at La Libertad. In few minutes *Bennington* had force landed, and consular agent reports, saved town from destruction.

Mr. Baker to Mr. Gresham.

[Telegram.]

SAN JUAN DEL SUR, *June 10, 1894.*

Have received following from Salvador:

AMERICAN MINISTER, *Managua:*

After committing various common crimes in the Republic, Antonio Ezeta has embarked on the American frigate anchored at the port of La Libertad. Knowing well his capacity for crime, I entreat you, in the name of your Government, to order his delivery to the authorities who shall present themselves to the captain of the vessel.

ESTANISLAO PEREZ,
Minister of War.

To which I replied, as follows:

MINISTER OF WAR, *San Salvador:*

I have no official knowledge that there has been a change of Government in Salvador, but were it otherwise I have no power to do as you request in your cablegram. Have forwarded same to Washington for instructions.

LEWIS BAKER,
American Minister.

Mr. Perez to Mr. Gresham.

[Telegram.—Translation.]

SAN SALVADOR, *June 10, 1894.*

On board of the American war vessel *Bennington*, now at anchor in the port of La Libertad in this Republic, are now receiving asylum Antonio Ezeta and five companions, guilty of the crimes of robbery, assassination, and arson, for which they have been really and effectively pursued to that port. My Government, being desirous that such offenses shall not remain unpunished, requests of that of your excellency the extradition of the criminals in question, begging you, in the name of justice, to grant this application. Your excellency is guaranteed that no attempt will be made against the life of the refugees, unless they be previously convicted in a trial. The American consul has in his possession judicial documents proving the common crimes committed by Ezeta, and can inform your excellency thereof. In case you do not deem their immediate extradition in order (procedente, "regular"), will not your orders at least be that the aforesaid criminals remain on the *Bennington* until my Government demands them with legal documents?

Begging you to consider the urgency of the case, I have the honor, etc.,

ESTANISLAO PEREZ,
General Minister.

Mr. Gresham to Mr. Baker.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 12, 1894.

The Department has your telegram of 10th repeating a dispatch addressed to you by Estanislao Perez describing himself as minister of war of Salvador and asking that you order the delivery of Gen. Ezeta, received on board a war ship of the United States at La Libertad, to the authorities of Salvador to be tried and punished for crime. The President is not advised that the revolutionists in Salvador have established a new Government entitled to recognition and competent to demand surrender of the Salvadoreans received on board the *Bennington*.

Mr. Gresham to Mr. Pollock.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 12, 1894.

Your telegram of 9th received saying minister of Provisional Government had represented that Antonio Ezeta, vice-president of overthrown Government, then on board the *Bennington* at La Libertad, was guilty of rape, murder, and other atrocities and should be surrendered for trial and punishment; that although you had declined to recognize new Government, papers had been served on you asking for Ezeta's extradition; that commander of the *Bennington* had been asked to

surrender Ezeta and that a fight occurred on the 8th instant in La Libertad and marines landed from *Bennington* and saved town from destruction. The President is not advised that a Provisional or other Government entitled to recognition and competent to demand surrender of Salvadoreans on board *Bennington* has succeeded the regular Government of Salvador, with which United States has been in friendly relations.

Mr. Antonio Ezeta to Mr. Herbert.

[Telegram.—Transmitted by the Navy Department June 15, 1894.]

LA LIBERTAD, *June 14, 1894.*

By permission of Commander Thomas, I desire to address the Secretary of State through you, and state that after having complied with my duty as a Salvador soldier defending the legitimate authority, I placed myself under the protection of the American flag in order not to be assassinated by my personal enemies. I beg you will please permit me to embark on the first direct steamer that touches this port.

Mr. Baker to Mr. Gresham.

LEGATION OF THE UNITED STATES,
Managua, June 15, 1894.

SIR: I am in receipt of the following telegram from Salvador:

SAN SALVADOR, 3:15 p. m., *May 15, 1894.*
MANAGUA, 6 p. m., *May 15, 1894.*

MR. BAKER, *Minister Plenipotentiary of the United States, Managua:*

I have the honor of communicating to you that the Government of the United States has recognized, by cable, Gen. Rafael A. Gutierrez as President of this Republic. As the President's general secretary I solicit in the name of justice the extradition of Antonio Ezeta and his companions who have found an asylum on the U. S. S. *Bennington* at the port of La Libertad. The said criminals are accused of and prosecuted for the common crimes of murder, robbery, arson, and other atrocities. I beg your excellency to accept the considerations with which I subscribe myself your obedient servant.

ESTANISLAO PEREZ,
Minister-General.

No answer was made to this, awaiting instructions from Washington.
I am, etc.,

LEWIS BAKER.

Mr. Dawson to Mr. Gresham.

[Telegram.]

SAN SALVADOR, *June 13, 1894.*

Provisional Government succeeded Ezeta's administration. Actual President is Gen. Rafael Gutierrez. He demands surrender Salvadoreans on board *Bennington*. Consul Pollock at Acajutlas on business.

Carlos Ezeta to the Mexican Minister.

[Telegram.]

PANAMA, June 14, 1894.

I beg of you to remember the cordial relations I had with your Government to obtain that President Cleveland refuses delivery of my brother, who has taken refuge on *Bennington*. Rebels have invented several common crimes against him, and they demand his delivery for the purpose of assassinating him, as they have done with several other generals of the constitutional Government. I feel greatly alarmed at the news published by the United States press announcing the immediate delivery of my brother. Please answer.

Mr. Carlos Ezeta to Mr. Gresham.

[Telegram.]

PANAMA, June 15, 1894.

I implore your Government not to deliver my brother, Antonio, to the rebels of Salvador, who are only interested in assassinating him. Whatever promises they make I assure you they will kill him; all are personal enemies. In 1890 Ezeta conquered, captured them, and spared their lives. My brother could have taken another steamer, but believed he would have more protection under the starry flag of the great Republic. Is it possible that this is not so? Please reply.

Mr. Baker to Mr. Gresham.

[Telegram.]

JUNE 16, 1894.

The provisional Government of Salvador informs me that the President of the United States has recognized that Government, and now ask extradition refugees. Is it so? What shall I do?

Mr. Uhl to Mr. Perez.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 16, 1894.

Your telegram of 10th received. Instructions in the premises were sent to Minister Baker on the 12th.

Mr. Uhl to Mr. Dawson.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 16, 1894.

Answering yours 13th, instructions in the premises sent by this Department June 12 to Minister Baker and Pollock, consul.

Mr. Uhl to Mr. Baker.

[Telegram.]

DEPARTMENT OF STATE,
Washington, June 18, 1894.

Your telegram of this date, stating that the provisional Government of Salvador informs you that the President of the United States has recognized that Government and now asks extradition refugees, has been received. No such action has been taken by the President. You will be governed by Mr. Gresham's instruction in telegram to you of June 12 until directed further by this Department. Later reply as to Nicaragua.

Mr. Baker to Mr. Gresham.

No. 315.]

LEGATION OF THE UNITED STATES,
Managua, June 21, 1894.

SIR: I think it proper to submit the following correspondence, which passed between this legation and the United States consulate at San Salvador, chiefly bearing on the demand of that Government for the surrender of Gen. Antonio Ezeta and others who recently sought an asylum on board the U. S. S. *Bennington*.

Cable from Consul Pollock to Minister Baker.

LA LIBERTAD, June 16, 1894, (1:22 p. m.)
(Received at Managua 6 p. m., June 17, 1894.)

Minister BAKER, *Managua*:

Provisional Government of Salvador just notifies me it is organized. Antonio Ezeta and several officers are refugees on *Bennington*, and Salvador asked Washington for their surrender. Ezeta is charged with crimes that would shock humanity.

POLLOCK.

To which I responded:

MANAGUA, June 17, 1894.

POLLOCK, *U. S. Consul,*
San Salvador:

Do not forget that you have no diplomatic powers.

LEWIS BAKER,
U. S. Minister.

On the 20th Mr. Pollock responded:

LA LIBERTAD, June 20, 1894 (1:15 p. m.).

Minister BAKER, *Managua*:

Have exercised no diplomatic duties whatever.

POLLOCK.

On the 21st of June I addressed Mr. Pollock the inclosed communication (No. 1) in explanation of my rather suggestive cable of the 17th instant.

I have, etc.,

LEWIS BAKER.

[Inclosure 1 in No. 315.]

Mr. Baker to Mr. Pollock.

LEGATION OF THE UNITED STATES,
Managua, June 21, 1894.

SIR: On the 8th instant I received a cable from San Salvador, signed by Estanislao Perez, who styled himself as minister of war, asking the

delivery of Gen. Antonio Ezeta to "those who shall present themselves to the captain" of the American man-of-war.

To this cable I replied:

I have no official knowledge that there has been a change of government in Salvador. But were it otherwise, I have no power to do as you request in your cablegram. Have forwarded same to Washington for instructions.

On the 14th instant I heard that information had been received in official quarters here that the captain of the *Bennington* had contemplated putting Gen. Ezeta and his companions upon a passing merchant steamer, but that, at your request, he had held them for delivery to the Salvadorean authorities. It is fair to both you and myself to say that I did not give credit to this statement, and my incredulity was heightened by the fact that I was unable to obtain satisfactory proof of its truthfulness.

On the 15th I received a cable from Salvador signed by Estanislao Perez, who styled himself on this occasion "general minister," in these words:

I have the honor of communicating to you that the Government of the United States has recognized by cable Gen. Rafael A. Gutierrez as president of the Republic. As the president's general secretary I solicit in the name of justice the extradition of Antonio Ezeta and his companions, who have found asylum on the U. S. S. *Bennington* at the port of La Libertad. The said criminals are accused of and prosecuted for the common crimes of murder, robbery, arson, and other atrocities.

The receipt of this message not only put me on my guard, but suggested the propriety of placing you upon your guard also. Therefore I sent the brief cable of caution to you. After the effort to entrap me about the action of our Government toward that of Salvador, I was prepared to expect the same parties to attempt some similar "smart" game on you.

I beg that you will view the matter from my standpoint, and believe me when I assure you that I had great doubt about your needing the caution, yet I thought I might venture to give you the benefit of the doubt, since we are both striving to do the best for the benefit and good name of our country.

I have been much pleased with your reports to me and with your official action, so far as it has come to my knowledge.

I am, etc.,

LEWIS BAKER.

[Inclosure 2 in No. 315.]

Mr. Pollock to Mr. Baker.

U. S. CONSULATE,
San Salvador, June 11, 1894.

SIR: Your communication of May 31 reached me to-day, and I hope that you have since received my letters of May 25, 26, and of June 6, which contain particulars of the revolution now concluded. I have not yet received your cablegram of May 21.

The last days of the revolution were quite exciting and, as I feared, fraught with danger. At La Libertad our gunboat *Bennington* landed troops three times to protect American property and interests, and at one time, at least, I am informed, saved the port from destruction. Con-

siderable American property was destroyed at other places, for which claims for indemnity will be made, but La Libertad was the last refuge of the defeated party, and but for the presence of the gunboat there would have suffered most.

When Vice-President Ezeta arrived at La Libertad, pursued by his enemies, Capt. Thomas, for the sake of humanity, took him and his generals, 16, I believe, in all, on board the *Bennington*. The following morning one of the ministers of the provisional Government informed me of the fact and requested that Ezeta be surrendered. I told him that until the United States recognized the new Government it would be better to defer official intercourse. Nevertheless, papers were served upon me the same day, asking for Ezeta's extradition as a common criminal, guilty of bank robbery which he committed on the day previous, besides which he is charged with rape, arson, murder, and other crimes. At the same time the provisional Government appointed two commissioners to go to La Libertad and lay the same request before Capt. Thomas. A cablegram to the same effect was at the same time sent to Washington. Capt. Thomas told the commissioners that, having granted asylum to Ezeta and his compatriots, he could not now surrender them without orders from our Government.

The incident has created intense excitement among the people. Indeed, it is so intense that the commissioners have instructions to return to La Libertad and renew their plea, although they have just come back and know that the effort would be useless, simply to allay the bitter feeling which at this time, when the city is filled with soldiers, is very serious. The request has also been renewed upon me. Capt. Thomas wished to transfer the fugitives to the *San Blas*, who was at La Libertad on Saturday, but I knew that the commissioners would consider such an action an insult to them, as any hearing that might be given them would then be too late, and I, who had gone to La Libertad also, advised the captain to hold Ezeta and his generals until he could hear from Washington, by which time another boat would be in and the excitement cool off. * * *

I am, etc.,

ALEXANDER L. POLLOCK.

I wish to say that I am very careful to act strictly within the spirit of your instructions to me.

Mr. Castellanos to Mr. Gresham.

Telegram.]

SAN SALVADOR, June 25, 1894.

Having to make a request for the extradition of certain criminals, refugees on board the *Bennington*, I pray your excellency to be pleased to tell me whether the minister of the United States accredited near this Government has instructions to determine (the question) or if this ministry should apply directly to the Government of the United States through the worthy medium of your excellency.

With high consideration, etc.,

JACINTO CASTELLANOS.

Mr. Guzmán to Mr. Gresham.

[Translation.]

LEGATION OF SALVADOR IN WASHINGTON,
Washington, D. C., August 9, 1894.

EXCELLENCY: In obedience to instructions which, under date of July 2 of the current year, the Government of the Republic of Salvador has been pleased to communicate to me, and upon the execution of which it has seen fit to insist by a telegram of yesterday, of which I had the honor to inform your excellency shortly after receiving it, I now discharge my duty by addressing your excellency and presenting to you in original the demands and accompanying documents, as also a copy, as I am ordered to do by the dispatch aforesaid, all of which is directed toward requesting the Government of the United States to be pleased to order the delivery, in compliance with the treaty of extradition between Salvador and the United States of America, of Don Antonio Ezeta, Don Leon Bolaños, Don Jacinto Colucho, Don Juan Cienfuegos, and Don Florencio Bustamante, fugitive Salvadorean criminals whose arrest has been ordered by the courts of their country for common crimes comprised in the said treaty of extradition, and who took refuge on board the United States vessel of war named *Bennington*, which had recently anchored in the aforesaid port of La Libertad.

Of this application, which it is my duty to formally present to your excellency in the name of the Government of Salvador, I understand that your excellency is already duly informed by reason of the steps which were directly taken in the matter by the authorities of Salvador at the time of the occurrences. For this reason, and in order not to needlessly disturb your excellency's attention, I omit to enter upon the considerations of law and justice which warrant the request and which, on the other hand, besides being self-evident, naturally appear from the accompanying documents and from the antecedents which I suppose to be in your excellency's possession.

Your excellency's Government, with its accustomed rectitude, will doubtless do full justice in the matter.

It is gratifying, etc.,

H. GUZMAN.

[Inclosure.]

Mr. Castellanos to Mr. Guzmán.

[Translation.]

MINISTRY OF FOREIGN RELATIONS
OF THE REPUBLIC OF SALVADOR,
National Palace, San Salvador, July 2, 1894.

SIR: According to the treaty of extradition made between the United States and Salvador, under date of May 23, 1870, and exchanged in the city of Washington the 2d of May, 1874, the Governments of both Republics agreed to mutually surrender to each other individuals who, being convicted or accused of the crimes specified in said treaty, committed in the jurisdiction of one of the contracting parties, should seek asylum or be found in the territory of the other.

In view thereof, and the criminals Antonio Ezeta, Leon Bolaños, Jacinto Colucho, Juan Cienfuegos, and Florencio Bustamante, having

taken refuge on the steamer *Bennington* of the war marine of the United States, which was found anchored in the port of La Libertad in this Republic, when they were prosecuted under accusation of the crimes of assassination, robbery, and arson, which crimes are included in clauses 1 and 4 of article 2 of said treaty, one of the cases has arisen in which extradition should take place, the vessel on which they have taken refuge forming part of American territory.

Proper proceedings having been instituted before the ordinary tribunals of justice, the guilt of said criminals has been proved according to the laws of the Republic, as is evidenced by the authenticated copy of the judicial proceedings which I have the honor to transmit herewith, and there being no other means of proof in such cases than the depositions of witnesses, it is beyond doubt that, according to the laws of the United States, it should also be considered legally proved.

In compliance then with article 6 of said treaty, you will be pleased to request of the Government of the United States the surrender of the specified criminals, transmitting the annexed original petitions and a copy of this dispatch.

At the proper time you will request that, until the legality of the extradition is decided on, the steamer *Bennington* may remain anchored in the port of La Libertad, for the purpose of facilitating the surrender to the authorities of said port.

The Government of Salvador does not doubt that the Government of the United States, in promotion of the agreement which binds both countries and of the interest which all civilized nations have in the punishment of atrocious criminals who offend against all humanity, will accede to the just demand which is made upon it.

You may moreover give assurances that the criminals will be tried by the tribunals of justice and guaranteed in their natural right of defense.

Be pleased to inform me immediately of the result of your action, and accept the assurances of my distinguished consideration.

JACINTO CASTELLANOS.

Mr. Gresham to Mr. Guzmán.

DEPARTMENT OF STATE,
Washington, August 11, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 9th instant, in which, pursuant to instructions from the Government of Salvador, you request the extradition of Don Antonio Ezeta, Leon Bolaños, Jacinto Colucho, Juan Cienfuegos, and Florencio Bustamente, now in the jurisdiction of this country, accused of crimes committed in Salvador. With your note are copies of the warrant for the arrest of the parties named, issued in Salvador, also certain documents which you refer to as establishing their guilt.

In reply I beg to remind you that under the treaty between this country and Salvador and the statutes of the United States extradition can only be granted, in pursuance of a judicial investigation. I herewith transmit to you a preliminary warrant, addressed to judicial officers authorized to hear applications for extradition. The proceedings should be commenced by the application of some authorized official of your country before a United States commissioner or other competent judicial authority in the locality where the persons whose extradition

is desired may be. Such commissioner or other competent judicial officer, on receiving the application properly authenticated, will issue his warrant and the evidence of guilt should then be presented to him.

The papers inclosed by you as evidence of the guilt of Ezeta and the other persons named should be presented to the commissioner or other judicial officer before whom the proceedings are instituted.

Inasmuch as the papers you inclose are only authenticated by the minister for foreign affairs of Salvador, I deem it proper to inform you that, in order to insure their admission by the examining officer, some further authentication may be required.

Accept, etc.,

W. Q. GRESHAM.

[Inclosure.]

PRELIMINARY WARRANT.

DEPARTMENT OF STATE.

To any justice of the Supreme Court of the United States; any judge of the circuit or district courts of the United States in any district; any judge of a court of record of general jurisdiction in any State or Territory of the United States, or to any commissioner specially appointed to execute the provisions of Title LXVI of the Revised Statutes of the United States, for giving effect to certain treaty stipulations between this and foreign governments, for the apprehension and delivering up of certain offenders:

Whereas pursuant to existing treaty stipulations between the United States of America and Salvador for the mutual delivery of criminals, fugitives from justice in certain cases, Dr. Horacio Guzmán, envoy extraordinary and minister plenipotentiary of the Republic of Salvador, accredited to this Government, has made application in due form, to the proper authorities thereof, for the arrest of Antonio Ezeta, Leon Bolaños, Jacinto Colocho, Juan Cienfuegos, and Florencio Bustamante, charged with the crimes of murder, robbery, and arson, and alleged to be fugitives from the justice of Salvador, and who are believed to be within the jurisdiction of the United States;

And whereas it appears proper that the said Antonio Ezeta, Leon Bolaños, Jacinto Colocho, Juan Cienfuegos, and Florencio Bustamante should be apprehended, and the case examined in the mode provided by the laws of the United States aforesaid:

Now, therefore, to the end that the above-named officers, or any of them, may cause the necessary proceedings to be had, in pursuance of said laws, in order that the evidence of the criminality of the said Antonio Ezeta, Leon Bolaños, Jacinto Colocho, Juan Cienfuegos, and Florencio Bustamante may be heard and considered, and, if deemed sufficient to sustain the charge, that the same may be certified, together with a copy of all the proceedings, to the Secretary of State, that a warrant may issue for their surrender, pursuant to said treaty stipulations. I certify the facts above recited.

In testimony whereof I have hereunto signed my name and caused the seal of the Department of State to be affixed.

Done at the city of Washington this 11th day of August, A. D. 1894, and of the independence of the United States the one hundred and nineteenth.

[L. S.]

W. Q. GRESHAM,
Secretary of State.

Mr. Guzmán to Mr. Gresham.

[Translation.]

LEGATION OF SALVADOR AT WASHINGTON,
Washington, August 13, 1894.

MOST EXCELLENT SIR: I have the honor to acknowledge the receipt of your excellency's highly esteemed communication of the 11th instant (Saturday), together with which you were pleased to send me a preliminary warrant authorizing any judicial magistrate, whether Federal or State, in the United States of America, to institute, at my request, or at the request of any of my agents, such proceedings as may be necessary for the extradition of the five Salvadorean criminals, who, fleeing from justice in their own country, sought refuge, in the middle of June last, on board of the U. S. war ship *Bennington*, which was then anchored in the Salvadorean port of La Libertad.

Your excellency was also pleased to return to me the three applications which the judicial authorities of Salvador addressed, on the 22d and 26th of June last, to the commander of the aforesaid vessel, requesting him to surrender the fugitives, the originals of which documents, together with others that corroborate the statements therein contained, the Government of Salvador instructed me to place in your excellency's hands.

Finally, your excellency was pleased to inform me of the steps which it is proper for me to take in order to obtain from the judge with whom I may have to deal the necessary order for the extradition of the fugitives, and to add that the applications and certificates to which reference has been made bear no authentication save that of the minister of foreign relations of Salvador, and that, to make sure of their acceptance by the competent judicial authorities of this country, additional authentication may be necessary.

I return my warmest thanks to your excellency for having sent me the preliminary warrant above mentioned, and for the promptness with which you were pleased to answer the note which I had the honor to place in your hands at a late hour on Thursday, the 9th instant, and I assure you that I shall avail myself, at the proper time, of your valuable suggestions. I propose to begin at once to take the necessary steps on the lines which have been so kindly pointed out to me by your excellency.

The performance of my task would be greatly facilitated if your excellency would have the kindness to inform me (in case you know and see fit to communicate this information to me) to what port the *Bennington* will next proceed, and whether I must address my communications or send my agents to San Francisco, Cal., or to any other port in the United States.

It is proper for me further to inform your excellency that the Government of Salvador, which I have apprised by cable, of your excellency's observation relative to the authentication of the documents, is prepared to supply any omission that may be noted, hoping that the time necessary therefor will be allowed it.

I beg your excellency to accept, etc.,

H. GUZMÁN.

Mr. Gresham to Mr. Guzmán.

DEPARTMENT OF STATE,
Washington, August 15, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 13th instant relating to the extradition of the Salvadorean refugees now on board the U. S. S. *Bennington*.

In reply I have to inform you that the *Bennington* is near San Francisco, but outside our territorial waters, and that she will enter the harbor as soon as your Government obtains a writ from a judicial officer for the arrest of the refugees. There is sickness on board the ship, and, for that and other reasons mentioned in our various interviews upon this subject, it is hoped that you will see there is no unnecessary delay in affording them a prompt trial. I venture to suggest (if you have not already done so) that you send instructions to that end to your agent at San Francisco.

The judicial officer before whom the proceedings are instituted will decide whether or not documents presented by your Government are properly authenticated. I assume that Salvador will be represented by counsel upon whose advice you can safely rely in all matters.

Be pleased to accept, etc.,

W. Q. GRESHAM.

Mr. Guzmán to Mr. Gresham.

[Translation.]

LEGATION OF SALVADOR,
Washington, September 25, 1894.

YOUR EXCELLENCY: I have the honor to inform you that I have received instructions from the Government of Salvador to solicit of your excellency, in fulfillment of the treaty of May 23, 1870, the extradition of Don Antonio Ezeta, now at liberty in the United States of America, and prosecuted in his own country, in conformity with the laws, for the murder of Don José Guillen, perpetrated by Ezeta in person on the 15th April, 1891, when his brother was ruling in that Republic, when there was no disturbance nor martial law, nor anything that could impart a political character to his crime, even in the most remote degree.

The documents proving Ezeta's crime reached my hands last night.

I, therefore, request your excellency to have the goodness to furnish me with the preliminary warrant necessary for instituting extradition proceedings against the said Don Antonio Ezeta for the crime mentioned.

Accept, etc.,

H. GUZMÁN.

Mr. Gresham to Mr. Guzmán.

DEPARTMENT OF STATE,
Washington, September 28, 1894.

SIR: I have the honor to acknowledge receipt of your note of the 25th instant, requesting that a preliminary warrant be issued for the institution of extradition proceedings against Don Antonio Ezeta for the murder of Don José Guillen on April 15, 1891.

I beg to remind you that on the 11th of August last a preliminary warrant was, at your request, issued by this Department, in order that Ezeta and others might be examined by the proper judicial authorities of the United States for extradition upon the charges of murder, robbery, and arson. It is understood that Ezeta and his associates were, upon the application of your Government, examined, with a view to their extradition, before a United States judge in the city of San Francisco, and that Ezeta was, as a result of that examination, discharged. Your Government must have known at the time of those proceedings of the offense for which you now ask that Ezeta be extradited, and you might have adduced evidence of that offense before the judge who heard the other charges. Indeed, for aught that appears from your communication, or is otherwise known to this Department, the charge of murdering Guillen was one of those made against Ezeta in the proceedings already had. Whether it was actually made or not, it might have been made, and I do not feel warranted under these circumstances in setting on foot new proceedings against him. In addition to this ground for declining to entertain your request, I may add it is believed that Ezeta, on being discharged, left San Francisco, and is now in Mexico, beyond the jurisdiction of the United States.

Accept, etc.,

W. Q. GRESHAM.

Mr. Castellanos to Mr. Gresham.

[Translation.]

NATIONAL PALACE,
San Salvador, October 9, 1894.

SIR: I have the honor to notify your excellency that I have received instructions from the president to inform you that the Government of this Republic, making use of the right granted it by article 8 of the extradition treaty existing between the two countries, concluded in this city on the 23d May, 1870, and exchanged in the same May 12, 1873, desires that its effects cease at the termination of the legal period of continuance, as it was not denounced in proper time within the six months prior to the date of its expiration; and that if your excellency's Government wishes to have it cease at once, by means of a special convention, it is ready on its part to make that arrangement.

I avail myself, etc.,

JACINTO CASTELLANOS.

Mr. Gresham to Mr. Guzmán.

DEPARTMENT OF STATE,
Washington, October 26, 1894.

SIR: Referring to your note to this Department of August 9 last, requesting the extradition of Antonio Ezeta, Juan Cienfuegos, and others, I beg to call your attention to the fact that the note did not specify the crimes of which they were accused.

Accompanying it, however, was a copy of a note from your Government to you, under date of July 2, in which murder, robbery, and arson only were specified.

Considering this as a sufficient requisition within the meaning of Article VI of the treaty concluded May 23, 1870, the usual certificate, by some called a warrant, was issued for a preliminary examination before a judicial officer on these charges. In the hearing before Judge Morrow, the charge of arson appears not to have been pressed. The charges of robbery and murder were found by him to relate to offenses of a political character, which are excluded from the operation of the treaty, and the persons, other than Cienfuegos, charged with those offenses accordingly were released. Judge Morrow deemed the evidence sufficient to hold Cienfuegos on the charge of attempt to murder, which charge was not embraced in the requisition of Salvador, the warrant for the preliminary hearing, or the warrant of arrest.

It appears from the record of the preliminary proceeding that on or about January 3, 1894, Cienfuegos was arrested and imprisoned in Salvador for an attempt to murder one Andres Amaya; that three days later, by order, or in consequence of some action of the chief executive of the Government, he was set at liberty, and, although the revolution did not break out until nearly four months later, he was not again molested on that charge. On these facts it may be reasonably inferred that Cienfuegos was pardoned before trial. But, however that may be, this Government declines to surrender him on a charge not embraced in the requisition for his extradition, the warrant for the preliminary hearing, or the warrant of arrest.

Accept, etc.,

W. Q. GRESHAM.

Mr. Gresham to Mr. Castellanos.

No. 43.]

DEPARTMENT OF STATE,

Washington, October 29, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 9th instant. You therein express the desire of your Government to terminate the treaty of extradition between the United States and Salvador at the end of the period for which it is now in force; you further offer to terminate it at once by means of a special convention, should this Government so desire.

In reply, I have to observe that the ratifications of the treaty were exchanged on March 2, 1874, and not, as your excellency inadvertently states, on May 12, 1873. It will therefore remain in force, according to its terms, until March 2, 1904, and this Government sees no reason for terminating it by special convention at an earlier date.

Accept, etc.,

W. Q. GRESHAM.

SPAIN.

FINES FOR CLERICAL ERRORS IN MANIFESTS.¹

Mr. Gresham to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 2, 1893.

Our consul-general at Havana has telegraphed that the custom-house has embargoed \$3,000 worth of sugar belonging to Hidalgo & Co., to pay fines. The fines imposed upon the Ward Line of steamers are for mere clerical errors in manifests from which Spanish vessels in our ports are exempt. Ask that intendente be requested by telegraph to report facts to Madrid for decision. Inform Department by cable of action taken.

GRESHAM.

Mr. Taylor to Mr. Gresham.

[Telegram.]

MADRID, *December 5, 1893.*

Presented your request Hidalgo case. Awaiting answer.

TAYLOR.

Mr. Gresham to Mr. Taylor.

No. 65.]

DEPARTMENT OF STATE,
Washington, December 9, 1893.

SIR: Referring to my telegram of the 2d, and your reply of the 5th instant, copies of which are inclosed, regarding an embargo of \$3,000 upon the property of Hidalgo & Co., of Havana, consignees of the Ward Line of steamers, for fines levied upon the steamers of that line for errors in manifests, I have now to transmit to you a statement presented to the Department by an attorney of the line, dispatches from the consulate-general at Havana, and other correspondence, which will give you full information regarding the case.

You will observe from the list of fines annexed to dispatch No. 2050 of the vice-consul-general that \$944 of the amount claimed is for fines ranging from \$10 to \$304 for unimportant errors in twelve different manifests. In addition to the amount accruing from this source there is a single fine of \$2,400 levied upon the steamship *City of Washington*, reported in No. 2051 of the vice-consul-general. This particular fine affords an excellent example of the character of the fines in general and of the technical reasons for which they are levied.

¹ Fines for clerical errors in manifests were imposed in Cuba on a number of vessels of the United States. The two cases printed have been selected as instances.

A bill of lading called for 141 tierces of lard, amounting to 25,900 kilos. In transcribing the manifest of the vessel's cargo a zero was dropped, owing to the indistinctness of the figures on the bill of lading, so that the manifest read 2,590 kilos instead of 25,900. For this simple clerical error, where there is no pretext for a charge of fraudulent intent, lard being free of duty under our reciprocity arrangement, the consignees of the vessel have been ordered to pay \$2,400.

The inclosed letters from Mr. J. M. Ceballos, the New York agent of the Spanish Transatlantic Company (*Compañía Transatlántica Española*), and from the collector of customs of the port of New York, show conclusively that no fines are imposed upon Spanish vessels in any port of the United States for clerical errors of any kind in their manifests. These vessels, under the customs regulations of this country, have the right, in case the cargo is in excess of manifest, to make a post entry, and in case of the cargo being short of manifest to make an affidavit stating that the missing portion has been left behind.

In connection with this long-standing cause of complaint against the customs officials of Cuba, which undoubtedly grows out of the moiety system existing in that island, you are referred to dispatch No. 1300, from the consul-general at Havana, dated March 31, 1891, a copy of which was transmitted to your legation with the Department's No. 62, of April 9, same year. This dispatch gives a clear exposition of the whole subject of this annoying class of fines, and especially calls attention to the lack of reciprocity between the treatment of Spanish vessels in American ports and of American vessels in Spanish ports.

Your attention is particularly called to the statement annexed to that dispatch of the cases in which additions to the manifests of Spanish vessels were made by post entries at the port of New York during the years from 1884 to 1890, both inclusive. This statement shows that 38 Spanish vessels made entry with cargoes in excess of their manifests, and that they were allowed to amend by post entries on payment of a fee of \$2 each, or \$76 in all.

You are instructed not only to protest against the levy of the fines upon the Ward Line and the embargo upon the property of Messrs. Hidalgo & Co., but also to make a general statement of the question of these annoying and groundless impositions on American vessels, and to state, in the interest of our commerce, it is the opinion of this Government that the same considerate treatment should be extended to American vessels in Spanish ports as is received by Spanish vessels in all ports of the United States.

The statements of Mr. Ceballos, and the collector of the port of New York, and the list of post entries made by Spanish vessels, seem of especial value, and it is regarded as advisable that copies of these documents, in addition to any others that you may select, should be sent to the minister of state as inclosures to your presentation of the case.

I am, etc.,

W. Q. GRESHAM.

[Inclosure 1 in No. 65.]

Mr. Neale to Mr. Strobel.

WASHINGTON, December 4, 1893.

SIR: Referring to the conversation which the Hon. Ramon O. Williams and I had with you some days since in respect to the fines which are being imposed by the customs department at Havana upon the vessels

of the New York and Cuba Mail Steamship Company, I beg leave to inclose herewith the original statement,¹ as received from Havana, of the various fines imposed upon the ships, with translation of the same. From this statement you will note that all of the fines imposed are for very trivial matters, mostly clerical errors, which are almost unavoidable owing to the detail required on the Spanish manifests and the rapidity with which the manifests have to be made up in order to allow the ships of the company to sail on time. In many instances, to oblige shippers the company receives goods up to one hour of sailing; then the manifest has to be made out. After that, an employee of the company must go to the Spanish consul and get him to look it over and visé it.

You can readily apprehend the difficulties that are experienced and how easy it is, among so many bills of lading and the corresponding entries on the manifests, to have mistakes.

I beg also to submit to you two recent manifests which will give a good idea of the amount of labor involved. When it is considered that all this work has to be done at a lightning rate of speed, it is a very simple matter to have an error creep in. Two cases will illustrate the injustice which is being done the New York and Cuba Mail Steamship Company.

Quite recently in Cienfuegos they imposed a fine on one of the ships of the company of \$50 on account of an error in the entry of some hams weighing 2,000 pounds, which in Spanish is "dos mil." On the original manifest, made in New York, this was correctly written out, but the purser, in making copies for the customs officials in Cuba, wrote "doce mil" instead of "dos mil."

Another instance is a fine that was imposed on the *City of Washington* for an error in the weight on manifest, the bills of lading reading "tierces lard weighing 25,900 kilos." The figures on the bills of lading were not very plain, and the manifest clerk wrote, in copying, "2,590" instead of "25,900" kilos. As the article (lard) is free of duty, it is plainly evident that no fraud was intended by the company; and yet, notwithstanding, the officials in Cuba are endeavoring to collect a fine of \$2,400 on the ship for this small error.

I beg also to inclose you letters from the collector of customs of the port of New York, and from Messrs. J. M. Ceballos & Co., agents of the Spanish line, which state that all Spanish vessels in the port of New York, or in any other port of the United States, are allowed, in case of mistakes in their manifests, to amend the same, and no fines whatsoever are imposed under any circumstances for clerical errors of any kind.

The intent of the treaty with Spain regarding Cuba and Puerto Rico is certainly reciprocating in the treatment of such matters, and it appears to me that it is fully within the province of the State Department to insist that Spanish authorities shall treat American vessels in their waters as fairly and courteously as Spanish vessels are treated in American waters.

The New York and Cuba Mail Steamship Company has mail contracts on routes 69 and 70, "O. M. S.," with the United States Government, and is compelled to sail promptly with United States mails. It is frequently very difficult to make shippers get their bills of lading and other documents into the office of the company in time, and the employees of the company are invariably rushed at the last moment in making up the manifests, which, as stated above, after being written out and hectographed in the office of the company, have to be taken to the Spanish consul to be examined and visé by him.

¹Printed on p. 582 as Annex 2 to inclosure 4.

It is, consequently, very easy at any time to have clerical errors creep in which can not be found at the moment.

Invariably, when any errors are found in a manifest after the ship has sailed, the company cables its agents at Havana, informing them of the error, and instructing them to notify the customs-house authorities of the same prior to the arrival of the ship. It is possible, however, that such errors might not be discovered, and it is only right and proper that, should the purser in examining the manifests and bills of lading discover one, he should be allowed to report the same to the authorities on arrival at Havana.

As the company never has any interest whatsoever in the goods shipped to Cuba except as forwarders, there can be no intent of fraud upon their part.

The whole difficulty in Cuba arises from the existence of the moiety system. Officials are badly paid, and naturally look every way they can to make money.

This subject was very exhaustively considered by Consul-General Williams in report No. 1300, dated Havana, March 31, 1891, addressed to Hon. William F. Wharton, Assistant Secretary, to which I beg to call your attention; and also in a letter written by Jas. E. Ward & Co., of New York, addressed to the Secretary of State about the years 1883 and 1884.

You can readily apprehend the great annoyance to which the New York and Cuba Mail Steamship Company is being subjected by reason of the course pursued by the customs-house department at Havana. It is only a few days since that a cable was received stating "Our tugs stopped by authorities."

In behalf of the New York and Cuba Mail Steamship Company I beg to request that the Department will promptly bring this matter to the attention of our minister at Madrid with a view that some action may be taken by the Spanish Government to right the wrong which is being done the company, and that in the meantime, our consul-general at Havana be instructed to ask that there shall be a suspension of all proceedings pending the adjudication of the questions involved at Madrid.

Very truly, yours,

S. C. NEALE,
Counsel, New York and Cuba Mail Steamship Company.

[Inclosure 2 in No. 65.]

Messrs. Ceballos & Co. to Messrs. James E. Ward & Co.

COMPAÑÍA TRANSATLÁNTICA ESPAÑOLA,
New York, November 16, 1893.

GENTLEMEN: Confirming conversation of this date with your representative, we wish to state that on manifests of our steamers arriving in New York, in case cargo is in excess of manifest, we are allowed by the United States customs authorities to make a post entry; and in case of cargo being short of manifest we are allowed to make an affidavit stating that the same was left behind. We have availed ourselves of this privilege on many occasions and have thereby avoided any fine being imposed on our steamers.

Yours, very truly,

J. M. CEBALLOS & Co.,
Steamship Department.

[Inclosure 3 in No. 65.]

*Certificate of collector of customs.*OFFICE OF THE COLLECTOR OF CUSTOMS,
*Port of New York.**To whom it may concern:*

This is to certify that Spanish vessels, and the vessels of all other nations, are required, under section 2887, United States Revised Statutes, to make post entries of cargo unmentioned in manifests by accident or mistake.

Given under my hand and seal of office this 16th day of November, 1893.

[SEAL.]

JAMES T. KILBRAITH,
Collector of Customs.

[Inclosure 4 in No. 65.]

Mr. Springer to Mr. Uhl.

No. 2050.] CONSULATE-GENERAL OF THE UNITED STATES,
Havana, November 18, 1893. (Received November 24.)

SIR: I transmit herewith copy of a letter received from Messrs. Hidalgo & Co., consignees in this city of the steamships of the Ward line, of New York, accompanying a list of fines imposed by the customs authorities of this port on steamers of said line amounting to \$944, and stating that they had been threatened with legal proceedings; and also copy of a letter from Mr. Frederico de Zaldo, as a citizen of the United States, and one of the firm of Hidalgo & Co., stating that the custom-house had embargoed property of the concern for the purpose of selling it and applying proceeds to payment of said fines.

I had agreed with Mr. Zaldo to call upon the intendente general at noon in relation to these fines, and to ask a suspension of the proceedings against the firm, but a few minutes before I received the telegram of the Department of State "to request the governor-general to suspend proceedings against Hidalgo & Co. for fines upon Ward's steamers pending representation at Madrid."

In obedience to these instructions, I at once addressed a communication to his excellency the governor general, which I delivered in his hands at 5 p. m. yesterday. His excellency read the communication and remarked that it should have been sent to the intendente general, before whom all such claims should come. I explained that I was acting in obedience to direct instructions; and further, that this consulate-general had not yet received any acknowledgment or communication from the intendente's office to the recent representations of this consulate-general. His excellency called the attention of the political secretary, who was present, and said that the matter should receive immediate attention and be referred to the intendente general.

I am, etc.,

JAMES A. SPRINGER,
Vice-Consul-General.

[Annex 1 to inclosure 4 in No. 65.]

Messrs. Hidalgo & Co. to Mr. Springer.

HAVANA, November 11, 1893.

SIR: Herewith we hand you copy of fines imposed on several of the American steamers belonging to the Ward line, of which we are agents here, and as the *ejecutor de apremios* has threatened us with legal proceedings in this matter, we beg to notify you of this fact, and at the same time you are requested to take the necessary steps near the Government in our behalf, as customary.

We are, etc.,

HIDALGO & Co.

[Annex 2 to inclosure 4 in No. 65—Translation.]

Fines upon masters.

1. S. S. Seneca, from New York, April 10, 1893, for not stating, item 65 of manifest No. 1063, the weight of 25 cases of petroleum, entered as 773 kilos by Messrs. Astuy & Co.....	\$10
2. S. S. Seneca, New York, April 10, for not stating, item 64 of manifest No. 1063, contents of certain packages, entered as hardware by Don J. A. Ortiz.....	10
3. S. S. City of Alexandria, New York, May 6, for not stating, item 103 of manifest No. 1165, contents of 2 boxes and 1 cask, mark W. H., entered as hardware by Uriarte & San Martin.....	10
4. S. S. Orizaba, New York, May 16, for not stating, item 123 of manifest No. 1204, class of goods of 1 case and 1 barrel, mark F. L., entered as varnished metal and glass by Trafaga & Puente.....	10
5. S. S. Saratoga, New York, May 21, for consigning to order, item 6 of manifest No. 1231, 8 packages empty bags, mark Bejucal, entered for consumption by Manuel P. Perez.....	10
6. S. S. Saratoga, New York, May 24, for after having correctly stated number of barrels, items 130, 131, 132, and 133 of manifest No. 1231, adding a note, sanctioned by the consul, "that of the said lots, 900 barrels, more or less, were not shipped and will come by next steamer".....	10
7. S. S. Yucatan, New York, May 17, for consigning to order item 167, of manifest No. 1,215, 1 bale hemp, mark H in diamond, entered for consumption by Messrs. Bridat, Montros & Co.....	10
8. S. S. Orizaba, New York, April 12, for being short in discharge, manifest No. 1,071, 2 barrels beer, mark F. Barraque.....	100
9. S. S. Yumuri, New York, May 22, for being short in discharge, manifest No. 983, 1 package sole leather, mark C. 204 in diamond; 1 package goods, mark C. 104/91 in diamond; 1 seroon indigo, mark G. M.....	150
10. S. S. Orizaba, from Vera Cruz, April 28, for not having stated in manifest No. 1,111 gross weight 350 baskets garlic, entered by Messrs. B. de Codes & Co.....	210
11. S. S. Niagara, New York, June 26, for having in excess of cargo discharged 100 boxes cheese, mark H. & Co., entered by Higgins.....	304
12. S. S. Saratoga, New York, August 30, for not stating item 118 of manifest No. 188, the kind of goods contained in 42 packages, 45 cases, and 4 crates, mark A. C., which were entered as velocipedes, hardware, oil, and wooden handles, by Messrs. Uriarte & San Martin.....	10
Total.....	944

HIDALGO & Co.

HAVANA, November 11, 1893.

[Annex 3 to inclosure 4 in No. 65.]

Statement of F. de Zaldo.

HAVANA, November 15, 1893.

I, Federico de Zaldo, a citizen of the United States, member of the firm of Hidalgo & Co., beg to state—

That the custom-house authorities have embargoed the property of this concern with the object of disposing of it by public auction and keep the proceeds to cover

certain alleged fines imposed on the American steamers of the "New York and Cuban Mail Company"; therefore, I beg to appeal that you kindly intervene with the Government to suspend proceedings.

For the last few years, periodically, we have been obliged to trouble you about these matters, and your intervention has always resulted most efficient. The present fines, as you will note by inclosed list, are for the same causes as in former occasions—for the use of vague words, etc. The largest fine of \$304 is imposed for having the steamship *Niagara* landing 100 boxes of cheese not manifested. This steamer sailed on the 22d of June, and the next day we received a cable advising that this steamer had 100 boxes not manifested. On the 24th—two days before the arrival of the ship—we notified the custom-house authorities of the error, but nevertheless the fine was imposed.

Thanking you in advance for your intervention,
I remain, etc.,

F. DE ZALDO,
Of Hidalgo & Co.

[Annex 4 to inclosure 4 in No. 65.—Translation.]

Notice of Embargo.

ADMINISTRATION OF CUSTOMS OF THE PORT OF HAVANA,
Bureau of Collection of Revenue.

In the proceedings of attachment followed against Messrs. Hidalgo & Co., of this city, for the payment of \$914, amount due for fines imposed upon the American steamers *Niagara*, *Yumuri*, *City of Alexandria*, *Yucatan*, *Orizaba*, *Saratoga*, and *Seneca*, manifests numbers 354, 983, 165, 1215, 1143, 1204, 1071, 188, 1231, and 1063, the collector of customs of this custom-house, by decree of the 14th instant, has ordered the embargo on goods, property, fruits, and rents, by virtue of which, under this date and in accordance with regulations, I have proceeded to levy upon and embargo in favor of the Government the steamboat *Guillermo de Zaldo*, of 61.64 tons, belonging to Havana, register 1010, in use by said firm in Havana Bay, which I left as a deposit and at the disposal of the Treasury, reserving the right to appoint another depository, should it be necessary, and notifying them of their right to appoint an appraiser on their side within the period fixed by law.

(Signed)

R. M. RIVERON,
The Commissioner.

HAVANA, November 15, 1893.

[Annex 5 to inclosure 4 in No. 65.—Translation.]

Mr. Springer to the Governor-General.

EXCELLENCY: I have the honor to inform your excellency that this consulate-general has received a letter from Messrs. Hidalgo & Co., consignees in this port of the steamships of the Ward Line (New York and Cuba Mail Steamship Company), advising that, under date of the 11th instant, the custom-house of this port had imposed a number of fines upon the steamships of said line, from April last, amounting to \$944, and had notified them that it would proceed to collect them by judicial procedure; and that under date of 15th instant I have received a complaint and protest from Mr. Federico de Zaldo, as a citizen of the United States and a member of the said firm of Hidalgo & Co., to the effect that the customs authorities had already embargoed property of the firm, for the purpose of selling it at public auction and applying its products to the payment of said fines.

Without entering into any considerations upon the said fines, which are in every respect similar to others that have been imposed by the custom-house of this port upon the steamships of said line, and which has required the intervention of this consulate-general near the superior authority, and in the former communications from this office have been given the reasons and the grounds for asking the suspension of the arbitrary proceedings of the customs authorities whilst the corresponding claim is being made through the diplomatic channels to the Government at Madrid, I have now, in obedience to a telegraphic instruction received to-day from the Assistant Secretary of State of the United States, to respectfully solicit your excellency to be pleased to order to be suspended all the proceedings initiated and followed against Messrs. Hidalgo & Co. as consignees of the aforesaid steamships for payment of the fines imposed by the customs authorities of this port, pending the resolution of the matter presented to his majesty's Government at Madrid.

I am, etc.,

JOSEPH A. SPRINGER,
Vice-Consul-General.

[Inclosure 5 in No. 65.]

Mr. Springer to Mr. Uhl.

No. 2051.] CONSULATE-GENERAL OF THE UNITED STATES,
Havana, November 18, 1893.

SIR: With further reference to the fines imposed upon American steamships of the Ward Line of New York, I accompany copy of a letter from Messrs. Hidalgo & Co., agents of said line in this city, advising this office that the custom-house had imposed a fine of \$2,400 upon the American steamship *City of Washington* for an error in weight.

Yours, etc.,

JOSEPH A. SPRINGER,
Vice-Consul-General.

[Inclosure to inclosure 5 in No. 65.]

*Hidalgo & Co. to the U. S. Consul-General, Havana.**HAVANA, November 17, 1893.*

SIR: We have just learned that the collector of customs has imposed a fine of \$2,400 to the steamer *City of Washington*, for the following reasons:

Bill of lading, in a most indistinct way, as you may see by the inclosed copy, called for 141 tierces lard, 25,900 kilos, while the manifest called for only 2,590 kilos, having left out the cipher, which in the bill of lading could hardly be seen.

We hasten to notify you, in view of the continuance of the arbitrary proceedings of our custom-house authorities.

We are, etc.,

HIDALGO & CO.

Mr. Adee to Mr. Taylor.

No. 67.] DEPARTMENT OF STATE,
Washington, December 15, 1893.

SIR: I have been gratified to receive your telegram of the 15th instant, saying that the minister of state had informed you on that evening "that as a mark of special consideration proceeding suspended by telegraph."

Your telegram was at once understood to have reference to the threatened sale of the embargoed property of Messrs. Hidalgo & Co., for fines levied upon the steamers of the Ward Line for mere clerical errors in manifests.

So desirous was the Department to prevent this act of injustice that notwithstanding the earnest efforts you were exerting at Madrid, in view of telegraphic messages, informal conference was sought a few days ago with Mr. Muruaga, the Spanish minister here, with whom the entire question was gone over and his unofficial aid appealed to with his Government in the hope that your efforts might be successfully strengthened.

Awaiting your full report upon the subject, I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

Mr. Uhl to Mr. Taylor.

No. 75.]

DEPARTMENT OF STATE,
Washington, December 28, 1893.

SIR: In connection with Department's instruction No. 65, of the 9th instant, I herewith transmit for your information a copy of a letter of December 21 last, from Mr. S. C. Neale, covering a decision of the committee of arbitration in the matter of the fine of \$2,400 imposed on the American steamer *City of Washington* at Havana for mere clerical error in the vessel's manifest.

You will accordingly bring this decision to the attention of the minister for foreign affairs, to the end that his Government may see the unwarranted action on the part of the officials at Havana in imposing fines for errors so simple and so evidently unintentional.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure in No. 75.]

Mr. Neale to Mr. Strobel.

INTERNATIONAL NAVIGATION COMPANY,
Washington, D. C., December 21, 1893.

MY DEAR SIR: In the matter of the fine imposed on the steamship *City of Washington* for erroneous manifesting, I beg to herewith hand you translation of the copy of the decision rendered in Havana, the subject-matter having been referred by the authorities to arbitration.

I venture to suggest that this translation should be forwarded to Mr. Taylor at Madrid, with a view of bringing the same before the attention of the Spanish Government, and proving thereby the unwarranted action on the part of the officials at Havana in imposing fines for errors so simple and so clearly unintentional.

Very truly, yours,

S. C. NEALE.

[Annex to inclosure in No. 75—Translation.]

Decision of committee of arbitration.

HAVANA, December 5, 1893.

At the request of Messrs. Hidalgo & Co., consignees of the American steamers of the New York and Cuba Mail Steamship Company, who availed themselves of paragraph 4, article 82 of the customs laws, to decide the matter of fine of \$2,400 imposed on the American steamer *City of Washington*, the following gentlemen acted as a committee of arbitration: The custom-house collector and cashier, two custom-house inspectors, two representative merchants, composing one side, and for the other Mr. Carlos Reyna, as representative of the house of Hidalgo & Co., and Mr. Regino Truffin, a merchant of this city.

Mr. Reyna stated that though it was quite true an error had been made in the manifest of said steamer, 2,590 kilos having been entered on the manifest instead of 25,900, as set forth on the bill of lading, and pertaining to 141 tierces of lard, he begged to call the attention of the committee to the following:

First. That the said merchandise did not belong to the parties he represented, nor was it consigned to them.

Second. That as the class of merchandise was exempt from duty by virtue of the treaty of reciprocity between Spain and the United States there could not be even a suspicion that said mistake had been committed for purposes of fraud.

Third. That the error was clearly explained by the bill of lading in his possession,

which he exhibited, calling the attention of the committee to the last cipher of the item of 25,900 kilos, which cipher was written upon a printed clause covering the bill of lading, which clause referred to the matter of nonresponsibility by the vessel as to breakages or leakages, and that the said cipher, being almost imperceptible, was not noticed by the clerk who wrote the manifest, this being clearly the reason for the error.

Therefore he expected that the good, sound judgment of the gentlemen composing the committee would favor a decision condoning said fine.

The committee, taking into consideration the facts as set forth by the representative of Messrs. Hidalgo & Co., acceded unanimously to the condonement of the fine.

Mr. Taylor to Mr. Gresham.

No. 105.]

LEGATION OF THE UNITED STATES,
Madrid, January 11, 1894. (Received January 22.)

SIR: After the receipt of your No. 65, with inclosures, touching the embargo levied upon the property of Hidalgo & Co., I began to prepare a statement of the case in accordance with your instructions. In the meantime I have received your Nos. 67 and 75 on the same subject. In the last you inclose me a copy of a letter dated December 21, 1893, from Mr. S. C. Neale, covering a decision of the committee of arbitration in the matter of the fine of \$2,400 imposed on the American steamer *City of Washington* at Havana for mere clerical errors in the vessel's manifest. In accordance with your instructions I have transmitted a copy of this decision to the minister of state, with the suggestion that it presents a specially clear illustration of the unwarranted action so often taken by the officials at Havana in imposing fines for errors so simple and so evidently unintentional.

I beg to call your attention to the fact that a material part of this case still remains undisposed of. I refer to the fines aggregating \$944, imposed in sums ranging from \$10 to \$304, for unimportant errors in twelve different manifests. Does your No. 65 remain in full force as to these fines not embraced in the arbitration? Shall I prepare a statement as to them, under the instructions contained in your No. 65, referring only incidentally to the fine of \$2,400 already disposed of? Please cable me upon this point upon the receipt of this dispatch.

I am, etc.,

HANNIS TAYLOR.

Mr. Gresham to Mr. Taylor.

No. 87.]

DEPARTMENT OF STATE,
Washington, January 23, 1894.

SIR: I have received your No. 105, of the 11th instant, in regard to fines imposed on vessels in Cuba for clerical errors in manifests, in which you acknowledge the receipt of instructions Nos. 65, 67, and 75. Stating that you have transmitted a copy of the decision of the committee of arbitration in the matter of the fine of \$2,400 imposed on the steamer *City of Washington*, which was inclosed in the Department's No. 75, to the minister of state, and calling attention to the fact that fines aggregating \$944 for unimportant errors in twelve different manifests remain undisposed of, you inquire whether instruction No. 65 remains in full force as to these fines not embraced in the arbitration, and whether you

shall prepare a statement as to them under instruction No. 65, referring only incidentally to the fine of \$2,400 already disposed of.

In reply, I have to state that the decision of the committee of arbitration in Havana upon the fine of \$2,400 was sent to you for transmission to the Spanish Government, because the opinion of the arbitrators agreed with the views of the Department upon the subject expressed in instruction No. 65 of December 9, 1893. It was forwarded as evidence, and not with any intention of superseding that instruction either as regards the remaining fines levied upon the Ward Line of steamers or the general question of fines for mere clerical errors in manifests of vessels where there is no suspicion of fraudulent intent.

The Department desires that the whole subject of the lack of reciprocity in the treatment of American vessels in Spanish ports, aside from the demand for the return of the particular fine, be brought to the attention of the Spanish Government in accordance with the terms of the instruction referred to above. It would, therefore, be advisable to discuss the general subject in a separate note, and, at the same time, referring to this note, to give in another note the details of the particular fines as examples of the abuse complained of, and to ask for a reversal of the decision of the Cuban authorities. In addition to the remaining fines upon the consignees of the Ward Line, enumerated in the inclosure to the above instruction and amounting to \$944, the legation has since been instructed regarding other fines in the Department's No. 79,¹ of January 6; No. 82,¹ of January 12, and No. 86,¹ of January 20. These all belong to the class of fines under consideration, and, with a reference to the note containing the general discussion, may be presented in separate notes at the same time and in the same way.

I am, etc.,

W. Q. GRESHAM.

Mr. Gresham to Mr. Taylor.

No. 196.]

DEPARTMENT OF STATE,
Washington, September 22, 1894.

SIR: Referring to the Department's instruction No. 190,¹ of the 14th instant, in a similar case, I inclose herewith copy of a letter received from Messrs. Máicas & Co., of New York, and copy of a dispatch from the U. S. consul-general at Havana, in relation to the action of the customs authorities at Cienfuegos, Cuba, in imposing a fine of \$500 for a clerical error in the ship's manifest of the steamer *Cienfuegos*.

Inasmuch as, in this particular case, the error in the manifest was discovered by the shippers before the arrival of the steamer at Cienfuegos, and was reported by them at once, it appears to be a strong case on which to make issue.

You are instructed to press vigorously for some action on the part of the Spanish Government, and to insist upon receiving an expression of opinion in this case, which appears to be an exceptionally hard one in the long list of similar exactions.

I am, etc.,

W. Q. GRESHAM.

¹ Not printed.

[Inclosure 1 in No. 196.]

Máicas & Co. to Mr. Gresham.

NEW YORK, August 20, 1894. (Received August 21.)

SIR: The undersigned, Máicas & Co., commission merchants, established in this city at Nos. 104 and 106 John street, respectfully depose and say that they shipped on the 2d instant per steamer *Cienfuegos*, bound to Cienfuegos, Cuba, 60 bags flour, weighing 5,400 kilos. By an oversight the weight was put on the bill of lading as being 540 kilos. Two days after the sailing of the said steamer *Cienfuegos* the error was detected, and immediate notice thereof given to the Spanish consul at this city, with the request to report the case to the intendente at Havana, for proper rectification of the custom-house manifest upon the arrival of the said steamer *Cienfuegos* at the port of destination.

Deponents are now informed that the intendente refuses to act in the matter, as requested; and as this refusal entails the imposition of an unjust fine amounting to more than the value of the flour, deponents respectfully claim the intervention of the Department of State, on the ground of their United States citizenship, and the fact that no forethought or attempt at defrauding the Spanish treasury can be alleged by the Spanish authorities, since the error was frankly acknowledged six days before the arrival of the above-named steamer *Cienfuegos*, all of which can be ascertained by official investigation.

With our sincere thanks in advance for this signal favor, and the assurance of our respect and consideration,

We are, etc.,

MÁICAS & Co.

[Inclosure 2 in No. 196.]

Mr. Williams to Mr. Uhl.

No. 2331.]

CONSULATE-GENERAL OF THE UNITED STATES,
Havana, September 13, 1894. (Received September 20.)

SIR: I have the honor to acknowledge the receipt of the Department's instruction No. 989, of the 24th ultimo, in relation to the fine of \$500 imposed by the custom-house of the port of Cienfuegos for a clerical error in the shipping documents of 60 bags of flour sent by Messrs. Máicas & Co., of New York, on the 2d ultimo, by the steamer *Cienfuegos* to that port.

In explanation of the facts of the case I now inclose a copy of the report of our consul, Mr. Dinsmore, at Cienfuegos. From this it appears that the consignee or importer of the flour, Mr. Jose Maria Alonso, a resident merchant of Cienfuegos, gave information of the error in question to the intendant before the arrival of the flour. And in compliance with your instruction I have called on the intendant in solicitation of the condonation of the fine, in support of which I explained to him the means afforded to Spanish exporters by the customs regulations of the United States for the removal or remission of fines for clerical errors; but with his usual affability he assured me that under paragraph 3 of article 8 of the customs regulations of this island it is reserved solely to the colonial minister to condone fines for reasons of equity, with whom recourse might be had through our legation at Madrid.

I am, etc.,

RAMON O. WILLIAMS,
Consul-General.

[Annex to inclosure 2 in No. 196.]

*Mr. Dinsmore to Mr. Williams.*CONSULATE OF THE UNITED STATES,
Cienfuegos, September 3, 1894.

SIR: I have the honor to acknowledge the receipt of your communication of the 31st ultimo, in regard to a fine levied by the customs authorities here upon a shipment of flour from New York on the 2d of August, by the steamship *Cienfuegos*, of this city, by Messrs. Máicas & Co., and also the copy of their letter to the honorable Secretary of State, inclosed. Your communication reached me at 7 p. m. yesterday, and I investigated the matter this forenoon as directed, and I beg leave to report as follows:

First. The consignee of the flour in question is Don José Maria Alonso, No. — Santa Ysabel street, this city.

Second. A fine of \$500 was imposed by the customs authorities.

Third. The consignee does not know upon what article or paragraph of the customs regulations the fine was imposed.

Fourth. Answered under No. 2.

Fifth. The fine has not been paid, but is treated as paid by the collector; this is given me in confidence.

Sixth. The consignee wrote to the intendente at Havana through the custom-house there, explaining the matter, and showing that it was occasioned by a clerical mistake, i. e., writing 540 kilos instead of 5,400 kilos, and showing further that the collector of customs here was notified by cable of the mistake before the arrival of the *Cienfuegos* at this port. Notwithstanding this statement, the intendente, as consignee is informed, instructed the collector of this port to collect the fine. So far the consignee has done nothing more by way of defense, but he says he will protest formally against the payment.

The consignee says further that if the order for the collection of the fine is not promptly revoked he will have to pay it; that he will ascertain to-morrow or next day, the 4th or 5th instant, under what article and paragraph the fine is assessed, and will report to me, which information I will transmit to you as soon as obtained.

I am, etc.,

JAMES H. DINSMORE, *U. S. Consul.*

Mr. Taylor to Mr. Gresham.

No. 245.]

LEGATION OF THE UNITED STATES,
Madrid, October 9, 1894. (Received October 22.)

SIR: I have the honor to report, in reply to your Nos. 196 and 197¹ of the 22d and 24th ultimo, that I have specially presented the case of Messrs. Máicas & Co., with the request that an early indication be given as to the course which will be pursued in that and similar cases. As I have already informed you, I have presented over and over again, by note and by personal interview, all the arguments which can be made against the imposing of these unjust and excessive fines, all of which have so far been fruitless. I inclose you herewith a copy of my note in the case of Messrs. Máicas & Co., and unless you instruct me to the contrary I will make no more general arguments upon the subject until a definite reply has been received to the same. Under your instructions I will consider that as a test case and press for action accordingly.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 245.—Telegram.]

*Mr. Taylor to Mr. Gresham.*MADRID, *December 20, 1894.*

I have induced minister for the colonies to order by telegraph transfer for review of seven hard cases selected by me, including Máicas and Hidalgo. He promises immediate and equitable action as to all unjust fines.

TAYLOR.

¹ Not printed.

INDEMNITY TO, AND RETURN OF, THE CAROLINE ISLANDS MISSIONARIES.¹*Mr. Uhl to Mr. Taylor.*

No. 73.]

DEPARTMENT OF STATE,
Washington, December 26, 1893.

SIR: I inclose herewith copies of the correspondence recently had with the secretary of the American Board of Commissioners for Foreign Missions, in relation to the offer of the Spanish Government to indemnify the American missionaries at Ponape in the sum of \$17,500 for losses sustained during the troubles of 1887 and 1890.

You will accordingly notify the minister of state of your readiness to receive the tendered amount, and in so doing you will make it clearly understood that this Government does not thereby waive, and is not to be regarded as impliedly waiving, its coincident demand for the return of these despoiled American citizens to the spot where they have established, vested, and recognized rights through half a century of residence and tenure. That question is inseparable from the matter of reparation for certain ascertained losses.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure 1 in No. 73.]

*Mr. Smith to Mr. Gresham.*AMERICAN BOARD OF COMMISSIONERS
FOR FOREIGN MISSIONS,*Boston, Mass., November 24. (Received November 25.)*

SIR: Understanding that the Spanish Government is prepared to make indemnity for the losses and injury sustained by the American missionaries resident on Ponape at the hands of the Spanish forces in that island, and that the sum in which such indemnity should be made has been fixed at \$17,000, it has seemed best to the prudential committee of the American Board of Commissioners for Foreign Missions that the terms of such settlement should be accepted by our Government and the proposed indemnity received; and I am authorized to communicate this judgment of the prudential committee to our Government, and to request that this matter be brought to an immediate conclusion. The sum named will fairly cover the losses which our missionaries experienced, and there seems no good reason why there should be longer delay in bringing this part of the general question in deliberation between our Government and the Government at Madrid to a final conclusion. It is our hope that instructions will be communicated to the U. S. minister at Madrid, authorizing him to express to the Spanish Government this decision, and to receive at the hands of that Government and duly transmit the indemnity aforesaid. I shall learn with great satisfaction the happy accomplishment of this object, and shall turn over this indemnity to our committee with the greatest pleasure.

It is our distinct understanding, in connection with a settlement of this part of the question, that the remaining demand which has from

¹ See Foreign Relations 1892, pp. 394-409, 410, 413-419, 433, 435-485, 489, 492, 504, 513, and 1893, pp. 558-571, 576-588.

the first been steadfastly insisted upon by us, namely, that the Spanish Government shall remove every obstruction to the return of our missionaries to their residence and work on Ponape, remains in full force, and we desire and expect that this permission will be promptly granted. Contrary to distinct stipulations at the time when the Government of Spain in the Caroline Islands was acknowledged by our Government, the Spanish authorities on Ponape in 1890 placed such restrictions upon the residence and liberty of action on the part of our missionaries there as to suppress all their missionary activity, and to make them practically prisoners of war; and it was under circumstances like this that our missionaries withdrew temporarily from the island, until this question to their right and liberty to the free pursuit of their proper missionary work could be adjusted between the two governments. All this is matter of record, and is as well known at Madrid as it is at Washington. It is confidently believed that if our Government makes a distinct and peremptory requirement upon Spain for the fulfillment of this demand, it will be yielded and the whole question will, after this long delay, be happily settled and removed from further consideration. It will be a happy day for our missionaries, and for the good name of the nation in Micronesia, when tidings reach these exiled men and women that the door of return to their beloved work in Ponape is open, and especially if the tidings shall be brought to them by a war ship of the nation bearing them back.

With unshaken confidence in the power and purpose of our Government to maintain the rights of its humblest citizens, and to see that justice is done in their behalf in the remote parts of the earth, and with very high respect,

I am, etc.,

JUDSON SMITH,
Foreign Secretary.

[Inclosure 2 in No. 73.]

Mr. Uhl to Mr. Smith.

DEPARTMENT OF STATE,
Washington, December 7, 1893.

SIR: I have received and considered your letter of the 24th ultimo, in which you state the view of the prudential committee of your board that the indemnity of \$17,000 agreed upon to cover the actual losses of the American missionaries resident on Ponape, Caroline Islands, should be received from the Spanish Government, thus "bringing this part of the general question in deliberation between our Government and the Government at Madrid to a final conclusion," and leaving the remaining demand "that the Spanish Government shall remove every obstruction to the return of our missionaries to Ponape," in full force with the desire and expectation that it will be fully granted.

Before instructing the United States minister at Madrid in the sense of your present request, it seems proper to place you in possession of the full translated text of the note of the Spanish minister of state to the U. S. envoy, making the offer of payment under certain expressed reservations touching the eventual return of the missionaries. The "distinct and peremptory requirement" that these people be permitted to return and resume their beneficent labors which you recommend has been repeatedly made, but so far as this Department is able to judge, compliance therewith is relegated to some indefinite future time. You will

note Señor Moret's statement that the safety of the persons and property of the missionaries, in the event of their return, can not be guaranteed "until the opinion, now rooted in the minds of those inhabitants, that the missionaries will never again establish themselves there, disappears."

The Department has throughout the discussion endeavored to keep the questions of return and reparation for actual losses intact and inseparable. It is clear that the response of the Spanish Government virtually separates the two demands, treating the incident as closed by the offer to pay the agreed indemnity, and by its promise to announce the date when in its judgment the state of affairs in Ponape will permit the missionaries to return in safety.

If, upon further consideration, your board is still of the opinion that the offered indemnity should be accepted, the United States minister will be instructed to receive and transmit the sum offered, announcing at the same time the reservation by this Government of its full right to insist upon the return of the missionaries should that event be unduly postponed, or to demand indemnity for the vested property rights of these American citizens in those islands in the case of their continued deprivation of its enjoyment.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure 3 in No. 73.]

Mr. Smith to Mr. Gresham.

AMERICAN BOARD OF COMMISSIONERS
FOR FOREIGN MISSIONS,

Boston, Mass., December 19, 1893. (Received December 22.)

SIR: Referring to the communication from the Department of State under date of December 7, with inclosed translation of the note of the Spanish minister of state to the U. S. envoy, I beg leave to state that the entire correspondence has been submitted to the prudential committee, and that I am instructed what reply to make.

The committee heartily appreciates the care with which the negotiations upon this subject have been carried on by our Government and the carefulness with which the present situation has been stated in this recent communication. I am instructed, in the name of the prudential committee, to authorize our Government to receive from the Spanish Government the proposed indemnity of \$17,000 for losses incurred by the American missionaries on Ponape during the troubles of 1887 and 1890; and I shall be most happy to receive from the State Department the information that the payment has been made and that this sum is ready to be turned over to our committee.

The committee, however, wishes that in receiving this money indemnity for losses from the Spanish Government our Government shall at the same time insist upon the fulfillment of the further demand, which has uniformly been made in these negotiations, for the early return of the American missionaries formerly at work upon Ponape to their residence and work upon that island, under the same conditions which existed and were recognized by Spain when her jurisdiction upon the Caroline Islands was acknowledged by the United States. This condition we can not for a moment withdraw or modify. It is a matter of

justice and right, and we should seem to ourselves to betray a sacred cause if we should voluntarily abandon the Christian people upon Ponape, who have received their greatest blessings at the hands of the missionaries, and who still are looking and longing for their return. The delay of the Spanish Government in authorizing such return has already been very greatly protracted, and while we would gladly allow every reasonable consideration of this sort, we can not think that many months more are needful to clear the way of every obstruction and open a plain path for our missionaries to return to their work among that people. The Government of Spain should understand that the United States do not regard the incident as closed until the missionaries who have been wrongly kept from their work stand again upon Ponape, reinvested with all the rights they enjoyed upon the arrival of the Spaniards there.

Expecting soon to receive information of the payment of the indemnity, and that our Government is ready to hand it over to the committee here, and rejoicing in the assurance that our Government will maintain the remaining condition with temperate wisdom and firmness until it shall be granted,

I remain, etc.,

JUDSON SMITH.

[Inclosure 4 in No. 73.]

Mr. Uhl to Mr. Smith.

DEPARTMENT OF STATE,
Washington, December 26, 1893.

SIR: I have to acknowledge receipt of your letter of the 19th instant, in relation to the offer of the Spanish Government to indemnify the American missionaries at Ponape in the sum of \$17,500 for losses sustained during the troubles of 1887 and 1890.

The United States minister at Madrid has been instructed to receive the tendered amount, making it clear, at the same time, that this Government does not waive its coincident demand for the return of the missionaries to the spot where they have established vested rights through half a century of residence and tenure.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Taylor to Mr. Gresham.

No. 100.]

LEGATION OF THE UNITED STATES,
Madrid, January 9, 1894. (Received January 22.)

SIR: I have the honor to acknowledge the receipt of your No. 73, of December 26, 1893, touching the Caroline incident, in which you instruct me to notify the minister of state of my readiness to accept the sum of \$17,500 as indemnity for certain ascertained losses, subject to conditions which you may very clearly define. Inclosed please find a copy of my note to the minister of state, in which I have been careful to reiterate his promise to permit the return of the missionaries at a date to be hereafter indicated, along with the conditions annexed by you to

the receipt of the money indemnity. Those conditions I have stated in your own language as nearly as possible.

* * * * *

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 100.]

Mr. Taylor to Mr. Moret.

LEGATION OF THE UNITED STATES,
Madrid, January 9, 1894.

EXCELLENCY: Under instructions recently received from my Government, I now have the honor to reply to your note of the 12th of October, 1893, touching the Caroline incident. In that note, after stating that "the Government of His Majesty, ratifying what it has already promised, will be specially careful, as soon as the reports from the superior authorities of the Philippines (who have been again consulted) permit it, to announce to the Washington Government the date at which the missionaries may effect their return to Ponape without any risk," you express a desire to pay to the proper authority the sum of \$17,500, the certain indemnity already agreed upon. I am instructed by my Government to notify you of my readiness to receive the tendered amount, and at the same time to inform you that it does not thereby waive, either expressly or by implication, its coincident demand for the return of the despoiled American citizens to the spot where they have established vested and recognized rights through half a century of residence and tenure, that question being inseparable from the matter of reparation for certain ascertained losses.

I avail, etc.

HANNIS TAYLOR.

Mr. Taylor to Mr. Gresham.

No. 113.]

LEGATION OF THE UNITED STATES,
Madrid, January 24, 1894. (Received February 6.)

SIR: On the 9th instant I inclosed to you in my No. 100 a copy of my note of that date to the minister of state informing him of my readiness to accept the indemnity of \$17,500 in the Caroline matter, subject to the condition stated by you. I have to-day received his reply, a copy of which I inclose herein, with translation.

* * * * *

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 113.—Translation.]

Mr. Valera to Mr. Taylor.

MINISTRY OF STATE,
Palace, January 19, 1894.

MY DEAR SIR: I have the honor to inform your excellency, in reply to your note of the 9th instant, touching the indemnity awarded on behalf of the Methodist missionaries of Ponape (Eastern Carolines), that the minister of ultramar informs me that he has given the proper

orders to the end that, with the greatest dispatch possible, may be prepared the measure for the extraordinary credit of \$17,500. When these indispensable requisites have ended, the said department will advise, and I will hasten to announce to your excellency the date on which you may take charge of the said amount, thereby definitively ending the differences of a pecuniary character.

In regard to the other point to which your excellency refers in your note, I beg to refer to what I have already said upon the subject, and I avail myself, etc.,

By authorization,

JOAQUIN VALERA.

Mr. Gresham to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, July 12, 1894.

Referring to your No. 193, 23d ultimo; have you received Caroline indemnity?

GRESHAM.

Mr. Taylor to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
Madrid, July, 13, 1894.

Indemnity paid and draft mailed to-day.

TAYLOR.

Mr. Taylor to Mr. Gresham.

No. 209.]

LEGATION OF THE UNITED STATES,
Madrid, July 13, 1894. (Received July 28.)

SIR: I have the honor to acknowledge the receipt of your cablegram of the 12th instant, inquiring as to the payment of the Caroline indemnity, a copy of which is appended on the overleaf. It has so happened that the payment was made to-day, of which fact I have notified you by a cablegram, a copy of which is appended on the overleaf. Inclosed herein the first of exchange (No. 30762), drawn by the Union Bank of Spain and England, Limited, to your order on Messrs. Ladenburg, Thalmann & Co., 46 Wall street, New York, for \$17,500 in American gold. As soon as a proper and becoming time elapses I will make the demand for the return of the missionaries in accordance with your instructions.

I am, etc.,

HANNIS TAYLOR.

Mr. Taylor to Mr. Gresham.

No. 227.]

LEGATION OF THE UNITED STATES,
Madrid, August 27, 1894. (Received September 10.)

SIR: A reasonable time having elapsed since the payment of the Caroline indemnity, I have addressed to the minister of state a formal

demand for the return of the missionaries according to your instructions, which I have endeavored to follow in every particular.

I inclose herewith a copy of my note, hoping that it may meet with your approval. I suppose the check for the \$17,500, mailed to you on the 13th (No. 209) of July, has been duly received, although there has been no acknowledgment of it.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 227.]

Mr. Taylor to Señor Moret.

LEGATION OF THE UNITED STATES OF AMERICA,
Madrid, August 27, 1894.

EXCELLENCY: It now becomes my duty, under special instructions from my Government, to call your attention to that aspect of the affair at Ponape which still remains for adjustment.

In my note to you of July 14 I had the honor to acknowledge the receipt of the sum of \$17,500 in American gold in settlement for certain pecuniary losses sustained by the missionaries at Ponape during the troubles of 1887 and 1890, according to the agreement of my Government as expressed to you in my note of January 9, 1894, upon that subject. In that note, in reply to yours of the 12th of October, 1893, I expressed the willingness of my Government to accept the indemnity for the pecuniary aspect of the matter without thereby waiving, either expressly or by implication, its coincident demand for the return of the despoiled American citizens to the spot where they have established vested and recognized rights through half a century of residence and tenure. That aspect of the matter, as your excellency will remember, was postponed for the moment under the assurance contained in your note of the 12th of October, 1893, that "the Government of His Majesty, ratifying what it has already promised, will be specially careful, as soon as the reports from the superior authorities of the Philippines (who have again been consulted) permit it, to announce to the Washington Government the date at which the missionaries may effect their return to Ponape without any risk."

It is now with the greatest satisfaction that my Government is able to announce to you, what of course you already know, that Señor Don Juan de la Concha, the present governor of the Carolines, has expressed himself very fully and formally upon this subject to the effect that he is willing to grant permission to the said missionaries to return to the field of their labors, with full protection both as to life and property, the moment that he is permitted to do so by His Majesty's Government at Madrid; that he only awaits inquiries from that source in order to urge the return of the missionaries most heartily. This opinion and resolution of the governor of the Carolines, which has been duly and officially communicated to my Government, has no doubt by this time been communicated to your excellency. As the views thus expressed by the governor of the Carolines removes the last obstacle to the return of the missionaries, my Government directs me to ask of your excellency to grant at once the necessary permission, so long delayed, for their return.

I seize, etc.,

HANNIS TAYLOR.

Mr. Taylor to Mr. Gresham.

No. 231.]

LEGATION OF THE UNITED STATES,
Madrid, September 1, 1894. (Received September 13.)

SIR: I have the honor to inclose herein, with translation, a copy of a note just received from the minister of state in reply to my note of the 27th ultimo, demanding permission for the missionaries to return to Ponape, a copy of which I mailed to you on that day. * * *

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 231.—Translation.]

Señor Moret to Mr. Taylor.

MINISTRY OF STATE,
Palace, August 31, 1894.

EXCELLENCY: I have read, not without surprise, in your note of the 27th instant, that the governor of the Caroline Islands has given a decision (is of opinion "dado un dictamen") which, as your excellency is kind enough to inform me, is now in the possession of the U. S. Government, by which he recommends the return of the Methodist missionaries to Ponape. I am surprised, because the ministry of state and perhaps not even the ministry for the colonies, has no knowledge of such a document, and also because a local governor is not vested with the power and authority to perform an act of this nature. The governor-general of the Philippine Islands, the only authority directly responsible to the Government of the nation, is alone authorized to take such a step, and it is upon his judgment alone that the Government could base the decision which your excellency urges upon me with such interest.

Nevertheless I have hastened to inform the ministry of the colonies of the contents of your note, and have asked with urgency for all information regarding the matter which may be in the possession of the ministry, with the purpose of basing upon official data the reply which I propose giving to the petition which your excellency presents.

I avail, etc.,

S. MORET.

Mr. Uhl to Mr. Taylor.

No. 186.]

DEPARTMENT OF STATE,
Washington, September 12, 1894.

SIR: I have to acknowledge receipt of your No. 227, of the 27th ultimo, and to approve your course in demanding of the Spanish Government permission for the return of the missionaries to the Caroline Islands.

The draft for \$17,500 which accompanied your No. 209, of July 13 last, was duly received.

I am, etc.,

EDWIN F. UHL.

Mr. Taylor to Mr. Gresham.

No. 237.]

LEGATION OF THE UNITED STATES,
Madrid, September 20, 1894. (Received September 29.)

SIR: I have the honor to inclose herein, with translation, a copy of a note from the minister of state in further reply to my note of the 27th ultimo, asking permission for the return of the missionaries to the isle of Ponape.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 237.—Translation.]

Señor Moret to Mr. Taylor.

MINISTRY OF STATE,
Palace, September 18, 1894.

EXCELLENCY: With reference to my note of August 31, which was written in answer to the note which your excellency addressed to me on the 27th of the same month, in relation to the return to Ponape of the Methodist missionaries, I have to add that the minister for the colonies informs me that there is no information in his ministry in regard to the opinion expressed and the conduct observed by the governor of the Carolines, Señor Don Juan de la Concha, in regard to this delicate question.

The reports of the superior authorities of the archipelago go to prove that the circumstances which counseled the Spanish Government to postpone the granting of the permission to return to Ponape which the Methodist missionaries request have undergone no change, and on this account the minister of the colonies does not think that the moment has come to grant their request.

In communicating this to your excellency,

I seize, etc.,

S. MORET.

RECIPROCITY ARRANGEMENT—PUBLICATION OF DEFINITIVE REPERTORY.

Mr. Gresham to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 12, 1893.

Original repertory of reciprocity arrangement was signed here in Spanish and English. Inadvertently English alone sent to Spain, which, retranslated there for Cuban customs authorities, contains numerous discrepancies. To correct errors Spanish minister here had copy original Spanish certified under legation seal and forwarded to Havana for official use, but he is informed by captain general of Cuba that minister for colonies regards the translation of English text as official. Evident misunderstanding, as original Spanish text is alone official for Spanish Government. See minister for colonies and request him to instruct Cuban authorities to print copy sent by Spanish minister for

use hereafter as official text. Early action necessary, as daily errors occur from use of their present text, which is a Spanish retranslation from the English translation of the original Spanish.

GRESHAM.

Mr. Taylor to Mr. Gresham.

[Telegram.]

MADRID, *October 18, 1893.*

Minister ultramar admits that Cuban repertory is translation. English version maintains that neither in ministry states nor elsewhere is there any knowledge of a Spanish version signed by Spanish minister being in existence. Minister ultramar promises to recognize Spanish version attested by Spanish minister when received here. Have minister send such copy at once. Meantime ultramar telegraphs to suspend proceedings Aguilera case.

TAYLOR.

Mr. Gresham to Mr. Taylor.

No. 48.]

DEPARTMENT OF STATE,
Washington, October 26, 1893.

SIR: In accordance with the terms of your telegram of the 18th instant, a facsimile copy of the Spanish version of the repertory articles to be admitted into Cuba under the commercial arrangement between the United States and Spain has been forwarded to the Spanish minister to be transmitted to his Government. This repertory was signed in Spanish and English text at Washington, October 17, 1892, by the Secretary of State, Mr. Foster, and the Spanish minister, Señor Dupuy de Lôme. The copy referred to has been carefully compared with the original in this Department by a representative thereof and a member of the Spanish legation, and the Spanish minister has promised to have the same duly certified under the seal of the legation and transmitted to Spain by this mail.

A type-written copy of the same Spanish text was also certified in this manner and forwarded to Cuba on or about September 21 last for publication by the Spanish customs authorities. I am informed by the consul-general at Havana that the copy has been received, but publication was delayed owing to the belief prevalent at Madrid that the English text was the only text signed.

As almost all the difficulties which have arisen with the customs authorities in Cuba have grown out of the numerous errors which exist in the Spanish translation of the English, it is desirable that the correct repertory should be published at the earliest possible date. In order to prevent delay, therefore, you are instructed to request the minister of the colonies to send telegraphic instructions to Cuba ordering the publication of the copy already there, which is exactly the same as the copy now sent to Madrid. By this action a delay of some weeks will be avoided.

I am, etc.,

W. Q. GRESHAM.

Mr. Taylor to Mr. Gresham.

No. 63.]

LEGATION OF THE UNITED STATES,
Madrid, November 7, 1893. (Received November 20.)

SIR: I have to-day received your No. 48, of the 26th ultimo, as to the authorized version of the Cuban repertory which the Spanish minister has promised to certify and transmit to Spain.

I have already communicated the contents of your dispatch to the Spanish Government, with an urgent request to the minister of state to hand the same at once to the minister of ultramar, with a request that he will send a telegraphic instruction to Cuba ordering the publication of the copy of the repertory already there, so that further delay may be avoided. Until I have first addressed the secretary of state, I can not gain access to the minister of ultramar. From a letter I addressed to you yesterday, you will learn of the desire expressed to me on the 4th instant by the minister of state, to go over, in a personal interview, all matters now pending between the two countries, with a view to their friendly solution.

I am, etc.,

HANNIS TAYLOR.

Mr. Taylor to Mr. Gresham.

No. 67.]

LEGATION OF THE UNITED STATES,
Madrid, November 15, 1893. (Received November 27.)

SIR: I have the honor to inclose herein a translation of a note received to-day from the minister of state relating to the publication of the Spanish version of the Cuban repertory in that island.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 67.—Translation.]

Mr. Valera to Mr. Taylor.

MINISTRY OF STATE,
Palace, November 13, 1893.

EXCELLENCY: The minister of ultramar—to whom I communicated the courteous note of your excellency, dated the 7th instant, requesting the transmission of telegraphic orders to the authorities of the Island of Cuba for the publication of the copy of the Spanish version of the repertory relative to the commercial agreement with the United States—tells me that as soon as the authorized copy of the original Spanish is received in that ministry, and if the close examination to which said copy will be subjected should not disclose any difficulty, he will endeavor to satisfy the wishes of the Government of the United States, availing himself of the circumstance of there existing another copy of the above mentioned document in Havana.

I avail, etc.,

By order.

JOAQUIN VALERA,
Subsecretary.

Mr. Taylor to Mr. Gresham.

No. 107.]

LEGATION OF THE UNITED STATES,
Madrid, January 13, 1894. (Received January 29.)

SIR: I have the honor to report that I have received a note from the minister of state in reply to mine of the 6th instant, in which I am informed that the repertory has arrived, and that as soon as it can be compared it will be sent immediately to Cuba and put into operation.

Inclosed please find copy of the minister's note with translation.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 107.—Translation.]

Mr. Valera to Mr. Taylor.

MINISTRY OF STATE,
Palace, January 10, 1894.

EXCELLENCY: In answer to your excellency's note dated the 6th instant, relating to the repertory of the Island of Cuba, I have the honor to state to you that it has been received; that it is being compared and that at the earliest possible moment it will be sent to that Island in order that it may be exactly and immediately carried out.

I avail, etc.,

By authorization.

JOAQUIN VALERA,
Subsecretary.

Mr. Gresham to Mr. Taylor.

[Telegram.]

WASHINGTON, *January 13, 1894.*

Do not understand with what document repertory is being compared, as it has already been compared by Spanish legation with original here. Request publication at earliest possible date, as errors continually arising from use in Cuba of translation of English. Cable result.

GRESHAM.

Mr. Taylor to Mr. Gresham.

No. 108.]

LEGATION OF THE UNITED STATES,
Madrid, January 15, 1894. (Received January 29.)

SIR: Yesterday (Sunday) I received your last cablegram, a copy of which I have the honor to append on the overleaf. I have this morning addressed to the minister of state a note embodying your instructions, a copy of which please find inclosed. The moment I receive a reply I will cable the result as directed.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 108.]

Mr. Taylor to Mr. Moret.

LEGATION OF THE UNITED STATES,
Madrid, January 15, 1894.

EXCELLENCY: Permit me to thank you for your note of the 10th instant, in which you inform me that the Cuban repertory has arrived; that it is being compared (se esta confrontando); and that at the earliest possible moment it will be sent to Cuba so that it may be immediately carried out. The contents of your note I cabled to Washington, and I at once received in reply a cablegram in which the Secretary of State says that he can not understand with what document the repertory is being compared, as it has already been compared by the Spanish legation in Washington with the original in that capital. I am instructed to earnestly request its publication in Cuba at the earliest possible moment, as errors are continually arising there from the use of the unauthorized version. Will you be so good as to inform me, at your earliest convenience, how soon the publication of the authorized version will be made in Cuba so that I may inform my Government by cable?

I seize, etc,

HANNIS TAYLOR.

Mr. Taylor to Mr. Gresham.

No. 111.]

LEGATION OF THE UNITED STATES,
Madrid, January 20, 1894. (Received February 5.)

SIR: In my No. 108, of the 15th instant, I had the honor to inclose you a copy of my note to the minister of state of the same date touching the publication of the Cuban repertory. I have to-day received a reply, a copy of which I inclose herein with translation. I will do all in my power to obtain a satisfactory reply to your question, which I will cable as soon as I obtain it.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 111.—Translation.]

Mr. Valera to Mr. Taylor.

MINISTRY OF STATE,
Palace, January 17, 1894.

EXCELLENCY: In answer to your note dated the 15th instant, in which your excellency asks when the authorized version of the repertory for the Island of Cuba will be published in said island, I have the honor to inform you that I have communicated its contents to my colleague, the minister of ultramar, and that as soon as I receive an answer I will hasten to communicate it to you.

I seize, etc.,

By authorization:

JOAQUIN VALERA.

Mr. Taylor to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
Madrid, February 22, 1894.

While minister of state admits that Cuban repertory was duly executed in English and Spanish, he claims that Spanish version does not correspond with English. He proposes to make new translation into Spanish of English version, and appeals to me to appoint a member of legation to aid in making translation which will end all dispute. Shall I accept or decline? I have sent particulars by mail.

TAYLOR.

Mr. Taylor to Mr. Gresham.

No. 130.]

LEGATION OF THE UNITED STATES,
Madrid, February 22, 1894. (Received March 10.)

SIR: I have the honor to report that I have just received a note from the minister of state touching the Cuban repertory, a copy of which I inclose herein with translation. As the statement that the text of the English repertory "being the one agreed upon, is the only one that can have force and bind both Governments" seemed to imply an intention upon the part of the Spanish Government to challenge the validity of the execution of the contemporaneous Spanish version, I at once asked an interview with the minister of state in order to set the matter at rest before communicating with you. I was received immediately by the minister who assured me that it was not his intention to dispute the fact that the repertory was validly executed in English and Spanish. He said that the difficulty was that the Spanish version did not correspond with the English; that the Spanish version was so loose and defective as to render any attempt to execute it very difficult if not impossible. For that reason he said that he appealed to my Government to consent to the making by experts of a new Spanish version so that a reliable criterion could be established for the settlement of all disputes, past, present, and future. I replied that as you were especially anxious for the repertory as made to be put into immediate execution, I could only telegraph the facts and ask for instructions. Thereupon I sent you the telegram. If you should conclude to enter into the making of a new Spanish version I hope you will instruct me as to whom I shall employ to represent the United States. More skill will be required, I fear, in Spanish and English, than is possessed by anyone in this legation.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 130.—Translation.]

Mr. Moret to Mr. Taylor.

MINISTRY OF STATE,
Palace, February 20, 1894.

EXCELLENCY: With the view of adopting a fixed and invariable criterium in regard to the interpretation of the custom-house repertory formed for the application of the commercial agreement existing between

Spain (Islands of Cuba and Puerto Rico) and the United States, not only in reference to doubtful cases or those which have been the subject of protests, but also for the purpose of avoiding them in the future, by establishing a sure and incontestable rule for the custom-houses, this ministry, in accord with that of ultramar, is going to prepare a true and complete translation of the English repertory signed in Washington on October 17, 1892, between the minister secretary of State of the United States and the representative of Spain, which text, being the one agreed upon, is the only one that can have force and bind both Governments.

The Government of His Majesty, desiring to prevent any ulterior difficulty and counting upon the good disposition of the Government of the United States, would be glad if, for that purpose, the legation under the worthy charge of your excellency would contribute to the making of the said translation. Therefore, it has the honor to invite your excellency, in case you consider fit, to appoint for this commission one of your secretaries or attachés, who, with Messrs. Don Arturo Soria and Don José Alcalá Galiano, officials of the ministries of ultramar and state, would finish this work in a short time.

Trusting that your excellency will consider this proposal with your accustomed benevolence, I avail, etc.,

S. MORET.

Mr. Taylor to Mr. Gresham.

No. 132.]

LEGATION OF THE UNITED STATES,
Madrid, February 26, 1894. (Received March 10.)

SIR: I have the honor to acknowledge the receipt of your last telegram concerning the publication of the Cuban repertory.

I have to-day addressed to the minister of state a reply to his note of the 20th instant, in which I have embodied your instructions. A copy of my note please find inclosed.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 132.]

Mr. Taylor to Mr. Moret.

LEGATION OF THE UNITED STATES,
Madrid, February 26, 1894.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 20th instant, in which you call upon me to cooperate with you in the preparation of a "translation of the English repertory signed in Washington, October 17, 1892." You will remember that immediately upon the receipt of your note I called upon you in person in order to ascertain whether your statement that the English text, "being the one agreed upon, is the only one that can have force and bind both Governments" (cuyo texto por ser el convenido es el único que puede hacer fé y obligar á ambos Gobiernos), was intended as an intimation that the Government of His Majesty does not recognize the full force and obliging effect of the contemporaneous Spanish version. Upon your assurance that you did not intend to make any such intimation, I at once telegraphed to my Government that while you admitted

that the Cuban repertory was duly executed in Spanish and English you were desirous that I should cooperate with you in the making of a new translation of the English version into Spanish, because you claimed that the Spanish version, executed contemporaneously with the English, is not a clear and complete exposition of it.

In reply to my request for instructions my Government has responded as follows: The Spanish version of the repertory signed here is the only text binding on the Spanish Government, the English being a translation to inform exporters of alterations in Spanish tariff made by reciprocity arrangement. If there are errors in the English translation we will gladly make changes to conform to Spanish original, and will publish Spanish together with English text. But no change can be made in Spanish original. Again, to translate English translation would lead to interminable confusion. I am instructed to emphasize the fact last stated, and to request of you the prompt publication of the Spanish original.

I avail, etc.,

HANNIS TAYLOR.

Mr. Uhl to Mr. Taylor.

No. 108.]

DEPARTMENT OF STATE,
Washington, March 30, 1894.

SIR: I have to acknowledge the receipt of your Nos. 130 and 132, of February 22 and 26, respectively, transmitting correspondence with the Spanish Government regarding the repertory of the present reciprocity arrangement. In his note of February 20 Señor Moret suggests that a new translation be made of the English repertory by two delegates from the ministry of state and one from the legation, for publication in Cuba, instead of the certified copy of the original Spanish repertory, which was forwarded to Madrid by the Spanish legation in November last. He gives as his reason for the suggestion that this "will avoid protest in doubtful cases and establish a sure and incontestable rule for the custom-house officers."

On the 17th October, 1892, a list of articles to be admitted into Cuba and Puerto Rico under the reciprocity arrangement with Spain was signed in Spanish and English text at Washington by the Secretary of State, Mr. Foster, and the Spanish minister, Señor Dupuy de Lôme. The English text was printed, and it appears that by some inadvertence a copy of this English instead of the Spanish text was forwarded to Madrid through the legation here, and was there translated into Spanish in the evident belief of the home Government that the repertory had been signed in English alone. This translation was published in the Official Gazette, of Havana, on the 25th, 26th, and 28th February, 1893, and was distributed in pamphlet form to the Cuban custom-house officials for their use.

By this error of the Spanish Government the custom-house officials of Cuba were instructed to base their decision regarding the entry of articles into that island under the reciprocity arrangement upon a publication which proved to be a fruitful source of confusion. This Department received complaints from American exporters that articles clearly mentioned both in the English version of the repertory and the Spanish original were excluded from the benefits of the reciprocity arrangement. It was only after inquiry and comparison of the text of the repertory used in Cuba with the Spanish original here that the cause of

the difficulty became clear. Not until then was it discovered that the Spanish text of the repertory in use in Cuba was entirely unlike the original Spanish—was a translation of our English text, the names of many articles being mistranslated by literal paraphrases instead of commercial terms. Some articles were entirely omitted.

The following are examples of several of the errors in the repertory published by the Spanish Government, which have resulted in claims pending in Cuba and Madrid for the return of the duties wrongfully collected by the custom-house officials in Cuba from the American exporters:

Duty has been levied on butter, because butter (*manteca de vaca*) is translated into Spanish *manteca de cerdo* (lard); on spirits of turpentine, because spirits of turpentine is literally translated *espíritu de trementina*, instead of by the Spanish commercial term *Aguarras*; on knives for cutting cane, because they are called *cuchillos para cortar caña*, instead of the technical term *machetes*; on preserved meats (*carnes conservadas en latas*), because they are confused and limited to certain kinds of meats, while entered without restriction in the original Spanish repertory; on wooden felloes, because the Spanish term *camones* is entirely omitted from the repertory used in Cuba.

The Cuban collector of customs looks in his repertory for the merchandise mentioned in the vessel's manifest, and not finding it, proceeds to levy the duty imposed by the ordinary tariff. In reply to a request that some explanation be given for exacting the regular duty on articles which both in the English text of the repertory and the original Spanish signed here are placed under schedules entitling them to free entry or a reduced rate, he bases his action upon the omission of the article from the repertory which the Spanish Government has placed in his hands for his guidance.

The Department is gratified to learn from the statement in your No. 130, of February 22, that Señor Moret has corrected the opinion expressed in his note of the 20th of February that the English version of the repertory is the only text binding upon both Governments, as this opinion could only have been formed under a misapprehension. The preparation of a document embodying alterations in a foreign tariff must be based upon the study and examination of that tariff, and the result must be reached through the language of the foreign country. I inclose you a statement of Mr. John C. Redman,* of the Bureau of the American Republics, who was charged with the work, showing that this system was pursued in the preparation of the Spanish repertory. This repertory was largely based upon the list of articles prepared for a reciprocity treaty negotiated by Mr. Foster in 1884, and withdrawn from the Senate the following year. Spanish terms were employed and translated into English. The English translation for the repertory of the treaty of 1884 was made with the greatest care, and the Spanish and English texts of the repertory of the present arrangement were conscientiously compared. This Department has been unable to discover any material inaccuracy in the English translation, and can not therefore agree with the minister of state that there is any failure to correspond in the Spanish and English texts. In all the errors which have been brought to the attention of the Department, and which, as in the cases above explained, have been the cause of illegal collection of duties, the English was an accurate translation of the Spanish, and in both repertories the articles were

* Not printed.

placed under the proper schedules and subjected to the correct rate. If it were clear, however, that the English translation does not correspond with the Spanish original, the correction should be made in the English and not in the Spanish. The English translation of the repertory was published for the information of our exporters, and could not be regarded as binding upon the customs officials of Cuba or as affording grounds for argument in questions arising with the Spanish Government. The Spanish minister of state is too accomplished a linguist himself not to appreciate the great difference between an original document in a foreign language and a retranslation of a translation of such a document. To disregard the Spanish original—which, as will be seen in Mr. Redman's statement, was carefully examined by Señor Dupuy de Lôme before signature—and substitute a second retranslation into Spanish of the English translation, would simply produce the same perplexing result as before.

You will make the above detailed explanation to Señor Moret, and state that the point insisted upon by this Government is that the Spanish repertory which has been used in Cuba is not the Spanish repertory prepared and signed here by the representatives of both Governments; that it is an erroneous translation of the English version, which was itself a translation of the Spanish, published for the information of our exporters. While it is possible that the proposed tariff legislation in Congress may provide for duties inconsistent with the present reciprocity arrangements, and therefore render the publication of the correct repertory a question of less importance for the future, you will urge the view of this Government that the Spanish Government should recognize and substitute the correct repertory for the purpose of disposing of the claims for repayment of duties wrongfully levied in Cuba in consequence of the errors in the repertory published in that island for the use of the custom-house officials.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Uhl to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, May 15, 1894.

See minister for foreign affairs and minister for colonies and urge the imperative necessity of putting in force the definitive repertory at once. Report fully and follow instructions as elaborated in my hundred and eight.

UHL, *Acting.*

Mr. Taylor to Mr. Gresham.

[Telegram.]

MADRID, May 23, 1894.

Mr. Taylor informs the Department that in an interview with the minister of state he promised to interview minister for the colonies to-morrow, and to do his utmost to secure results as soon as possible to

the following, which Mr. Taylor urgently asked: first, that original Spanish version of repertory be put in force immediately; second, that restrictions upon importation of petroleum to Havana and Baracoa be removed.

Mr. Taylor to Mr. Gresham.

No. 170.]

LEGATION OF THE UNITED STATES,
Madrid, May 24, 1894. (Received June 7.)

SIR: Owing to pressing engagements in the chambers the minister of state was unable, until yesterday, to give me the promised interview as to the reciprocity arrangement. In the course of the interview I again pressed upon him all the reasons set forth in your No. 108 why the definite Spanish repertory of October 17, 1892, should be put into immediate effect. The minister frankly accepted the reasons and promised me to have an interview with the minister of ultramar at once, in order to bring about the desired result. I then passed to the contents of your No. 119, of the 10th instant, received the morning of the interview, and earnestly requested that the order of the minister of ultramar, restricting the importations of crude petroleum to the ports of Havana and Baracoa, be revoked at once. The minister agreed that the order was an improper one, promising at the same time that he would do all that he could to have the difficulty removed. At the end of the interview I at once sent you a cablegram, stating the result, a copy of which please find on the overleaf. I have to-day directed to the minister of state two notes, embodying the results of yesterday's interview, copies of which please find inclosed herein. As I have written you before, the minister of state insists that I deal with the minister of ultramar only through his department, he in turn undertaking to facilitate to the utmost of his power all business transacted in that manner. I find him always ready to help me.

I am, etc.,

HANNIS TAYLOR.

[Inclosure 1 in No. 170.]

Mr. Taylor to Mr. Moret.

LEGATION OF THE UNITED STATES,
Madrid, May 24, 1894.

EXCELLENCY: I have the honor to inform you that I have been directed by my Government, both by post and by telegram, to respectfully urge upon you, and through you the minister of ultramar, the imperative necessity of putting in force, without further delay, the definitive repertory executed in Spanish at Washington on the 17th of October, 1892, by the Secretary of State of the United States, Mr. Foster, and the Spanish minister, Señor Dupuy de Lome, under the reciprocity arrangement now existing between the two nations. As your excellency well knows, the English version, executed at the same time, was through an inadvertence sent to Spain instead of the Spanish version, and from that English version has been made a faulty Spanish

translation which has long been in force to the serious detriment of American commerce as to which it has no binding force whatever. This unauthorized and faulty translation is infected with two serious infirmities. In the first place, some articles expressly entitled to the benefits of the arrangement under the authorized version are entirely omitted from the spurious version. In the second place, endless confusion arises out of the application of the spurious version by reason of the fact that the names of many articles are mistranslated therein by literal paraphrases instead of commercial terms. The following may be taken as illustrations:

In the authorized Spanish version butter is properly described as *manteca de vaca*; in the spurious version as *manteca de cerdo* (lard). Spirits of turpentine, properly described by the Spanish commercial term *aguarrras*, is literally translated in the spurious version as *espíritu de trementina*; knives for cutting cane in the same way are called *cuchillos para cortar cana* instead of *machetes*, etc.

In this way many articles clearly and distinctly entitled to the benefits of the arrangement in the authorized Spanish version are subjected to customs dues, confiscated, and sold, upon the ground that they do not appear in the spurious version under which the customs officials are now acting. In this way nearly all of the cases now pending at Madrid for redress have arisen. It will hardly be necessary for me to suggest that in the determination of these cases the minister of ultramar will look of course only to the text of the authorized Spanish version which was prepared with the greatest care and deliberation. Your excellency knows that a copy of that version duly attested and certified by the Spanish minister at Washington has been in the possession of the Government at Madrid for many months, and that a mere executive order will put it into immediate force. Your excellency, in our interview of yesterday, very frankly admitted that that course should be taken at once, and I thank you for your promise to take immediate steps, in connection with the minister of ultramar, so that the desired result may be accomplished without further delay.

I seize, etc.,

HANNIS TAYLOR.

[Inclosure 2 in No. 170.]

Mr. Taylor to Mr. Moret.

LEGATION OF THE UNITED STATES,
Madrid, May 24, 1894.

EXCELLENCY: In our interview of yesterday I had the honor to call your attention to the fact that under a direct order made by the minister of ultramar (circular of intendant general, November 13, 1893), importations of crude petroleum from the United States to Cuba have been restricted to the ports of Havana and Baracoa. I further explained that under the reciprocity arrangement "petroleum unrefined" (article No. 18) and "petroleum refined" (article No. 26) are entitled, on the terms stated therein, to entry "into all the established ports of entry of the Spanish islands of Cuba and Puerto Rico." It is unnecessary for me to demonstrate by argument that the order of the minister of ultramar is in direct violation of the arrangement, because your excellency frankly admitted that fact. I thank you for your promise to con-

fer with the minister of ultramar and to use your good offices in having the order in question revoked as soon as possible. It was evidently made through inadvertence.

I seize, etc.,

HANNIS TAYLOR.

Mr. Taylor to Mr. Gresham.

[Telegram.]

MADRID, May 29, 1894.

Mr. Taylor informs the Department that in an interview with the minister for foreign affairs on the 29th instant, he promised to go in person to the minister for the colonies and demand that Spanish repertory take effect at once.

Mr. Taylor to Mr. Gresham.

No. 184.]

LEGATION OF THE UNITED STATES,
Madrid, June 13, 1894. (Received June 25.)

SIR: I have the honor to report that on the 10th instant, the minister of state advised me in a personal note that he desired to see me the next day at 3 o'clock in order to discuss with me certain pending matters. I met him at the time appointed and was pleased to hear from him that he had resolved to have a royal order made at once putting into immediate effect the definitive repertory executed in Spanish at Washington October 17, 1892. The result of the interview I reported to you in my cablegram of the 12th instant, a copy of which is appended on the overleaf. I was promised by the minister official notice of the making of the order, which I have not yet received. Last night I received a note from him saying that the papers had been made out and sent to the department of ultramar for execution. I hope to receive the official notice of final action to-day or to-morrow.

I am, etc.,

HANNIS TAYLOR.

Mr. Taylor to Mr. Gresham.

[Telegram.]

MADRID, June 17, 1894.

Mr. Taylor informs the Department that he has received official notice from the president of the council stating that telegraphic orders have been sent to Cuba and Puerto Rico putting definitive repertory into immediate effect.

Mr. Taylor to Mr. Gresham.

No. 192.]

LEGATION OF THE UNITED STATES,
Madrid, June 22, 1894. (Received July 5.)

SIR: I have the honor to inclose herewith, with translation, a copy of the official notice just received from the ministry of state as to the promulgation of the definitive repertory.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 192.—Translation.]

Mr. Moret to Mr. Taylor.

MINISTRY OF STATE,
Palace, June 17, 1894.

EXCELLENCY: I have the honor to inform you that the ministry of the colonies has to-day sent a telegram to the governor-general of Cuba ordering the publication in the Gazette and the immediate application of the Spanish version of the repertory signed by Señor Dupuy de Lôme, a copy of which was sent him by Her Majesty's representative in Washington.

By the next mail the same instructions will be sent to the governor-general of Puerto Rico, either by sending him a copy if it is possible or by instructing the governor-general of Cuba to forward to the governor-general of Puerto Rico copies of the Gazette in which the repertory is published.

In communicating the foregoing the minister for the colonies expresses the hope that, should any difficulties or doubts arise as to the exact meaning of the language of the English and the Spanish versions of the repertory, they will be settled by common accord with that good faith and reciprocal loyalty becoming friendly nations.

I avail, etc.,

S. MORET.

Mr. Adee to Mr. Taylor.

No. 161.]

DEPARTMENT OF STATE,
Washington, July 6, 1894.

SIR: I have received your No. 192, of the 22d ultimo, inclosing copy of a note from the Spanish minister of state, reporting that orders had been issued for the publication and enforcement of the correct Spanish text of the repertory.

It is now, therefore, confidently expected that you will be able to promptly arrange for the early refunding of the fines and dues levied on American importers under the former incorrect one.

I am, etc.,

ALVEY A. ADEE, *Acting Secretary.*

ALIEN CONTRACT LABOR CASES.

Mr. Muruaga to Mr. Gresham.

[Translation.]

LEGATION OF SPAIN,
Washington, January 22, 1894.

The undersigned, minister plenipotentiary of Spain, impelled by the alarming intelligence, not only of an official character, but also from private sources, coming to this legation from Key West with regard to the direction which the question of the emigration of peninsular Spaniards to that island is taking there, ventures to call the attention of the honorable Secretary of State to the spirit and letter of the treaty in force between the United States and Spain, ratified April 25, 1796.

The labor question in that locality has been converted into a political one through the agitation kept up by the Cuban filibusters, headed by

the Cuban revolutionist José Marti, to the great detriment not only of the tobacco industry, but also of the interests and security of the American citizens.

The pretext offered for requesting the expulsion of the Spanish (peninsular) twisters who landed recently, to wit, that they are soldiers and are subject to military jurisdiction, is absurd and without foundation. The same thing is true of all the subjects of France, Italy, Germany, and Austria, but nobody has thought of expelling them because they are subject to compulsory military service.

If the absurd theory that the tobacco industry is to be monopolized by the Cubans were to prevail the American manufacturers would be left at the mercy of the strikes which would be organized under some pretext or other, and would be the victims of the exactions of the professional agitators.

The undersigned, for this reason, can not help fearing the possibility of retaliation if Key West, in spite of the vehement protests of the sensible part of its population, should be converted into a center of conspiracy and of hostility to Cuba, which retaliation might take the form of complete commercial isolation between Key West and the ports of Cuba.

The undersigned, therefore, appeals to the wisdom of the honorable Secretary of State to intervene in this controversy and avails himself, etc.,

E. DE MURUAGA.

Mr. Uhl to Mr. Muruaga.

DEPARTMENT OF STATE,
Washington, February 3, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 22d ultimo, in regard to the emigration of certain peninsular Spaniards to Key West, in which you state that the agitation for their expulsion is purely political and due to the animosity of Cuban filibusters, and that the pretext which has been made that they are soldiers and subject to military jurisdiction is absurd and without foundation.

The representations which have reached you touching the grounds upon which the men in question have been treated are, I am happy to state, inaccurate. The action of the Treasury officials was taken solely in compliance with the provisions of the alien contract labor statutes, which it pertains to the Secretary of the Treasury to enforce when it is established that foreign laborers coming to the United States fall under the defined prohibition. A copy of your note and of this reply will be sent to the Secretary of the Treasury for his information.

Accept, etc.,

EDWIN F. UHL, *Acting Secretary.*

Mr. Muruaga to Mr. Gresham.

[Translation.]

LEGATION OF SPAIN,
Washington, February 10, 1894.

The undersigned, minister of Spain, referring to his note of January 22 last, has the honor to notify the honorable Secretary of State that, by a cablegram of yesterday, the governor-general of the Island of Cuba

informs him that it was only on the personal request and importunity of the authorities of Key West that he permitted the egress of the peninsular workmen.

This act of kindness and courtesy has been answered by an order of arrest and expulsion, which is to take effect to-morrow.

It seems very strange and incomprehensible that the intrigues and assertions of the revolutionary Cubans, whose chief leader, Dr. Martí, has been for several days holding conferences in this capital, should have had more weight with the Federal Government than the requests of honorable manufacturers and the almost unanimous protests of the American residents of Key West, who are interested in maintaining the freedom of labor.

The undersigned, not knowing the reasons for the said measure, requests the honorable Secretary of State to have the goodness to inform him, if possible, of the reasons which have induced the Secretary of the Treasury to adopt measures so little in harmony with the just and impartial policy pursued on recent occasions by the President of the Republic.

The undersigned avails himself, etc.,

E. DE MURUAGA.

Mr. Gresham to Mr. Muruaga.

DEPARTMENT OF STATE,
Washington, February 13, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 10th instant in regard to certain Spanish cigar makers at Key West, and to inclose herewith a copy of a letter from the Acting Secretary of the Treasury, of this date, on the subject.

Accept, etc.,

W. Q. GRESHAM.

[Inclosure.]

Mr. Curtis to Mr. Gresham.

TREASURY DEPARTMENT,
Washington, February 13, 1894. (Received February 13.)

SIR: I have the honor to acknowledge receipt of your favor of the 10th instant relating to inquiries of the Spanish minister in regard to certain Spanish cigar makers who came to Key West, in which you ask to be advised as to their arrest and deportation.

In reply I have to state that it was alleged and proved to my satisfaction that the said Spaniards came to Key West to perform labor under a prior contract entered into in Havana, which is contrary to the provisions of the acts of Congress of 1855, 1887, and 1888, commonly known as the alien contract labor laws, under which I am required, upon being satisfied that they came in violation of said laws, to have them taken into custody and deported.

These laws apply to all nationalities and are made for the protection of American workingmen. I hope you will assure his excellency, the Spanish minister, that no national question actuated my action in the premises. Spaniards can come to Key West or to any other of our

ports, but they must not make contracts to do work and labor in the United States prior to their departure from their own country.

This Department has information that these Spaniards have declared their intention to become American citizens in order to avoid deportation.

Respectfully, yours,

W. E. CURTIS,
Acting Secretary.

Mr. Muruaga to Mr. Gresham.

LEGATION OF SPAIN AT WASHINGTON,
Washington, May 2, 1894.

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor to inform the honorable Secretary of State that, according to a communication which he has just received from the consul-general of Spain at New York, two Spaniards, named Victor Ordieras and Valentin Alvarez, have been arrested in that city in pursuance of a special order of the Treasury Department, it being thought that they had come to the United States as emigrants under contract to perform labor.

The statements contained in the inclosed document, which is signed by two reputable firms doing business in the city of New York, will convince the honorable Secretary of State that the aforesaid Spaniards have been regarded as emigrants under contract through a misapprehension, and the undersigned therefore begs him to lay said statements before the honorable Secretary of the Treasury, and to request that officer to revoke the order for their arrest and to direct that they be released.

The undersigned minister avails, etc.,

E. DE MURUAGA.

[Inclosure.]

Messrs. Garcia Bros. et al. to the Spanish consul-general at New York.

NEW YORK, April 30, 1894.

SIR: We, Selgas Neidel (*sic*) & Co., residing in this city, at No. 146 Reade street, and F. Garcia & Bros., residing at No. 80 Warren street, respectfully lay before you the following facts:

On Friday, the 28th instant, at 3 o'clock in the afternoon, Victor Ordieras, a native of Oviedo, Spain, and Valentin Alvarez, a native of Lugo, likewise in Spain, were arrested in pursuance of a special order of the Treasury Department at Washington, for violating the law in force on the subject of contract labor, it doubtless being believed that those gentlemen had come as emigrants under contract to perform labor. The reason of this belief probably was that when they arrived in this city, on the 21st of December, 1893, they were taken to Ellis Island, where they were made to sign a paper in the English language, in which, as they thought (they having no knowledge whatever of English), they stated that Mr. Alvarez was going to reside at No. 80 Warren street, and Mr. Ordieras at No. 146 Reade street, but, as it now appears, they declared in that paper that they came under contract to work. Nothing could be more untrue, for Mr. Alvarez is a brother-in-law of Messrs. F. Garcia & Bros., and as such he came, his family being abundantly able

to supply his wants, and there is not the slightest danger of his ever becoming a charge upon the public.

As to Mr. Ordieras, the fact that he was without work for a week is more than sufficient proof that he had not come under contract; but besides, as your excellency is aware, there is no emigration from Spain to this country, and it is also proper for us to state that Mr. Ordieras is by occupation a *rezagador* of cigar wrappers, and that he now earns \$20 a week; an amount that is never paid to emigrants or persons under contract.

In view of the foregoing statements, which clearly show the injustice of this arrest, we beg your excellency to take suitable steps to secure the release of Messrs. Ordieras and Alvarez, who are still held on Ellis Island. We hope that you will take action in the matter with as little delay as possible, so that these gentlemen may not be returned to Spain, which would work serious detriment to them. All of which we, the undersigned, do not doubt that we shall obtain from your excellency's well-known justice.

May God preserve your excellency's life for many years.

Your obedient servants,

F. GARCIA & BROS.,
80 Warren Street.
SELGAS, NISTAL & CO.,
146 Reade Street.

Mr. Uhl to Mr. Muruaga.

DEPARTMENT OF STATE,
Washington, May 10, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 2d instant relative to the alleged unwarranted arrest at New York, in pursuance of a special order from the Treasury Department, of two Spaniards, named Victor Ordieres and Valentin Alvarez, on a charge of violating the alien labor contract law. You therein request that, in view of the statements which you inclose from two New York firms, the order for their arrest may be revoked.

I hastened to bring your representations and request to the attention of the Secretary of the Treasury, and have the honor to make known to you the substance of his reply, as follows:

Upon the arrival of these two immigrants their affidavits were taken by an immigrant inspector, and after being interpreted were duly sworn to by them. From these affidavits (copies of which are inclosed herewith) it appears that they came to the United States under contract to work, Victor Ordieres Amado for the firm of Selgas, Nistal & Co., 146 Reade street, New York City, and Alvarez for the firm of Garcia & Bros., residing in the same city, at No. 80 Warren street.

The Secretary of the Treasury further states that after a careful consideration of the papers submitted, including the letter of complaint to you (which, it should be borne in mind, is from the defendants in the proposed suits), he can see no sufficient reason for recalling the warrants issued by his Department for the arrest and deportation of the said Amado and Alvarez.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure 1.]

*Affidavit of Victor Ordieres Amado.*STATE OF NEW YORK, *County of New York, ss:*

Victor Ordieres Amado, 28, tobacco examiner, being duly sworn, deposes and says that he is a native of Spain; has never been in the United States before, and arrived at the port of New York on the 20th day of December, 1893, per the steamship *Yucatan*, from Havana; and that he, Victor Ordieres Amado, has applied for admission into the United States as an alien immigrant.

Deponent also says that about two weeks ago Alfredo Selgas, of the firm of Selgas, Nistal & Co., 146 Reade street, New York City, was in Havana, Cuba, and while there saw deponent and told deponent to come to America; that, though times were hard, he (Selgas) would give deponent work in his (Selgas's) cigar manufactory as examiner of leaf tobacco, at the same wages as examiners get in the United States. Deponent also says that an agreement or contract was made between or by them for deponent to come to America and work, and that he (deponent) came to America as a result of that agreement or contract. Deponent also says that he is employed to work for said Selgas, Nistal & Co., and that he was employed by said firm while he was in Havana, Cuba; and deponent further states that he would not have come to the United States but for said contract, made prior to his sailing. Deponent states further that no one told him to make this statement, but that it is the truth.

VICTOR ORDIERES AMADO.

I, Victor Ordieres Amado, being the deponent in the foregoing affidavit, do swear that the within affidavit has been interpreted to me in the Spanish language, and that it is made by me voluntarily and for the purpose of the application for admission into the United States, as aforesaid.

VICTOR ORDIERES AMADO.

Sworn and subscribed to before me this 20th day of December, 1893.

CHARLES G. EICHLER,
Notary Public, New York.

I, Jules Aviles, do hereby swear that I interpreted the within affidavit to deponent in the Spanish language, and that he fully understood the same before voluntarily signing his name thereto.

JULES M. AVILES.

Sworn to and subscribed before me this 20th day of December, 1893.

CHARLES G. EICHLER,
Notary Public, New York.

[Inclosure 2.]

*Affidavit of Valentine Alvares.*STATE OF NEW YORK, *County of New York, ss:*

Valentine Alvares, 33, laborer by occupation, being duly sworn, deposes and says that he is a native of Spain, has never been in the United States, and arrived at the port of New York on the 20th day of December, 1893, per the steamship *Yucatan*, from Havana, Cuba, and that he, Valentine Alvares, has applied for admission into the United States as an alien immigrant.

Deponent also says that in July, 1893, Jose Garcia, of the firm of F. Garcia & Bros., 80 Warren street, New York City, was in Spain, and while there saw deponent and told deponent to come to America; that his firm, F. Garcia & Co., needed help, and would give deponent work in their manufactory at the wages of \$8.50 per week and board. Deponent also says that he is employed by said F. Garcia & Bros.; that he was employed by them prior to his sailing for the United States; that he can go to work as soon as he reaches his destination, and that he would not have come to the United States except for the assurance and promise of work given him by said Jose Garcia. Deponent further says that no one told him to make this statement, but that it is the truth, and that said Jose Garcia paid deponent's passage to the United States from Spain, and that he, deponent, gave up his work at home in order to come to America and accept the work offered him by said Jose Garcia.

VALENTINE ALVARES.

I, Valentine Alvares, being the deponent in the within affidavit, do swear that the within affidavit has been interpreted to me in the Spanish language, and that it is made by me voluntarily and for the purpose of the application for admission into the United States, as aforesaid.

VALENTINE ALVARES.

Sworn to and subscribed before me this 20th day of December, 1893.

[SEAL.]

CHARLES G. EICHLER,
Notary Public, New York.

I, Jules M. Aviles, do hereby swear that I interpreted the within affidavit to deponent in the Spanish language, and that he fully understood the same before voluntarily signing his name thereto.

Sworn to and subscribed before me this 20th day of December, 1893.

[SEAL.]

CHARLES G. EICHLER,
Notary Public, New York City.

ATTACK UPON SPANISH CIGAR-MAKERS AT KEY WEST.

Mr. Muruaga to Mr. Gresham.

LEGATION OF SPAIN,
Washington, March 25, 1894.

DEAR MR. SECRETARY: A cablegram from the governor-general of Cuba informs me of the fact that a mob composed of several hundred roughs, armed with clubs and revolvers, attacked lately the Spanish cigar-makers of the tobacco manufactory "Rosa Española" in Key West, obliging them under fear of personal violence to stop work. The interference of the police could barely avoid bloodshed.

It is intimated that should work be resumed to-morrow the same law-breakers threaten wholesale murder.

Would it be too much asking of your kindness to have matter recommended at once to the governor of the State of Florida, on whom devolves the authority to guarantee protection and security to foreign residents?

Very sincerely, yours,

E. DE MURUAGA.

Mr. Adee to Mr. Muruaga.

DEPARTMENT OF STATE,
Washington, March 26, 1894.

MY DEAR MR. MINISTER: Upon the receipt of your note of yesterday's date, informing him of an attack by an armed mob on the Spanish cigar makers at Key West, the Secretary at once brought the matter to the attention of the governor of Florida by telegraph for proper action by him. The governor's reply has just reached us, stating that he has instructed the captain of the company of State troops at Key West to aid the civil authorities in preserving peace.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

TERMINATION OF RECIPROCITY ARRANGEMENT.

Mr. Taylor to Mr. Gresham.

No. 223.]

LEGATION OF THE UNITED STATES,
Madrid, August 20, 1894. (Received August 30.)

SIR: I have the honor to report that on Saturday, the 18th instant, I received an invitation from the minister of state, requesting a conference for that evening at half past 6 o'clock. I met the minister at the time indicated, and, after the usual preliminaries, he gave me to understand that he desired to discuss the contents of the pending tariff bill, so far as the same will affect the commercial arrangement now existing between Spain and the United States. From his conversation it clearly appeared that he was informed in a general way as to the contents of the pending bill, and he expressed the belief that its practical effect will be to wipe out the provisions of law upon which the reciprocity arrangement is based, and thus bring that arrangement abruptly to an end, provided no saving clauses are contained in the bill which will produce that result in a more gradual way.

Not having seen the text of the bill in its final form, and having no exact information as to its contents except the very imperfect statements contained in the European press, I made it a point to indulge in no positive statements either as to the contents of the bill or as to its effects. The interview concluded with a request from the minister that I should submit to you as soon as possible the following questions:

- (1) When will the pending bill take effect?
- (2) Will the provisions of law, by virtue of which the present commercial arrangement was executed upon the part of the United States, come at once to an end without notice or warning to Spain?
- (3) What will then be the condition of the commercial relations between the two countries, so far as Cuba and Puerto Rico are concerned, and what action had best be taken by both countries with a view of preserving harmony in those relations?

The minister expressed himself in a most conservative and amicable spirit, saying that Spain had every desire to cooperate with the United States in an effort to make the commercial relations between the two countries harmonious, stating at the same time that Spain had no desire to impose additional burdens upon the commerce of the United States with Cuba and Puerto Rico if such a course could be avoided, and my cooperation was asked to that end. The minister requested me to ask that you would send him at least general answers to his questions by cable as soon as my letter is received, as it is very necessary for him to know what will be the general effect of the bill upon Spanish interests.

I am, etc.,

HANNIS TAYLOR.

Mr. Taylor to Mr. Gresham.

No. 226.]

LEGATION OF THE UNITED STATES,
Madrid, August 23, 1894. (Received September 5.)

SIR: I have the honor to inclose, with translation, an extract from El Liberal of the 22d instant, indicating the course to be taken by the custom-house authorities of Cuba and Porto Rico as to imposition of tariff dues upon merchandise from the United States the moment that the new tariff bill takes effect.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 226.—Translation.—From *El Liberal* of August 22, 1894.]

As regards the new bill voted by the chambers of the United States reimposing the duties on sugar, Señor Becerra, in accord with Señor Moret, telegraphed yesterday to Gen. Calleja ordering him to communicate with the representative of Spain at Washington and with the captain-general of Porto Rico, so that on the same day and at the same hour in which the bill of the United States is put in force the old tariffs for North American products may be reestablished in both Antilles.

Mr. Gresham to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 30, 1894.

Secretary of the Treasury holds, no doubt correctly, that our new tariff law went into effect on the 27th instant at midnight, and that the commercial arrangement under act of 1890 then terminated.

GRESHAM.

Mr. Taylor to Mr. Gresham.

No. 228.]

LEGATION OF THE UNITED STATES,
Madrid, August 30, 1894. (Received September 10.)

SIR: I have the honor to inclose herein, with translation, a copy of a note just received from the minister of state, announcing the fact that His Majesty's Government has decided to annul the decree of June 28, 1891, putting into execution the reciprocity arrangement in the islands of Cuba and Porto Rico.

I am, etc.,

HANNIS TAYLOR.

[Inclosure in No. 228.—Translation.]

Mr. Moret to Mr. Taylor.

MINISTRY OF STATE,
Palace, August 28, 1894.

EXCELLENCY: The Government at Washington having yesterday put into force the new tariff regulations, according to the official advices received from the Spanish minister, the reciprocity agreement which has governed the commercial relations between the two countries comes to an end.

In view of these facts the Government of His Majesty the King has decided in its turn to annul the decree of June 28, 1891, which was published to put into execution the reciprocity arrangement in the islands of Cuba and Porto Rico.

In making this communication to your excellency I again call your attention to the unfairness and prejudice which would come of applying the new tariff to the products of the Philippine Islands, which, having been shipped previous to this date, would find themselves in a peculiarly disadvantageous position on their arrival in the United States if they were expected to pay the imposts of the new tariff.

I avail, etc.,

S. MORET.

Mr. Uhl to Mr. Taylor.

No. 188.]

DEPARTMENT OF STATE,
Washington, September 12, 1894.

SIR: I have to acknowledge receipt of your No. 228, of the 30th ultimo, with which was inclosed a copy of a note from the minister of state announcing that His Majesty's Government has decided to annul the decree of June 28, 1891, putting into execution the reciprocity arrangement in the islands of Cuba and Porto Rico.

In this connection I inclose herewith copy of a telegram received from the United States consul-general at Havana, copy of a letter from the Treasury Department, and copy of a telegram to the consul-general at Havana, all relating to the date when the reciprocity arrangement ceased to be in force.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure 1 in No. 188.—Telegram.]

Mr. Williams to Mr. Gresham.

HAVANA, *August 30, 1894.*

The importers here of American merchandise desire to know if the products shipped from Cuba to the United States up to the closing of the 27th instant are included in the franchises of the reciprocity agreement, as they claim from the Spanish Government that American products shipped there up to that date ought to be allowed to fully enjoy the franchises of that agreement. Please cable answer.

WILLIAMS,
Consul-General.

[Inclosure 2 in No. 188.]

Mr. Carlisle to Mr. Gresham.

TREASURY DEPARTMENT,
Washington, August 30, 1894. (Received August 30.)

SIR: Replying to your note of this date, in relation to a telegram received from Havana merchants, asking as to the date upon which they will cease to enjoy the franchises of the reciprocity agreement, I have to state that the date of shipment is of no legal account in such transactions, the liability to duty being determined entirely by the date of arrival at a port of entry in the United States. I can give no information relative to the probable action of the Spanish Government in regard to the question of merchandise imported under the reciprocity agreement.

Very respectfully,

J. G. CARLISLE,
Secretary.

[Inclosure 3 in No. 183.—Telegram.]

Mr. Gresham to Mr. Williams.

DEPARTMENT OF STATE,
Washington, August 30, 1894.

Secretary of the Treasury informs me that all goods arriving at ports of entry of the United States after midnight of August 27th instant will be subject to the duties prescribed by our new tariff law irrespective of the time of shipment.

COMMERCIAL RELATIONS.

[Memorandum.]

LEGATION OF SPAIN,
Washington, April 27, 1894. (Received August 22.)

Under stress of special circumstances the Spanish Government might be compelled to raise, in a general way, the duties on imports in Cuba and Puerto Rico.

Although it is apparently in the mind of both branches of Congress to abrogate the reciprocity clause of the McKinley bill, the Spanish Government does not desire to revoke the mutually existing agreement without ascertaining previously the views of the Government of the United States on the subject.

Can any alterations be brought to the various schedules of the convention of July 28, 1891, whether free or under scale reductions without changing essentially its actual commercial conditions between Spain and the United States, provided no other or higher duties were imposed on American imports than those attached to national products? If the existing prosperous condition of trade could be maintained without serious prejudice to the revenues of both countries, the Spanish Government would gladly concur in any agreement, temporary or permanent, which might further develop the commercial binding interests of Spain and the United States.

Mr. Muruaga to Mr. Gresham.

LEGATION OF SPAIN,
Washington, May 14, 1894.

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor to inform the honorable Secretary of State, in addition to the verbal statements which he has already made to him, that, as His Majesty's Government will probably soon be under the necessity of imposing customs duties upon articles of Spanish production in general, which are now free, and of increasing those already established on foreign goods, it desires to know the opinion and to receive a statement of the views of the United States Government on the following points:

1. Whether, if His Majesty's Government shall levy import duties in Cuba and Puerto Rico on goods of Spanish production, duties will, in like manner, be levied by the United States Government upon those

productions which are now free in pursuance of the reciprocity treaty applicable to those islands which is now in force?

2. Whether, in case of an increase on all items of the tariffs now in force, the same increase will be made in the case of articles which, under the aforesaid tariff, pay a reduced duty?

The undersigned minister begs the honorable Secretary of State to inform him, with as little delay as possible, concerning the views and intentions of his Government on the foregoing points, and he gladly avails himself, etc.

E. DE MURUAGA.

Mr. Uhl to Mr. Muruaga.

DEPARTMENT OF STATE,
Washington, May 19, 1894.

SIR: I have the honor to acknowledge receipt of your note of 14th instant, making inquiries touching changes in the duties at present operative under the reciprocity arrangement.

A copy of your note has been laid before the Secretary of the Treasury for his consideration and an expression of his views upon the subject-matter thereof.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Uhl to Mr. Muruaga.

DEPARTMENT OF STATE,
Washington, June 13, 1894.

SIR: Your note of the 14th ultimo, in contemplation of the contingency, as therein stated by you, that "His Majesty's Government will probably soon be under the necessity of imposing customs duties upon articles of Spanish production in general, which are now free, and of increasing those already established on foreign goods," propounded, for an expression of the views of this Government hereon, the two following inquiries:

"1. Whether, if the Spanish Government shall levy import duties in Cuba and Puerto Rico, on articles of Spanish production carried to those islands from Spain, the United States will impose a similar duty on those same articles, on importation into the United States, under the stipulation of the existing reciprocity arrangement which permits the Cortes or Congress to modify or repeal said arrangement whenever they may think proper," and

"2. Whether, in case of an increase on all items of the tariff now in force, the same increase will (may?) be made in the case of articles which, under the aforesaid tariffs, pay a reduced duty."

These questions are understood to call for information as to whether, and to what extent, the freedom now enjoyed by importers into the United States of certain products of Spain and her colonies, from the imposition of duties under the power conferred upon the President by section 3 of the act of October 1, 1890, would be affected by the proposed changes in the Spanish tariff.

The matter having been submitted to the consideration of the Secretary of the Treasury, as you were informed in this Department's note of May 19, I have the honor to acquaint you with the purport of his

reply just received. In the opinion of that official the imposition by the Spanish Government of duties on articles produced in Spain and brought from that country to Cuba and Puerto Rico would in no way affect the freedom enjoyed in consequence of the reciprocity arrangement referred to, but any unfavorable modification of the terms on which the products or manufactures of the United States, specified in the schedules cited in the President's proclamation of July 31, 1891, are now admitted to entry in Cuba and Puerto Rico would necessarily raise the question whether the measure of reciprocity remaining after such modification would be sufficient to justify further nonexercise of the power conferred on the President by said section 3 of the act of October 1, 1890.

This opinion is expressed in view of the existing legislation upon the subject; but, of course, if the present law of the United States should be repealed or modified, the power now vested in the President would be affected accordingly.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Muruaga to Mr. Gresham.

[Translation.]

LEGATION OF SPAIN,
Washington, September 21, 1894.

The undersigned, envoy extraordinary and minister plenipotentiary of Spain, has the honor to address the honorable Secretary of State, to pray him to be kind enough to solicit from the honorable Secretary of the Treasury the competent interpretation of paragraph 165 of the new tariff law in regard to lead.

The said paragraph established that argentiferous ore and all other ores that may contain lead shall pay three-fourths of a cent per pound on the lead contained in them, but it does not specify the duties to be levied on the silver contained in lead ores.

The undersigned would also desire the honorable Secretary of the Treasury to state whether the sworn declaration made by the consignee that the lead unshipped by him in the United States is not argentiferous will be considered sufficient, or whether, in spite of said declaration, the lead will have to undergo expert analysis at the custom-houses on landing.

Several Spanish houses interested in the lead trade with the United States are anxious to know the official interpretation of the cases above mentioned, and the legation of His Majesty will be grateful to be furnished with the proper decision of them.

The undersigned, etc.,

E. DE MURUAGA.

Mr. Uhl to Mr. Muruaga.

DEPARTMENT OF STATE,
Washington, October 5, 1894.

SIR: I have the honor to inclose herewith copy of a letter from the Secretary of the Treasury replying to the inquiries contained in your note of the 26th ultimo, regarding the interpretation given by the

Treasury to section 165 of the recent tariff law in regard to lead and to duties to be levied on silver contained in lead ore, and the question whether the sworn declaration of shippers to the effect that lead shipped by them is not argentiferous will be accepted by the Treasury.

Accept, etc.,

EDWIN F. UHL.

[Inclosure.]

Mr. Carlisle to Mr. Gresham.

TREASURY DEPARTMENT,
Washington, September 28, 1894.

SIR: I have the honor to acknowledge the receipt of your letter of the 25th instant, transmitting a translation of a note from the Spanish minister at this Capital, asking for an interpretation "of paragraph 165 of the new tariff law in regard to lead."

The minister states that "the paragraph establishes that argentiferous ore and all other ores that may contain lead shall pay three-fourths of a cent per pound on the lead contained in them, but it does not specify the duties to be levied on the silver contained in lead ores."

The minister further states that he "would also desire the honorable Secretary of the Treasury to state whether the sworn declaration made by the consignee that the lead unshipped by him in the United States is not argentiferous will be sufficient, or whether, in spite of said declaration, the lead will have to undergo critical analysis at the custom-house on landing."

In compliance with your request for such information as will enable your Department to reply to the minister's note, I have to state that silver, as such, when contained in imported ores, is not subject to duty; that the rates of duty specified in paragraphs 165 and 166 of the act of August 28, 1894, are applicable only to merchandise not coming within the scope of the proviso to the latter paragraph, in virtue whereof the articles enumerated in either of the two paragraphs, when imported from a country imposing an export duty upon "lead ore or lead dross, or silver ore containing lead," exported to the United States, remain subject to the rates of duty fixed by the act of October 1, 1890.

I have further to state that all lead ores, and silver ores containing lead, are sampled and assayed on importation independently of any statements of the consignor as to their contents, but that lead imported in pigs or bars, or as dross, is neither assayed nor analyzed.

Respectfully, yours,

J. G. CARLISLE.

Mr. Muruaga to Mr. Gresham.

LEGATION OF SPAIN,
Washington, December 14, 1894.

DEAR MR. GRESHAM: Yesterday afternoon, as agreed upon, I cabled to the minister of foreign affairs, but owing to the difference of meridian, my cablegram could barely reach Madrid before 12 o'clock that night.

Perhaps it would be wiser to delay all Congressional agitation which

savors to imposition until the council of ministers could devise a provisional plan to assimilate in a certain measure the trade of both our countries.

This can easily be reached by mutual concessions, but could hardly be enforced abruptly.

The ministers will scarcely have time to-day to act upon the question at issue, although I expect to receive shortly some reference to it.

Believe me sincerely yours,

E. DE MURUAGA.

Mr. Gresham to Mr. Taylor.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 14, 1894.

By imposing prohibitive duties on flour and other American products exported to West Indies, Spain invites exercise by the President of power of excluding Spanish products, including sugar, from the United States, conferred by section 5, act of Congress August 30, 1890. If Spain desires friendly commercial relations with the United States and is solicitous for the interests of her own subjects, she will at once cease imposing higher duties on flour and other American products than she imposes on like products from Canada and other countries. You will at once bring this matter to the attention of the minister for foreign affairs and read to him this dispatch.

Mr. Taylor to Mr. Gresham.

[Telegram.]

MADRID, December 17, 1894.

Telegram read to minister of state, who promises to urge minister for the colonies, with whom I have spoken, to so rearrange Cuban tariff as to secure to us the most-favored-nation treatment. Answer promised soon.

Mr. Taylor to Mr. Gresham.

No. 272.]

LEGATION OF THE UNITED STATES,
Madrid, December 17, 1894. (Received December 28.)

SIR: I have the honor to report that after the receipt on Saturday morning of your telegram concerning the Cuban tariff on flour and other American products, I at once arranged for a conference with the minister of state for the afternoon of that day. Owing to a pressing engagement at the time first fixed the minister postponed the interview until the afternoon of yesterday, when I read to him your telegram, together with the text of section 5 of the act of August 30, 1890, referred to therein. After a brief conversation the minister assured me that he would at once refer the subject to the minister of the colonies with an earnest recommendation that he do all in his power to so arrange the Cuban tariff (a work now in progress) as to secure to the

United States the most favored nation treatment. At the end of the interview I sent you a telegram. I shall give this important subject my most careful consideration, and I will telegraph any answer that may be received to your suggestion.

I inclose herein, with translation, a copy of a personal note which I have just received from the minister of state as to our interview above described.

I am, etc.,

HANNIS TAYLOR.

[Inclosure.—Translation.]

Mr. Groizard to Mr. Taylor.

DECEMBER 17, 1894.

MR. MINISTER: Duly acquainted with the telegram of the Secretary of State, which you have been good enough to communicate to me, relative to the duties which are imposed in the Antilles upon American products, I hasten to bring such an important matter to the attention of the minister of ultramar, upon whom it depends for decision. I am sure that my colleague, as well as the whole Government, will seek the means of maintaining, without trespassing on the laws, the friendly commercial relations which have so great an interest for our respective countries.

You may also count, of course, upon my concurrence to find a solution which may satisfy as much as possible the wishes of the Government of the United States, and which may also serve the purposes of friendly concord animating that of Spain.

As soon as the resolution of my colleague of ultramar is known to me, I will have the honor to communicate it to you. In the meantime I remain,

Your sincere friend,

ALEJANDRO GROIZARD.

Mr. Gresham to Mr. Taylor.

[Telegram.]

WASHINGTON, December 29, 1894.

Urge reply to your demand made in pursuance of my telegram of December 14.

Mr. Taylor to Mr. Gresham.

No. 278.]

LEGATION OF THE UNITED STATES.

Madrid, December 31, 1894. (Received January 15, 1895.)

SIR: I have the honor to report the receipt yesterday (Sunday) of your telegram of the 29th instant. I inclose you herein a copy of a note which I have to-day addressed to the minister of state.

I am, etc.,

HANNIS TAYLOR.

[Inclosure.]

*Mr. Taylor to Mr. Groizard.*LEGATION OF THE UNITED STATES,
Madrid, December 31, 1894.

EXCELLENCY: On the 16th instant I had the honor to read to you a cablegram from Washington indicating a certain line of action which the President will feel compelled to take if no arrangement can be made by which the prohibitive duties now imposed upon American flour and other products exported to the Antilles can be reduced to the rate now imposed on like products from Canada and other favored countries. As I explained to you, the case is of such an urgent nature that my Government will be compelled to act promptly; and the character of such action will of course depend upon the conclusion which shall be reached by the Government of His Majesty. I received yesterday from Washington a second cablegram instructing me to ask of you a response to that read to you by me on the 16th instant.

Awaiting your reply, which I will cable to Washington as soon as received, I avail, etc.,

HANNIS TAYLOR.

Mr. Taylor to Mr. Gresham.

[Telegram.]

MADRID, *January 1, 1895.*

Minister of state answers that under existing laws products of all nations having no convention with Spain are subject to first-column Cuban tariff; that American products can be exempted from such laws only through new commercial arrangement with United States. He expresses desire to begin negotiations for such arrangement immediately.

Mr. Taylor to Mr. Gresham.

No. 279.]

LEGATION OF THE UNITED STATES,
Madrid, January 1, 1895. (Received January 15.)

SIR: I have just received from the minister of state an answer to your demand of the 16th ultimo, which I inclose herein with translation. I have just communicated to you the substance of this answer in a telegram.

I am, etc.

HANNIS TAYLOR.

[Inclosure.—Translation.]

*Mr. Groizard to Mr. Taylor.*MINISTRY OF STATE,
Palace, December 31, 1894.

EXCELLENCY: The minister of ultramar, to whom I submitted the observations presented by you in the name of the Government which you so worthily represent at this court against the application to North American products of the first column of the tariff in force in

the custom-houses of Cuba and Puerto Rico, after careful study of the question, has informed me that in view of article 2 of the royal decree of April 29, 1892, which provides that the first column of the tariff constitutes the rule applicable to the products of all nations which have not made conventions with Spain; and in view of the fact that the commercial arrangement with the United States ceased on the 27th of August by the act of the United States and against the desire of Spain to maintain always cordial relations, he does not find the means to exempt the above-mentioned products from the tariff indicated.

The Government of His Majesty, which has the greatest desire that those relations may be the most cordial and friendly, will do, in spite of such obstacles, as much as it can do on its part to bring about the desired result, and to that end it is disposed to enter immediately with you upon negotiations calculated to produce an agreement in virtue of which North American products may cease to be subject in Cuba and Puerto Rico to the regulations to which existing legislation subjects them.

I hope that the Government of the United States of America will duly appreciate the good wishes which animate that of his Catholic Majesty, who would see with satisfaction their conversion into acts.

I avail, etc.,

ALEJANDRO GROIZARD.

Mr. Taylor to Mr. Gresham.

[Telegram.]

MADRID, *January 4, 1895.*

Yesterday council of ministers consulted as to Cuban tariff upon American products. It was argued that as present tariff of the United States favors Cuban sugars as against those from nations paying bounties on sugars exported, Spain can for that reason extend to American products lowest tariff rates. Council instructed minister of state to negotiate with me for *modus vivendi* upon that basis. To-day subsecretary came to legation, and after long conference he made definite offer to make "*modus*" giving to American products in Cuba and Puerto Rico most-favored-nation treatment in consideration of like treatment for their products in the United States.

In short, Spain concedes all President asks, simply in consideration of benefits now granted Cuban sugars by existing tariff. *Modus vivendi* proposed as necessary form to satisfy requirements of Spanish law.

Mr. Gresham to Mr. Taylor.

[Telegram.]

WASHINGTON, *January 5, 1895.*

Your telegram of 4th opportune. Friendly disposition manifested by Spanish Government appreciated.

So long as Spain accords most-favored-nation treatment to American products President will refrain from exercising power of discrimination or exclusion against Spanish products. Read this to minister for foreign affairs.

Mr. Taylor to Mr. Gresham.

No. 283.]

LEGATION OF THE UNITED STATES,
Madrid, January 5, 1895. (Received January 18.)

SIR: I am happy to report that the demand contained in your telegram of the 15th ultimo as to the reduction of tariff dues imposed upon American products in Cuba and Puerto Rico has produced the desired result sooner than I expected, although both the ministers of state and ultramar had assured me that they would do all in their power to comply with your wishes. I inclose herein an extract¹ (with translation) taken from *El Imparcial*, of the 4th instant, which will explain to you what took place in the council upon this subject on the day before. From this you will see that the real pressure came from the Cuban deputies, and that the slight advantage given to Cuban sugars by our present tariff was taken as the ostensible reason for making the concession demanded. Yesterday the subsecretary of state, who has a special knowledge of the subject, was sent by his chief to the legation to express to me the conclusion reached by the council on the day before. The interview and its result I communicated to you in a telegram. From this you will see that all you have asked has been conceded without any new concessions from the United States. The subsecretary gave me to understand that under the form of a *modus vivendi* the concession could be made to accord at once with the requirements of the Spanish tariff and with the demands of public opinion.

I am, etc.,

HANNIS TAYLOR.

Mr. Taylor to Mr. Gresham.

[Telegram.]

MADRID, *January 8, 1895.*

I have perfected agreement in accordance with last telegrams, with the proviso that it shall continue until terminated by either party upon six months' notice, the time specified in like agreements made by Spain with other nations. As soon as approved by Cortes, it will go into immediate effect. Cortes will probably act within twenty days. May I complete agreement by exchange of notes upon terms indicated, so as to hasten presentation to Cortes?

Mr. Taylor to Mr. Gresham.

No. 284.]

LEGATION OF THE UNITED STATES,
Madrid, January 8, 1895. (Received January 21.)

SIR: I have the honor to report that your telegram of the 5th instant, in reply to mine of the day before, was received on the morning of the 6th (Sunday). Yesterday at 5 o'clock the minister of state received me and I read the telegram to him, according to your instructions. I was careful to prepare a note, a copy of which is inclosed herein, in which I set forth what had actually transpired in the matter up to that moment. This note I delivered to the minister of state as my understanding of

¹Not printed.

the facts, and it was accepted as a true and accurate statement by the minister after a careful perusal by the subsecretary. You will see that no reference whatever is made in my note to the provision of our present tariff as to bounties. The only addition suggested was that the new arrangement should remain in force without a day unless terminated by either party after six months' notice to the other.

When I questioned the length of the notice suggested, I was told that it was the time expressed in like arrangements made by Spain with other countries. Seeing no real disadvantage to us in the suggestion, I accepted it, subject to your approval. It was then agreed that the *modus vivendi* should be perfected by an exchange of notes, and that it should then be submitted to the Cortes immediately for ratification, after which it is to go into instant effect. The minister said that he would request Señor Canovas, the leader of the opposition, to let it pass without contest, and in that way he hoped it would go through the Cortes in fifteen or twenty days. At the end of the interview I sent you a telegram. If I receive a favorable reply I hope to finally conclude the matter at once.

I am, etc.,

HANNIS TAYLOR.

[Inclosure.]

Mr. Taylor to Mr. Groizard.

LEGATION OF THE UNITED STATES,

Madrid, January 7, 1895.

EXCELLENCY: On the 17th ultimo I had the honor to read to you a telegram from my Government concerning the prohibitive duties now imposed upon American products in Cuba and Puerto Rico, a copy of which is appended. In the interview which then took place between us you were kind enough to express in a most friendly spirit a determination to take such action as would secure to American products in the Antilles the same favorable treatment now accorded by the Government of His Majesty to the most favored nations, and that purpose you were kind enough to reiterate in a note directed to me on the 31st ultimo. On the 4th instant you were good enough to send to this legation as your representative Señor Don Wenceslao R. de Villaurrutia, the subsecretary of state, who, after a full review of the whole subject, informed me that he was authorized to propose to my Government, through me, the making of a *modus vivendi* between the two nations providing that American products shall be subjected in the Antilles only to the lowest tariff rates, in consideration of a like agreement upon the part of the United States to guarantee to Spanish products the same most-favored-nation treatment. In accordance with the understanding then entered into between Señor Villaurrutia and myself, I at once communicated the proposition presented by him to my Government by telegraph. Yesterday I received the following reply of acceptance, which I have had the honor to read to you:

TAYLOR, *Minister, Madrid.*

Your telegram of 4th opportune. Friendly disposition manifested by Spanish Government appreciated. So long as Spain accords most-favored-nation treatment to American products President will refrain from exercising power of discrimination or exclusion against Spanish products. Read this to minister for foreign affairs.

GRESHAM.

To this I am also instructed to add that—

We (the United States) will treat Spanish products on most-favored-nation basis so long as they accord similar treatment to American products.

By this acceptance upon the part of my Government of the proposition made by the Government of His Majesty through you I rejoice to know that the commercial conflict which seemed so imminent has been averted by a just and equitable agreement in perfect accord with the interests and honor of both nations. Please inform me at what moment this new commercial understanding will take effect.

I seize this opportunity, etc.,

HANNIS TAYLOR.

Mr. Gresham to Mr. Taylor.

[Telegram.]

WASHINGTON, *January 8, 1895.*

Does proposed agreement call for more on part of President than refraining from excluding Spanish products under act 1890 in consideration of favored-nation treatment by Spain?

Mr. Taylor to Mr. Gresham.

[Telegram.]

MADRID, *January 10, 1895.*

No. Arrangement has been made strictly according to the terms of your telegrams. Upon that basis Cortes will be asked to give favored-nation treatment to American products immediately. Tariff changes may be made by both nations without prejudice, provided neither discriminates against other. If either resolves to discriminate, three months' notice to be given. Details by next mail.

Mr. Taylor to Mr. Gresham.

No. 287.]

LEGATION OF THE UNITED STATES,
Madrid, January 11, 1895. (Received January 24.)

SIR: In my dispatch of the 8th instant, I had the honor to inclose you a copy of my note of the 7th instant, which I presented to the minister of state on that day as a true statement of the proposals made up to that time in reference to the subject treated of therein. I have the honor to inclose a copy of note (with translation) addressed to me on the 10th instant, by the minister of state, in reply to mine of the 7th. I also inclose a copy of a note addressed by me to-day to the minister of state in reply to his last of the 10th. From these notes you will perceive that the provisional arrangement entered into under the instructions contained in your telegrams involves nothing more upon the part of the President than refraining from discriminating against or excluding Spanish products under act of 1890 in consideration of most-favored-nation treatment by Spain. Therefore, when I received your telegram inquiring of me whether the proposed agreement called for more upon the part of the President, I answered in the negative.

In view of the fact that the clause in our present tariff law imposing an additional duty of one-tenth of one cent a pound on sugar exported from bounty-paying countries may be repealed, I had it expressly understood that subsequent tariff changes may be made without prejudice to the agreement, provided that no discriminations are made thereby.

I have every reason to hope and expect that the Cortes will act in the matter as promptly as possible.

I am, etc.,

HANNIS TAYLOR.

[Inclosure 1.—Translation.]

Mr. Groizard to Mr. Taylor.

MINISTRY OF STATE,
Palace, January 10, 1895.

EXCELLENCY: I have had the honor to receive your note of the 7th instant, in which you were pleased to communicate to me the favorable reception which the Government of the United States has given to the propositions of that of His Majesty for the execution of a *modus vivendi* which may regulate the commercial relations between the islands of Cuba and Puerto Rico and the United States until such time as a definitive treaty of commerce may be concluded.

In accordance, therefore, with the declarations made to you and accepted by your Government, I have the honor to inform you that that of His Majesty is disposed to apply to the products of the United States in the islands of Cuba and Puerto Rico the duties of the second column of the tariff now in force as long as the Government of the Union concedes to the products of said islands the most-favored-nation treatment, it being understood that in no case shall American products in Cuba and Puerto Rico or Spanish products in the United States be subjected to a differential treatment in respect to those of other countries.

This *modus vivendi* shall remain in force until the conclusion of a definitive treaty between the parties interested, or until one of them shall give to the other three months' notice of the date upon which it is desired to terminate it.

The Government of His Majesty will ask of the Cortes the legislative authority necessary to put in vigor in the shortest time possible the provisional arrangement agreed upon.

I improve this opportunity, etc.,

ALEJANDRO GROIZARD.

[Inclosure 2.]

Mr. Taylor to Mr. Groizard.

LEGATION OF THE UNITED STATES,
Madrid, January 11, 1895.

EXCELLENCY: I have the honor to acknowledge the receipt of your note of the 10th instant, in reply to mine of the 7th instant, in which I took occasion to present to you a telegram from my Government saying

that the President, appreciating the friendly disposition manifested by your proposals, will refrain from exercising the power of discrimination or exclusion against the products of Cuba and Puerto Rico so long as Spain accords most-favored-nation treatment to American products in those islands. In reply to my note you are now good enough to reassure me that in consideration of such treatment by my Government that of His Majesty will apply to American products only the duties imposed by the second column of the tariff in force in Cuba and Puerto Rico, that column being applied, as you have assured me, to all nations which now receive from Spain in those islands the most-favored-nation treatment.

The necessary meaning of this agreement, as you have correctly expressed it not only in your note, but in your conversations with me, is that both nations may make subsequent tariff changes without prejudice to the agreement, provided by such changes neither discriminates against the other.

In the event that either party desires to determine the agreement, three months' notice of such intention is to be given beforehand.

Hoping to be informed by you at a very early day of the consummation of the necessary acts upon the part of the Cortes, I seize this opportunity to renew, etc.

HANNIS TAYLOR.

Mr. Taylor to Mr. Gresham.

[Telegram.]

MADRID, *January 12, 1895.*

Law putting new agreements in force read in Cortes to-day. Leader opposition, Canovas, says no objection will be made.

Mr. Taylor to Mr. Gresham.

No. 288.]

LEGATION OF THE UNITED STATES,
Madrid, January 12, 1895. (Received January 24.)

SIR: I have the honor to report that on Saturday the 12th instant the minister of state, by authority of the Government, read in the Cortes the project of law designed to put into immediate effect the new *modus vivendi*. A copy of said law, with translation, is inclosed herein. I have been informed by two of the political representatives of Señor Canovas, the leader of the opposition, that the proposed law will be permitted to pass without objection from that source. Inclosed please find (with translation) to that effect a statement made by El Estandarte, Señor Canovas's personal organ.¹ On Saturday night, the 12th instant, I informed you of these facts by telegram.

I am, etc.,

HANNIS TAYLOR.

¹ Not printed.

[Inclosure—Translation—From *El Imparcial*, January 13, 1895.]

The Modus Vivendi with the United States.

The minister of state read in the Congress yesterday the following project of law:

To the Cortes :

The second column of the general customs tariff for the islands of Cuba and Puerto Rico is applied to-day to all nations except Germany, where the products of the Antilles are subjected to a material overcharge, and the United States, in which, since the termination of the reciprocity arrangement of 1891, our products still enjoy the same treatment as other countries, while that treatment is not applied to those of the United States in Cuba and Puerto Rico.

Reasons, therefore, of equity suggest the putting an end to a situation which can not be prolonged without exposing the commerce of the Antilles to suffer the right of reprisal, with which, by a special law, the President of the United States is invested. To avoid that the Government of His Majesty has agreed with the Cabinet at Washington that if it will oblige itself to promise us the most-favored-nation treatment, Spain will in the meanwhile apply to North American products in Cuba and Puerto Rico the second column of the tariff now in force. This *modus vivendi* will continue until a definitive treaty of commerce shall be concluded between the interested parties or until one of them signifies to the other, after three months' notice, its desire to terminate it.

Based upon these considerations the minister who subscribes hereto, authorized by His Majesty and by the judgment of the council of ministers, has the honor to submit to the approval of the Cortes, the following:

PROJECT OF LAW.

ARTICLE 1. The Government is authorized to apply to the products and manufactures of the United States—which proceeding from the ports of said States may be admitted into those of Cuba and Puerto Rico—the second column of the tariff in force in the same, in exchange for the application by the United States of its lowest tariffs to the products of the soil and of the industry of Cuba and Puerto Rico.

This *modus vivendi* will continue until a definitive treaty may be executed between the two parties interested or until one of them announces to the other, after three months' notice, the day upon which it desires to terminate it.

The commission which will be required to report upon the *modus vivendi* with the United States will be composed of Señores Fernandez Laza, Duque de Almodovar, Urzaiz, Villanueva (D. Miguel), Moya, Perojo, and Rodriguez San Pedro.

Mr. Taylor to Mr. Gresham.

[Telegram.]

MADRID, January 22, 1895.

Law putting *modus* in force passed and will no doubt pass Senate this week.

Mr. Gresham to Mr. Taylor.

[Telegram.]

WASHINGTON, January 29, 1895.

Has bill passed the Senate?

Mr. Taylor to Mr. Gresham.

[Telegram.]

MADRID, *January 30, 1895.*

Senate approved to-day.

Mr. Gresham to Mr. Taylor.

[Telegram.]

WASHINGTON, *January 31, 1895.*

When does law giving benefit second-column tariff take effect?

Mr. Taylor to Mr. Gresham.

[Telegram.]

MADRID, *February 1, 1895.*

As soon as Crown approves, probably Monday, notice will be sent Cuba by telegraph. I will then telegraph you.

Mr. Taylor to Mr. Gresham.

[Telegram.]

MADRID, *February 5, 1895.*

Queen approved. Will appear in Gazette to-morrow, when telegram will be sent immediately to Cuba, putting it into effect.

SWEDEN AND NORWAY.

ADMEASUREMENT OF VESSELS.

Mr. Grip to Mr. Gresham.

[Translation.]

LEGATION OF SWEDEN AND NORWAY,
Washington, December 22, 1893.

A royal decree of September 14, 1893, which went into operation on the 1st of October last, introduced certain modifications in and amendments to the instructions in force in Norway in regard to the admeasurement of vessels.

By the inclosed French translation of an extract from the department of finance in Norway, bearing date of October 30, 1893, your excellency will see the essential points on which these modifications and amendments bear. The Norwegian rules which have thus been adopted for the admeasurement of vessels agree, in the main, with the rules established in Great Britain and Ireland by the merchant shipping (tonnage) act of 1889.

In accordance with the new regulations, a circular dated September 21, 1893, which was addressed by the department of finance and customs to Norwegian collectors of customs, instructed such collectors to recognize, on and after October 1, 1893, the national certificates of admeasurement of foreign sailing vessels admeasured according to the Moorsom system, as also national certificates of admeasurement of steam vessels belonging to a country that has adopted the so-called English rule for the deduction of engine room. On the other hand, steam vessels belonging to countries in which another rule, whether the German or the Danube rule, is adopted, are to be readmeasured for the purpose of ascertaining the deduction to be made for engine room according to the English rule, while the gross capacity, the deduction for the space set apart for the crew, etc., are to be recognized according to the statements contained in the national certificates of admeasurement. If, however, the captain of such a vessel prefers, the dues to be collected on the net capacity of the vessel may be computed according to the certificate of admeasurement.

In having the honor to bring the foregoing to your excellency's notice I take the liberty, in pursuance of the instructions of my Government, to express the hope that the United States Government will be pleased, by way of reciprocity, to order Norwegian certificates of admeasurement issued subsequently to October 1, 1893, to be recognized in American ports. The agreement established between the United Kingdoms and the United States by the exchange of the ministerial notes of April 16 and June 13, 1883, should, therefore, if this is done, be modified so far as Norwegian vessels are concerned.

As English certificates of admeasurement are, unless I have been misinformed, recognized by the custom-houses of the United States, my Government trusts that the same favor will be granted to the new Norwegian certificates, which are virtually the same as those of British vessels.

In addition to the aforesaid extract I herewith inclose a copy of the decree of September 14, 1893, together with a copy of the circular issued by the department of finance and customs under date of September 21, 1893.

Be pleased, etc.,

A. GRIP.

[Inclosure.—Translation.]

Extract from a letter dated October 30, 1893, addressed to the ministry of foreign affairs at Stockholm by the department of finance and customs at Christiania.

A royal decree of September 14, 1893, introduced in Norway certain modifications of and amendments to the instructions in force in that country relative to the admeasurement of vessels. The main points are the following:

(1) The tanks for water ballast, being between the outer and inner bottoms in double-bottomed vessels, are not to be included in the tonnage of the volume below the tonnage deck when such tanks can not be utilized for cargo, sea stores, or fuel.

(2) Roundhouses and raised hatchways communicating with the hold are to be measured, and, of their cubic contents, all in excess of one-half of 1 per cent of the gross tonnage of the rest of the vessel shall be added to the gross tonnage. Formerly nothing but the volume in excess of 2 per cent of the volume below the upper deck was added.

(3) The deductions for the compartments set apart for the crew, etc., are modified in such a way as to permit, besides the deductions already allowed, a deduction for the cable stages, and, in sailing vessels, sail rooms, and also for the captain's sleeping room, with toilet and bathroom. By this measure the deductions of this nature agree with the English rules of admeasurement as established by the merchant shipping (tonnage) act of 1889, except as regards the deduction for the cable stages, which, in Norway, is limited to 2 per cent of the gross tonnage, whereas this deduction is unlimited in England.

(4) The deduction for the engine is to be computed according to the English rule, instead of the German rule, which has hitherto been in force, with this modification, however, that the deduction, except in the case of tugboats and boats used for breaking a passage through ice, is never to exceed 50 per cent of the vessel's gross tonnage.

The aforesaid royal decree has superseded the royal decree of May 5, 1883, with regard to the addendum to certificates of admeasurement of decked steamers. Certificates of admeasurement of Norwegian steamers will, therefore, no longer have an addendum made to them containing a statement of their net capacity, according to the German or Danube rule.

The new instructions went into operation, according to paragraph 14, on the 1st instant. The readmeasurement of vessels, however, can not be required before January 1, 1894, except in certain special cases.

In pursuance of the new provisions the Norwegian ministry of

finance and customs informed the custom-houses of the Kingdom by a circular, dated September 21, 1893, that previous circulars concerning the recognition, either in whole or in part, of the certificates of admeasurement of foreign vessels would be revoked, and that on and after October 1, 1893, custom-houses must observe the following rules for the collection of duties to be computed on the tonnage of foreign vessels, to wit:

(1) Sailing vessels bearing a national certificate of admeasurement, and admeasured according to the Moorsom system, are not to be readmeasured in Norway, and the dues to be collected are to be computed according to the net capacity stated in the certificate of admeasurement issued in the port of registry.

(2) The same is the case with steamers belonging to the following countries, in which the English rule is in force with regard to the deduction for the engine, to wit: Great Britain and Ireland, France, Italy, Austria-Hungary, and Finland.

(3) In the case of Danish steam vessels whose certificates of admeasurement are followed by an addendum stating the deduction for the engine, computed according to the English rule, the computation of the dues must be based upon the net capacity stated in the addendum.

(4) Steam vessels belonging to other countries in which the Moorsom system is adopted are to be readmeasured for the purpose of ascertaining the deduction for the engine according to the English rule, while the gross capacity, the deduction for the compartments set apart for the crew, etc., are to be recognized as they are stated in the certificates of admeasurement issued in the port of registry. However, in the case of German vessels that have, in addition to the German certificate of admeasurement, a special certificate of admeasurement according to the English rule, the dues to be collected are to be computed according to the net capacity stated in the special certificate.

If the captain of a vessel provided with a certificate of admeasurement prepared according to the German or Danube rule shall not wish the vessel to be readmeasured, the dues may be computed according to the certificate of admeasurement.

It is to be remarked that the new Norwegian certificates of admeasurement, as appears from the forms of certificates of admeasurement which are appended to the new instructions, are to contain a statement of the volume of the spaces allowed to be deducted, such as, for instance, the compartments set apart for the use of the crew, etc. It will thus be possible, if this is desired—by the aid of the figures given in the certificate of admeasurement and without having recourse to readmeasurement—to compute separately the deduction made for the so-called navigation spaces, the cable stages, the sail rooms, and the compartments set apart for the use of the captain.

Mr. Gresham to Mr. Grip.

DEPARTMENT OF STATE,
Washington, July 9, 1894.

SIR: Referring to your note of December 22, 1893, in regard to the rules adopted by Norway for the admeasurement of vessels, I have the honor to inclose herewith, for your information, copy of a circular issued by the Treasury Department, on the 30th ultimo, to collectors of customs, revoking regulations which authorized the acceptance in the

United States of certificates of admeasurement in the case of Norwegian vessels. The reason for this action is indicated in the circular and is, in brief, that the rules concerning the measurement for tonnage of vessels of the United States prescribed by Congress do not appear to be substantially adopted by Norway, so far as concerns vessels of this country.

In view of this fact, the Secretary of the Treasury states that the request made in your note for the acceptance in ports of the United States of certificates of the admeasurement of Norwegian vessels, issued subsequently to October 1, 1893, can not well be granted; but adds that, should it appear, at any time, that the rules concerning the admeasurement of vessels for tonnage in the United States have been substantially adopted by Norway, so that they will apply to vessels of the United States whether sail or steam, his department will direct that the vessels of Norway shall be deemed to be of the tonnage denoted "in their certificates of register or other national papers," in accordance with the provisions of section 4154, of the Revised Statutes of the United States, and the amendment thereof, by section 2, of the act of August 5, 1882, with the addition of the amount of the deductions and omissions made under the laws of the foreign country, and not authorized by the admeasurement laws of the United States.

Accept, etc.,

W. Q. GRESHAM.

[Inclosure.—Circular.]

TREASURY DEPARTMENT, BUREAU OF NAVIGATION,
Washington, June 30, 1894.

To collector of customs and others :

The Norwegian Government by royal decree of September 14, 1893, modified the laws previously in force in Norway relating to the admeasurement of vessels there, so as to reduce the recorded tonnage of vessels of Norway in certain cases below that which would be ascertained and recorded under the laws of the United States, and also below the tonnage on which tax must be assessed in this country.

The Norwegian circular of September 21, 1893, directed customs offices to recognize national certificates of steam vessels of Great Britain and of certain other countries, but the list did not include steam vessels of the United States. As it does not appear that the rules concerning the measurement for tonnage of vessels of the United States, prescribed by Congress, are substantially adopted by the Government of Norway, so far as concerns vessels of this country, the circular of June 29, 1883, authorizing the acceptance, under the act of August 5, 1882, of Norwegian certificates of admeasurement, is hereby revoked. Norwegian vessels therefore, will be admeasured hereafter on their entry in the United States in the same manner as other vessels not specially exempted from admeasurement by instructions from this Department.

EUGENE T. CHAMBERLAIN,
Commissioner.

Approved:

S. WIKE,
Acting Secretary.

Mr. Grip to Mr. Gresham.

[Translation.]

LEGATION OF SWEDEN AND NORWAY,
Washington, July 16, 1894.

MR. SECRETARY OF STATE:

By a royal decision of the 18th of May last, certain modifications were introduced into the rules in force in Sweden with regard to the admeasurement of vessels, which rules were established by the royal ordinance of November 12, 1880. The new provisions were to take effect on the 1st instant.

These modifications bear upon the following points:

(1) The contents of the spaces for water ballast (tanks for water ballast) are not to be included in the total capacity of double-bottomed vessels.

(2) The total capacity is to be increased by the contents of the domes and skylights belonging to the engine which are above the deck, if the owner or captain of the vessel desires it, in order to secure a larger deduction for the motive apparatus in the appendix indicating the tonnage calculated according to the English rule or the Danube rule.

(3) The following spaces, which have hitherto not been deducted, are to be deducted from the gross tonnage: (a) Compartments set apart for the exclusive use of the captain; (b) compartments specially reserved for the donkey boiler and engine, even when these are below the deck (these compartments were formerly deducted only when they were on deck); (c) boatswain's stores; (d) compartment for the capstan; (e) sail rooms (the deduction shall, however, not exceed $2\frac{1}{2}$ per cent of the total capacity of the vessel).

As your excellency will see, the modifications made in the aforesaid royal ordinance of November 12, 1880, make no changes in the method now in use in Sweden for ascertaining the deduction to be made for the engine room; this deduction is still ascertained by the so-called German rule.

There is, therefore, no objection on our part to the continuance in force of the arrangement established in 1883 by an exchange of ministerial notes relative to the reciprocal recognition of Swedish and American certificates of admeasurement.

If, however, in case some of the spaces above specified, deduction for which has just been granted in Sweden, are not exempted by the American regulations, the United States Government wishes to subject the aforesaid arrangement to a revision, it (the arrangement) may be completed by resorting to the following methods, to wit:

(1) When the dues are computed which are to be collected from Swedish vessels in American ports the contents of the spaces shown by the Swedish certificate of admeasurement, but for which no deduction is allowed by the regulations in force in the United States, may be added to the net capacity, which, according to the present arrangement, would serve as the basis for the collection of the dues.

(2) Captains of American vessels may demand in Swedish ports, for the obtainment of a diminution of the net capacity of their vessels, a partial readmeasurement of those spaces which, although exempted in Sweden, are not so by the regulations of the United States, but such readmeasurement shall be confined to the spaces whose contents are not stated in the American certificate of admeasurement.

As regards Swedish vessels that have not yet been admeasured according to the new rules, and whose certificates were consequently

issued prior to July 1, 1894, we hope that the United States Government will not object to continuing the usage agreed upon by the arrangement of 1882. It is proper to add, in this connection, that the old certificates of admeasurement will be withdrawn according as the vessels are read-measured.

In order to reach an understanding on these different points, the Government of the King thinks that all that would be necessary would be an exchange of notes defining the modifications to be made in the arrangement of 1882, and followed on both sides by the necessary instructions to collectors of customs.

Begging your excellency to enable me to inform my Government with regard to the views of that of the United States in relation to the questions which I have herein had the honor to set forth,

I avail, etc.,

A. GRIP.

Mr. Grip to Mr. Gresham.

[Translation.]

LEGATION OF SWEDEN AND NORWAY,
Washington, July 28, 1894.

MR. SECRETARY OF STATE:

I have not failed to inform the Government of the King of the contents of your excellency's letter, dated the 9th instant, by which you were pleased to advise me that the Treasury Department ordered by a circular of the 30th ultimo that all Norwegian vessels be remeasured in ports of the United States.

This decision, which my Government has learned with regret, is, according to the circular, caused by the apparent lack of conformity of the new Norwegian rules to those adopted by the Government of the United States and by the circumstance that there is no mention made of American steamers in the Norwegian circular of September 21, 1893.

In reply to these objections I am authorized to say that the rules adopted by Norway are nearly the same as those of Great Britain, whose vessels, if I am correctly informed, are exempt from remeasurement in the United States. My Government is therefore fain to hope that the Norwegian certificates will be accorded the same favor.

In regard to the second objection, I take the liberty of stating that the rule applicable to American steamers, in accordance with the Norwegian circular of September 21, 1893, is not laid out in section 2 as quoted in the American circular of June 30 last, but in section 4, which provides that remeasurement for the purpose of ascertaining the deduction for engines of steamers measured under the Moorsom method shall be made if, according to paragraph 2 of the same section, the master of the vessel does not wish to pay taxes according to his national register. The measurement of the engine room is then "optional" for American vessels. I take the liberty of remarking at this place that remeasurement, if it should be made, constitutes an advantage for American vessels, whose taxes, in such cases, will be assessed upon a reduced space, and that, as I am formally authorized to declare, it is done without cost.

In view of the foregoing statement I have had the honor to make, touching the character of the new rules themselves and the advantages secured to American vessels and to their registers in Norwegian ports, I venture to express the hope that the Government of the United

States will be pleased to again take the matter into consideration to the end of causing the new Norwegian certificates of admeasurement to be accepted, as also of accepting, as heretofore, such certificates as may still be drawn in accordance with the old rules.

Accept, etc.,

A. GRIP.

Mr. Grip to Mr. Gresham.

[Translation.]

LEGATION OF SWEDEN AND NORWAY,
Washington, August 24, 1894.

MR. SECRETARY OF STATE:

Referring to my note of the 28th ultimo relative to the recognition in the United States ports of the certificates of admeasurement of Norwegian vessels, I have the honor to inform your excellency that a telegram, received to-day from the minister of foreign affairs at Stockholm, apprises me that the department of finance of Norway has ordered, by a circular bearing date of to-day, that American certificates of admeasurement, bearing an appendix indicating the deductions to be made according to the system now adopted in Norway, shall be accepted by the authorities in Norwegian ports, so that United States vessels provided with such certificates are to be exempt from any readmeasurement.

Hoping that this decision of my Government will facilitate a speedy and favorable settlement of the pending question, I beg your excellency to be pleased to acquaint me with the views of the United States Government on this subject.

Be pleased, etc.,

A. GRIP.

Mr. Gresham to Mr. Grip.

DEPARTMENT OF STATE,
Washington, August 25, 1894.

SIR: I have the honor to apprise you, in connection with previous correspondence upon the subject, of the receipt of a telegram from the Acting Secretary of the Treasury of the 23d instant, saying that the Treasury Department has issued instructions to the collectors of customs at the principal ports to receive certificates of admeasurement of vessels of Norway, as expressed in registers granted prior to royal decree of September 14, 1893, and therefore under the old rule.

Mr. Wike adds that your further requests are under consideration and that they will be disposed of at an early date.

Accept, etc.,

W. Q. GRESHAM.

Mr. Grip to Mr. Gresham.

[Translation.]

LEGATION OF SWEDEN AND NORWAY,
Washington, September 11, 1894.

MR. SECRETARY OF STATE:

Referring to your excellency's last letter, dated the 25th of last month, on the subject of tonnage certificates of Norwegian vessels, I have the honor to inform you that I have just received the order of my Govern-

ment to express the hope that the Treasury Department, which has had the kindness to again accept the former Norwegian tonnage certificates, will, pending the discussion of the question in regard to steamships, also accept the new certificates of Norwegian sailing vessels.

As your excellency will see by the copies of tonnage certificates which accompanied my letter of 22d December last the spaces which are exempt in Norway, while they are reckoned in the United States, are indicated in the certificate itself by the letters c and d. If, then, the Government of the United States is not willing to accept the net space (*capacité*) of the Norwegian certificates, I am pleased to hope that the calculation of the space may be made without new admeasurement and by adding to the net tonnage the spaces above mentioned.

I take the liberty to add that all the maritime powers have exempted from new admeasurement Norwegian sailing vessels provided with new tonnage certificates, and that in Norway the certificates of American sailing vessels, as well as those of all other nations, are accepted.

Accept, etc.,

A. GRIP.

Mr. Uhl to Mr. Grip.

DEPARTMENT OF STATE,
Washington, October 3, 1894.

SIR: Referring to your note of the 16th of July last, in relation to the reciprocal acceptance of certificates of admeasurement of vessels by the United States and Sweden, I have the honor to inclose herewith copy of a letter of the 29th ultimo from the Acting Secretary of the Treasury upon the subject.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure.]

Mr. Wike to Mr. Gresham.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, September 29, 1894.

SIR: I have the honor to acknowledge the receipt of your letter of July 28, transmitting copy of a note dated July 16, 1894, from the Swedish minister at this capital, announcing that by a decree of May 18, 1894, certain modifications have been introduced into the rules in force in Sweden with regard to the admeasurement of vessels, and requesting an exchange of notes defining modifications to be made in the arrangement of 1882 concerning the reciprocal acceptance of certificates of measurement by the United States and Sweden.

The minister states:

By a royal decision of the 18th of May last, certain modifications were introduced into the rules in force in Sweden with regard to the admeasurement of vessels, which rules were established by the royal ordinance of November 12, 1880. The new provisions were to take effect on July 1, 1894.

These modifications bear upon the following points:

(1) The contents of the spaces for water ballast (tanks for water ballast) are not to be included in the total capacity of double-bottomed vessels.

2. The total capacity is to be increased by the contents of the domes and skylights belonging to the engine which are above the deck, if the owner or captain of the vessel desires it, in order to secure a larger deduction for the motive apparatus in the appendix indicating the tonnage calculated according to the English rule or the Danube rule.

3. The following spaces, which have hitherto not been deducted, are to be deducted from the gross tonnage:

- (a) Compartments set apart for the exclusive use of the captain.
- (b) Compartments specially reserved for the donkey boiler and engine, even when these are below the deck; these compartments were formerly deducted only when they were on deck.
- (c) Boatswain's stores.
- (d) Compartment for the capstan.
- (e) Sail rooms; the deduction shall, however, not exceed $2\frac{1}{2}$ per cent of the total capacity of the vessel.

The modifications made in the aforesaid royal ordinance of November 12, 1880, make no changes in the method now in use in Sweden for ascertaining the deduction to be made for the engine room; this deduction is still ascertained by the so-called German rule.

It appears that the only deductions permitted by the new Swedish ordinance which are not allowed by the laws of the United States are:

(b) Compartments specially reserved for the donkey boiler and engine when below deck.

(c) Boatswain's stores.

(d) Compartment for the capstan.

(e) Sail rooms; the deduction shall, however, not exceed $2\frac{1}{2}$ per cent of the total capacity of the vessel.

This Department perceives no objection to the continuance of the existing arrangement with Sweden for the acceptance of Swedish certificates of measurement, and to the net tonnage of Swedish vessels, as stated in their certificates of measurement, will be added without measurement the spaces above mentioned, as stated in such certificates, which may be deducted according to the laws of Sweden, but are not allowed by the laws of the United States, together with any deduction in excess of 5 per cent of gross tonnage for crew spaces.

This Department suggests that the Swedish Government continue to accept American certificates of measurement if provided with an appendix stating the measurement of the spaces above mentioned, or, if not so provided, that upon application of the master of an American vessel in a Swedish port those spaces may be measured and deduction be allowed to them.

Respectfully, yours,

S. WIKE,
Acting Secretary.

Mr. Uhl to Mr. Grip.

DEPARTMENT OF STATE,
Washington, October 3, 1894.

SIR: I have the honor to inclose for your information copy of a letter from the Acting Secretary of the Treasury, transmitting a copy of a circular issued by that Department relative to the admeasurement of Norwegian vessels.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure.]

Mr. Wike to Mr. Gresham.

TREASURY DEPARTMENT,
OFFICE OF THE SECRETARY,
Washington, September 29, 1894.

SIR: I have the honor to transmit herewith for your information a copy of a circular of this date, relative to the admeasurement of Norwegian vessels, etc.

It is suggested that the attention of the minister of Norway and Sweden be invited to the action taken by this Department in the matter.

Respectfully, yours,

S. WIKE,
Acting Secretary.

[Subinclosure.]

Admeasurement of Norwegian vessels.

TREASURY DEPARTMENT, BUREAU OF NAVIGATION,
Washington, D. C., September 24, 1894.

To Collectors of Customs:

Department circular No. 92, of June 30, 1894, concerning the admeasurement of Norwegian vessels, is modified in the following particulars:

The Norwegian Government, by a decree issued August 24, 1894, will accept American certificates of tonnage containing an appendix stating the measurement of spaces where they may be deducted under the new Norwegian rules, but may not be deducted under the laws of the United States, as follows:

NAVIGATION SPACES.

(1) Any spaces set apart exclusively for keeping charts, instruments, signal apparatus, and signal lights, etc., necessary for navigation.

(2) Spaces for the anchor capstan, the steering apparatus, and the donkey engine and machinery, if arranged to work the vessel's pump.

(3) Spaces set apart exclusively for boatswain's stores.

(4) Spaces set apart for storage of sails.

Provided that the deduction for each of the spaces enumerated in 3 and 4 not to exceed 2½ per cent of the vessel's gross tonnage.

(5) Any excess of crew space over 5 per cent of gross tonnage, including therein mess rooms, bathrooms, and water-closets of reasonable size for use of officers or crew, cook's galley, and distilling galley.

Upon application by the master of any American sailing vessel about to proceed to a Norwegian port you are authorized to measure the spaces enumerated, and attach the results of such measurement to the certificate in an appendix, duly signed.

Upon application by the master of any American steam vessel about to proceed to a Norwegian port you will be further instructed.

You will accept without readmeasurement Norwegian certificates issued previous to September 14, 1893.

You will accept without readmeasurement Norwegian certificates of sailing vessels issued subsequent to September 14, 1893, adding to their net tonnage the measurement contained therein of spaces above enumerated which are permitted by the laws of Norway, but not permitted by the laws of the United States, and any excess over 5 per cent of gross tonnage allowed for crew spaces.

You will accept without readmeasurement the certificate of gross tonnage of Norwegian steam vessels issued subsequent to September 14, 1893, and the measurement of crew spaces, provided the same does not exceed 5 per cent of the gross tonnage. As the Norwegian law governing the deduction for propelling power is substantially different from the law of the United States, you will measure the engine, boiler spaces, etc., according to the laws of the United States, and ascertain net tonnage as prescribed by law.

EUGENE T. CHAMBERLAIN,
Commissioner.

Approved:

S. WIKE,
Acting Secretary.

SWITZERLAND.

ABDUCTION OF CONSTANCE MADELEINE HIS.¹

Mr. Blaine to Mr. Washburn.

No. 102.]

DEPARTMENT OF STATE,
Washington, March 1, 1892.

SIR: I have to acknowledge the receipt of your dispatch No. 112² of the 6th ultimo, relative to the case of Constance Madeleine His. In accordance with its suggestion, the Hon. John De Witt Warner, M. C., who first presented the case to the Department, was invited to furnish any additional facts which, in the meantime, had been reported to him by Mr. Roberts, Mrs. His's counsel in Switzerland. On the 25th ultimo he submitted a statement,² a copy of which is herewith transmitted for your information. From this communication and from his previous ones, the case, so far as pertinent for the present purpose, may be briefly summarized as follows:

In the year 1883, Carrie A. Turner, a citizen of the United States, and Albert His, a citizen of Switzerland, intermarried. At the time they were both domiciled in New York City and continued to reside there. July 23, 1887, there was born of this union a child, named Constance Madeleine. A few months later, or in the autumn of 1887, Albert His returned to Switzerland, where he has since resided. The wife remained in New York with her child, whom, as well as herself, she supported by her earnings. In the autumn of 1889 Mrs. His was served, at New York, with papers in a suit of divorce begun by her husband in the district court of Zofingen, canton of Aargau. She went to Switzerland to defend the suit, and having succeeded in preventing a divorce on the grounds asked, Mrs. His herself, in the same court, secured an absolute divorce on the 22d of January, 1890. The judgment of the court, on the request of both parties, awarded to the mother the custody of the child and her upbringing and education. The child was not then and never had been in Switzerland.

Returning to America, Mrs. His continued to support her daughter until Albert His came to New York, and on May 4, 1891, abducted the child by stealth and unlawfully took her to Switzerland, where he now detains her. I need not detail the judicial proceedings in Switzerland since the child was thus unlawfully taken within its jurisdiction, and the baffled efforts of Mrs. His to secure possession of her through the medium of the Swiss courts. The obstacles interposed and the results so far afford a ground, at least, for the complaint made in Mrs. His's behalf of a denial of justice. That feature of the case, however, as

¹ To show the history of this case, correspondence exchanged in 1892 and 1893 is necessarily printed.

² Not printed.

well as the question now again sought to be raised regarding the ability of the mother to properly care for her child, it is unnecessary to consider at this time. There is a proper forum and a proper time for the consideration of that question when the child has been returned within the jurisdiction of this Government.

The child Constance Madeleine His was born in the United States and is an American citizen. What rights she might have on attaining majority to claim Swiss citizenship on account of the Swiss citizenship of her father, are immaterial in this connection. She was never lawfully within the jurisdiction of the Government of Switzerland, and is now and for many years will be incapable of exercising any choice. I am surprised to find that one of the principal reasons stated in the judgment of the superior court of the canton, January 15, 1892, for upholding the unlawful act of Mr. His and permitting him to profit by his own wrong is the fact that the child is an American citizen. The court says:

If taken to its mother, that is to America, the child would be withdrawn from the effective power of our decree because, although it is entitled to Swiss burgher-right, it is an American also, because born in America. * * * It is doubtful whether, even if the residence of the mother could be discovered, the American courts would recognize such a decree as valid against an American citizen. It is therefore evident that by taking from the complainant the child, Constance Madeleine, and taking it to America, he (the complainant) might in one way or another suffer irreparable damage.

The court, instead of finding in the American citizenship of the child a ground for returning her to the jurisdiction of the United States, from which she had been unlawfully taken, makes it rather a ground for retaining her in Switzerland, where she had been unlawfully brought.

The abduction of the child by Mr. His was a criminal offense against the peace and law of the State of New York.

Section 211 of the penal code of that State provides that:

A person who willfully * * * leads, takes, entices away, or detains a child under the age of 12 years with intent to keep or conceal it from its parent, guardian, or other person having the lawful care or control thereof * * * is guilty of kidnaping and is punishable by imprisonment for not more than fifteen years.

The child, even by the judgment of the Swiss courts, was lawfully in the possession of its mother, and it was unlawfully and criminally taken therefrom by the father. Mr. His's act was not only a criminal violation of the laws of this country, but it was equally in contempt of the authority and order of the courts of his own country.

In January, 1797, the Spanish minister complained to this Government that the territorial rights of Spain in Florida had been violated by certain persons residing in the United States. The matter was referred to the Attorney-General, who, on the 26th of that month, advised the Secretary of State:

It is an offense against the laws of nations for any persons, whether citizens or foreigners, inhabiting within the limits of the United States, to go into the territory of Spain with intent to recover their property by their own strength or in any other manner than its laws authorize and permit. (1 A. G., 68.)

And again, in a case in 1822 where a slave concealed himself in an American vessel lying at Ste. Croix, and was brought to New York, the Danish minister having demanded his restoration, the Attorney-General, Mr. Wirt, September 27, 1822, advised that he was—

of the opinion that it is due to the sovereignty of Denmark and to our own character as a nation to restore this slave to the condition from which he has been taken by a ship carrying our flag and belonging to our citizens, and that the policy of our own laws conspires to enforce the performance of this duty (1 A. G., 566.)

It is common practice between nations where a fugitive from justice has sought asylum in another country and has been kidnaped, whether by officers or private individuals, or has been procured in some other irregular way, and carried back to the country from which he fled, to return such a fugitive on the request of the Government whose sovereignty has been violated. If the worst criminal had fled from Switzerland to this country and had been taken out of our jurisdiction and back to Switzerland in the manner in which this child has been taken, this Government can not doubt that the Swiss Government would, upon request, promptly return such a person to our jurisdiction. No more is asked for this innocent child.

You will present this matter to the Swiss Government in the foregoing sense; and you are instructed to request the return of the child to the jurisdiction of the United States.

Without a previous request, however, and in advance of such considerations as the Swiss Government might care to present, I did not feel warranted in instructing you to make any demand, as your dispatch suggests. I therefore cabled you February 27 as follows: "May formally present case Constance His, urging intervention of Executive, but make no demand. Instructions by mail"—which I now confirm.

I am, etc.,

JAMES G. BLAINE.

Mr. Washburn to Mr. Blaine.

No. 134.]

LEGATION OF THE UNITED STATES,
Berne, May 10, 1892. (Received May 23.)

SIR: I have the honor to submit the reply of the Federal Council to the request of the United States for the surrender to its jurisdiction of Constance Madeleine His, under circumstances fully set forth in your dispatches on the subject.

It seems becoming in me to offer no suggestion at the present time upon the subject, but to await the further instructions of the Department.

I am, etc.,

JOHN D. WASHBURN.

[Inclosure in No. 134.—Translation.]

Federal Council to Mr. Washburn.

BERNE, May 6, 1892.

MR. MINISTER: In reply to the notes of your excellency of March 14, April 5 and 19 last, touching the His-Turner case, we have the honor to inform you, by direction of the Federal Council, that it can not under the existing circumstances take the steps which you have requested in behalf of your Government.

The case received, on the part of the proper Federal department, an exhaustive examination, and the considerations which preclude the Federal Council from carrying out your excellency's request are as follows:

Under the laws of Switzerland and according to the principles of law applying to the matter in Switzerland, the act of Mr. His can not be looked upon as an offense. In his capacity as father of the child in question, Mr. His enjoys imprescriptible rights over her, as well as

over the mother of the same; the education of the child only was, in consequence of an agreement entered into by the parties and in execution of a judicial decree, intrusted to the mother, the charge of a pecuniary education being placed on the father. This very fact reserved for him the right of seeing to it that the child receive the attention necessary for her physical and intellectual development.

By taking the child away with him he has merely broken the agreement entered into by his wife and himself with the sanction of the courts. It is on that ground only that the injured party might eventually bring suit against him before the competent court. This is what has taken place, the parties having placed the case before the tribunal of the Zofingen district. The decision is thus vested in the judiciary and the Federal Council in its executive capacity is not competent to intervene in the suit.

Moreover, it is worthy of notice that the decree of divorce granted by the court of the Zofingen district of the 22d of January, 1890, does not stand in force at this day, but, instead, the decision arrived at by the same court on December 9, 1891, that is to say; long before the intervention of the U. S. Government. That decision, confirmed by the court of appeals of the canton of Aargau on January 15, 1892, declares that the child is to remain in Morgenthal until final judgment passed by the courts upon the petition of Mr. His praying for a partial modification of the above-mentioned decree of divorce. In regard to the competency of the court as to making a decision of that kind, it can not be disputed, for any court may, in the presence of new circumstances, reconsider a preceding decision, either to modify or confirm the same.

The provisional step taken by the court also makes it unnecessary for the Federal authority to interfere with a view to obtaining that the child remain in her present residence; the authorities of the canton are already charged with that duty.

Without in the least approving Mr. His's proceedings, we confine ourselves to stating that the act for which complaint is made against him is a "consummated" fact, on which the courts have been called upon to pass. Under those circumstances any intervention on the part of the executive authorities is precluded.

Finally, the courts will have to determine the right of "personality" on behalf of the child, who can not be considered as a "thing" and shipped like merchandise from one country to another.

Accept, etc.

DROZ.

Mr. Foster to Mr. Washburn.

No. 128.]

DEPARTMENT OF STATE,
Washington, July 27, 1892.

SIR: Your dispatch, No. 134, of May 10, is received, in which you transmit the reply of the Federal Council to the request of this Government for the surrender to its jurisdiction of the child Constance Madeleine His, a native-born American citizen, who was abducted from New York and taken to Switzerland under circumstances fully set forth in Mr. Blaine's instruction, No. 102, of March 1 last.

I regret that the Swiss Government does not regard those circumstances such as to require the child's return to the United States. Its

position seems to be that however wrongfully the child was taken from this country and brought into Switzerland, since she is now there and the subject of proceedings pending in its courts, the executive authority will not interfere, but the custody of the child must abide their result. None of the proceedings referred to were begun until after the wrongful abduction of the child, which it is clearly their sole purpose to sustain. The position taken by the Federal Council permits Mr. His, in contravention of a fundamental principle of equity, to take advantage of his own wrong. Generally, too, it would permit any person to enter the territory of a friendly government and abduct or kidnap its citizens and carry them into its own country, where they must abide the result of whatever proceedings may be instituted against them or with respect to them.

Since this case was officially presented by you to the Swiss Government, March 14 last, the Government of Great Britain has voluntarily agreed to return a youth of 15 years of age, who had been taken from the State of New York without process of law, to the place whence he was abducted. In that case the boy was a citizen of Canada and having committed an offense there had fled to the United States. Whether he was kidnaped or enticed across the boundary is not fully clear, but after he was taken to Canada he was tried, convicted, and sentenced to a reformatory. If the position of the Federal Council is correct, it is an unfortunate distinction which, in deference to the sovereignty of a friendly Government, compels the return of an alien culprit, but will not secure the return of this innocent child.

This Government agrees with the Federal Council that Constance Madeleine His "can not be considered as a thing and shipped like merchandise from one country to another," but it finds in that fact a further reason why she should be returned to the place whence she was taken. If Mr. His had simply carried away some article of property, there might be more force in the observation that it must be recovered through the courts. I can not but hope that the Federal Council, upon further consideration, will regard the application of this Government for the return of the child more favorably.

I am, etc.,

JOHN W. FOSTER.

Mr. Foster to Mr. Cheney.

No. 2.]

DEPARTMENT OF STATE,
Washington, January 13, 1893.

SIR: By the Department's instruction No. 102, of March 1 last, Mr. Washburn was directed to present to the Swiss Government the case of Constance Madeleine His, a young child abducted from the State of New York, and to request her return to the jurisdiction of the United States.

Mr. Washburn, in his dispatch No. 134, of May 10, transmitted the answer of the Federal Council to this request, in which the position was taken that the case was pending in the Swiss courts and that the Executive authority could not intervene.

July 27 Mr. Washburn was instructed to reply thereto, but it is not known here that any further official communication with regard to the matter has been received from the Swiss Government. It is desired that officially or unofficially, as you may judge most prudent, you will continue Mr. Washburn's efforts and do whatever you properly can in

the line of the Department's previous instructions to secure the return of the child to this country whence she was unlawfully taken.

Whether any further official communication to the Federal Council would be helpful in the sense of those instructions I leave to your discretion. It has been suggested at this Department by counsel in behalf of Mr. His that in taking the child he committed no crime. The Department, however, has official information that an indictment therefor has been found in New York against Mr. His upon the charge of kidnaping. The existence of such an indictment is ordinarily required to be kept secret until the accused can be arrested, but the foregoing information has been given to the Department, for its own use only, in connection with its intervention with the Swiss Government for the return of the child. It would be better that the information should not be used unless necessary. You are authorized, however, to make use of it, if in your judgment it becomes important to do so, in support of the request which this Government has made.

It is understood that Mr. Catlin, consul of the United States at Zurich, or Mrs. His's resident attorney, Dr. Emil Frey, of Brugg, may be able to give you information regarding the present status of the legal proceedings, should you require it.

You will keep the Department informed of your action in the premises.

I am, etc.,

JOHN W. FOSTER.

Mr. Cheney to Mr. Foster.

No. 5.]

LEGATION OF THE UNITED STATES,
Berne, January 31, 1893. (Received February 14.)

SIR: I find at this legation the inclosed communication from the federal department of foreign affairs, in reply to Mr. Washburn's letter of August 10.

I respectfully forward the copy of same and await instructions.

I am, etc.,

PERSON C. CHENEY.

[Inclosure in No. 5.—Translation.]

Mr. Droz to Mr. Washburn.

FEDERAL DEPARTMENT OF FOREIGN AFFAIRS,
POLITICAL DIVISION, No. 3433,
Berne, September 12, 1892.

MR. MINISTER: We have not failed to attentively examine, concurrently with the federal department of justice and police, your recent note of August 10 last, relative to the His-Turner case in order to see whether there was ground for the Federal Council to review its decision of May 3, 1892, of which we had the honor to advise you on the 7th of the same month.

To this end we first informed ourselves as to the present status of the question. Here is the information we have obtained: On April 22, 1892, after the settlement of the various incidental questions relative to the measures of conservation, the preliminary hearing took place before the district court of Zofingen of the case of Albert His, manufacturer

at Murgenthal, against Mrs. Carrie His, to modify the decree of divorce allowed January 22, 1890. Counsel for Mrs. His set up an exception to the jurisdiction of the court, but this exception was overruled.

Mrs. His appealed to the supreme court of the canton of Aargau, but the decision of the court of the first instance having been affirmed by it, she had recourse to the federal court, which has not yet rendered its decision.

The case being, therefore, more than ever a subject for the competent courts, and no new argument whatever having been adduced in your note of August 10, it is, more than ever before, impossible for the Federal Council to intervene in the course of the case.

It must, therefore, abide by its decision of May 3, 1892, for reasons which we have had the honor to lay before your excellency in our note of the 7th of the same month.

Regretting not to be able to take such action as requested by your Government, we offer you, Mr. Minister, the new assurance of our high consideration.

DROZ.

Mr. Cheney to the Secretary of State.

No. 7.]

LEGATION OF THE UNITED STATES,
Berne, January 31, 1893. (Received February 14.)

SIR: I have the honor to say that I am in receipt of your instructions under date of January 13 pertaining to the case of Constance Madeleine His. I respectfully refer you to my No. 5 as explaining the situation at the present time. At the present writing I desire to avail myself of the discretion granted me, so that I may be able to give you full information.

The case seems to be yet before the federal tribunal.

With great respect, I am, etc.,

PERSON C. CHENEY.

Mr. Wharton to Mr. Cheney.

No. 6.]

DEPARTMENT OF STATE,
Washington, February 17, 1893.

SIR: I have to acknowledge the receipt of your Nos. 5 and 7 of January 30 and 31, 1893, and to express the Department's regret that the federal department of foreign affairs of Switzerland continues to maintain what I can not but regard as an untenable position in the case of Constance Madeleine His. The argument appears to be that, as the case is before the competent tribunals, the executive can not intervene. But the Swiss courts can not be considered to be competent.

Carrie Turner His, the mother of the child, has not appeared before them either as plaintiff or defendant in regard to the subject-matter of the litigation. She has taken no steps beyond that of denying their competence. Maintaining, as the Swiss courts have hitherto, the custody of the child with the father, they allow him to take advantage of a crime for which he has been indicted in New York. This is in direct violation of the fundamental principle of all systems of jurisprudence, that no one shall profit by his own wrong, and is as contrary to ethics as to justice.

The judgment decreeing a divorce in favor of Carrie Turner His and awarding her the custody of the child was not the judgment of an American court, to which the Swiss Government might take exception on the ground of the nationality of the parties according to the Swiss law, their personal status, domicile, etc., but was the judgment of a Swiss court, the competency of which the Swiss Government can not impugn.

In flagrant contempt of this judgment, Mr. His abducted the child from the custody of its mother, committing thereby a crime and violating the judgment of the tribunal of his own country.

He is now, therefore, under indictment for a crime in New York, and in obvious contempt before the Swiss tribunals; yet, nevertheless, the Swiss Government has declined to intervene and Mr. His is protected from and profits by a felony committed in the State of New York and in contempt of court, and in violation of the judgment of the tribunals of his own country.

You are instructed to present this matter to the Swiss Government, emphasizing its salient features, and to express the surprise and regret experienced by this Department that it should not have apprehended the circumstances environing the case. Upon more careful consideration, I do not doubt that its sense of justice alone would lead it to comply with the request of the United States Government, a request founded as well in equity as in law.

I am, etc.,

WILLIAM F. WHARTON,
Acting Secretary.

Mr. Cheney to Mr. Gresham.

No. 12.]

LEGATION OF THE UNITED STATES,
Berne, March 18, 1893. (Received April 3.)

SIR: In accordance with previous instructions, I have given careful attention to the pending case between the United States Government and Switzerland regarding Constance Madeleine His, and have, under this date, addressed the following communication to the federal department of foreign affairs. I may say in addition that, unofficially, I learn that the case is referred back to the district court for a further preliminary hearing. The answer to my communication will doubtless disclose the present status of the case, which will be promptly submitted when received.

Your obedient servant,

PERSON C. CHENEY.

[Inclosure in No. 12.]

Mr. Cheney to Mr. Lachenal.

LEGATION OF THE UNITED STATES,
Berne, March 18, 1893.

SIR: Your communication of September 12, 1892, the same being in reply to Mr. Washburn's letter of August 10, touching the pending case of Constance Madeleine His, through some inadvertence incidental to the absence of Mr. Washburn, remained in the office of this legation until my arrival here, the latter part of January. I regret this cir-

cumstances, for it left the Department of State in Washington wholly uninformed of your early reply, which they were awaiting with anxiety. After being duly qualified to act officially for the United States Government, and in obedience to a letter of instructions pertaining thereto I advised the Department by cablegram that answer was made September 12 and the same was then in transit. Its receipt was acknowledged by due course of mail, accompanied with further instructions and a review of the case as understood by the United States, and which in substance I must respectfully place before you.

(1) The Department regrets that the federal department of foreign affairs of Switzerland continues to maintain a position which to the Secretary of State seems untenable. As the case is presented with great force and clearness, I make the following quotation:

The argument appears to be that, as the case is before the competent tribunal, the Executive can not intervene, but that the Swiss courts can not be considered competent.

Carrie Turner His, the mother of the child, has not appeared before them either as plaintiff or defendant in regard to the subject-matter of litigation. She has taken no steps beyond that of denying their competence. Maintaining, as the Swiss courts have hitherto, the custody of the child with the father, they allow him to take advantage of a crime for which he has been indicted in New York. This is in direct violation of the fundamental principle of all systems of jurisprudence, that no one shall profit by his own wrong, and is as contrary to ethics as to justice. The judgments decreeing a divorce in favor of Carrie Turner His and awarding her the custody of the child was not the judgment of an American court—to which the Swiss Government might take exception, on the ground of the nationality of the parties, according to the Swiss law, their personal status, domicile, etc.—but was the judgment of a Swiss court, the competency of which the Swiss Government can not impugn. In flagrant contempt of this judgment Mr. His abducted the child from the custody of its mother, committing thereby a crime and violating the judgment of the tribunal of his own country. He is now, therefore, under indictment for a crime in New York and in obvious contempt before the Swiss tribunals; yet nevertheless the Swiss Government has declined to intervene, and Mr. His is protected from and profits by a felony committed in the State of New York and in contempt of court and in violation of the judgment of the tribunals of his own country.

The Department further expresses its surprise and regrets that the department of foreign affairs of Switzerland should not have apprehended the circumstances environing the case, and doubts not, upon a more careful consideration, that its sense of justice alone would lead it to comply with the request of the United States Government, a request founded as well in equity as in law.

In the event of any change in the status of the case since your favor of September 12, 1892, I beg to ask that I may be early advised, thus enabling me to report the same to the Department of State in Washington.

I have, etc.,

PERSON C. CHENEY.

Mr. Cheney to Mr. Gresham.

No. 27.]

LEGATION OF THE UNITED STATES,
Berne, May 23, 1893. (Received June 3.)

SIR: I have the honor to inclose herewith the reply of the chief of the department of foreign affairs in reply to my communication of March 18, the same being in substance the language of the then Acting Secretary, Mr. Wharton, in his letter of instructions to this legation under date of February 17.

I am, etc.,

PERSON C. CHENEY.

[Inclosure in No. 27.—Translation.]

Mr. Lachenal to Mr. Cheney.

FEDERAL DEPARTMENT OF FOREIGN AFFAIRS,
POLITICAL DIVISION,
Berne, May 9, 1893.

MR. MINISTER: In answer to your note of March 18 last, we have the honor to inform you that by decree of September 30 last, the federal tribunal has refused to enter upon the recourse of Mrs. His against the decision of the tribunals of the canton of Aargau to remove the exception of incompetence raised by her.

If since that time it could not have been decreed upon the principal demand this is the fault of the delays required by the counsel of Mrs. His in order to obtain instructions which the defendant delayed to give.

Under date of February 27 last, the two parties have demanded that the written proceedings replace hereafter the oral proceedings in the debates concerning the demand of modifying the judgment of divorce between husband and wife, His, pronounced January 22, 1890. The president of the tribunal of Zofingen agreed with this demand, and the debates at this time pursued were in conformity with the code of civil proceedings of the canton of Aargau, although Mrs. His persists on the exception of the incompetence of the Swiss tribunals, and refuses to enter upon the subject in question. For the rest we refer to the contents of our note of May 7, 1892, informing your excellency that the Federal Council can not modify the point of view explained in said note. It continues to consider the action of Mr. His as not a crime, but simply a violation of the arrangements concluded between the husband and wife His, and sanctioned, by the tribunals of Aargau, an offense for which His may be pursued before a competent tribunal, but would not justify, by any means, an administrative intervention.

We seize, etc.,

LACHENAL.

Mr. Gresham to Mr. Broadhead.

No. 3.]

DEPARTMENT OF STATE,
Washington, June 9, 1893.

SIR: In the files of your legation you will find the correspondence between this Department and the legation concerning the child, Constance M. His, whose abduction from her mother in this country and detention by her father in Switzerland have been the subject of diplomatic negotiations between the two countries, as well as of proceedings in the courts of Switzerland.

This Department desires that you will investigate and make a succinct report upon all the judicial proceedings in Switzerland affecting the custody and status of this child, from and including the decree in the divorce suit awarding its custody to the mother. The Department would also be glad to have any suggestion which, after acquiring a complete knowledge of the case as it is there regarded, as well as from our standpoint, you may think proper to make in respect to the further diplomatic action to be taken.

I am, etc.,

W. Q. GRESHAM.

Mr. Broadhead to Mr. Gresham.

No. 12.]

LEGATION OF THE UNITED STATES,
Berne, August 16, 1893. (Received August 26.)

SIR: In dispatch No. 3 of the date of June 9, 1893, from the Department of State, which reached me a few days after I assumed the duties of this legation, I was instructed to investigate and make a succinct report upon all the judicial proceedings in Switzerland affecting the custody and status of the child Constance Madeleine His, whose abduction from her mother in the United States and detention by her father in Switzerland have been the subject of diplomatic negotiations between the two countries, and including the decree in the divorce suit awarding the custody of the child to the mother. I was further informed that the Department would be glad to have any suggestion which, after acquiring a complete knowledge of the case "as it is there regarded, as well as from our standpoint," I might think proper to make in respect to the further diplomatic action to be taken. I have the honor, therefore, to report that I took the earliest opportunity which the press of other matters requiring immediate attention would permit to examine the voluminous records and correspondence relating to the subject.

I find the facts to be as follows:

On the 28th of October, 1883, Albert His, a citizen of Switzerland, but then residing in New York, was married to Carrie A. Turner, a native of the United States and then residing also in New York; they lived together as man and wife in the city of New York until the autumn of the year 1887. Of this marriage there was born, on the 27th of July, 1887, the child, Constance Madeleine His. In the spring of 1887 Albert His went to Switzerland for the purpose of establishing himself in business there with the consent of his wife, as he alleges; while there he made arrangements to establish himself in business with the firm of Otto Schatzmann & Co., in Murgenthal; he then returned to New York; his wife at first consented to return with him to Switzerland, but afterwards refused; he remained in New York until the autumn of 1887, when, as above stated, he returned to Switzerland, his wife refusing to go with him. In September, 1889, Albert His brought suit for divorce from his wife on the ground of malicious desertion, and thereafter, in the fall of that year, Mrs. His, the wife, was served with process in the divorce suit in the city of New York; she went immediately to Switzerland and intervened in the divorce proceedings, and demanded on her part a judicial determination of the marriage on account of unconquerable repugnance of the parties to each other.

Thereupon, and before any action was taken by the court toward a trial of the case, the parties agreed upon the terms of a divorce and presented to the district court of Zofingen in common the terms of a decree, as follows:

(1) That the court would declare as dissolved the marriage of Albert His, of Basle, residing in Murgenthal, and Carrie A. His, born Turner, of New York.

(2) That the child, Constance Madeleine His, born of the marriage, should be given to the mother, to be brought up and educated, with the understanding always that the father should at all times have the right to visit the child, and that in case the mother should die before the father and before the child had attained its majority, the right and duty to care for and educate the child should belong to the father.

The parties arranged their financial affairs in regard to the maintenance of the child by an outside contract, the purport of which does

not appear in the proceedings of the court, by which Albert His was to pay the wife a certain amount per annum. The decree of the court was rendered January 22, 1890, and a copy of the same is herewith inclosed.

In the spring of the year 1891 Albert His returned to New York and on the 5th of May, 1891, he abducted the child and returned with her to Switzerland, for which act he was afterwards indicted in New York for the abduction of the child.

Mrs. His employed counsel in America and also in Switzerland to take such steps as might be necessary to recover the child, Constance Madeleine, and bring her back to New York, and on the 30th of November she appeared by her counsel before the sheriff of Zofingen and asked for an execution of the decree of divorce against Albert His, and for the surrender of the child, Constance Madeleine, to her attorney and representative, who held a power of attorney from her; the petition was granted and execution issued, and she on the same day, to wit, November 30, 1891, by her counsel, presented a petition to the president of the court at Zofingen, asking for an order on Albert His to keep the child in his family, and to restrain him from removing her from the canton of Aargau until the child is given back again to her mother, or until it should be otherwise decided by a competent court, she averring in her petition that the execution had been suspended, pending a negotiation between the parties. The restraining order was made by the court.

On December 1, 1891, Albert His presented a petition to the same court, in which he averred that he had instituted legal proceedings before the district court of Zofingen to amend the decree of divorce in the sense of leaving to the father's care the child, Constance Madeleine, and that the sheriff had undertaken to enforce the execution for the recovery of the child, and that he had resisted it, and that the opposing counsel was content not to remove the child from Murgenthal until the contest should be settled by competent authority; he nevertheless asks for an order prohibiting the opposing party from removing the child from its present place of residence, the dwelling of Mr. His, without his consent.

On December 4, 1891, Mrs. His, through her counsel, filed a reply to this petition, insisting that no valid service of the petition for revision of the decree of divorce had been served upon her—setting forth the provisions of the decree of divorce, and asking that it be carried into execution, and denying the right of the court to make such an order as that asked for by Albert His.

On the same day, December 4, 1891, Mrs. His, through her counsel, applied by petition in writing to the director of justice of the canton of Aargau, the executive department of the cantonal or state government, in which petition she sets out the provisions of the decree of divorce, her right to the custody of the child under it, the abduction of the child by Albert His from New York, the issuance of the execution, its temporary suspension by agreement between the parties, and a pledge on the part of His that he would not remove the child from Murgenthal until further notice; and averring that His now seeks in every way to hinder the execution of the decree; that he had given notice of a demand for the revision of the decree, for the purpose of amending the provision 2, which relates to the custody of the child, but averring that the decree can not be modified except by a new judicial proceeding, and she therefore asks that the course taken by the sheriff be sustained and the execution of the decree of divorce be carried out.

In answer to this petition, which, it seems, was sent to him in the form

of a letter and was not received by him until the 19th of December, Dr. Kaeppli, the director of justice, replied by letter of the date of December 20, 1891, directed to Emil Frey, the counsel of Mrs. His, in which he says:

(1) According to the contents of your letter, the district court of Zofingen has, as a civil tribunal, already recognized that the delivery of the His child by the father to the mother can not for the present take place. The question is therefore "pending in court." Now, the executive official has no right to interfere with the action of a civil tribunal. He would thus render himself liable for unconstitutional procedure. Administration and justice are, as you well know, strictly divided.

When a valid judicial decree admitting execution exists, then, according to the constitution, the competent executive official is the Bezirksamt (sheriff) and the director of justice has not to decide until appeal is taken from the order of the Bezirksamt, on notice to the parties.

On the 9th of December, 1891, the petition of His for a precautionary order prohibiting the opposing party, under a pecuniary penalty, from removing directly or by a third party the child from its present place of abode, was heard before the district court of Zofingen. The court thereupon rendered a decision, by which Mrs. His was judicially forbidden to remove the child, Constance Madeleine His, directly or through a third party, from its present place of residence, the residence of Mr. His, without his consent.

A copy of this finding and decree is inclosed herewith.

So much of the decree as recites the points made by the counsel on either side is omitted.

On the 10th of December, 1891, Albert His applied to the presiding justice of the court for permission to take the child to Basle on the 22d of December to spend the Christmas with its grand parents, and thereupon permission was granted by the justice to take the child there from December 22 to January 4. Thereupon, December 21, 1891, on the application of Mr. Roberts, of Boston, Minister Washburn, through Mr. Hinnen, vice-consul at Berne, applied to the federal department of justice and police for an order forbidding the performance of the permission granted by the court to take the child to Basle. An order was thereupon made, directed to the sheriff at Zofingen, stating that the order of the court was made *ex parte*, that the North American Government had intervened in the affair, and instructing him to take measures to prevent for a while the performance of the order of the court, but that the permanent condition of the child could not be provided for by the department of justice without interfering with the jurisdiction of the courts.

The sheriff, by telegram, informed the regierungsrath of Aargau (the council of state) that he had informed His by telegraph to retain the child at Murgenthal, and he sent another telegram to Landammann (president of the council) of Aargau that the child, His, is still in Murgenthal, and will not depart without higher order. This dispatch was sent December 22, 1891. On the same day the department of justice and police telegraphed to the justizdirection of Aargau (cantonal direction of justice) that after hearing the opposite party in the matter of the child, Constance Madeleine His, we see no obstacle to the immediate execution of the order of the district court of Zofingen of December 16, if Prof. Andreas Hensler, in Basle, answers for it that the child will be again brought back to Murgenthal at the expiration of the time granted.

Prof. Hensler did thereupon guarantee the return of the child January 4. The state council of Aargau then dispatched to the sheriff of Zofingen that the federal police department, after hearing the opposite

party, and upon the guaranty of Prof. Hensler, the departure to Basle can now ensue, and the court of Aargau was also informed.

The decision of the district court of Aargau of December 9, 1891, was appealed from to the superior court of the Canton of Aargau, and on the 15th of January, 1892, a lengthy opinion was rendered sustaining the judgment of the district court, and holding that affairs must remain in statu quo until the decision of the petition of Albert His, asking for an amendment of the decree in regard to the custody of the child, was determined, and that the interests of the child are paramount.

On the 17th of March, 1892, a petition for review, in the nature of an appeal, was filed in the high federal court of Lausanne by the counsel of Mrs. His, asking that the decree of the superior court of Aargau be set aside, and that the release of the child from the custody of Albert His be ordered.

On the 7th of July, 1892, the federal court delivered an opinion at length against the petition and ordered the same to be dismissed, in which opinion the decisions of cantonal courts of Aargau are approved. An appeal was taken from the order of the district court of Zofingen, allowing His to take the child to Basle, to the superior court of Aargau, and this court on January 15, 1892, revised the order and taxed the costs against Albert His.

On the 14th of January, 1892, another order was made by the district court of Zofingen by which permission was granted to His to remove the child from Murgenthal for the purpose of having an operation performed. This order was made upon the certificate of a physician that it was absolutely necessary to have the operation performed. This action was approved by the superior court of Aargau on the 6th of February, 1892. On the 20th of April, 1892, the dilatory plea of Mrs. His to the jurisdiction of the district court of Zofingen, to entertain a petition for amending the decree of divorce so far as it related to the custody of the child, came up for hearing before said court. The plea to the jurisdiction was overruled, and from the judgment of the court in overruling the plea an appeal was taken by Mrs. His to the superior court of Aargau.

I may remark here that the main ground urged in support of the plea to the jurisdiction was that the decree of divorce was final, and that the court had no right to open the decree for the purpose of amendment. She also protested that she had not been brought within the jurisdiction of the court by process which was served upon her in New York.

The superior court of Aargau sustained the judgment of the district court on the 29th of June, 1892.

From this judgment of the superior court of Aargau an appeal was taken by Mrs. His to the high federal court.

I have referred to the action of the courts in the different proceedings that were had for the purpose of enabling the Department to determine whether there has been what may be considered a denial of justice. In this connection I may mention a matter that appears of record. Mr. Emil Frey, counsel for Mrs. His, made a motion before the superior court of Aargau for the impeachment of the presiding judge of the district court of Zofingen, on account of his having made an order permitting the child to be removed in order to have an operation performed, in which motion he used very violent language toward the judge. Upon the hearing of the motion the superior court overruled it and imposed a fine upon the attorney. Much feeling was evidently manifested in these proceedings.

The first action taken by the Department of State on this subject was the dispatch No. 86, dated October 9, 1891, from Mr. Wharton, Acting Secretary of State, to Mr. Washburn, inclosing a letter from Mr. Roberts, attorney for Mrs. His, and introducing him as such, stating that he visits Switzerland to effect by legal means the recovery of the child Constance Madeleine His, and requesting Mr. Washburn to give him such unofficial assistance as he can in taking such legal measures as he may deem necessary in the premises. Next is dispatch No. 96, from Mr. Blaine to Mr. Washburn, of the date of January 26, 1892, inclosing letter of Mr. Warner, of December 26, 1891, and requesting Mr. Washburn to use his good offices to procure the return of the child.

Next was dispatch No. 102, dated March 1, 1892, from Mr. Blaine to Mr. Washburn, inclosing another letter from Mr. Warner, with additional facts received from Mr. Roberts, reciting a history of the case and the facts as they came from Mr. Roberts. He alludes to the baffled efforts of Mrs. His to secure the possession of the child through the medium of the Swiss courts, and stating that the obstacles interposed and the results so far afford a ground [for the charge] made in Mrs. His's behalf of a denial of justice, but says that feature of the case it is unnecessary to consider at this time, but proceeds to criticise at length the opinion of the superior court of Aargau of January 15, 1892, and instructs Mr. Washburn to request the return of the child to the jurisdiction of the United States, but to make no demand. Mr. Washburn, upon the receipt of the dispatch of January 26, by his dispatch of February 6, 1892, No. 112, informed the Department at Washington that the matter would be submitted, saying, however, that he does not see how we can allege a denial of justice until justice has been finally denied; that the judgments already rendered are not the judgments of the court of last resort.

Upon the applications of Mr. Washburn, under the instructions of Secretary Blaine of January 26 and March 1, the federal council declined the application, mainly upon the ground that since the child was brought into Switzerland, however wrongfully, she is now there and subject to the proceedings pending in its courts in regard to the child; the executive authority will not interfere. This reply was forwarded to the Department by Mr. Washburn on the 10th of May, 1892, in his dispatch No. 134 of that date, and is doubtless on file in the Department.

July 27, 1892, Secretary Foster sends dispatch No. 128 to Mr. Washburn, referring to his dispatch No. 134 by which the Department was informed of the refusal of the federal council on May 3, 1892, to surrender the child to the jurisdiction of the United States, and instructs Mr. Washburn to make application for the further consideration of the application for the surrender of the child and expressing a hope that it may be considered more favorably. Copies of these several dispatches are in the office of the Secretary of State, and I thereupon only state briefly their contents. The Swiss federal department of foreign affairs on September 12, 1892, answered that it would maintain its previous decision of May 3, 1892. On the 13th of January, 1893, Secretary Foster sent dispatch to Mr. Cheney, my immediate predecessor, by which he instructs him, officially or unofficially, to continue Mr. Washburn's efforts and to do whatever he properly can in the line of the Department's previous instructions to secure the return of the child to this country and to inform the authorities in Switzerland that Mr. His has been indicted.

On February 17, 1893, a dispatch of that date was forwarded to Mr.

Cheney by Secretary Foster (No. 6), informing him of the receipt of his dispatch, in which it was stated that the federal department of foreign affairs continues to maintain its position, affirming in their reply that it is not true that Mrs. His, the mother, has not appeared before the courts either as plaintiff or defendant, but that she was cited before the court; that the child was before the court, and that His, the father, was holding the child subject to the orders of the court. The Secretary insists in this dispatch that His is permitted to take advantage of his own wrong; that he is protected from and profits by a felony committed in violation of the judgment of the courts of his own country, and Mr. Cheney is instructed to present the matter to the Swiss Government, emphasizing its salient points, and to express the surprise and regret experienced by the Department at Washington that the Swiss Government should not have apprehended the circumstances surrounding the case, and expressing the hope that upon a more careful consideration it would comply with the request.

SUGGESTIONS.

In making the foregoing statements I have confined myself strictly to the records, translations of which I have been able to procure, so far as they relate to the proceedings of the Swiss tribunals, and have omitted nothing, so far as I have been enabled to ascertain the facts, which has any material bearing upon the case; and now, in pursuance of the authority given me in your dispatch No. 3, I have the honor to submit the following suggestions relative to the case:

1. By virtue of the fourteenth amendment to our Federal Constitution, Constance Madeleine His is a citizen of the United States, because she was born in the United States and subject to the jurisdiction thereof. Albert His never having been naturalized in the United States, nor declared his intention to become a citizen of the United States, and being a native of Switzerland, his child, according to the rules of international law, was also a citizen of Switzerland. The instructions of the Department of State (No. 131) declare "that the citizenship of the father descends to the children born to him when abroad, is a generally acknowledged principle of international law."

But the fact of citizenship does not necessarily have any bearing upon the questions involved in this case, so far as the rights of our Government are concerned.

The child was domiciled in the United States, within its territorial jurisdiction. From the fact of the independence of nations, every state possesses and exercises exclusive sovereignty and jurisdiction throughout the full extent of its territory (Wheaton, p. 161). The inhabitants of a country within its territorial jurisdiction, whether they be citizens, denizens, or domiciled aliens, are all subject to its law and entitled to its protection. (See Walker on the Science of International Law, p. 204.) This doctrine has been frequently asserted and maintained by the United States.

In the case of Martin Kosta, the Secretary of State (Mr. Marcy) says "the right to protect persons having a domicile though not native born or naturalized citizens rests on the firm foundation of justice; and the claim to be protected is earned by considerations which the protecting power is not at liberty to disregard." The same doctrine has been held in many similar cases in the history of our diplomatic relations. The two cases cited by Secretary Blaine in his dispatch No. 102, in this case, the position taken by our Government in the case of Grogan in

1841, of Bratton in 1872, of Blair in 1876, were in support of the same doctrine. In the case of Bratton, who was a citizen of the United States temporarily residing in Canada, he was seized without any process and carried off to South Carolina to be tried under charges for violating the Kuklux act. The British Government claimed that this act of seizure was a violation of the territorial independence and sovereignty of Great Britain. The Federal authorities in South Carolina were directed by the Department of Justice to dismiss the proceedings against Bratton.

It would seem, therefore, that if, upon this single ground, application had been made by our Government on behalf of the child at the suggestion of some one appealing as next friend of the child, and the mother is the most natural person to act in that capacity, to the federal authorities of Switzerland, the surrender of the child could not well have been refused.

But the decree of divorce has nothing to do with this question, nor the fact that by the judgment of a Swiss court the wife was awarded the custody of the child, the demand of the mother for the custody of her child because she was entitled to it by reason of a decree in the divorce suit is one thing, the request or demand on the part of our Government for the return of the child to the jurisdiction of the United States because it had been taken from that jurisdiction by force is quite another.

By the terms of our treaty with the Swiss Confederation, as well as by the doctrines of international law between friendly nations, Mrs. His had a perfect right to appeal to the Swiss courts, or to the executive and police authorities of the canton or of the Confederation for the enforcement by execution of a decree which had already been executed, but because the courts did not decide as she and her counsel thought they ought to have decided, or because the executive departments did not act as she and her counsel thought they ought to have acted, or as this Government thought they ought to have decided or acted, there is no ground on that account for the interference of this Department in behalf of Mrs. His. Mrs. His has the same right to appear before the Swiss courts and to invoke the action of the Swiss tribunals as any citizen of Switzerland has. This right is guaranteed by treaty. If she should be denied that right then she would have the right to appeal to the Executive Department of our Government to enforce it, but until there is such a denial, she, having either submitted herself to the jurisdiction of the Swiss courts or asked the intervention of the executive authorities of the Swiss Government, must, so far as she is concerned, submit to their final action (*Vattel*, p. 172), and our Government would not be justified in interfering in her behalf, unless it should appear that there has been a denial of justice—that is, a refusal to grant her a fair hearing.

In this case it is very clear to me that no such condition of things exists. It can not be said that in her case there has been a denial of justice. As the mother of the child, as the divorced wife of Albert His, she has had a hearing, and, as far as the record shows, a fair hearing; some errors of judgment, perhaps, but a full opportunity to have them corrected.

It is evident that neither Secretary Blaine nor Secretary Foster was possessed of all the facts of the case, nor was Mr. Warner, from whom Mr. Blaine received his information of the facts, as he, Mr. Warner, had learned them from the counsel of Mrs. His. The last appeal of Mrs. His to the high federal court has not yet been disposed of, nor has

the intervening petition of Albert His for an amendment or modification of the decree of divorce been tried upon its merits.

The fact, however, that Mrs. His has sought her remedy in the Swiss courts should not in any way affect the rights of the child as a domiciled citizen of the United States, or the right and power of the executive department of our Government to interfere in its behalf. Neither Mrs. His nor Albert His has the absolute right to the continued custody of the child, because, in the interest of the child, the courts of the United States or of Switzerland, whichever may obtain jurisdiction over the person, have the undoubted power, according to the well-established principles of the civil law in all civilized countries, to deprive either or both parents of the custody of the child if it be found that they are not proper persons to have such custody.

It would seem, therefore, that whatever action the Department may deem proper to take in this case, the interest of the child could not well be ignored. Inasmuch as Mr. His is not asked to be punished or delivered up because, as is alleged, he was guilty of a crime in taking away his own child when he thought it improperly cared for, his action can cut no figure in this case, except so far as he has violated the territorial sovereignty of the United States, and taken by force one of its citizens beyond our jurisdiction and into the territorial jurisdiction of another nation; that he has put himself in contempt of a Swiss court or made himself amenable to the criminal law of New York can not affect the case one way or the other. As the child is an infant of such tender years as to be incapable of expressing a wish in regard to what should be done or of determining to which country it will owe allegiance or of asking the interference of our Government in its behalf, that Government must act for it as may seem best for its interests. If the child remains in Switzerland, it will be the right and duty of the judicial tribunals of that country to take care of it; if the child is sent back to the United States upon the demand of our Government, the courts in New York will have the right to take such action in regard to the custody of the child as may seem best for its interests, without regard to the decree of the Swiss court in the divorce case.

About ten days ago I wrote to Dr. Emil Frey, who has acted as counsel to Mrs. His in the proceedings of the courts heretofore referred to, and have also written to Mr. Kurz, counsel for Albert His, requesting a brief statement from each, of their version of the matter, but have as yet received no such statement. After having heard the statements of counsel I may deem it necessary to make a further report.

Having presented so full a statement of the matter for the consideration of the Department, I ask to be excused for the present from making any suggestions as to what further diplomatic action shall be taken in the case. Whatever further action the Department may conclude to take, it will be my duty as well as my pleasure to carry out its instructions.

I have, etc.,

JAMES O. BROADHEAD.

[Inclosure 1 in No. 12.]

[Stamp and seal—Presidency of the court, Canton Aargau, Zofingen—Extract from the record of the district court, Zofingen.]

Session of January 22, 1890. (Article 63.)

There appeared voluntarily Mr. Albert His, manufacturer, from Basle in Murgenthal, represented by Mr. Leber of this city, advocate, and Mrs. Carrie A. His, born Turner, from New York, coming now from Murgenthal, with an interpreter, Mr. Amman, district teacher of this place, concerning an application for divorce.

As Mrs. His does not understand German and speaks only English, Mr. Amman was sworn by the president of the court as interpreter to correctly and truly translate.

On October 30, 1889, Mrs. His was served with an extract of the record of the district court of September 25, 1889, which reads as follows:

The president of the court submits the following, which was thereupon read:

Judicial summons of Mr. Albert His from Basle, manufacturer in Murgenthal, plaintiff, against Mrs. Carrie A. His, born Turner, from New York (No. 1 Irving Place), defendant, together with the accompanying documents.

Thereby the following appears. The plaintiff married the defendant in New York on the 28th of October, 1883, and lived with her there until the spring of 1887. At that time, with her consent, he went to Switzerland for the purpose of establishing for himself a business there, or to engage in one. After making a preliminary contract with the firm of Otto Schatzmann & Co., in Murgenthal, he inquired of the defendant by letter if she was in accord therewith, and she replied by telegraph in the affirmative. Thereupon the plaintiff returned to New York in order to get his wife and a child, which she had given birth to on the 23d of July, 1887, and bring them here, to which plan she once more consented. After, however, the plaintiff had returned from a business trip to Chicago, the defendant declared that she would not go to Europe, but would remain in America, and preferred to continue there the practice of her calling as an actress. She persisted in her refusal to follow the husband to his new residence. The plaintiff maintains that this determination of the defendant is to be looked upon as a malicious desertion, which had existed from the birth of the child, or at the latest from the middle of August, 1887, and furnishes ground for divorce according to Article 46 d. of our laws here on civil relations and marriage. A second attempt in February, 1888, to persuade the defendant to go with the plaintiff to the new residence was also without success.

As the marital condition had moreover become a deeply disturbed one, the husband determined to cause the marriage to be judicially dissolved, and presented therefore the legal demand that the judge would give to the defendant a period of six months, within which she must return to the plaintiff, in the sense that if she, within this period, did not so return upon a renewed demand of the plaintiff, a judgment of divorce would be pronounced.

This demand appears to have been a legal one, and it was thereupon by the district court decreed that the foregoing summons of the plaintiff, with legal demand, should be served upon the defendant at her place of residence through the diplomatic channels, with the warning that, if the defendant did not within six months from the service of the aforesaid summons and demand, return to her husband, the judge, at this place, upon a new demand of the plaintiff, would pronounce a dissolution of the marriage.

Now the husband and wife, His, by a common demand in writing, set forth the following:

On September 20, 1889, the husband, Albert His, presented to the district court, Zofingen, the legal demand, that the judge would give to the defendant, Mrs. Carrie A. His, born Turner, a period of six months within which she must return to the plaintiff, in the sense that if she, within this appointed period did not so return, upon a renewed demand of the plaintiff, the dissolution of the marriage would be pronounced.

This demand was served through the post-office upon Mrs. His through the agency of the Swiss consul-general in New York, on the 30th of October, 1889. Proof: the previous proceedings.

The demand of the husband, Albert His, is based upon article 46 lit. d. of the laws of the Confederation upon civil status and marriage relations, and there can be no doubt that, after the expiration of the period of six months, the judge would have been compelled to pronounce a dissolution of the marriage. But Mrs. His-Turner has recently arrived in Murgenthal, not, however, with the intention or idea of continuing married life with Mr. His, but with the fixed determination to demand upon her part upon guarantee of her financial claims a judicial dissolution of the marriage. The personal appearance of Mrs. His-Turner upon the dissolution of the marriage is for her of great importance, because only a dissolution, pronounced upon her personal appearance would be respected by all the States of the North American Union, which we can show, if necessary, by the opinion of a distinguished American jurist.

After the parties His-Turner had agreed upon all the points under consideration, they presented to the district court of Zofingen, as the court having jurisdiction in such matters, the following demand in common:

(1) That the court would declare as dissolved the marriage of Albert His, of Basle, residing in Murgenthal, and Carrie A. His, born Turner, of New York, and

(2) That the child Constance Madeleine, born of the marriage, should be given to the mother to be brought up and educated, with the understanding always that the

father should have at all times the right to visit the child, and that in case the mother should die before the father and before the child had attained its majority, the right and duty to care for and educate the child should belong to the father.

We remark concerning this demand:

(1) As ground for this dissolution of the marriage, the parties declare an unconquerable repugnance to each other, the clearest expression of which is to be found in the actual separation which has already existed for more than two years and six months. A reconciliation is not to be thought of, and the judge is all the more entitled to pronounce now a dissolution of the marriage, as in any case at the expiration of something like three months he would be obliged to pronounce such judgment on the one-sided demand. This is, in fact, the very case contemplated by article 46, lit. d., of the laws of the Confederation, with the single distinction that in this case the party defendant expressly consents to the separation, and the separation is demanded several months before the expiration of the period of six months. It is conclusive, in any case, that the marriage is a disturbed one, and that a reconciliation is not to be thought of. The respective positions in life of the parties are too different. The judge can not escape from this conviction.

(2) The parties have arranged their financial duties through a special contract, and for this reason no notice thereof will be taken in the judgment.

Mr. His also declares that he will pay the costs of the separation proceedings.

The president of the court at this stage put several questions to Mrs. His, which she answered through the interpreter as follows:

She had received the legal summons in New York and had read an English translation thereof; she had also received an English translation of the present demand for dissolution of the marriage, and she had read the same. She was fully in accord with the contents thereof, and that the same was correct. She had not maliciously deserted her husband. She had demanded a separation on account of unconquerable repugnance and the deeply disturbed condition of the marriage, relation and because a reconciliation and union were no longer possible.

Thereupon it was by the district court, which according to the laws of Switzerland had jurisdiction in matters concerning the dissolution of marriage, in view of the fact that Mrs. His had refused to return to her husband and to continue to live with him (article 46 d. of the laws, etc.); in view also of the further fact that both parties maintain that an unconquerable mutual repugnance exists between them and the marriage condition is a deeply disturbed one, and that a reconciliation and further union is no longer to be thought of (article 47 of the laws, etc.)—

Unanimously judged that—

(1) The marriage existing between Albert His and Carrie A. His, born Turner, be absolutely dissolved.

(2) The child Constance Madeleine, born of this marriage, be given to the mother to be brought up and educated, with the understanding always that the father shall have at all times the right to visit the child, and that in case the mother shall die before the father and before the child has attained its majority, the right and duty to care for and educate the child shall belong to the father.

(3) The period within which neither party shall marry again be fixed at one and one-half years.

(4) Mr. Albert His shall pay the costs of this action; Mrs. His shall, however, make no demands for the expenses of her journey and appearance.

This judgment shall be laid before the parties and be legally acknowledged by them in writing. Time of acknowledgment and appeal, fourteen days from the service of the judgment.

Mrs. His authorizes Mr. Leber, advocate, to accept service for her of her copy of the judgment.

The undersigned, clerk of the district court in Zofingen, hereby attests that the foregoing copy of judgment is a true and complete copy of the record, and that this judgment has not been appealed from, but that the parties have allowed the same to go into effect.

Zofingen, June 30, 1892.

[SEAL.]

BACHMAN,
Clerk of the Court.

[District court, Zofingen, Canton Aargau.]

The undersigned, president of the court of Zofingen, attests hereby that the foregoing attestation of Mr. Simon Bachman, at that time clerk of the district court, Zofingen, was made by him and that his signature thereto is genuine.

Zofingen, June 30, 1892.

[SEAL.]

DR. H. MURI,
President of the Court.

[Presidency of the court, Canton Aargau, Zofingen.]

No. 2384. The state chancellerie of the Canton of Aargau hereby certifies to the genuineness of the foregoing signature of the court president of the district court, Zofingen, also to the seal of such court thereto attached, and further certifies that the said court is regularly constituted, and that complaints for dissolution of marriage and judgments of dissolution of marriage are within his jurisdiction.

Aargau, July 6, 1892.

In the name of the state chancellerie of the Canton Aargau.

[SEAL.]

Dr. A. ZSCHOKKE,
Secretary of State.

Canton Aargau, state chancellerie.

No. 1017. Done for certification, under authentication of the foregoing declaration of the state chancellerie of Aargau.

Berne, 7 July, 1892.

Swiss Confederation Chancellerie.

[SEAL.]

RINGIER,
Chancellerie of the Confederation.

(Fr. 1. Swiss Confederation. Fees. Preparation, fr. 1.80; certification, fr. 1; stamp, fr. 1; total, fr. 3.80. Received through post-office order from the state chancellerie of Aargau. Zofingen, June 30, 1892. Seal. Court chancellerie, Zofingen, Canton Aargau.)

[Inclosure 2 in No. 12.]

On November 17, 1891, Mr. His made an application to this district court to the effect that the decree of divorce pronounced on the 22d of January, 1890, by the district court of Zofingen should in such manner be amended that the child, Constance Madeleine His, should be taken away from the divorced wife, His, and given to plaintiff for education and maintenance. It is beyond doubt that the district court of Zofingen which pronounced the decree in the divorce suit is the competent forum for deciding upon this application. The question as to where the His child shall have its legal domicile is accordingly brought up again as a pending question of law, and may be decided one way or another. This is not the place to decide whether the father, Mr. His, brought the child back to himself rightfully or not, but the judge has simply to arrive at a conclusion as to whether the condition of things at present in point of fact existing is in accordance with the momentary situation of the prevailing dispute at law or not, and whether a change in this condition would not involve for Mr. His's legal position an injury not lightly to be repaired. (Par. 282, C. P. O.)

Viewed from this standpoint, it first appears proper that the child whose possession is in dispute should be detained within the territorial district of the jurisdiction of this court. Our Regulations in Civil Suits (par. 83) prescribes that after contest at law is begun no actual changes shall be made in the object which is in dispute, according to the old legal usage "At lite contestata, nil innovetur." In case the child were at once given up to the mother, that is to say, taken back to America, it would probably also be removed from the control of the executive authorities here, since, although it possesses Swiss citizenship, it is, as being a native of America, also an American. Leaving out of consideration the improbability, due to external grounds, of carrying into execution a Swiss court's decree in any of the civil States of the Union, or in other corners of America where the mother, who follows the profession of an actress, at present is, it is extremely questionable whether, even if the mother's place of sojourn could be discovered, a competent American court would recognize such a decree as executable for an American citizen. It is therefore clear that eventually an injury not lightly to be repaired would ensue to Mr. His through the taking away of the child, Constance Madeleine, and bringing it to America, let this occur as it may.

In addition to these legal aspects it is to be further stated that from the certified statements of which notice is given in connection with the above-mentioned application of November 11, 1891, and from the sworn statements of Mr. Feldstein, made before this court on the 5th of August, 1891, it must seem to the judge credible that the child, Constance Madeleine, was not well cared for with its mother. It is proven that the child's mother did not have it in her own care and training, but left it to her mother, its grandmother, or rather to a servant girl; that the child was not well looked after, and that according to a letter which is before the court the grandmother had at times no money to obtain proper and necessary food for the child. In the case of this position the matter concerns a precautionary order in regard to not a thing but a person, to the welfare of a child. The child is not well kept with its mother, i. e., with its nurse who was employed; it lacks clearly the food and care necessary to its health and good development, and especially such as was commen-

surate with a good position such as that of its father's, while now it is well cared for with its father, who lives in the best circumstances. No adequate reason exists why the child should absolutely at once be taken back to the mother, and its welfare demands that for the present, and until a definite decision upon the application for its award has been made, it shall remain in the care of its father where it at present is, and all the more so as the taking it back across the ocean would be attended with suffering and danger for it. The objections raised by the representative of Mrs. His against the petition prove, therefore, on the one hand, ungrounded in law and not covering the case, while, moreover, on the other hand, *ex æquo et bono*, the welfare of the child seems to demand that the petition be granted until the definitive award of the child.

Accordingly the district court in majority decides:

(1) In compliance with Mr. His's petition, Mrs. His is judicially forbidden to remove the child of the litigants, Constance Madeline His, whether directly or through a third party, from its present place of residence—that is, the dwelling of Mr. His—without the consent of Albert His.

(2) For a violation of this prohibition, section 1, a penalty of 10,000 francs is threatened.

(3) Mrs. His is to pay Mr. His the costs of to-day's proceedings and of the decision, such costs to be fixed by the court, later.

The minority of the court desired to know that any regulations of the official executive authorities might be expressly excepted from the precautionary order. They agreed in principle with the majority's view, but on constitutional grounds considered it inadmissible that the judicial power should come in conflict with the executive through a precautionary order, as might become the case here, in view of Mrs. His's petition for execution. This decision is to be communicated to the parties or their attorneys, and is called for in writing and for consideration by the representative of Mrs. His.

Mr. Gresham to Mr. Broadhead.

No. 29.]

DEPARTMENT OF STATE,
Washington, September 6, 1893.

SIR: Your very complete and instructive report upon the case of the child, Constance Madeleine His, has been received.

You state that there has not, so far, been any denial of justice to Mrs. His as a litigant against her husband in the Swiss courts for the possession of the child, the court of last resort having not yet passed upon the rights of the parties. You, however, intimate the opinion, which I think is correct, that the right to the custody of the child as between its parents is quite apart from the international rights involved.

Those rights must be determined upon a few facts in the case, which are not denied and are undeniable. They are that in the spring of the year 1891 the child, Constance Madeleine His, was living in New York, where she was born and where she had continually resided since her birth. She was and is an American citizen.

On the 5th day of May, 1891, the father, a citizen of Switzerland, who had come to this country for the purpose, surreptitiously abducted the child from New York and carried her to Switzerland, where she is now detained with the sanction and by the aid of the Swiss courts. This detention is a clear violation of the sovereignty of the United States. The fact that the child was abducted from the custody of its mother, who, by decree of a Swiss court, had been intrusted with that custody to the exclusion of its father, is not especially relied on as the foundation of the international claim. Nor, on the other hand, does the fact that the child's abductor was its father affect the question of international rights. She was under the protection of the laws of the State of New York and subject to the jurisdiction of that State, which, like all other

civilized states, possesses and exercises the ultimate right of guardianship and custody over every infant within its jurisdiction, as against either parent, or, if the good of the child requires it, against both parents.

Should a person of full age residing in this country, under the protection of its laws and subject to its jurisdiction, be kidnapped and taken to Switzerland to be prosecuted for a crime, or for the purpose of giving jurisdiction in civil proceedings to the Swiss courts, it would surely be the right and the duty of this Government to demand his liberation and the cessation of all proceedings against him. Nor can it be doubted that the Swiss Government would at once recognize the just foundation of such a demand, based, as it would be, upon well-established principles of international jurisprudence.

The criminality of such person or his liability to respond civilly in damages might be clear beyond a doubt. The integrity and justice of the Swiss tribunals and of the proceedings so far as they might have gone might be beyond all question. But these considerations be foreign to the question in its international aspect.

That the victim by whose abduction our sovereignty and territorial rights have been violated was an infant; that its abduction was not by violence but by stealth; that its abductor was its father, and that the Swiss courts, in the litigation between the parents over the custody of the child have not, so far, denied justice to the mother, does not differentiate this case in principle from that above suggested.

I am, etc.,

W. Q. GRESHAM.

Mr. Broadhead to Mr. Gresham.

No. 20.]

LEGATION OF THE UNITED STATES,
Berne, October 25, 1893. (Received November 6.)

SIR: Mr. Lachenal, chief of the department of foreign affairs for the Swiss Confederation, having returned to Berne and informed me officially that he has again assumed the discharge of the duties of his office, I submitted to him the inclosed communication in regard to the case of Constance Madeleine His, and shall expect an answer as speedily as the grave aspect which the case has assumed will admit.

I have, etc.,

JAMES BROADHEAD.

[Inclosure in No. 20.]

Mr. Broadhead to Mr. Lachenal.

SIR: I have the honor to inform you that I am directed by the present Secretary of State of the United States to call your attention, and through you the attention of the Supreme Federal Council of the Confederation, to the case of Constance Madeleine His, who was abducted from the State of New York and the territory of the United States on the 4th day of May, 1891, by Albert His, a citizen of Switzerland, who now holds her in custody within the territorial jurisdiction of the Swiss Confederation. Upon the receipt of my instructions I would forthwith have presented the matter to your consideration, but learning that you were absent from Berne I have awaited your return to your office. The

circumstances of the case were first communicated to your department on the 14th of March, 1892, by Mr. John D. Washburn, then minister of the United States, in a letter from him of that date.

The matter has been twice brought to the consideration of the Federal Council by my predecessors, under instructions from the predecessors of the present Secretary of State of the United States; and upon a careful review by him of all the facts in the case, and an examination of the correspondence which has taken place in reference to it, he deems it incumbent upon him to present the subject again to the consideration of the Swiss Government.

It appears that proceedings have been had before the judicial tribunals of the Swiss Confederation in regard to the right to the custody of the child Constance Madeleine; but these proceedings related purely to the question as to whether the father or the mother had the right to such custody, and involved only the civil rights of individuals under the laws of the Swiss Confederation or of the canton in which the questions were first brought before a judicial tribunal, and can in no way affect the political questions which arise in this case under the law of nations.

It is a well-recognized principle of international law that every state possesses and exercises exclusive sovereignty and jurisdiction throughout the full extent of its territory over the inhabitants within its territorial jurisdiction whether they be citizens, denizens, or domiciled aliens; and they are all subject to its laws and entitled to its protection. To hold otherwise would be to deny the independence of nations; a position which I am sure the Swiss Confederation is not prepared to assume. Should the citizen or any number of citizens of another State come upon Swiss territory and by force carry off anyone who is entitled to its protection and subject to its laws into the territory of another state, it would be an offense against the sovereignty of Switzerland, to be answered for by the state having jurisdiction over the offending parties. This proposition is so firmly established in reason and justice and so necessary to the preservation of the peace of nations as to be beyond controversy.

In the case under consideration the child, Constance Madeleine, was born in New York, one of the States of the American Union. She was a citizen of the United States and resided in the United States, and was therefore under territorial jurisdiction of the United States, although she may at the same time have been a citizen of Switzerland. While under the jurisdiction of the United States, and entitled to the protection of its laws, she was forcibly taken away from the territory of the United States by a citizen of Switzerland into the territorial jurisdiction of the last-named country.

These facts are beyond controversy, and, being so, it was a clear violation of the territorial sovereignty of the United States, so clear as to leave no room for doubt as to the obligation of the Government of the Swiss Confederation to have the child Constance Madeleine restored to the protection, jurisdiction, and custody of the United States; and I am instructed to say that it is earnestly hoped the Government of the United States will not be compelled to make an imperative demand for such restoration, but that if the detention of the child is persisted in, the self-respect of the United States Government and the rights of its citizens will require that such a demand be made.

In the desire that the friendly relations heretofore existing between the two governments may continue uninterrupted, I have, etc.,

JAMES O. BROADHEAD.

Mr. Broadhead to Mr. Gresham.

No. 40.]

LEGATION OF THE UNITED STATES,
Berne, May 19, 1894. (Received June 11.)

SIR: I have the honor to inclose herewith a communication from Mr. Lachenal, chief of the department of foreign affairs of the Swiss Confederation, with a translation of the same, in reply to my communication of the date of October 23, 1893, relating to the case of Constance Madeleine His, by which it will appear that the Swiss Federal Council adheres to its opinion heretofore expressed, and declines to accede to request for the surrender of the child, or to take any further action in the matter.

I also inclose herewith a copy of the judgments and decrees referred to by Mr. Lachenal in his communication, with translation of the same.

I have, etc.,

JAMES O. BROADHEAD.

[Inclosure 1 in No. 40.—Translation.]

Mr. Lachenal to Mr. Broadhead.

No. 2192.]

FEDERAL DEPARTMENT OF FOREIGN AFFAIRS,
Berne, May 9, 1894.

SIR: In reply to your note of the 23d of October last, we have the honor to repeat that it is not possible for the Federal Council to modify its manner of viewing the subject of the His-Turner affair. For reasons already expressed in our notes of May 7 and September 12, 1892, and of May 8, 1893, Nos. 1513, 3433, and 2263, the Federal Council can not consider that there is anything there which can give any offense whatever to the sovereignty of the United States of America.

It is the matter of a contest of private right which is argued before the native tribunal of Swiss citizens. Now, in the light of the judicial and legal principles in force in Switzerland, it is impossible to deny (disregard the fact) that the acts with which Mr. His is reproached were taken in the exercise of the paternal power of which he has never been declared deprived—under the limitation, however, of the opinion of competent tribunals in regard to what concerns the custody of the child born of the marriage.

Now the tribunals have pronounced in a definite manner. The sentence of the tribunal of the district of Zofingen of January 22, 1890, upon which the reclamation of Mrs. His-Turner is founded, has been modified in part by a new judgment of the same tribunal under date of August 11, 1893. In virtue of this judgment, confirmed October 21, last, by a decree of the court of appeals of the Canton of Argovie, of which a copy is herewith inclosed, the custody and education of the child Madeleine His has been taken from the mother and intrusted to the father. This new decision has become executory, the appeal taken against it to the federal tribunal having been rejected by the latter by judgment of March 1, last.

Under these circumstances the Federal Council must declare that it considers that this affair has received its regular solution. It regrets to say that it is no longer possible to enter further on the matter of reclamations, which might be addressed to it on the subject, and hopes that the Government of the Union will be pleased to share this manner of viewing it.

Please accept, Mr. Minister, etc.,

LACHENAL,
Department of Foreign Affairs, Political Division.

[Inclosure 2 in No. 40 Translation.]

Decree of the Court of Appeals of the Canton of Aargau.

We, the chief justice and high court of justice of the Canton of Aargau, declare hereby:

Upon summons there appears to-day before us, Counselor M. Schmidt, attorney of Mrs. Carrie His-Turner, of New York, defendant, party appellant, versus Counselor Kurz, attorney of Albert His, manufacturer at Murgenthal, plaintiff, party appellant, to plead before the high court and to obtain a judgment in their litigation upon which the district court of Zofingen had given judgment on 3d August, 1893.

From the documents and pleadings we have collected the following items:

On the 22d of January, 1890, the district court of Zofingen gave the following judgment in the divorce case between the litigant parties:

1. That the marriage contracted between Albert His and Carrie O. His be completely dissolved.

2. That the child Constance Madeleine, born of this marriage, be adjudicated for maintenance and education to her mother, with the understanding that the father shall be at any time entitled to visit the child; if the mother dies before the father and before the child has become of age, the right and duty of educating her shall devolve upon the father.

3. The term of suspension within which the divorced may not contract a new marriage is fixed for both parties at one and a half years.

4. Albert His shall pay the cost of this divorce suit; Mrs. His, however, can not claim any benefit for her attorney and her appearance.

This judgment became valid. Mrs. His having come to Europe for the divorce suit, returned to America with the child which was born July 23, 1887, and whom she had brought as far as London. In March, 1891, plaintiff went on business to New York, where he inquired after his child. From what he learned in this matter, and from what he witnessed himself, he was convinced that the child was badly provided for. He took her with him to Europe, and on November 11, 1891, he presented the following petitions to the district court of Zofingen: That through a partial modification in the judgment of the 22d of January, 1890, the child Constance Madeleine, descended from the marriage of the litigants, be committed for education and maintenance to the care of the plaintiff.

This petition was transmitted to the defendant, residing in New York, through the medium of a competent magistrate. She appointed a trustee in the person of Dr. Emil Frey, counsellor of Brugg, to attend to this lawsuit. After disputing for half a year over the question as to where the child should reside during the controversy, the parties, by their counsel, appeared on the 20th of April, 1892, before the district court of Zofingen. The counsel of defendant maintained that she was a citizen of America and residing in New York, and does not acknowledge the jurisdiction of the district court of Zofingen over herself or the child. He therefore pleaded the incompetency of the court, and claimed on that account that the defendant be not required to answer to this suit. This plea, which was opposed by the plaintiff, was rejected by the district court of Zofingen by judgment given April 20, 1892. After appeal having been lodged by the defendant, this decree was confirmed by the high court on the 29th of June, 1892, and the federal tribunal refused to entertain a further appeal taken before it.

Thereupon the plaintiff demanded a hearing on the main point of the lawsuit. The parties were summoned into court for the 23d of November, 1892. The defendant did not appear, and the court imposed upon

her a fine of 20 francs and costs, and decided on a further summons with a threat to give judgment in contumacy as per section 101, lemma 2 of the regulations for civil procedure. This decision was, however, repealed by a decree of the high court on the 9th of February, 1893, whereupon the parties agreed that the written petition of plaintiff should be sent to the adverse party in order that she might send in a written plea. This was done, and on the 17th of April the defendant's counselor sent in a declaration by which he endeavored to show that the district court of Zofingen, through its judgment of the 22d of January, 1890, has exhausted its power to act in this cause, and therefore is not competent to pronounce judgment on the plea brought in by her plaintiff; for this petition is the commencement of a new action, and that the divorced Mrs. His is an American citizen, residing in New York, she was not within the jurisdiction of any Swiss court. This declaration concludes as follows:

The defendant requests that this her plea be registered in extenso in the minutes of the court as a formal protest against the proceedings of the court in entertaining any consideration of the His plea for revision, which protest is based upon the legal proposition that the original decree of divorce having been once registered, the functions and power of the court ceased, and the court was no longer competent to modify in any way the divorce decree of the 22d of January, 1890, and that the court is also wanting in competency to make any further order in regard to Miss His (the child).

After replication and rejoinder, the parties were summoned to appear on the 3d of August for a verbal debate. Neither defendant nor her counsel appeared, but sent in a declaration in which the views taken in former actions were maintained, and any participation in the proceedings of the court in this case was declined.

On motion of the plaintiff, the party present, the court issued the following decree for contempt:

(1) The party defendant to be put to a disciplinary penalty of 30 francs and costs for unjustified nonappearance, and to pay plaintiff's costs, amounting to 29.65 francs.

(2) The party defendant shall be summoned once more for the final proceedings, with a warning that in case of noncompliance, judgment in contumacy will be given as per section 101, lemma 2, of the law of civil procedure.

After this the parties were again summoned into court for the 16th of August, with a threatening to the defendant to be disqualified, as per section 101, lemma 2, mentioned in the regulations of the civil law, but the plaintiff only appeared, who requested that his action be brought to a close, under adjudication of costs, whereupon the district court of Zofingen delivered the following judgment:

(1) That after a partial modification of the judgment given on the 22d of January, 1890, the child, Constance Madeleine, the issue of the litigants, be committed for education and maintenance to the care of the plaintiff.

(2) Defendant shall pay the costs of the litigation incurred by the plaintiff, excepting any former decisions on that point, to the amount of 990.50 francs.

The defendant party lodged, in due time, the following declaration against this judgment:

We appeal from this judgment to the high court, as we do not recognize it in any part, and we pray the court of the second instance to consider our legal objections on the subject of jurisdiction. The protest which was entered on the minutes of the proceedings of the court of the first instance is reentered for that of the second instance, and it is to be understood as if the declaration made before the court of the first instance is repeated and recorded by the court of the second instance, and it is specifically referred to in this declaration.

Upon the legal question as to what may be decided in this matter we decide:

(1) In conformity with section 337 of the civil procedure the appel-

lant must state precisely the points which he wishes to make against the judgment of the lower court. The declaration of appeal does not come up to this requirement, no positive demand being made and considered in a formal point of view. According to the Aargau regulations we might decline to enter upon the consideration of the appeal.

(2) But the objection against the judgment of the lower court may also be interpreted in such a way that the plea of noncompetency of the court be considered as legal and the defendant be liberated from entering upon plaintiff's request for a modification of the decree of the 22d of January, 1890. From the point of view this plea is but a repetition of the demand made before the district court of Zofingen on the 20th of April, which was rejected by both the lower and the higher courts. He must therefore refer to the judgments of the district court of Zofingen of April 20 and of the high court of June 29, 1892. In the latter particularly it has been clearly proved that the district court of Zofingen is fully competent to decide on the petition for revision of the judgment of January 22, 1890, in regard to the adjudication of the child to the mother, wherein the mother was intrusted with the education of the child.

And it is sufficient to mention here that the federal tribunal holds the same opinion, viz, that the same judge who had pronounced on the divorce itself shall also decide as to the consequences thereof, and accordingly as to the education of the children, and this in accordance with the law of the canton, to the jurisdiction of which the husband is subject. (Decisions of the Federal Tribunals, XVIII, p. 67, etc., article 49 of the Law of Civil Marriage.) In case of a change in the situation the Argovian judge has at all times decided, under sections 149 and 151 of the common civil law, his competence to reconsider the dispositions of the divorce sentence as regards the children, and to alter such dispositions where the interest of the children made it necessary. The federal tribunal also does not consider such dispositions as irrevocable, but vindicates to the court of wards the right to modify them. (Decisions of the Federal Tribunal, XIV, p. 34, etc.) The objection pleaded in this new issue as to the noncompetency of the Argovian and federal judges is thus also in this form wholly unfounded.

(3) Although, according to the foregoing statement, the defendant ought to have answered the petition of plaintiff of October, 1891, she did not do so. Neither did she appear before the court upon the summons issued to her for the 3d of August, and was consequently fined, with costs, and again summoned for the 17th of August, under special reference to section 101, lemma 2, of the C. P. L., that in case of non-appearance after the second summons the opponent should be granted his petition. Having again failed to appear, she can not now complain of the threatened forfeiture having been pronounced and the plaintiff's petition granted, the less so as the actual facts stated in the records have to be accepted as true by the judge, and as these statements justify fully the modifications introduced into the decree of January 22, 1890.

We therefore confirm the judgment of the lower court, and decide that the defendant's appeal opposed to the judgment is dismissed, and that she be held to pay to the plaintiff 45.05 francs for costs of the second instance.

Aargau, 21st of October, 1893.

In the name of the high court:

The president:

(Signed)

HENBERGER.

The substitute of the clerk:

(Signed)

KRAFT.

Mr. Gresham to Mr. Broadhead.

No. 70.]

DEPARTMENT OF STATE,
Washington, October 31, 1894.

SIR: I have to acknowledge your No. 40, of May 19th last, inclosing a copy of Mr. Lachenal's note to you, of the 9th of the same month, and copies of certain proceedings in the Swiss courts relating to the child Constance Madeleine His.

Mr. Lachenal's note was a reply to your note to him of October 23, 1893, in which the distinction between the civil and the political rights involved in this case were clearly pointed out.

As you at that time observed:

It appears that proceedings have been had before the judicial tribunals of the Swiss Confederation in regard to the right to the custody of the child Constance Madeleine, but these proceedings related purely to the question as to whether the father or the mother had the right to such custody, and involved only the civil rights of individuals under the laws of the Swiss Confederation, or of the canton in which the questions were first brought before a judicial tribunal, and can in no way affect the political questions which arise in this case under the law of nations.

Mr. Lachenal, in his note of May 9, ignores the distinction thus pointed out by you, still insisting that the questions involved are of private right only.

The child's father, he says, in abducting her from this country, simply exercised, in conformity with judicial and legal principles in force in Switzerland, his paternal right, of which he had never been deprived; and the mother, having been a party to the proceedings in the Swiss courts which resulted in giving the custody of the child to the father, is precluded from making further claim to it.

Referring to the fact that the mother's appeal from the decree giving the custody of the child to the father has been rejected by the appellate court, Mr. Lachenal remarks that—

Under these circumstances the Federal Council must express the opinion that this matter has received its regular solution. It regrets to say that it is impossible for it to enter further into the question of claims which may again be presented to it on this subject, and is pleased to hope that the Government of the Union will concur in this view.

As regards the right of the mother to the custody of the child, this Government does not dissent from that view. She seems to be precluded by the action of the courts from making any further claim based on her own private rights.

But this Government emphatically dissents from the Swiss view as regards the political and international questions involved. Those questions, upon the answer to which depends the more immediate question whether this Government or that is entitled to the possession and custody of the child, have not been and can not be decided by the Swiss courts with the effect of binding the United States.

This Government claims the child on the ground that she, a native-born American citizen, residing within the territory of the United States, and subject to its exclusive jurisdiction and entitled to its protection, was surreptitiously abducted and taken to Switzerland, in utter disregard of our sovereignty. Even had the child not been a citizen of the United States, the means by which the father obtained custody amount to the crime of abduction, and it is therefore significant and remarkable that in Mr. Lachenal's last note on the subject it is said that, "In the light of the judicial and legal principles in force in Switzerland, it is impossible to deny that the acts with which Mr. His is reproached were taken in the exercise of the paternal power of which

he has never been declared deprived." This language seems to imply that, in the opinion of the Swiss Government, in abducting the child from the United States the father simply exercised his paternal right, and that this Government can not complain of his act. Does that Government take the position that one of its subjects may enter the territory of the United States in defiance of their sovereignty and authority, and by stealth or force take from their jurisdiction a citizen or even an alien having a lawful domicile here? If it does, this Government must emphatically record its dissent from a proposition so subversive of the fundamental principles of sovereignty. The case can not be permitted to remain as it now stands; it might in the future be cited as a precedent against this Government, and therefore you will again bring the matter to the attention of the Swiss Government and demand such action on its part as will comport with the dignity and sovereignty of the United States.

I am, etc.,

W. Q. GRESHAM.

PROTECTION TO SWISS CITIZENS BY UNITED STATES REPRESENTATIVES IN FOREIGN COUNTRIES.

Mr. Claparède to Mr. Gresham.

LEGATION OF SWITZERLAND,
Washington, January 11, 1894. (Received January 13.)

MR. SECRETARY OF STATE:

By a note dated January 28, 1893, your honorable predecessor, in reply to a request for intervention which I had had the honor to address to him on the occasion of the murder of a Swiss citizen named Lecoultre, at Poassa, in the province of Bahia, Brazil, was pleased to inform me that he had instructed the United States minister at Rio to communicate with the consul-general of Switzerland in that city, and to lend him his good offices in the matter as far as might be possible without prejudice to the action of the minister of France, who already had charge of the case, and without arousing his susceptibilities.

In expressing to you, Mr. Secretary of State, the sincere gratitude of my Government for the kindness with which the Department of State was pleased, at that time, to comply with the aforesaid request, I have the honor to inform your excellency that various circumstances have hitherto prevented us from availing ourselves of the aid of the United States representative in Brazil, but I have received orders to have recourse to your kindness in behalf of a person who represents the heirs of the said Lecoultre. These heirs are having the farm worked which belonged to Lecoultre. This farm is situated at Cannavieras, in the province of Bahia, and is worked by a Swiss citizen named Jean Etter, whose life and property, owing to the disturbed state of that Republic, are in constant danger.

The property adjoins a farm which formerly belonged to a Frenchman named Blanchet, but which has just been sold to a Mr. Rosse, an engineer, who is a citizen of the United States, and who, as such, enjoys the protection of your Government. The owners of the farm which formerly belonged to Mr. Lecoultre desire to have it, and likewise the person of Mr. Etter, placed under the protection of the United States of America.

As Switzerland has no diplomatic representative in Brazil, and as the Swiss Federal Government thinks that the person of Mr. Etter, in view of the present situation of the Republic of Brazil, is in a very precarious condition, I have the honor, Mr. Secretary of State, in pursuance of the instructions of my Government, to request that the United States legation, under whose protection Mr. Etter's neighbor is, may be instructed by you to take also Mr. Etter under its protection, together with the property of which he has charge.

Renewing the assurance of my Government's gratitude for the assistance and protection which the United States Government, on various occasions, has been pleased to afford to Swiss citizens in localities where Switzerland has no diplomatic representative,

I gladly avail, etc.,

ALFRED DE CLAPARÈDE.

Mr. Uhl to Mr. Claparède.

DEPARTMENT OF STATE,
Washington, February 9, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 11th ultimo, asking the protection of the United States minister to Brazil for the estate of the deceased Swiss citizen Lecoultre, and for the person of its manager, Jean Etter, also a Swiss citizen.

Under the conditions described by you, the estate belonging to a Swiss citizen, and the resident manager, Jean Etter, being also a Swiss, I will have pleasure in instructing Mr. Thompson, the United States minister at Rio de Janeiro, to use his good offices within proper limits for their friendly protection in case of need, in view of the absence of a diplomatic representative of Switzerland in Brazil, and with the consent of the Brazilian Government.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Gresham to Mr. Tavel.

DEPARTMENT OF STATE,
Washington, November 5, 1894.

SIR: Referring to the note of January 11 last from your legation, I have the honor to apprise you of the receipt of a dispatch from the United States minister at Petropolis, numbered 298, of the 1st ultimo, written in reply to the Department's instruction to use his good offices for the protection of the Lecoultre estate.

Mr. Thompson states that while the Swiss Government has no diplomatic representative in Brazil, Mr. Rafford, the Swiss consul-general, has always been recognized in questions of interest to that country, not excepting the Lecoultre case. For this reason, and also because the French minister has used his good offices in the same case, Mr. Thompson decided to await further instructions from the Department.

As it thus appears that the official intervention of the Swiss consul-general will be admitted by the Brazilian Government in behalf of Swiss citizens in Brazil in default of a regularly accredited diplomatic

agent, and as Mr. Rafford's attention has been already given to the matter of the Lecoultre estate, it is not thought needful to give Mr. Thompson specific instructions in that regard or general authority in respect to the informal protection of Switzers.

Accept, etc.,

W. Q. GRESHAM.

Mr. Tavel to Mr. Gresham.

LEGATION OF SWITZERLAND,
Washington, D. C., November 5, 1894.

MR. SECRETARY OF STATE:

The situation of foreigners residing in China having, in connection with the war between China and Japan, given rise to serious apprehensions, the Swiss Federal Council has taken into consideration the question of securing protection for Swiss citizens in the far East. It has, therefore, decided to request all the powers that have adhered to the propositions of Great Britain for the joint protection of Europeans and Americans, namely, Germany, France, Russia, and the United States, that they will protect the Swiss citizens residing in China.

I have the honor to inform you that I am directed by my Government to lay before your excellency the request that the Government of the United States kindly agree to extend its protection to Swiss citizens in China so long as the concerted action of the powers will obtain. The Swiss Federal Council has addressed an identic request to the above-named powers.

Hoping that your excellency will kindly, on this other occasion, grant the Swiss citizens the assistance and protection which they have so often received of the Government of the United States,

I seize, etc.,

CHARLES C. TAVEL.

Mr. Uhl to Mr. Tavel.

DEPARTMENT OF STATE,
Washington, November 13, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 5th instant, wherein you make known to this Department the request of your Government that that of the United States will agree to extend its protection to Swiss citizens in China.

The diplomatic and consular officers of the United States were instructed on the 16th of June, 1877, to use their good offices in behalf of Swiss citizens sojourning in their vicinity in the absence of diplomatic and consular representatives of the Confederation. A copy of these instructions was communicated by Mr. Fish, our then minister at Berne, on August 7, 1877, to the President of the Swiss Confederation.

As far as this Government is concerned these instructions have never been revoked, and our diplomatic and consular officers are still ready to discharge the duties which they involve.

As to the protection from violence of Swiss citizens now sojourning at treaty ports in China, the ships of war of the United States will, whenever necessity arises, grant them the same protection as they would to any other citizens or subjects of a neutral foreign power residing in the same port.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

MILITARY TAX.

Mr. Broadhead to Mr. Gresham.

No. 32.]

LEGATION OF THE UNITED STATES,
Berne, March 12, 1894. (Received March 26.)

SIR: I have the honor to inform you that several complaints have been made to me by persons formerly citizens of the Swiss Confederacy, but now naturalized citizens of the United States, who have come to this country for business or pleasure, on account of the exaction from them of the military tax which has accrued during their absence, and while they were resident citizens of the United States. The last case which has been presented to me is that of a former Swiss subject who emigrated to the United States in 1886, where he became duly naturalized. At the time he left Switzerland he was not in arrears for any military exemption tax, nor for any military duty, due up to that time. He returned to Switzerland a short time ago to visit relatives. At once, upon his arrival, he was required by the Swiss authorities to pay the military exemption tax for the seven years during which he had been in America. This is wrong and unjust; the requirement was made of him under an order of the police and military departments of the canton of St. Gall, a copy of which (translated) is inclosed herewith, and by which it appears that the federal military department has decided that "Swiss citizens, returning from the United States, if they can not prove that they have served in the army there, or paid military tax there during their stay, shall be required to pay the military tax in Switzerland for and during ten years last past." This departmental decision was approved by the Federal Council on December 19, 1893.

This was intended to include Swiss citizens who have been naturalized in the United States, as in the case above referred to, because the Swiss Government does not recognize the right of a Swiss subject by naturalization to absolve himself from any of the obligations due by him under the Swiss laws and because the order is claimed to be made under the provisions of the treaty of November 25, 1850, and to the military tax provided for by that treaty, which requires a commutation tax from citizens of the United States (native or naturalized) residing or established in Switzerland; I say native or naturalized because the treaty makes no distinction.

The language of the treaty is as follows:

ART. 1. The citizens of one of the two countries, residing or established in the other, shall be free from personal military service, but they shall be liable to the pecuniary or material contribution which may be required by way of compensation from citizens of the country where they reside who are exempt from that said service.

It will be observed that the treaty refers to citizens in general, which would embrace both native-born and naturalized citizens, and the pecuniary or material contribution which may be exacted is unlimited as to time or amount.

We have, as I am informed, no such thing as a military exemption tax in the United States, or in any of the States, because the citizens are not required to perform military service, as in the manning of forts and arsenals, and the exercise of military discipline except in time of insurrection or invasion, or when temporarily called upon to execute the laws. With Switzerland the case is entirely different, because here it is thought necessary to keep up a regular army composed of citizens of all classes; so that this military exemption tax works in favor of one of

the contracting parties only, and that provision of the treaty ought to be abolished. We are estopped from disputing the right of the Swiss Government to exact to the fullest extent the amount fixed by competent legislation from all American citizens residing or established here, for the construction of this clause of the treaty claimed by the Swiss Government has been conceded by the State Department to be substantially correct. In the dispatch of June 19, 1891, from Secretary Fish to this legation, it is stated:

Its design (treaty) was simply to relieve the United States citizens from the obligation of personal military service, leaving them subject to any military contribution which may be exacted by way of commutation or otherwise from Swiss citizens who are exempted from personal military service, whether by reason of physical disability or for any other cause.

The Swiss law of June 28, 1878, referred to in the order from the police and military department, provides as follows:

Foreigners established in Switzerland are likewise subject to this tax, unless they are exempt therefrom in virtue of international treaties, or that they belong to a state in which the Swiss are neither liable to military service nor to the payment of any equivalent tax in money.

It so happens that we have no law now in existence providing for a military tax. If it were otherwise, a native-born citizen of the United States residing in Switzerland would be worse off under the treaty than he would be without it, for without the treaty he would neither be subject to military service nor to the payment of a military tax. Since the treaty of 1850 with the Republic of Switzerland treaties have been concluded between Switzerland and Germany, Austria, Belgium, France, Great Britain, Italy, Holland, and Russia, expressly exempting their citizens from personal military service or from any tax in lieu thereof, and this is doubtless the reason why the order of the Swiss military department above referred to was confined to citizens of the United States.

This matter has heretofore been brought to the attention of the Department of State, particularly by my predecessor, Mr. Winchester, in 1886.

I respectfully ask the Department for permission to negotiate with the authorities of the Swiss Confederation with the view of securing an amendment to the provisions of the treaty of November 25, 1850, in respect to the subject referred to in this communication.

I am, etc.,

JAMES O. BROADHEAD.

[Inclosure in No. 32.—Translation.]

Official circular of the police and military departments of the Canton St. Gall to the war commission, the district commanders and all section chiefs, concerning military tax of Swiss citizens in the United States of North America.

With official circular of March 13, 1893, we have to inform you that, in accordance with article 2, section 1, of the treaty between Switzerland and the United States, of November 25, 1850, and article 2, lit. c., of the federal law concerning military taxes of the 28th June, 1878, the federal military department has decided:

"Swiss citizens living in the United States can not be taxed here (*i. e.* in Switzerland) during their absence, but Swiss citizens returning from the United States, if they can not prove that they have served in the Army there or paid military tax there during their stay, shall be required to pay the military tax in Switzerland for and during the ten years last past."

This department decision was made a law by the Bundesrath on December 19, 1893. We therefore instruct the district commanders to keep record of such Swiss cit-

izens living in the United States as are in 1894 still of military age, and book against same the military taxes for the last ten years. The bill for such taxes is not to be sent to them, only the remark "In the United States," and if possible their domicile there is to be added in the tax book. Such a record should be kept in that district where the party in question has the nearest relations, or where he, in case of a visit, would be most likely to go, or in his former town of residence.

St. Gall, January 19, 1894.

For the police and military department.

DR. E. SCHERRER,
Regierungsrath.

Mr. Gresham to Mr. Broadhead.

No. 43.]

DEPARTMENT OF STATE,
Washington, March 29, 1894.

SIR: I have received your No. 32, of the 12th instant, in which you request permission to negotiate with the Swiss Government with a view of amending the provision of the treaty of 1850 making "citizens of one of the two countries, residing or established in the other, free from personal military service, but liable to the pecuniary or material contributions which may be required by way of compensation from citizens of the country where they reside, who are exempted from the said service." You mention that several complaints have been made to you by persons formerly citizens of the Swiss Federation, but now naturalized citizens of the United States, who, having gone to Switzerland for business or pleasure, have been subjected to the contributions provided for in the treaty. These contributions are exacted though the party, at the time of leaving Switzerland, was not in arrears for any military tax or duty. You call attention to the fact that, under the language of the treaty above quoted, even native citizens of the United States might be subjected to the payment of the military tax but for the fact that the Swiss law exempts from that tax foreigners whose countries do not impose a similar tax upon Swiss citizens there resident.

The Swiss Government, as you observe, does not recognize the right of a Swiss subject to absolve himself by naturalization from any of the obligations due by him under Swiss law. While I am of opinion that the article of the treaty above referred to should undoubtedly be amended, yet it occurs to me that, in view of the fact that Switzerland does not recognize the foreign naturalization of her citizens, it may be necessary to have (if it can be secured) a specific agreement on the subject of naturalization. You mention that since the treaty of 1850 treaties have been concluded between Switzerland and a number of other countries expressly exempting the citizens of those countries from personal military service, or from any tax in lieu thereof, and this you say is doubtless the reason why the order of the Swiss military department requiring the imposition of the tax above referred to was confined to citizens of the United States. If you can conveniently do so, I should be glad if you would send to the Department a copy of one or more of such treaties concluded by Switzerland with other countries upon this subject as you think would furnish the best guide or basis for the negotiation of such an amendment to our treaty as you propose.

I am, etc.,

W. Q. GRESHAM.

Mr. Broadhead to Mr. Gresham.

No. 39.]

LEGATION OF THE UNITED STATES,
Berne, April 20, 1894. (Received May 4.)

SIR: Your dispatch No. 43, of the date of March 29, 1894, having reference to change of treaty with Switzerland on the subject of military tax, has been received. In compliance with your request to send to the Department a copy of one or more of the treaties on that subject concluded by Switzerland with other countries, I inclose herewith a copy of article 5 of the treaty between Great Britain and Switzerland, signed on the 6th of September, 1855, and ratified at Berne on the 6th of March, 1856. This treaty is very liberal in its provisions toward citizens of either country residing or doing business in the other, and the fifth section or article covers the whole ground in regard to military service and a commutation tax, and in a very satisfactory manner. I give the English translation, as contained in the compilations of English treaties, which is no doubt in the library of the Department of State. The original, which is in French, is somewhat different from the English translation in this, that the words "for military on a march" follow immediately after the words "with the exception of lodging and supplies," instead of being placed at the end of the article, as in the English translation; this makes the original much plainer in its meaning than the English translation; they are, however, substantially the same, the only exceptions from military requisitions of any kind being for military on a march according to the custom of the country, and demandable alike from citizens and foreigners. Not having as yet been able to procure copies of treaties with other powers, I send only a copy of the treaty with Great Britain.

I have, etc.,

JAMES O. BROADHEAD.

[Inclosure in No. 39.]

The treaty between Great Britain and Switzerland of the 6th of September provides as follows:

ART. 5. The subjects or the citizens of either of the two contracting parties in the territories of the other shall be exempted from all compulsory military service whatever, whether in the army, navy, or national guard or militia.

They shall also be exempted from all contributions, whether pecuniary or in kind, imposed as a compensation for personal service, as well as from military requisitions, with the exception of lodging and supplies, according to the custom of the country, and demandable alike from citizens and foreigners for the military on a march.

Ratified on March 6, 1856, at Berne.

Mr. Broadhead to Mr. Gresham.

No. 49.]

LEGATION OF THE UNITED STATES,
Berne, July 27, 1894. (Received August 6.)

SIR: I have the honor to inform you that the Federal Council has passed a resolution, which is herewith inclosed, that modifies very materially the rules in regard to commutation tax imposed upon persons who are natives of Switzerland, but who have become naturalized in the United States; still it is not by any means all that could be desired on the subject.

I am, etc.,

JAMES O. BROADHEAD.

[Inclosure in No. 49.]

MILITARY TAX.

The Federal Council has adopted the following resolution concerning the military tax of Swiss citizens in America and of Americans in Switzerland:

1. Swiss citizens who are residing in the United States of America or who have returned from the States are to be registered in the tax roll, from the 1st of May, 1894, and are liable to military tax, unless they can prove that they have to pay a similar tax in the United States. The tax is, as far as possible, to be collected year by year. This conclusion is not retrospective; a tax for the year 1893, and for previous years, is not further to be collected.

2. Citizens of the United States of America residing in Switzerland are, until further order, delivered from the military tax; the deliverance from the tax will cease at all events if Swiss citizens in the United States are liable to such a tax in money. This conclusion also is not retrospective; taxes collected for the year 1893 and for previous years will not be refunded.

3. The resolution of the Federal Council of 20th of February (1st of March), 1880, is to be considered as abolished from the 1st of May, 1894.

Mr. Adee to Mr. Broadhead.

No. 57.]

DEPARTMENT OF STATE,

Washington, August 10, 1894.

SIR: I have received your No. 49, of July 27, 1894, concerning the Swiss military tax. It is accompanied by a copy of the resolution of the Federal Council saying that from May 1, 1894, Swiss citizens residents of the United States or who have returned to Switzerland from this country, remain liable to the payment of the military tax unless they can furnish evidence that such a tax is collected from them in the United States. Concerning American citizens domiciled in Switzerland, it appears that they are relieved from paying that tax in Switzerland, so long as their Government does not exact anything of the kind from Swiss citizens residing in the United States. This action is not retroactive, however, and taxes collected for 1893 and previous years will not be refunded.

The Department's instruction, No. 45, of May 29 last, will have apprised you of its efforts to ascertain whether the laws of the several States of the Union impose any military tax upon citizens of the Swiss Confederation residing therein, or the nature of such taxes as may be generally exacted of them equally with our own citizens.

I inclose a memorandum¹ showing the character of the replies from forty-two States, leaving only Wisconsin and Texas to be heard from, and the governors thereof have been again addressed upon the subject. It is apparent from the evidence now furnished that the States of this Union do not impose compulsory military service, except in cases of extraordinary emergencies, nor compel the payment of any equivalent tax in money. All militia service is voluntary, and is supported from the general fund of the State treasury.

The modification of the rule by the Swiss Federal Council which your No. 49 reports may be regarded as satisfactory so far as concerns American citizens sojourning in Switzerland, and in case you find it necessary to make any communication to the Swiss authorities upon the subject, the material herewith transmitted will be found ample.

Upon the receipt of replies from the States of Wisconsin and Texas the purport thereof will be sent to you.

I am, etc.,

ALVEY A. ADEE,
Acting Secretary.

¹ Not printed.

CITIZENSHIP CASE OF FRED TSCHUDY.

Mr. Broadhead to Mr. Gresham.

No. 54.]

LEGATION OF THE UNITED STATES,
Berne, August 20, 1894. (Received August 30.)

SIR: I have the honor to submit the following matter for the information of the State Department, and for such instruction as may be thought proper by you to give me in the case.

Fred Tschudy, a native of the Republic of Switzerland, emigrated to the United States in June, 1888, when he was a minor, and upon his arriving at age he was naturalized by the court of common pleas at Camden, N. J., on the 17th day of October, 1893, and on the 25th of October, 1893, he left the United States on a visit to Europe, arriving at Antwerp on the 8th of November, 1893. Thence he proceeded to Winterthur, in the canton of Zurich, where his father and mother resided.

On the 9th of June, 1894, upon his application I gave him a passport as a naturalized citizen of the United States, on his presenting his certificate of naturalization. He was then temporarily residing at Winterthur.

Sometime during the month of July or early in this month he was, by the authorities of the canton of Zurich, ordered to the recruiting service for the 23d of August at Winterthur.

Mr. Tschudy complained to me about the matter, told me that he showed the officer his passport and his certificate of naturalization, but that no regard was paid to them; he has paid the military tax for the time he was absent in the United States after he became of age, the receipts for which he showed me. Thereupon I addressed a note to the President of the Confederation, who is also chief of the military department, of the date of the 6th of August, in regard to the case of Mr. Tschudy, asking that the matter be inquired into, and that he be relieved from the performance of military service, and stating the fact that he was a naturalized citizen of the United States, and that I had given him a passport as such. A copy of my note to the President is herewith inclosed (No. 1).

On the 15th of August I received a note of the date of August 14, from Mr. Lachenal, the chief of the department of foreign affairs of the Confederation, a copy of which is herewith inclosed (No. 2), in which, answering my note addressed to the President, he says that Mr. Tschudy can not be excused from presenting himself on the 23d of next August to the council of revision of Winterthur, for the reason that he is still a Swiss citizen and can not, therefore, invoke in Switzerland the protection of the State of which he has also acquired the right of citizenship.

I replied to Mr. Lachenal by note of the 17th of August, a copy of which is herewith inclosed (No. 3), in which I stated what I conceived to be the uniform and inflexible doctrine of the United States on the subject of the right of expatriation, and the construction which should be given to the existing treaty between the two nations.

Mr. Tschudy informs me that he has offered to pay the military tax for the year 1894, but that the authorities here refused to receive it. The important matter, however, is that his certificate of naturalization and his passport have been repudiated as of no effect here, and as giving him no right of protection by the United States Government.

In my reply to Mr. Lachenal's note I have been governed by the pro-

visions of sections 1999 and 2000 of our Revised Code, in the former of which our Government asserts the right of expatriation, which has always been maintained from the foundation of our Republic, and in the latter declares that all naturalized citizens of the United States shall receive from this Government the same protection of person and property which is accorded to native-born citizens.

I refer also to the letter of Mr. Evarts to Mr. Fish, of the date of November 12, 1879,¹ where a similar question arose in regard to the removal of property by a naturalized citizen of the United States who was a native of Switzerland, and also to the letters of Mr. Frelinghuysen to Mr. Cramer, of the dates of December 19, 1882, and of July 28, 1883, and also to the letter of Mr. Bayard to Mr. Cox, of the date of November 28, 1885, in which last case the Sublime Porte set up the same claim to the perpetual allegiance of its subjects that is now maintained by the Republic of Switzerland. I shall keep the Department informed as to what final action is taken by the Swiss Government in Mr. Tschudy's case, and in the mean time I respectfully ask for instructions on the subject.

Most respectfully, etc.,

JAMES O. BROADHEAD.

[Inclosure 1 in No. 54.]

Mr. Broadhead to Mr. Frey.

LEGATION OF THE UNITED STATES,
BERNE, August 6, 1894.

SIR: I have the honor to inform you that Fred. Tschudy, a native of Switzerland but a naturalized citizen of the United States and now temporarily residing at Winterthur, in the Canton of Zurich, states to me that he has been ordered to the recruiting service on the 23d of this month.

Mr. Tschudy emigrated to the United States in June, 1888, when he was a minor, and upon his arriving of age he was naturalized by the court of common pleas at Camden, N. J., on the 17th day of October, 1893, and on the 25th day of October, 1893, he left the United States, and arrived at Antwerp on the 8th day of November, 1893. On the 6th day of June, 1894, he was given a passport by this legation as a naturalized citizen of the United States, and was at the time temporarily residing at Winterthur. He tells me that he has paid the military tax provided for by the treaty between the two nations, but that the authorities of the canton of Zurich still require of him military service. I submit most respectfully that this requirement can not be had of Mr. Tschudy, inasmuch as he has been duly naturalized under the laws of the United States; and I ask that the matter may be inquired into, and that Mr. Tschudy be relieved from the performance of military service.

With high regard, I am, etc.,

JAMES O. BROADHEAD.

¹ Printed in Foreign Relations, 1880, p. 952.

[Inclosure 2 in No. 54.—Translation.]

Mr. Lachenal to Mr. Broadhead.

No. 4105.] FEDERAL DEPARTMENT OF FOREIGN AFFAIRS,
 POLITICAL DIVISION,
 Berne, August 14, 1894.

MR. MINISTER: In response to your note of the 6th of this month, addressed to the President of the Confederation, I have the honor of informing you that Mr. Fred. Tschudy can not be excused from presenting himself the 23d of next August to the council of revision at Winterthur, on account of his still possessing Swiss nationality. In this capacity he can not, therefore, invoke in Switzerland the protection of the State of which he has also acquired the right of citizenship.

Please accept, etc.,

LACHENAL,
Chief of the Federal Department of Foreign Affairs.

[Inclosure 3 in No. 54.]

Mr. Broadhead to Mr. Lachenal.

AUGUST 17, 1894.

SIR: Your communication of the 14th instant in regard to the case of Mr. Fred. Tschudy has been received.

In answer to my letter of the 6th instant to President Frey you say that Mr. Tschudy can not be relieved from presenting himself on the 23d of August before the board of revision at Winterthur on account of his still possessing Swiss nationality; and on that account he can not invoke in Switzerland the protection of the state of which he has elsewhere acquired the right of citizenship.

While not undertaking to dispute the general proposition of the right of the Swiss Government to deny to its citizens the liberty of casting off their national character without its consent, I take this occasion to say, with all due respect and in all kindness, that the treaty stipulations existing between the two nations are, in my judgment, inconsistent with the course proposed to be pursued in the case of Mr. Tschudy.

The United States has always maintained the right of expatriation and denied the doctrine of perpetual allegiance; we have always denied that a full-grown man is, like the trees of the forest, rooted to the soil, without thought or feeling or the ambition to better his condition; or that he is not at liberty to make an effort to that end in other lands where his labor will be more profitable or his intellectual energies will reap a better reward and insure a higher development.

Whether, in the opinion of others, this political philosophy be true or false, the fact that the United States maintained it from the very birth of our Republic, and still adheres to it, was well known to the other civilized nations at the time when our treaty with Switzerland was ratified; and it was equally well known that the United States Government claimed and exercised the right of naturalizing aliens and of exacting from them, as a condition of naturalization, an oath that they renounce forever all allegiance to every foreign prince, potentate, or power, without any condition, as provided by the naturalization laws of some other nations; that when within the limits of the foreign state of

which they were previously subject they should not be deemed citizens of the United States unless they had ceased to be subjects of such foreign state, in pursuance of the laws thereof.

When, therefore, it was provided by article 2 of the treaty of November, 1855, above referred to, that "the citizens of one of the two countries residing or established in the other shall be free from military service," but shall be liable to a pecuniary contribution by way of compensation, it must be held to include all United States citizens, whether native born or naturalized.

If they are citizens of Switzerland according to the laws of Switzerland, they are none the less citizens of the United States according to the laws of the United States. To say that they are not citizens of the United States because they are citizens of Switzerland is a begging of the question (*petitio principii*).

In the absence of any qualification or explanation of the word citizens as used in the second article of the treaty, a fair interpretation of the language used must be held to include all citizens, whether native-born or naturalized, and of whatever nationality, unless there was something in the nature of the treaty or in the circumstances surrounding the parties at the time of its ratification that would confine it to one class of citizens; and that is exactly the case here, for there was no need of a treaty stipulation exempting native-born citizens of the United States from military service in Switzerland, for surely it could not be claimed that a native-born citizen of the United States or a naturalized citizen of the United States, a native of some other country, who had never owed allegiance to the Government of Switzerland, would be subject to military service whilst temporarily residing in Switzerland. The treaty must therefore have referred to natives of Switzerland who by the laws of that country were subject to military service, but having been naturalized in the United States are by the terms of the treaty exempt from military service, but must pay pecuniary contribution by way of compensation. There could have been no other object or purpose in making the stipulation.

In this particular case I shall, if I find an occasion, advise Mr. Tschudy to submit himself to the authorities of the Republic here, and in the meantime ask instructions from my Government on the subject.

With sentiments, etc.,

JAMES O. BROADHEAD.

Mr. Uhl to Mr. Broadhead.

No. 64.]

DEPARTMENT OF STATE,
Washington, September 12, 1894.

SIR: I have received your dispatch No. 54, of August 20, 1894, in reference to the case of Fred. Tschudy, a native of Switzerland, and a naturalized citizen of the United States.

Mr. Tschudy, it appears, remained in this country just the length of time necessary to secure naturalization papers, and immediately upon obtaining them returned, in 1893, to Switzerland. He procured from you a passport as a naturalized American citizen. Recently the Swiss authorities have ordered him to report for military duty and he has complained to you, protesting against the exercise of such jurisdiction by the Swiss Government over him, an American citizen.

Upon laying the matter before the President of the Confederation,

you were informed by the minister of foreign affairs that although Tschudy has become an American citizen under our law he still remains a Swiss citizen under Swiss law, and therefore is still subject to the obligations of a citizen in that country.

You thereupon addressed a note to the minister of foreign affairs, admitting the general principle of international law that every nation may deny to its citizens the right of expatriation. You, however, further called the attention of the Swiss Government to the position which this Government, since its foundation, has maintained as to the right of expatriation, stating that it had always asserted the right in the most positive manner; and you reminded the minister that at the time of the conclusion of the treaty of 1855 between that country and this, the views of this Government on the subject of expatriation and naturalization must have been well understood and must be considered in connection with the interpretation of that treaty.

Quoting from Article II of the treaty, which provides that "the citizens of one of the two countries residing or established in the other shall be free from military service," you insisted that the word "citizen," not being limited either by express language or by the context, must be understood—especially in the light of the views of this country above referred to—as embracing naturalized as well as native citizens of the United States residing in Switzerland.

Your note to the minister elaborates and enforces this view of the question in a very clear and able manner, and your efforts to induce the Swiss Government to concur in this view are fully approved by this Department.

If Mr. Tschudy has returned to Switzerland for the purpose of making his permanent residence there, this circumstance, in connection with the fact that he left the United States immediately after securing his naturalization papers, tends very strongly to raise the belief that his temporary immigration to this country and his naturalization here were merely for the purpose of evading the duties of Swiss citizenship without intending to assume those of American citizenship. If this be the case, this Department would not be disposed to insist upon the application to him of the principle for which you are contending. But in the case of a return to Switzerland of one born there, who has bona fide emigrated and been naturalized here, I concur with you in the opinion that a proper interpretation of the treaty should exempt him from the performance of military duty.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

TURKEY.

ASSAULT ON MISS MELTON.

[See Foreign Relations, 1893, pp. 642, 649, 650, 652, 656, 665, 668, 683, 689, 695, 700, 704.]

Mr. Terrell to Mr. Gresham.

No. 124.] LEGATION OF THE UNITED STATES,
Constantinople, December 6, 1893. (Received December 26.)

SIR: I have the honor to inform you that I have no late information of progress in the trial of the men under arrest for assaulting Miss Melton. A long letter of 40 or 50 pages from Mr. McDowell, received on the 2d instant, reveals no evidence sufficient to convict. I deem it unnecessary to forward a copy. I inclose copy of a letter just received from Mr. McDowell, which indicates that the new governor sent from here is desirous of doing his duty. I have no means of doing more in this matter to enforce respect for our people in that distant region. The trial is progressing on the river Tigris, at Mosul, opposite old Nineveh. * * *

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 124.]

Mr. McDowell to Mr. Terrell.

MOSUL, TURKEY, *November 16, 1893.*

DEAR SIR: I have been informed that the vali received a strong telegram from the grand vizier last week in reference to our case, which I presume to be due to some action taken by you.

The vali has twice sent me assurances of his interest in the case since receiving the telegram.

I thank you for your perseverance in the matter. If redress is obtained it will be due only to your indefatigable efforts.

I sent you by last post a full statement of our case. If it has not been received on receipt of this letter, will you please to telegraph me to that effect that I may send a duplicate of it.

There is nothing new to say about our case.

Very respectfully, etc.,

E. W. McDOWELL,

Mr. Terrell to Mr. Gresham.

No. 134.] LEGATION OF THE UNITED STATES,
Constantinople, December 13, 1893. (Received Jan. 2, 1894.)

SIR: I inclose for your information the copy of a letter just received from the Rev. E. W. McDowell, at Mosul, dated November 24. The letter to which he refers, written to the church secretary in New York, asking further action of you, may have induced the belief that Miss Melton's case was neglected here. The estimable gentlemen in charge of missionary enterprises are, I fear, sometimes unreasonable in their demands; certainly there was no occasion for this gentleman's colleague to write home to have the Department take more energetic action.

* * * * *

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 134.]

Mr. McDowell to Mr. Terrell.

MOSUL, TURKEY IN ASIA, November 24, 1893.

DEAR SIR: Yours of October 31 was received by last post. I am glad to know that our Government shows no signs of receding from its first position in this case, and that in case of failure to punish the assailants of Miss Melton an indemnity will be asked.

We, from the first, have been morally certain as to who the guilty parties are, but did not think it wise to specify their names until the time had come to give the evidence. While, as you suggest, it is impossible for us to secure personal testimony in the case, I feel confident that the circumstantial evidence which I have sent you will strike you as being exceedingly strong against the men referred to, whose names I gave.

There has nothing of importance occurred in the case since I last wrote you. Abdullah Pacha, sent to Amadia to investigate the matter, is taking his time to do it, and has already visited and interviewed the intimate friends of the prisoners in villages on this side of Amadia, e. g., Sheikh of Bowrnemee and Beshid Bey.

But I am satisfied to have him go on in his own way, for I am sure he is weaving a rope with which, figuratively speaking, we can hang the prisoners.

I regret to say that my colleague, before he reached Mosul, hearing what seemed to him unfavorable news about our case, wrote to our secretaries at New York, asking them to secure further action by the Department of State. Possibly they may send this letter to Secretary Gresham, who perhaps may telegraph you.

Please accept this as an apology beforehand. We are perfectly satisfied that you are doing what is right in the case. In my letters to our missionary board I have not had a word of complaint to offer, and shall write them this week to inform Secretary Gresham, in case the letter referred to has been sent him, that it was written by one not fully acquainted with the circumstances, and that we on the ground are satisfied that you have pushed the case as rapidly as was possible under the circumstances.

Very sincerely, etc.,

E. McDOWELL,

Mr. Terrell to Mr. Gresham.

No. 139.] LEGATION OF THE UNITED STATES,
Constantinople, December 17, 1893. (Received Jan. 6, 1894.)

SIR: I have the honor to inclose the memorandum of a conversation with his highness the grand vizier, yesterday, the 16th, regarding the progress of the investigation of the outrage on Miss Melton. I have attempted to keep you advised of the progress of this investigation on account of the great interest felt in it by religious people in the United States.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 139.]

Memorandum of a conversation with Djevad Pasha, grand vizier, on the 16th December, 1893.

On the 16th instant I visited the grand vizier, and * * * I said: "I came chiefly to tell you that I am delighted over a telegram just received from Mr. McDowell at Mosul. He says, 'Your new governor is doing well.'" He answered, "I also have received a long telegram from the vali; he is a true man. He informs me that he has arrested two of the three men who assaulted that woman, and has the evidence that will convict them. The object was robbery. The third party is known, and he is being pursued and will be taken."

To this I responded: "This evidence of your energy in securing the punishment of those miscreants will be greatly appreciated by my Government. No money indemnity could repair the wrong done to that defenseless woman; none is asked, none is wanted, if punishment is inflicted."

He then signaled his secretary, and directed him to bring the telegram to Gargiulo, whose interpretation of the telegram fully sustained his statement.

* * * * *

A. W. TERRELL.

Mr. Uhl to Mr. Terrell.

No. 110.] DEPARTMENT OF STATE,
Washington, December 29, 1893.

SIR: I have received your No. 124, of the 6th instant, in regard to the case of Miss Melton. You say that so far no evidence sufficient to convict her assailants, who are under arrest, has been adduced. Your intimation that the new governor seems, upon information received by you, desirous of doing his duty gives the Department hope, coupled with your interest in securing due punishment for her assailants, that they may yet be convicted and punished. The Department realizes fully the difficulties under which the prosecution labors, but this Government has every just expectation that the Ottoman authorities will perform their whole duty in this matter. * * *

Until the results of the trial be made known, the question of an indemnity must be held in abeyance.

You will put forth your best efforts in Miss Melton's behalf, and by keeping the Department amply advised of the progress of the case will enable it to determine what further steps should be taken, if any.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Terrell to Mr. Gresham.

No. 182.] LEGATION OF THE UNITED STATES,
Constantinople, February 8, 1894. (Received February 26.)

SIR: I inclose copy of letter from Rev. Mr. McDowell at Mosul, dated January 29, 1894.

I have about exhausted my resources in forwarding the prosecution of Miss Melton's assailants. Much telegraphing was necessary to let the Porte know that our Government expected the criminals to be punished. I send on the overleaf a copy of one just sent.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 182—Telegram.]

Mr. Terrell to Mr. McDowell.

The vali admits the guilt of Abdulaziz Agha and of Mustafa Effendi has been established. If they are not punished in ten days telegraph me. Be prudent, and still have faith in the justice of the grand vizier.

TERRELL.

[Inclosure 2 in No. 182.]

Mr. McDowell to Mr. Terrell.

MOSUL, January 19, 1894.

DEAR SIR: On the 13th instant (Saturday evening) I received your telegram: "Has any one been punished for beating Miss Melton? Answer immediately."

On Monday morning I sent the telegram to the vali, asking him what answer I should send you. He called the prosecuting attorney and asked him what was being done. His answer was, the two men, Abdulaziz Agha and Mustafa Effendi, were in prison, their guilt having been established; two others, Mustafa Effendi and Sadullah, were still under bail for further investigation; four others, three Kurds and a Syrian, had just been brought from Amadia and were being examined, but as these last were incriminating others (the two under bail and others in Amadia), they were waiting to secure these parties, also the two Havinka men, who had fled. The vali censured the prosecuting attorney for delaying the matter, and sent the above to me as his answer.

As no one had yet been sentenced, I sent you a telegram Monday, the 15th: "No one has been punished yet."

Abdullah Pasha, with other strong men, were sent to Amadia to sift the matter to the bottom and (by the vali's word to me) to bring all found guilty. He spent considerable time there, and brought back a

report which both he and the vali said disclosed the whole matter. The names of the parties who went to the tent and those who planned the affair were given, most of whom were in prison. The only two at large were the men of Havinka, who were in Abdullah Pasha's hands while he was in Amadia. He was under orders to bring all parties implicated (so the vali told me), but these two men were left, who improved the opportunity and fled out of reach. As I wrote you, only two of the men reported by Abdullah Pasha were retained in prison; the others were released. Judgment on these two, whom the Government acknowledge are guilty, was stayed "until the two Havinka should be arrested."

After several weeks' further delay three Kurds and a Syrian were brought in, but not the Havinka men. These last four may be guilty and may not be; I do not know. One of them is a servant of Abdulaziz, and was the one who seized the gate of the city after the arrest of the Amadians, with the purpose of securing their release. He has also been under arrest twice in Amadia on this business before the arrest of the chief men, and both times was released by the Government arbitrarily. You can judge for yourself what the Government intends to do.

There is this encouragement—that those in prison are now beginning to implicate each other. Possibly positive testimony may thus be secured against the chief men in the affair.

I am hoping daily now to hear that peremptory orders have come for the immediate punishment of the two whose guilt the vizier accepts and a limit set for the punishment of the others reported by Abdullah Pasha as guilty.

Very respectfully, yours,

E. McDOWELL,

Mr. Uhl to Mr. Terrell.

No. 151.]

DEPARTMENT OF STATE,
Washington, February 28, 1894.

SIR: I have received your No. 182 of 8th instant, in further reference to the case of Miss Melton. It is inferred from the letter of Mr. McDowell, a copy of which you inclose, that while the authorities are moving slowly, they are pursuing this deliberate course with a design to secure such of the guilty parties as are still at large and in the hope of arriving at as complete a knowledge of the facts as practicable. The high reputation of the vali encourages the belief that punishment will eventually fall on those whose guilt is established by reliable evidence.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Terrell to Mr. Gresham.

No. 221.]

LEGATION OF THE UNITED STATES,
Constantinople, April 2, 1894. (Received April 21.)

SIR: I have the honor to inform you that the court for the correction of errors at Bagdad has found that the evidence taken in the case pending lately at Mosul, for the assault on Miss Melton, was sufficient to justify the conviction of eight of the twelve men found guilty by the trial court, and not sufficient for the conviction of the other four. * * *

This information I derive from the grand vizier. The case goes back for final judgment by the trial court, and the result as to the punishment inflicted will soon be known.

I have, etc.,

A. W. TERRELL.

Mr. Gresham to Mr. Terrell.

No. 209.]

DEPARTMENT OF STATE,
Washington, August 4, 1894.

SIR: I inclose herewith copy of a letter from Mr. William Dulles, jr., treasurer of the Board of Foreign Missions of the Presbyterian Church of the United States, transmitting copies of statements prepared by Rev. E. W. McDowell referring to (1) prosecution of the case against the assailants of Miss Melton in Amadia and Mosul, (2) complicity of the Turkish Government with the assailants, (3) points in regard to building of residences in Mosul, Turkey.

The Department, in the light of Mr. Dulles's letter and the memorandum of Mr. McDowell, is at a loss to understand the statement in your telegram received here on the 21st ultimo, "Final judgment delayed by absence of witnesses." It is represented that the conviction of Miss Melton's assailants by the trial court has been affirmed on review by the higher court at Bagdad, and that it only remains to fix the sentence. However this may be, your instructions warrant you in using all possible effort to avert a miscarriage of justice at this late day by any of the subterfuges which Mr. McDowell apprehends.

With regard to the obstruction interposed by the authorities of Mosul to the building of residences there by the American agents of the board, the rights of our citizens under the existing real estate protocol could probably be better asserted and more practically defended were the land recorded in the name of the American owners and not in that of a native. This suggestion has been orally made to Mr. McDowell, who with Mr. Dulles has recently been in Washington.

I am, etc.,

W. Q. GRESHAM.

[Inclosure in No. 209.]

Mr. Dulles to Mr. Gresham.

NEW YORK, August 2, 1894.

SIR: Referring to my brief interview with you this morning, I now hand you as suggested letter of introduction from Hon. John W. Foster, addressed to you, also copies of statements which have been prepared by Rev. E. W. McDowell referring to (1) prosecution of the case against the assailants of Miss Melton in Amadia and Mosul, (2) complicity of the Turkish Government with the assailants, (3) points in regard to building of residences in Mosul, Turkey.

Some of the information in these papers may be already in the possession of the Department, but we have availed of the presence in this country of Mr. McDowell to secure these definite statements, bringing the matters referred to up to the present date.

In seeking an interview, I have desired to put at the command of the Department any information which might be desired or obtained personally from Mr. McDowell.

We are abundantly satisfied that the Department has done all that it could, and is ready to do whatever is necessary in the future to protect the rights of American citizens in Turkey. The fear that is constantly before us is that by some adroit delay the opposing influences in Turkey may let the impression go abroad that the rights of our Americans there are somewhat uncertain.

In the present instance if, as we are informed, they intend to go again into the question of seeking evidence in reference to the assault of Miss Melton, they may seriously hurt our cause, because of the absence from Turkey of Miss Melton and Mr. McDowell. It appears that they delayed and were in Turkey until this case had been absolutely decided, the testimony taken at Mosul reviewed at Bagdad and returned to Mosul approved. Mr. McDowell was definitely told that the accused persons had been convicted and would be immediately sentenced. We can not but feel that most vigorous action is needed through the legation at Constantinople to prevent any alteration of the verdict at this date.

The action of Minister Terrell has repeatedly called for our special approval, as we have written to the Department, and we are equally confident that you will in any future communication let him know that he can depend upon the approval of the Department of State in maintaining the rights of American citizens.

Minister Terrell has also before him at this time questions concerning the hindrances to our building certain residences in Mosul upon property already bought for this purpose. It is to be hoped that he will speedily secure from the Turkish Government the recognition of our seemingly unquestionable right to erect buildings for the purpose of residence.

In all these questions that have arisen we take no issue with the general principle of sovereignty which entitles any nation to exclude from its dominions aliens who are not desired either as citizens or residents. The questions involved are:

(1) As to securing proper punishment, and, if it seems best, indemnity, for a physical assault upon an American citizen.

(2) The right to erect dwelling houses in accordance with established custom and law in the Turkish Empire.

It must be a regret to ask the Department to consider again this question, but if such an assault has been committed and by any chance goes unpunished, there can be little doubt that the very lives of Americans in that country will be in jeopardy.

Yours, etc.,

WILLIAM DULLES, JR.

[Subinclosure 1 in No. 209.—Statement of Rev. Mr. McDowell.]

Prosecution of the case against the assailants of Miss Melton in Amadia and Mosul.

IN AMADIA.

Early in the morning after the assault upon Miss Melton I called upon the Government officials in Amadia, the kaimakum, and judge, and notified them of the occurrence.

I had found some cartridge shells and unexploded cartridges on the ground where the guns had been fired. I showed these to the kaimakum and the judge. They both instantly exclaimed, "Why, it was Amadians." I acquiesced and they at once, seeing what such an admission involved, began to ascribe it to other parties who could not possibly have done it, and grew angry at any further intimation on our part that the assailants were Amadians.

I asked for an immediate investigation and the arrest of the guilty parties. The officials at first good humoredly promised to investigate; delayed and were urged by me. They then belittled the affair, saying it was not worthy of serious attention as it was only a woman. On being further urged they became angry, went through the form of an investigation, but endeavored to prevent our communicating with Mosul. They showed great hostility to us, and the people of the country seeing this began to insult us with the added remark, "You can't do anything; you have no king."

I had secretly dispatched a messenger with letters for the missionaries in Mardin, who, on receiving them, at my suggestion telegraphed to our minister at Constantinople.

He acted promptly and vigorously, and very strong orders were telegraphed to the vali at Mosul for our protection and the punishment of the guilty parties. The vali at once sent a squad of soldiers to Amadia, whose appearance in our behalf had a salutary effect on both people and government.

The local authorities now felt compelled to act. The circumstantial evidence pointed strongly toward the koords of Amadia. The kaimakum arrested two koords from a village near by, notorious characters, and then arrested a large number of the Syrians of Daree, our friends. Their arrest was preposterous, as there was not the slightest evidence against them, nor were they of such character as would render their doing such a deed probable. The purpose of the Government was soon evident.

I disclaimed having any suspicions against the Syrians and asked that after they had duly examined them and had found nothing to incriminate them that they dismiss them. This they expressed a willingness to do on condition of my signing a paper. I looked at the paper. It ostensibly dismissed the case against the Syrians, but was so worded that it dismissed our case altogether, saying practically that satisfaction had been rendered. I refused to sign it and they refused to release the Syrians.

For two weeks they tried by craft to obtain my signature to a statement which would dismiss our case.

By threats and severe confinement they sought to force the Syrians to give false testimony, going so far as to put words in their mouths and commanding them to testify thus.

Failing in these two things, they offered to compromise with me; they would release the Syrians, our friends, if I would permit the release of the koords, and drop the case.

I refused and secured an order from Mosul for the release of the Syrians. The government made another effort to secure a paper from me and failing, released the Syrians and also the koords who had not been tried and who, as it turned out since, were implicated in the assault.

They then sent a false report to Mosul, to the effect that they had diligently investigated the case, which was not serious; that some of the villagers had fired guns to frighten her out of the village, and that she in starting up had struck her head against her bed, but I had exaggerated the case; that they had arrested some parties, and the case was finished.

I sent a counter statement to the vali, which had greater weight, and the soldiers were returned with sharp orders to the kaimakum to bring the guilty parties at once or to come himself to answer for the offense.

By this time suspicion pointed strongly toward the Mustafa Effendi, Abdul Aziz Agha, and Sadullah, all in the government, and Khaleel Effendi. They are the chief men of Amadia and notorious robbers.

On receiving this order from the vali of Mosul the kaimakum made one more effort to dismiss the case and failed.

They then called a council of koords at the top of the mountain. There were present the kaimakum and all the city officials, koordish chiefs from neighboring districts, and all the merchants of Amadia, the entire market being closed. This council lasted two days, and at the close the kaimakum, as I learned through koordish friends, said to his men, "I have kept the thing off as long as I can. I have got to take some one or be taken. Deliver up the guilty parties." They said, "Give us three days and we will do it." He replied, "If you can do it in three days, you can do it in one. Come down with me to the city." This they refused to do, but by strategy he arrested Mustafa Effendi and Abdul Aziz Agha. This angered the koords, who made dire threats against the kaimakum and us.

The next day they seized the gates of the city and cut off all supplies, both provisions and water. By the help of friendly koords this siege was raised the same day, and the parties under arrest advised against violence.

The kaimakum having been compelled to act against the koords, and having incurred their hatred, now broke with them and placed himself with us. In doing so he told me frankly that he had been working against us. He arrested some other parties, and after much trouble they were taken to Mosul.

THE CASE IN MOSUL.

The vali in Mosul, under strong pressure from Constantinople, had been forced to this vigorous action, which resulted in the imprisonment of seven of the chief men of Amadia in Mosul. The judge in Mosul, who stands next to the vali in authority, and who corresponds to a judge of our Supreme Court, from the first used his influence in behalf of the prisoners.

In Amadia it was reported among the koords that Mustafa Effendi and his companions had secured the judge (i. e., by bribes) and would soon be home. We learned, too, of large sums of money being collected from their friends and sent to Mosul.

Hearing that the prisoners had been given the freedom of the city, I went to Mosul and called upon the vali, who told me that he had been opposed in his efforts to prosecute the case by the judge and the prosecuting attorney, who had been bribed. He said that he had already reported them to the General Government, and advised me to telegraph to the same effect to our minister. I received additional proof from another source and telegraphed. The attorney was transferred to Bagdad. The judge, however, created a counter opposition to the vali, and for some reason he (the vali) was removed. As soon as he knew he was to go he accepted a bribe from the prisoners and surrendered the case into the hands of the judge. I called upon him and he told me very bluntly that he had to go and had turned the case over to the judge. I reminded him that so long as he was there he was vali, and was bound to act in accordance with his instructions in reference to our case. He answered roughly that he had no authority now that it was known he was removed; no one would obey him. I expressed regret that after his good services in our behalf it should be said that he had received a bribe against us. He denied it. I asked him if he had not received a very fine horse from the family of one of the prisoners, Mustafa Effendi. He acknowledged he had, but claimed that he had paid for it and was going to give it to the Sultan.

This of course was evidence sufficient, but I had satisfactory evidence from other sources that he had received not only the horse, but money as well.

The government was now against us, and they resorted to various tricks to clear the prisoners before the arrival of the new vali.

By false pretense they got Miss Melton to sign a writ of summons to appear against the prisoners at a date already passed. They told her it was simply a certification that she had reached Mosul safely.

They endeavored to get me to sign the same on the same pretext, and on my refusing to do so charged me with obstructing the law. Failure to appear on the date set would have been used to dismiss the case.

They then tried to force us to appear as prosecutors and to prove our case against the prisoners. I took the ground that we were not the prosecutors and that we were not under obligations to furnish evidence.

The judge sent me a message conveying a threat that if I did not appear he would bring me.

They made every effort to dismiss the case before the arrival of the new vali, who, too, would have to be bribed. The brothers of the accused seized a young Syrian, who from certain circumstances seemed adapted to their purpose, and offered him a large bribe if he would confess that he guided the party to the tent, and give the names of certain Syrians and distant Koords as the perpetrators of the deed. They assured him that they could soon secure his release from prison. He refused, and they threatened to kill him. He escaped to his home. They followed him, and he fled to me for protection. They came twice to my premises to get him. He went before the Government and took oath to that effect, and they were arrested and taken to Mosul.

Again, a well-formed plan was laid to lay the guilt upon certain Koords, whose village was distant and in an inaccessible part of the mountain.

They were ignorant of the fact that that night, i. e., of the attack on Miss Melton, a friend of mine, under orders of a great agha, a friend of the prisoners, had led those same Koords from their village to a village appointed by the agha, a great ways from Doree, and was with them all night. I allowed this to get out that I had the information, and as besides the effectiveness of my counter testimony this testimony would have implicated the great agha, under whose orders the Koords had moved, they dropped the matter, although they had their witnesses ready.

The prisoners then sent overtures to me, promising eternal friendship and the fullest liberty in the mountains if I would drop the case, and this being refused they sent veiled threats. Besides these, other efforts were made to close the case before the new vali should arrive.

The new vali came, sent, so we were told, with special reference to our case, and with special authority to finish it.

His conduct did not bear out the first and he denied the second, saying it was the business of the court to try the case. He promised, however, and delayed. We

secured further orders from Constantinople, and he appointed a commission to go to Amadia and investigate the case.

The commission was a very able one, one of its members having served as head of a commission on international business. The others, too, were picked men. They went to Amadia, where they spent some weeks in investigation of the affair, and secured testimony from Koords, given on oath before the commission and the local judge, implicating the men under arrest.

This testimony was presented to the vali and judge in Mosul. My agent was present. The chairman of the commission handed the vali a paper containing a list of names, some of which were in red ink, some in black. The former were names of men more directly involved in the attack, either having gone to the tent or planned the attack; the latter as accessories in various ways.

The vali remarked that the names of Mustafa Effendi and Sadullah were in black ink. Abdullah Pasha, head of the commission, returned such answer that the vali took his pen and drew a red line underneath their names, thus including them in the first class. The vali assured me then that the case was finished; that the prisoners had been found guilty. But days passed and nothing further was done. Various pretexts were offered as reasons for the delay. Then many of the prisoners were released and sent home, and two of the principal ones, Mustafa Effendi and Sadullah, released on bail. This seemed to be due to a relaxation of pressure in Constantinople. They promised to arrest others, but failed to do so. They again came to Miss Melton and me for statements covering ground we had already gone over several times.

We answered the questions until their purpose became evident, viz, to secure statements which would enable them to stay proceedings on ground of error, and then I refused to answer any further questions except in the presence of our consul. They pressed us strongly on this point.

We again appealed to our minister, as we had frequently done before, and he demanded a speedy conclusion of the case. The vali then sent me word that the case had been decided and the prisoners were convicted.

I asked him to give me a copy of the judgment showing the names of the parties convicted and their punishment. He asked the judge to give me such a copy, but the judge refused to do so, on the ground that I had disclaimed being prosecutor in the case, and said whenever the prosecutor asked for the papers he would give them. I suggested to our minister that he insist upon such a copy being given, but have never learned whether he asked for it or not.

Having been instructed by Minister Terrell not to go to the vali any more, I did nothing during another delay, but heard that the case had been sent to Bagdad to the court of appeals.

I wrote to our consul there, informing him of the fact. This spring, just before leaving Mosul, the vali sent me word that the papers had returned from Bagdad and the decision of the Mosul court had been sustained. He said he would post the names of the convicted parties, with their punishment, on the bulletin board the next day. This was the day I left Mosul. I sent my agent to get the names of the parties, but they had not been posted.

After reaching the coast, I learned that after I left they reopened the case, threw out all previous testimony, and were examining our friends again, threatening and abusing them.

Both natives and my associates in Mosul write me that their evident purpose is to throw the case out. The two who had been held on bail had been released and restored to their positions in the Government in Amadia with back pay, and that the others soon would be released. Minister Terrell's dispatch says, however, that no one has been released, that the trial has only been postponed for lack of witnesses.

We are greatly puzzled by the second clause in this dispatch. In March I was assured by both vali and judge of Mosul that the case had been closed and the prisoners convicted, and again in April I received a message from the vali telling me that the papers had been returned by the court of appeals in Bagdad, which had reviewed the case and that the higher court had sustained the decision rendered in Mosul. He said further, that the next morning the names of the parties convicted, with their sentences, would be published.

I have with me letters of Judge Terrell, dated February 24 and March 20, 1894, in which he speaks of the case as closed and cautions me as to how to accept the verdict.

In view of the above we are greatly puzzled to know how they can reopen the case. Inasmuch as the commission sent by the vali to Amadia in December, 1893, had every opportunity to examine all witnesses who knew anything about the case, and that those whom they are now examining have already given their testimony several times, we are alarmed at the statement that the postponement is for lack of witnesses.

Inasmuch as the parties most concerned are now in this country and the situation in Mosul seems serious, it has seemed advisable to present the matter directly to the State Department.

E. W. McDOWELL,
Missionary at Mosul, Turkey.

[Subinclosure 2 in No. 209.]

Complicity of the Turkish Government with the assailants.

1. The chief ones implicated were Government officials in Amadia.
2. The Government in Amadia tried to prevent prosecution of the case by indifference, opposition, trickery, forced testimony.
3. The judge in Mosul accepted bribes of the prisoners. In substantiation of this—his reputation; rumor and supporting evidence; testimony of vali of Mosul.
4. He resorted to trickery—serving writ of summons on us for a past date and by false pretenses; insisting upon our appearing as prosecutors and furnishing the evidence in the case; refusing to give copy of judgment against the prisoners after he had informed us that the case was finished; reopening the case after it had once been decided and had been reviewed, with approval, by the higher court in Bagdad.
5. The vali in Mosul, although at first, under pressure from Constantinople, he had taken hold of the case energetically, afterwards, on hearing that he was deposed, took bribes (substantiation—evidence in Amadia and his own admission that he had received a valuable horse from the family of the chief prisoner); surrendered the case to the judge, although but a few days before he had informed me that this judge was working in the interests of the prisoners and was the chief obstacle to the speedy trial and settlement of the case.
6. The prosecuting attorney, according to the testimony of the vali, had been bribed by the prisoners and was interfering to prevent their trial and conviction. By the complaint of the vali to the General Government he was transferred.
7. The vali succeeding the one deposed, although according to representations made to our minister by the General Government he had been sent with special instructions in reference to this case, permitted long and needless delays; made false statements to the effect that the case was finished when it was not; showed lack of authority or interest in not insisting upon the judge's giving us a copy of the judgment after having been assured by the judge that the case had been entirely finished; showed lack of authority or interest in permitting the judge to retry the case after he had once given judgment against the prisoners, which judgment had been sustained by the higher court in Bagdad.

E. W. McDOWELL,
Missionary, of Mosul, Turkey.

[Subinclosure 3 in No. 209.]

Points on building residences in Mosul, Turkey, by American missionaries.

1. Residences are absolutely necessary for the preservation of the health and lives of American missionaries.
2. The right of foreigners to build residences has been undisputed from of old. The law of Turkey distinguishes between residences and schoolhouses and churches; the former may be built by securing permission from the local authorities, without applying to the General Government for a firman.
3. The French priests in Mosul have been unmolested in building, and were building at the time consent was being withheld from us.
4. The governor of Mosul in personal conversations with the missionaries recognized our right to build residences by permission of the local government only.
5. What has been done toward building:
In 1892 we purchased a piece of ground within the walls of the city of Mosul, but in a vacant tract. (See accompanying diagram¹ to show its position in reference to the city.) The ground was bought of three or four different parties who held clear title deeds to the same; their possession of it extends back many years, more than required by law for the outlawing of any claims which might be made against it. To avoid paying an excessive price for the land, we bought it through and in the name of a native of Mosul, acting as our agent. The deed was made out in his name, but with the understanding between him and us that it should be transferred to our name after the completion of operations. The Government was aware that this man was acting as our agent and had bought the property for us.
We have the original deeds in our possession, also official or final deed from Constantinople, which is a certification that the Government records of Mosul have been examined, and that there were no claims, governmental or private, against the sellers of the land, and that by the transaction of purchase Hassoo (our agent) had become rightful owner of the property.
Since the purchase of the ground we have made improvements on it to the amount of several hundred dollars.

¹ Not printed.

In 1893 we made application personally to both the mayor of the city and the governor of the province for permission to build upon this ground. (It is still in the name of our agent.) Neither of them interposed any legal objection, but, on the contrary, assured us that the permit would be granted.

6. Opposition to our building.

Soon after the purchase of the ground an under official, a Moslem, intimated to us that his influence was necessary to secure permission to build, and in further conversation with our agent demanded 1,000 Turkish pounds (\$4,400) as a gift, for which he promised to give us a building permit. We paid no attention to his overtures or to his threats of preventing our building in case we refused to give him a gift. In consequence this man has created an opposition to us.

(1) He secured a petition from some of the residents of the wards nearest to our property, protesting against our building.

We secured a larger petition from same wards, including the chief men, asking that we be allowed to build.

(2) He advanced the idea that the ground, by reason of its elevation and location, was necessary to the city as a place to locate artillery to repel an attack on the city.

In reference to this—

(a) The idea being advanced in the governor's council, our interpreter being present, it was treated as a matter of jest by the chief members of the council who had personally examined the situation.

(b) See accompanying diagram showing relation of our property to vital points of the city in evidence that the suggestion is a pretext.

(c) This suggestion was sent by the same party to Constantinople where, in the absence of explanations from us, it may have weight in preventing our building.

(3) Following this, a claim, instigated by said official, has been advanced that this ground belonged originally to the Government and an effort is being made to reclaim it.

We believe, however, that the Government, on the basis of its own laws, can not validate such a claim inasmuch as—

(a) The property has been in the possession of the families selling it sufficiently long to outlaw, according to Turkish law, any such claim.

(b) The Government has for many years been collecting taxes from these families on this property, thus recognizing their ownership of it.

(c) In the transfer of the property to our agent all the legal forms were complied with, which require that the Government records be examined by a Government official to ascertain whether or not there are any claims upon the property by the Government or by private individuals, and no such claims were found. We have in our hands the original deeds, and also deed of transfer to our agent, sent from Constantinople, which is a certification that the title of the seller was good and that the ownership of the buyer is valid.

(4) In February or March an injunction was served on us forbidding us to build.

Later we were informed that general orders had been received from Constantinople forbidding any building by foreigners without special firman from the Sultan. We believe that both the injunction and the general orders were due to a misapprehension of the case in Constantinople in consequence of the false representations made by the official referred to above, and that by a clear presentation of the case to the Government there by Minister Terrell these objections may be shown to be groundless.

My associate in Mosul has, I presume, already forwarded to Mr. Terrell all needed evidence and information for his use in the case.

We make this statement to the State Department in order that it may be available in case of necessity, without the loss of time involved in communicating by post.

E. W. McDOWELL.

Mr. Terrell to Mr. Gresham.

[Telegram.]

CONSTANTINOPLE, September 21, 1894.

Four of Miss Melton's assailants were sentenced on the 17th instant to three years' imprisonment.

Mr. Terrell to Mr. Gresham.

No. 308.]

LEGATION OF THE UNITED STATES,
Constantinople, September 21, 1894. (Received October 8.)

SIR: I have the honor to inform you that a telegram from the governor of the province of Mosul to the grand vizier announces that on the 17th of September the following-named parties were found guilty of assaulting the American missionary and were condemned to imprisonment for three years, viz, Halil, Fakhi, Abdoolah, and Terho.

The following-named, discharged: Abdul Aziz, Abou Beker, Ago, Ali-bin-Mehmed, Polman; against these five the evidence is reported insufficient.

The four convicted parties can, under the law, appeal to the supreme court of the Ottoman Empire, which sits here at the capital; the conviction now had was before the "court of appeals" for the province of Mosul.

If an appeal is taken I will myself examine the evidence with the aid of my dragoman, and try to secure justice.

I need not assure you that I feel deeply the importance of this proceeding, which will be followed by some feeling of greater security by our people who are in that remote province. They naturally complain of wrongs remaining unredressed during past years; but whatever may be the final result, they can not complain that Mr. Cleveland's administration has been wanting in energy in the prosecution of this case. Copy of my telegram of this date is inclosed on the overleaf.

I have, etc.,

A. W. TERRELL.

Mr. Gresham to Mr. Terrell.

No. 239.]

DEPARTMENT OF STATE,
Washington, September 25, 1894.

SIR: I append hereto copy of your telegram of the 21st instant, in relation to the punishment of Miss Melton's assailants.

It affords me pleasure to express the gratification here felt at the partial success which your persistent efforts in the case have achieved. You are instructed to convey to the Porte an expression of the President's gratification at the evidence of friendly solicitude for the welfare and protection of our citizens in the Ottoman Empire which its action furnishes.

I am, etc.,

W. Q. GRESHAM.

Mr. Terrell to Mr. Gresham.

No. 316.]

LEGATION OF THE UNITED STATES,
Constantinople, October 1, 1894. (Received October 13.)

SIR: I have the honor to inclose a note from the Sublime Porte, of the 26th ultimo, announcing final action by the superior provincial court in the case against the assailants of Miss Melton, and requesting from me an expression of approval. I also transmit a copy of my response, dated the 27th ultimo, expressing my approval of the energy displayed by the Turkish Government in the prosecution.

There is a discrepancy between the verbal statement of the grand vizier to me and the note verbale, in that the latter omits the name of Taklio as one of the convicted men. The note verbale was sent by Said Pasha. My telegram was based on the verbal statement of the grand vizier.

The fact that the state's attorney has appealed from the judgment of acquittal, as to five men found not guilty, you will note. I will personally inspect the evidence when the record reaches here, and urge a conviction or consent to a dismissal as the facts may seem to require.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 315.—Translation—Verbal note.]

Minister of Foreign Affairs to Mr. Terrell.

MINISTRY OF FOREIGN AFFAIRS,
September 26, 1894.

In referring to its verbal note of August 15, 1893, the ministry of foreign affairs has the honor to inform the legation of the United States of America that, according to a telegram received from the governor-general of the vilayet of Mosul, the eight men who were under arrest for the act of aggression against Miss Melton at Amadia, those named Abdul Aziz, Eba Bekir, Azo, Ali bin Mahommed, and Pouge, have been acquitted, there being insufficient evidence against them; the three others, Khalil, Abdoullah, and Terho (the two latter have escaped) were condemned to three years' hard labor, in accordance with article 218 of the penal code.

The court has not taken into consideration the question of civil damages, as no claim was made upon the subject.

The attorney-general of said tribunal having appealed against the judgment acquitting the five prisoners, the judgment, as well as the papers regarding the case have been forwarded to the ministry of justice.

In having the honor to bring the above to the knowledge of the legation of the United States the imperial ministry is persuaded that the legation will be good enough to declare itself satisfied by the results obtained, and consider the incident as closed.

[Inclosure 2 in No. 316.—Verbal note.]

Mr. Terrell to the Minister of Foreign Affairs.

LEGATION OF THE UNITED STATES,
Constantinople, September 27, 1894.

The legation of the United States takes pleasure in acknowledging the receipt of the note verbale of the ministry of foreign affairs for the Imperial Ottoman Government, dated the 18th instant. In securing the conviction of the wicked men who beat Miss Melton, a defenseless woman, in 1893, in the vilayet of Mosul, the Ottoman Government has shown an energy and determination to enforce justice worthy of the highest praise. The conviction was effected in a remote province and with many difficulties, which are known to the minister of the United States.

Miss Melton could not even recognize her assailants, but the Turkish Government has detected them in a wild district, nearly a thousand miles from its capital, and has secured their conviction.

The minister of the United States has communicated to Washington his high appreciation of the energy shown by the Turkish Government in this affair, and he would be pleased, if permitted, to inspect the evidence in the case of the five other men in opposition to whose acquittal the attorney-general has appealed to the supreme court.

Mr. Gresham to Mr. Terrell.

No. 256.]

DEPARTMENT OF STATE,
Washington, October 30, 1894.

SIR: I have to acknowledge the receipt of your No. 316, of the 1st instant, in relation to the trial of the assailants of Miss Melton.

You will urge the recapture of the two escaped convicts and the imposition of the sentence in their case. Until this recapture is effected, or at least proper efforts put forth to that end, the incident can hardly be regarded as closed, notwithstanding the energy displayed by the Turkish Government in pressing the prosecution of the dastardly assailants, of which you have very properly expressed your appreciation.

I am, etc.,

W. Q. GRESHAM.

IMPEDIMENTS IN THE WAY OF AMERICAN SCHOOLS.

Mr. Terrell to Mr. Gresham.

No. 106.]

LEGATION OF THE UNITED STATES,
Constantinople, November 15, 1893. (Received Dec. 1.)

SIR: My attention has been directed by the inclosed letter (copy) from Dr. Dwight and others, to a notice in the Oriental Advertiser of this city, a copy of which is inclosed, and which gives notice that the Porte will require that all conveyances of land to foreign subjects shall hereafter contain a clause prohibiting the use of the property for schools or religious worship.

In a conversation yesterday with His Excellency Saïd Pasha, he did not deny the truth of the published notice, but stated that the order referred to therein was, to some extent, the subject of consideration still in the council of ministers. * * *

The letter from the American teachers and missionaries urges (1) that the order referred to imposes on the enjoyment of the right to acquire real estate a condition not found in the protocol (of 1874); (2) that it is opposed to the principle of extraterritoriality secured by capitulations; (3) that it imposes a penalty on the right to pursue a lawful calling; (4) that it places a stigma of illegality on the act of divine worship.

The order is far-reaching in its possible consequences, and if one of the great powers would, through its ambassador, agree to act in protesting, I would assume the responsibility of insisting on the withdrawal of the order. I deem it proper now to content myself with sending a written notice to the Porte that I will reserve the right to

protest hereafter, should I desire to do so, and await your instructions.
 * * * Before you instruct me, I desire (under favor) to submit, with proper deference, for your consideration the following:

The order appears to me as being in plain violation of the provisions of article 1 of the imperial rescript of June 10, 1867, viz:

ART. 1. Foreigners are admitted by the same privileges as Ottoman subjects, and without any other restriction, to enjoy the rights of holding real estate whether in the city or the country throughout the Empire, etc.

The order subjects the foreigner in the acquisition of land to conditions not required to be inserted in a deed to a native; and if the above were the only provision affecting the question the illegality of the order would be too plain for question. But the first subdivision of article 2 of the rescript of 1867 is as follows:

The legal effect of this equality is first to oblige them (foreigners) to conform to all the laws and regulations of the police, or of the municipality which govern at present, or which may hereafter govern the enjoyment, the transmission, the alienation and hypothecation of landed property.

On this clause the Porte, no doubt, relies; and yet it would seem plain that a requirement that a foreigner shall "conform" to all "regulations * * * of the * * * municipality which * * * may hereafter govern the * * * alienation * * * of landed property" can not be held to authorize a local governor to impose a condition in a deed to a foreigner, which is not required in a deed to a native, and thus render nugatory the very law which declared his equality of right. No law requires the clause complained of to be inserted in a deed to a Turk.

The firman and hattî-sherîf, relative to privileges and reforms of 1856, and which is referred to in the treaty of peace signed at Paris soon afterward, is instructive in the provisions of its ninth article, for (1) it confirms all existing privileges enjoyed by Christian communities; (2) it requires the Sublime Porte to take energetic measures to insure to each religious sect, whatever be the number of its adherents, entire freedom in the exercise of its religion; (3) it declares that all forms of religion may be freely professed, "and no subject * * * shall be hindered in the exercise of the religion that he professes, nor shall he be in any way annoyed on that account;" (4) it authorizes every community to establish public schools of science, art, and industry.

These extracts sufficiently show the intention to grant perfect freedom from Mahomedan restraint in the worship of Christians. You will remember also, that by the sixty-second article of the treaty of Berlin, it was expressly declared that the freedom and exercise of all forms of religion was assured to all, and that no hindrance should be offered, etc.

* * * * *

I have, etc.,

A. W. TERRELL.

[Inclosure 1. in No. 106.]

Mr. Dwight et al. to Mr. Terrell.

BIBLE HOUSE, *November 2, 1893.*

DEAR SIR: The local newspapers announce (see *Oriental Advertiser*, October 30) that the Sublime Porte has ordered the provincial authorities in case of the purchase of landed property by foreigners to place upon

the deeds a prohibition of the teaching of schools and of the holding of divine worship upon the property.

Within three years past several attempts have been made by local authorities (at Bourdour, Marsovan, Smyrna, Van, etc.) to prevent American citizens from buying real estate, from building on property owned by them, and even from repairing the houses in which they live, save on condition that they will promise not to hold school or to have divine worship on the premises. This has been, notwithstanding the fact that the Americans so enjoined are by profession religious and benevolent people whose profession it is to teach schools and requires them to worship God wherever they dwell, and notwithstanding, moreover, that no law of the Empire forbids worship in private houses as practiced from time immemorial, and that the schools of these Americans are admittedly authorized institutions subjected to the Ottoman law regulating the method of instruction to private schools. Such attempts have failed through the intervention of the United States legation or the British embassy. The order now alleged to have been issued would make general and legal, restrictions hitherto considered as local and arbitrary acts of oppression.

We are confident that such an order, if it has been issued, will be found to contravene fundamental principles of the treaties.

I. Nearly twenty years after the signature of the protocol securing to American citizens the right to hold real estate in Turkey, it seeks to impose upon the enjoyment of the right a condition not found in the protocol.

II. Even were it proper by conditions generally applied to the tenure of real estate in Turkey to modify the essential right secured by the protocol, the promulgation of a condition which has in it the necessity that Turkish officials shall concern themselves with the occupations of the American within his own domicile is contravened by the principle of extraterritoriality secured by the capitulations:

III. Such an order would lay a penalty upon the exercise by the American in his own domicile of the profession of school teacher, recognized by immemorial usage, as well as by the laws regulating its exercise, to be lawful to Turkey. It also opens the way for the exclusion of Americans from other lawful occupations in the Ottoman Empire. If a decree of the Sublime Porte may impose penalties upon Americans who teach school or who worship God in their houses, it may also impose penalties upon those who make shoes or write up their commercial accounts in their houses.

IV. Such an order would fix an apparent stigma of illegality upon the act of teaching and the act of divine worship, by declaring that these acts as practiced by Americans are sufficient to debar them from enjoying the privilege of tenure of property in Turkey.

Recalling to mind the principle by which Ottoman laws and regulations which conflict with the capitulations can be enforced upon American citizens, only the U. S. Government has agreed to the treaty modification involved, and remembering moreover instances in which inadvertence as to protesting against such decrees or laws has been held by the Sublime Porte as tacit consent to their application in entirely unexpected directions, we earnestly beg you to learn if the issue of these orders is as reported, and in case the report is found to be true, to protect the interests of all American citizens residing in Turkey in general and the specific interests of our body in particular, by protesting against any application or execution of an order so revo-

lutionary and so destructive of the vested interests of the missionary societies established in the Ottoman Empire.

Very respectfully, etc.,

HENRY O. DWIGHT,
ELIAS RIGGS,
ROBERT THOMSON,
HENRY S. BARNUM,
W. W. PEET,
JOSEPH K. GREEN,

In behalf of the Mission of the American Board in Western Turkey.

[Inclosure 2 in No. 106.—From the Oriental Advertiser of November 1, 1893.—Translation.]

The authorities of certain provinces have received orders to oppose (conformably to the existing regulations) the pretensions of foreign proprietors of real estate to transform their houses into schools or to use them for public worship. In order to prevent any difficulty which may arise on that score, the title deeds transferred to foreign subjects will carry hereafter the special notice that the property can not be arbitrarily transformed into a school or used for any religious services whatever.

Mr. Uhl to Mr. Terrell.

No. 113.]

DEPARTMENT OF STATE,
Washington, January 4, 1894.

SIR: I have received your No. 106, of November 15 last, regarding the presumed issue of a notice "that the Porte will require that all conveyances of land to foreign subjects shall hereafter contain a clause prohibiting the use of the property for schools or religious worship."

Noting your statement that you have addressed a written notice to the Porte that you reserve the right to protest hereafter against this requirement,

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Uhl to Mr. Terrell.

No. 111.]

DEPARTMENT OF STATE,
Washington, January 2, 1894.

SIR: I inclose for your information a copy of a letter from the secretary of the American Board of Commissioners for Foreign Missions and its inclosure, relative to the increase of impediments placed in the way of foreign teachers in Turkey by the policy of the Porte.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

[Inclosure, 1 in No. 111.]

Mr. Smith to Mr. Gresham.

AMERICAN BOARD OF COMMISSIONERS
FOR FOREIGN MISSIONS,
Boston, Mass., December 26, 1893. (Received Dec. 28.)

SIR: A letter just received from Rev. H. N. Barnum, D. D., one of our oldest and most valued missionaries, residing at Harpoot, in Eastern Turkey, contains matter of such importance that I inclose a copy of material parts thereof. The region from which Dr. Barnum writes, and which he represents, includes the valley of the Euphrates and the region as far east as Lake Van and northward to the Black Sea. Harpoot, the point from which he writes, is the educational center of the mission. Located there we find Euphrates College, with departments for both men and women, and the theological seminary of the mission, where the native preachers are trained for their work; Euphrates College gathers pupils to the number of 550, about equally divided between the sexes, and is rendering a very valuable service to the cause of higher education in the Turkish Empire, as well as to the missionary work, of which it is the center and the crown. Undoubtedly all the facts contained in this communication have been communicated by Dr. Barnum and his associates to the United States legation at Constantinople, but it seemed to me well that the Department of State at Washington should be immediately advised of these facts and of the attitude of the Turkish Government which they denote.

We are greatly pleased with the spirit and energy and ability displayed by Judge Terrell in his office at Constantinople, and feel great confidence that no interest connected with the Americans resident in the Turkish Empire or with their legitimate work there will suffer neglect at his hands. The facts presented in Dr. Barnum's letter show the increasing purpose of the Turkish Government to check, if not to destroy, the benevolent and Christian work which our missionaries have in hand, and call for appropriate action and remonstrance on the part of our Government. If the chapels where Protestant Christians gather for worship are to be closed, and if the touring of our missionaries through the field is to be suppressed and the literature of the world is to be tabooed, such a work as our missionaries have prosecuted in the Turkish Empire for seventy years and which everywhere has sought the welfare of the Empire and the peace and prosperity of its inhabitants must soon come to naught.

Our missionaries, to a man, are thoroughly loyal to the Ottoman Government; not a fault on their part can be successfully pointed out by the Turkish Government. They are ready to be put on trial if there are any charges against them, and will consent, any one of them against whom these charges are successfully proved, to retire from the field. We at these rooms would not retain in our service in the Empire any man who will not most scrupulously comply with the instructions given to him when he is sent to the field that he hold himself first, midst, and last loyal to the Government of the nation. The suspicions of the Turkish Government, if they have any, are groundless, and we challenge them to prove their accusations or to withdraw them.

We await with eager desire tidings of the securing of the firman for Anatolia College, which was pledged last spring by the Turkish Government as the principal part of its settlement of the Marsovan incident, a pledge which our Government, of course, will insist shall be

fulfilled. Nothing of importance has been settled in the Marsovan incident until this firman is granted. The repayment of the cost of the building burned is a trifle; the issuance of the permit to rebuild is a trifle; the firman for the college, which gives it legal standing in the eye of the Government, is the main thing. * * *

I am, etc.,

JUDSON SMITH,
Foreign Secretary A. B. C. F. M.

[Inclosure 2 in No. 111.]

Mr. Barnum to Mr. Smith.

HARPOOT, November 29, 1893.

DEAR DR. SMITH: * * * I am sorry to say that the signs that the Government is pursuing a reactionary policy are increasing. I will mention a few.

(1) Very few of the Protestant communities throughout the country have been able to build regular churches, even with the help of the Board. They have been temporary structures, of sun-burnt brick, generally of two stories, including a parsonage, or an old dwelling house transformed, and not in any respect answering to the conception of a church as that is understood in this country. Schools are generally held in them likewise. The building of a church requires permission from the Sultan himself in the shape of a firman, and the securing of a firman is a long and tedious process, with no little expense. So the great majority of these chapels are without firman.

About a year and a half ago the grand vizier sent out an inquiry as to the number of places of worship in the country which have no firman, and our governor-general passed the inquiry on to the heads of different communities. The Protestant civil head gave a list of chapels in this district of that description, and that was the last we heard of it, and it was supposed that no more would be said about it. The other day the Protestant civil head having learned that a petty governor in the region of Arabkir had closed two village chapels—those of Aghun and Enetsik—he began to take measures to secure orders from the governor-general for their reopening, when he was informed that strong and separate orders had been received from the grand vizier, the minister of justice, and the minister of the interior commanding that all places of worship which have not Imperial sanction shall be closed; so he made no further effort. There are not more than four or five churches with firmans in all this field. The rest have only the ordinary building permits of the local governments, so although each one is a center of a quiet agency for reforming men, and doing more than anything else to make good citizens, they are liable to be closed any day, and the congregations left out of doors.

(2) The restrictions upon printed matter are becoming more and more severe. The index expurgatorius is becoming a long one. Some seven months ago, in company with the college professors, we spent nearly a whole day in going through the college and seminary libraries cutting out leaves and erasing paragraphs from encyclopedias, histories, and other standard works that are thought might be objectionable. Books that we knew to be proscribed we burned altogether. The other day the superintendent of education brought in a new list including Milton's *Paradise Lost*, and some numbers of the *Missionary Herald*.

I found three copies of the former in the college library and yesterday I sent them to be destroyed. The bearer of the books brought back the request for the Heralds, but as those are found only in our libraries and are personal, I do not send them. The demand may be pressed and the question will then arise whether we, as American citizens, have a right to possess not only the Missionary Herald, but Milton, Shakespeare, general histories, and other standard works.

(3) I understand that an inquiry has been addressed to the Porte by our local government as to the mode of procedure in case it is considered necessary to search the houses or schools of foreigners, and the reply has been received substantially as follows, viz: "Write to us and we will inform the embassy, and then you will proceed as in the case of Ottoman subjects." As we and the Catholic padres are the only foreigners, we can not be suspected of counterfeiting or possessing stolen goods, so it can refer only to printed matter or private papers. If anything of the kind is undertaken here we shall endeavor to avoid a collision by professing to make up a case like possessing a copy of Milton or Shakespeare and referring it to Constantinople and the legation to have our rights determined there.

(4) Mr. Browne has recently been on a tour across the Taurus to the out stations of Choonkoosh, Chermook, Argheni, and Bekur Maden. These belong to the vilayet or province of Diarbekir. On Saturday our governor-general sent a high official to me to say that he had received a communication from the governor-general of Diarbekir complaining of this tour, and saying that Mr. Browne was not put under arrest and detained because he said he lived in Harpoot and was going there, so the question was referred to the Harpoot government. Now Mr. Browne and his work are well known in all these places.

He or some one of our number visits them every year, and this is the first time that objection has been raised to our touring work. The Government can know, if it wishes to, that American missionaries are loyal men, and that they are utterly opposed to the insane revolutionary plots of some Armenians who are attempting to stir up rebellion in spite of the protest of at least ninety-nine hundredths of their own people. We are promoters of education, of peace, of good order, and of good citizenship. In fact, the Government could not do a better thing than pay the expenses of our touring, but the official who called on me said, "The times are changed and the Government does not like to have foreigners going about among the people," so steps may be taken to prevent touring altogether. * * *

Ever, etc.,

H. N. BARNUM.

Mr. Terrell to Mr. Gresham.

No. 162.]

LEGATION OF THE UNITED STATES,
Constantinople, January 18, 1894. (Received February 6.)

SIR: I have the honor to acknowledge the receipt of your dispatch No. 111 of January 2, inclosing a communication from Dr. Judson Smith, with its inclosure, a letter from Mr. Barnum, of Harpoot.

The facts stated by Mr. Barnum are not new to me, nor am I ignorant of the importance that Dr. Smith and many others attach to the procuring of the firman for Anatolia College.

Mr. Barnum is made to say on the first page of his letter: "So the great majority of these chapels are with¹ firman." This must be a clerical error. The truth is that the zealous missionary, in opening places of worship, has pushed his work faster than the laws under which he lives here permit; and the order to close many chapels is in compliance with a law that existed when the chapel was established. I think I shall secure the enforcement of an order, once issued, which requires the authorities to respect chapels long established. Whether, in the face of Moslem prejudices that have been strengthened by the suspicion that missionary work has encouraged sedition, I can now have a general order to protect the new chapels, may admit of doubt.

The trouble is, also, that schools are taught in those chapels and, as you know, while a permit is required to authorize the schools, this legation has regarded this requisition to be in violation of capitulations and treaties. This I think correct, and yet I am at the disadvantage of being alone among foreign diplomats in this view of our rights. The right to teach schools either exists under capitulations or it does not. If it exists, a fearful step backward is taken when it is admitted that a permit must be applied for *de novo*.

The restrictions upon printed matter are not new; they exist in all despotic governments. The British ambassador was even more horrified than Mr. Barnum at finding that Milton's and Shakespeare's works were prohibited. The troubles of book colporteurs and my efforts for their relief are incessant. One Papazoglon I think I have relieved seven times.

As to the claim on the part of the Porte to search private libraries for obnoxious books, if it exists no information has been conveyed to me otherwise than in Mr. Barnum's letter. I will, however, see if this right is claimed, and if it is, will stop it, I think, without trouble.

I have full knowledge of the suspicion with which "touring work" is regarded by the Turks. It will continue until their suspicion of the missionaries ceases, or indemnity is demanded for losses, etc. For each complaint made by Mr. Barnum I will try to find a remedy, but he must be patient.

I will be pardoned for calling your attention to a fact which greatly increases the complications of this church and school problem here. It is claimed that 40,000 children are being taught in the Ottoman Empire, and that these are under the supervision of some 300 American men and women missionaries. It is easy to see that if this estimate be correct, the missionaries are not doing (for they can not do) the work. Native teachers who are subjects of the Sultan are thus teaching the children of his subjects, but under Christian supervision. I can not interfere with the policy of the Turkish Government in dealing with schools taught by Turkish subjects (whether Christian or Moslem) except under specific instructions, unless a teacher, present and controlling, is an American citizen.

One can not but admire the disinterested zeal that animates these good men to push their work faster than the slow firmans would sustain them, but this Ottoman Government must be allowed, as a sovereign, some right to regulate its internal policy. When exercised in violation of capitulations and treaties I will be prompt to protest.

Dr. Smith may be assured that while I remain at this post, unceasing vigilance and effort will be used to protect our people in every right secured by capitulations and treaties.

I have, etc.,

A. W. TERRELL.

¹Should be "without."

Mr. Gresham to Mr. Terrell.

No. 114.]

DEPARTMENT OF STATE,
Washington, January 4, 1894.

SIR: Referring you to instructions No. 3 of November 29, and No. 5 of December 1, 1892, and to others of later date in regard to various obstructions which have been encountered by our citizens having charge of schools in Turkey, I now inclose a copy of a letter from the secretary of the Foreign Christian Missionary Society in Cincinnati in respect to the apparently arbitrary closing of their chapel in Marash and the neglect of the authorities to provide Rev. G. N. Shishmanian with a permit to carry on his school at Constantinople. Your familiarity with this class of cases leads me to hope that your efforts may in due time remove the unfavorable conditions complained of by Mr. McLean.

I am, etc.,

W. Q. GRESHAM.

[Inclosure in No. 114.]

*Mr. McLean to Mr. Gresham.*CINCINNATI, OHIO, *December 26, 1893.* (Received December 28.)

DEAR SIR: Our missionaries in Turkey have two grievances. First, this society has a chapel in Marash, Cilicia. This building has been closed for about two years by the Government. The Christian people that used to worship there are obliged to worship in some private house, or not to worship together at all. Unfortunately, this property is in the name of a man who is not an American citizen. But the property is ours. We paid for it.

Secondly, our missionary in Constantinople, Rev. G. N. Shishmanian, complains that the Porte will not give him a permit to carry on his school work in that city. He has been asking the authorities for more than a year to give him a permit. They assign no reason for their failure to grant his request.

This society respectfully asks you, if you can do so consistently, to use your good offices to have the chapel in Marash opened, and to secure a permit for Mr. Shishmanian to enable him to carry on his school work. You did us one good turn in securing the recognition of the citizenship of Dr. Garabed Kevorkian.

This emboldens us to approach you again. Our workers in Turkey think the U. S. Government omnipotent. They feel sure that any request you may make will be granted by the Porte. If you can do anything for us, we shall be very grateful.

Very respectfully,

A. McLEAN,
*Corresponding Secretary.**Mr. Terrell to Mr. Gresham.*

No. 219.]

LEGATION OF THE UNITED STATES,
Constantinople, March 30, 1894. (Received April 21.)

SIR: I have the honor to transmit herewith copy of a letter from Mr. Jewett, consul at Sivas, of date December 23, 1893, and also copy of

the instruction I have sent in response to this and to another letter from Mr. Jewett of December 9, 1893, whose contents I have recapitulated in my reply.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 219.]

Mr. Jewett to Mr. Terrell.

CONSULATE OF THE UNITED STATES,
Sivas, December 23, 1893.

SIR: During the past two years the American missionaries at Harpoot have been putting in a water supply for their schools and houses. They brought the water in pipes from a considerable distance from the city and spent a very considerable sum of money in the work. Largely out of generosity, there being only a slight and insignificant consideration, the missionaries promised to give half of the water to the people.

They have done so. But a wealthy Turkish neighbor, who expected or hoped to get the whole of the gift, received only half of it, and the rest was distributed to other places among the people. The Turks proceeded to bring a suit against Mr. Barnum, as I understand, to obtain the whole amount of the water that was promised.

November 21 Mr. Barnum received a summons to appear in court to answer the suit. He rejected the summons, saying that, being a foreigner, the suit should be brought through his consul or the governor-general of the province. Then the court sent a written statement to the governor in regard to the matter, which specified a law to the effect that foreigners who hold real estate are under the same relations to the courts as Ottoman subjects in any suit relating to real estate.

I have written to Mr. Barnum that this is a question of contract and not a question of real estate, and as it is an action to establish the rights or redress the wrongs of an individual, it is a civil suit and therefore under the jurisdiction of the consul.

I have told him that if he wished to have the case tried in the Turkish court he could do so, but it is a matter of choice with him, and if he submits to the Turkish courts he must abide by their decisions. He says it is an institution for which he has no particular respect.

I understand that water is, in some cases, classed as real estate, in questions of mill sites, etc., but I do not think it should be classed as real estate in this instance.

But even if it should be regarded as real estate in this case, it seems to me that the question at issue is a commercial one, to first establish the terms of the contract existing between Mr. Barnum and the Turk, then to determine whether that contract has been violated, and if so, what damages should be allowed to the plaintiff.

The power of commencing all civil proceedings being vested in the consular officer, it seems to me that this suit should be brought through this office.

I have advised Mr. Barnum to settle the suit in some friendly way if possible to do so.

Will you kindly inform me if my position in regard to this suit is correct or not?

In case the suit is brought through this office, how should it be tried? Harpoot is not in this vilayet and is seven days' journey from Sivas.

I regret that my information in regard to the suit is not complete. I have given you the facts as I have received them.

I am, etc.,

M. A. JEWETT.

[Inclosure 2 in No. 219.]

Mr. Terrell to Mr. Jewett.

No. 73.]

LEGATION OF THE UNITED STATES,
Constantinople, March 30, 1894.

SIR: I am in receipt of your communications of December 9 and 23, respectively, informing me of the closing of Protestant chapels and asking for instructions in various matters, such as the right of missionaries to engage in touring work, to have proscribed books for their personal use, the right of the Ottoman Government to search American schools and houses, etc.

In regard to the closing of Protestant chapels, I have to say that this legation will always be prompt in protesting against the closing of chapels under the immediate control of Americans, and we will cheerfully use our good offices, as far as we can, in favor of other Protestant chapels.

The right of missionaries to visit the outstations is undoubted, as all peaceable American citizens have a right to go back and forth throughout the Ottoman Empire. I should, however, as a matter of expediency, advise caution, for the present, in the assertion of rights which are distasteful to the Turkish officials. The disturbed condition of some parts of Asia Minor and the intense suspicion of seditious movements felt by Turkish officials created, for a time, a strong feeling against teachers and missionaries, which is now happily beginning to subside, and which it would be well to dispel altogether by quiet and discreet conduct on their part.

You are correct in thinking that the Turkish Government has no right to search American schools and residences, except under the circumstances enumerated in your letter of December 9, 1893, if you have in mind at the same time the undisputed right of properly authorized officials to inspect the schools, text-books and courses of study, as provided for by article 129 of the law concerning public instruction. Hence, it follows as a necessary consequence that proscribed books for the personal use of the American missionaries which have passed the custom-houses and been introduced into their homes can not be disturbed.

In regard to Mr. Barnum's lawsuit, I am inclined to think that the question involved is one of real estate, and hence one to be tried in the Turkish court. Nevertheless, the summons should be served through the consulate when there is one within nine hours of the locality. As such does not appear to be the case in the present instance, I am disposed to repeat the advice you have already given Mr. Barnum, to settle the suit "in some friendly way if possible to do so," and thus avoid a tedious Turkish litigation.

I am, etc.,

A. W. TERRELL.

PUNISHMENT OF AMERICAN CITIZENS COMMITTING OFFENSES IN
TURKEY.—CASE OF DR. FRANKLIN.

Mr. Terrell to Mr. Gresham.

No. 148.] LEGATION OF THE UNITED STATES,
Constantinople, January 5, 1894. (Received January 22.)

SIR: I have the honor to call your attention to the translation of a letter from Ibrahim Hakki, the governor of Palestine, to Mr. Selah Merrill, United States consul at Jerusalem.

The correspondence revives the old contention about Dr. Franklin, who was accused by the Turkish Government of killing a child by malpractice.

When the expulsion of Dr. Franklin was first requested at the Porte I refused to consider it, claiming the right to try him myself, if he was charged with murder, under article IV of the treaty of 1830 and the act of Congress giving me jurisdiction.

No instance has come to my knowledge (and I have made inquiry) in which European powers have permitted their native subjects to be capriciously expelled from Turkey. Cases have occurred in which notoriously bad men have, on application by the Porte, been required by a minister to leave, but they are rare.

Thus far the line has been firmly drawn between the right of Turkey to exclude returning natives, naturalized in the United States, and her claim of right to expel native citizens of the United States domiciliated in Turkey. I will not permit our relations with Turkey to become strained in urging this distinction, except under specific instructions given on a case properly presented. In maintaining this distinction we would have the coöperation or approval of all the Christian powers.

The alarm felt over what seemed to be a concession in the President's message of the right of Turkey to expel our people already domiciled here was at first general. I think it is no longer felt by those with whom I have come in contact.

I have, etc.,

A. W. TERRELL.

JANUARY 6, 1894.

N. B.—The consul at Jerusalem has been instructed that he will not coöperate in the expulsion of Franklin unless instructed, and that the Porte yesterday, on my application, suspended the order for his expulsion.

A. W. TERRELL.

[Inclosure 1 in No. 148.]

Mr. Short to Mr. Terrell.

CONSULATE-GENERAL OF THE UNITED STATES,
Constantinople, January 4, 1894.

SIR: I have the honor to acknowledge the receipt of your dispatch No. 20, of this date, inclosing a communication in Arabic from Selah Merrill, consul at Jerusalem, and beg leave to return herewith said communication, with its translation in English, as desired.

I am, etc.,

LUTHER SHORT,

[Inclosure 2 in No. 148—Translation.]

Mr. Merrill to Mr. Malessarifat.

CONSULATE OF THE UNITED STATES AT JERUSALEM.

HONORABLE SIR: In reply to your esteemed letter, dated November 23, 1893, No. 321, informing me that you had received a telegram from his highness the grand vizier concerning the expulsion and banishment from the Turkish dominions of Dr. Franklin, a citizen of the United States, now residing here, because of his having administered poison to a patient, thereby causing his death, and demanding that I would attend to the matter, I have the honor to state that, having received no instructions from my legation at Constantinople, I am unable to act in accordance with your request.

I have, etc.,

SELAH MERRILL.

Mr. Gresham to Mr. Terrell.

No. 136.]

DEPARTMENT OF STATE,

Washington, February 9, 1894.

SIR: I have received your dispatch, No. 148, of the 5th ultimo, in relation to the case of Dr. Franklin, a citizen of the United States, who is charged by the Turkish Government with having killed a child by malpractice. For that alleged offense it appears that the Turkish Government sought to expel him from its dominions.

The laws of the United States provide for the punishment, in accordance with the terms of article 4 of the treaty of 1830, of American citizens who commit offenses in Turkey. The provisions of that article have been the subject of a prolonged discussion, the nature of which is explained in an instruction to Mr. Hirsch, No. 142, of December 22, 1890. The proposed action of the Turkish Government in regard to Dr. Franklin appears to involve an attempt to avoid the stipulations of the treaty by resorting to the measure of expulsion. This is obviously inadmissible. Your refusal to accede to the request of the Porte is therefore approved.

I am, etc.,

W. Q. GRESHAM.

ALLEGED CRUELITIES COMMITTED UPON ARMENIANS.¹*Message of the President.**The Senate of the United States:*

I have received a copy of the following resolution of the Senate, passed on the 3d instant:

Resolved, That the President be requested, if in his judgment it be not incompatible with the public interest, to communicate to the Senate any information he may have received in regard to alleged cruelties committed upon Armenians in Turkey, and especially whether any such cruelties have been committed upon citizens who have declared their intention to become naturalized in this country, or upon persons because of their being Christians.

¹ See Senate Ex. Doc. No. 11, Fifty-third Congress, third session.

And, further, to inform the Senate whether any expostulations have been addressed by this Government to the Government of Turkey in regard to such matters, or any proposals made by or to this Government to act in concert with other Christian powers regarding the same.

In response to said resolution, I beg leave to inform the Senate that I have no information concerning cruelties committed upon Armenians in Turkey or upon persons because of their being Christians, except such information as has been derived from newspaper reports and statements emanating from the Turkish Government denying such cruelties and two telegraphic reports from our minister at Constantinople.

One of these reports, dated November 28, 1894, is in answer to an inquiry by the State Department touching reports in the press alleging the killing of Armenians, and is as follows:

Reports in American papers of Turkish atrocities at Sassoun are sensational and exaggerated. The killing was in a conflict between armed Armenians and Turkish soldiers. The grand vizier says it was necessary to suppress insurrection and that about fifty Turks were killed. Between three and four hundred Armenian guns were picked up after the fight, and reports that about that number of Armenians were killed. I give credit to his statement.

The other dispatch referred to is dated December 2, 1894, and is as follows:

Information from British ambassador indicates far more loss of lives in Armenia, attended with atrocities, than stated in my telegram of 28th.

I have received absolutely no information concerning any cruelties committed "upon citizens who have declared their intention to become naturalized in this country" or upon any persons who had a right to claim or have claimed for any reason the protection of the United States Government.

In the absence of such authentic detailed knowledge on the subject as would justify our interference, no "expostulations have been addressed by this Government to the Government of Turkey in regard to such matters."

The last inquiry contained in the resolution of the Senate touching these alleged cruelties seeks information concerning "any proposals made by or to this Government to act in concert with other Christian powers regarding the same."

The first proposal of the kind referred to was made by the Turkish Government, through our minister, on the 30th day of November, when the Sultan expressed a desire that a consul of the United States be sent with a Turkish commission to investigate these alleged atrocities on Armenians. This was construed as an invitation on the part of the Turkish Government to actually take part with a Turkish commission in an investigation of these affairs and any report to be made thereon, and the proposition came before our minister's second dispatch was received, and at a time when the best information in the possession of our Government was derived from his first report, indicating that the statements made in the press were sensational and exaggerated, and that the atrocities alleged really did not exist. This condition very much weakened any motive for an interference based on considerations of humanity, and permitted us, without embarrassment, to pursue a course plainly marked out by other controlling incidents.

By a treaty entered into at Berlin in the year 1878, between Turkey and various other governments, Turkey undertook to guarantee protection to the Armenians, and agreed that it would "periodically make known the steps taken to this effect to the powers, who will superintend their application."

Our Government was not a party to this treaty, and it is entirely obvious that, in the face of the provisions of such treaty above recited, our interference in the proposed investigation, especially without the invitation of any of the powers which had assumed by treaty obligations to secure the protection of these Armenians, might have been exceedingly embarrassing, if not entirely beyond the limits of justification or propriety.

The Turkish invitation to join the investigation set on foot by that Government was, therefore, on the 2d day of December, declined. On the same day, and after this declination had been sent, our minister at Constantinople forwarded his second dispatch, tending to modify his former report as to the extent and character of Armenian slaughter. At the same time the request of the Sultan for our participation in the investigation was repeated, and Great Britain, one of the powers which joined in the treaty of Berlin, made a like request.

In view of changed conditions, and upon reconsideration of the subject, it was determined to send Mr. Jewett, our consul at Sivas, to the scene of the alleged outrages, not for the purpose of joining with any other government in an investigation and report, but to the end that he might be able to inform this Government as to the exact truth.

Instructions to this effect were sent to Mr. Jewett, and it is supposed he has already entered upon the duty assigned him.

I submit with this communication copies of all correspondence and dispatches in the State Department on the subject, and the report to me of the Secretary of State thereon.

GROVER CLEVELAND.

EXECUTIVE MANSION,
December 11, 1894.

Report of the Secretary of State.

DEPARTMENT OF STATE,
Washington, December 10, 1894.

The PRESIDENT:

The Secretary of State, to whom was referred the resolution of the Senate of the 3d instant, requesting the President, "if, in his judgment, it be not incompatible with the public interest, to communicate to the Senate any information he may have received in regard to alleged cruelties committed upon Armenians in Turkey, and especially whether any such cruelties have been committed upon citizens who have declared their intention to become naturalized in this country, or upon persons because of their being Christians, and, further, to inform the Senate whether any expostulations have been addressed by this Government to the Government of Turkey in regard to such matters, or any proposals made by or to this Government to act in concert with other Christian powers regarding the same," has the honor to submit herewith all the correspondence in the Department of State bearing on the subject of the resolution.

The Department has received no information "in regard to alleged cruelties committed upon Armenians in Turkey," other than the statements that have been made by the Turkish Government, the current reports in the press, and two telegraphic reports from the legation of

the United States at Constantinople. Those statements and reports contain nothing as to cruelties committed upon persons who are described in the resolution as "citizens who have declared their intention to become naturalized." The undersigned is not aware that there are American citizens in Armenia or elsewhere who are such otherwise than by birth or naturalization. The Department is not informed that Turkish subjects who have declared their intention to become citizens of the United States and have acquired a domicile in this country, have, upon returning to the land of their birth, been subjected to cruelties.

In the absence of authentic information in regard to the matters in question, no "expostulations" have been addressed to the Government of Turkey concerning them.

As to "proposals made by or to this Government to act in concert with other Christian powers," the undersigned has the honor to say that on the 30th ultimo the American minister at Constantinople telegraphed the Sultan had expressed a desire that a citizen of the United States should accompany "a Turkish commission" to investigate the alleged cruelties. This solicitation, which is doubtless one of the "proposals" referred to in recent public rumors, was, though fully appreciated, declined for the following reasons:

The position of the Christian subjects of Turkey is guaranteed by certain stipulations in the treaty of Berlin of 1878, which form part of what is known as the European concert. The Government of the United States is not a party to that treaty. By its sixty-first article it is provided:

The Sublime Porte undertakes to carry out without further delay the improvements and reforms demanded by local requirements in the provinces inhabited by the Armenians, and to guarantee their security against the Circassians and Kurds. It will periodically make known the steps taken to this effect to the powers which will superintend their application.

It is obvious that the intervention of the United States, at the solicitation of Turkey, in a matter to which these stipulations expressly relate, would not have been timely and judicious, either on the score of propriety or of expediency. On the contrary, it might have proved to be exceedingly embarrassing to the European powers whose duty it is to see that the guaranties in favor of the Armenians are executed.

Subsequently, however, the British Government, one of the principal signatories of the treaty, having taken steps in the matter, expressed a desire that a capable and upright citizen of the United States might participate with the commission in an investigation now to be made. With this request, which was supported by the Porte, it was decided to comply, and Mr. Jewett, consul of the United States at Sivas, was designated for the duty.

The undersigned deems it superfluous to say it is the desire of the Department that a complete and impartial investigation may be made of the matters referred to in the resolution of the Senate, to the end that the facts may be fully elicited, and the requirements of justice and humanity, as well as of the treaty stipulations, duly observed.

Respectfully submitted.

W. Q. GRESHAM.

Mr. Gresham to Mr. Terrell.

No. 278.]

DEPARTMENT OF STATE,
Washington, November 25, 1894.

SIR: Statements have been for some weeks current in the press relative to disturbances in the Sassoun district and in the vicinity of Bitlis, between Armenians and Kurds, in which Turkish troops are said to have intervened and great loss of life is reported. The Department is without other information on the subject than that contained in a telegram from Saïd Pasha to the Turkish minister here, of which I append a copy as communicated to me by Mavroyeni Bey.

Although the occurrences in question are alleged to have taken place in September last, you have not so far telegraphed or written on the subject; neither has any mention of the matter been made by our consul at Sivas—from which I infer either that details are lacking to confirm these alarming reports, or that no interests of American citizens in that quarter are believed to be endangered. It is desired, however, that you inform the Department as fully as possible in this regard, as the current reports are calculated to disquiet those of our citizens who have friends or relatives in central Asia Minor.

I am, etc.,

W. Q. GRESHAM.

Saïd Pasha to Mavroyeni Bey.

[Inclosure in No. 278.—Telegram.—Translation.]

The assertions of the London Daily News are entirely distorted. The facts are as follows:

The Armenian brigands, furnished with arms from foreign sources, have joined Kurdish insurgents in order to commit excesses, and have burned and devastated Mussulman villages near Sassoun. The ferocity of the Armenian bands was such that they have, among other acts, burned a Mussulman alive, after having introduced fulminating substances into his stomach. Regular troops have been sent to the spot with orders to place the peaceable inhabitants under full shelter from all depredations; and, to the contrary of the calumnies which have been spread with regard to this military expedition, our troops have not only protected and respected the submissive part of the population, as well as the women and children, but they have, in loyal fulfillment of their duty, restored public order and tranquillity to the satisfaction of all.

It has been alleged, also, that the Kurds have seized the furniture, belongings, and cattle of the Armenian fugitives. Such is not the case. It is the brigands themselves who carried them away into the mountains before rising in revolt, and intrusted them to the keeping of their Kurdish associates. Neither is it true that the Kurds have abducted some Armenian women. These women, composing the families of the above-mentioned bandits, resorted of their own accord to the country of the insurgent Kurds. As regards the Armenian villages said to have been destroyed, it is precisely the Armenians who carried everything away from their own villages before giving themselves up to brigandage. It has been likewise alleged that the Armenians have been oppressed and maltreated by the Kurdish tribe of the Bakranli. This fact is entirely disproved. And what is more, the unfortunate man who was tortured and burned by the Armenians belonged to the tribe in question.

SAÏD.

Mr. Terrell to Mr. Gresham.

[Telegram.]

PERA, November 28, 1894.

Reports in American papers of Turkish atrocities at Sassoun are sensational and exaggerated. The killing was in a conflict between armed Armenians and Turkish soldiers. The grand vizier says it was neces-

sary to suppress insurrection, and that about fifty Turks were killed. Between three and four hundred Armenian guns were picked up after the fight, and reports that about that number of Armenians were killed. I give credit to his statement.

TERRELL.

Mr. Terrell to Mr. Gresham.

[Telegram.]

CONSTANTINOPLE, *November 30, 1894.*

The Sultan desires President's approval for me to send consul of the United States to Sasoun, with Turkish commission to investigate alleged atrocities on Armenians. I believe your consent will result in great benefit to missionaries in Asia Minor. He wishes the presence of a representative of a neutral power and selects the United States of America. Sends his compliments to the President. I would select Jewett. The Sultan requests a reply before Monday.

TERRELL.

Mr. Gresham to Mr. Terrell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 2, 1894.

While appreciating Sultan's confidence, President unwilling American can be sent with Turkish commissioner to investigate alleged atrocities.

GRESHAM.

Mr. Terrell to Mr. Gresham.

[Telegram.]

PERA (CONSTANTINOPLE), *December 2, 1894.*

Information from British ambassador indicates far more loss of lives in Armenia attended with atrocities than stated in my telegram of 28th.

TERRELL.

Mr. Gresham to Mr. Terrell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 5, 1894.

Since my telegram of 2d instant declining participation of this Government in proposed investigation of reported occurrences at Sassoun, your supplementary telegram of the same date has been received.

The Turkish minister yesterday repeated the Sultan's desire that an American join the Turkish commissioners in the investigation; and, moreover, the British Government, a party to the treaty of Berlin, has expressed its desire that a capable and upright citizen of the United

States participate and report his individual conclusions. The President therefore directs that Mr. Jewett, consul at Sivas, accompany the Turkish commission (not, however, as a member of it) to the district in which the alleged atrocities were committed, and after full and impartial investigation report the facts for the information of this Government. He will not join the Turkish or other commissioners in any report. You will inform the minister of foreign affairs, and if necessary, ask proper escort for Mr. Jewett.

GRESHAM.

Mavroyeni Bey to Mr. Gresham.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, December 8, 1894.

MR. SECRETARY OF STATE: I have the honor to confirm my note of November 20, last, and to send herewith to your excellency, merely by way of information, a copy of an official telegram concerning the seditious doings of the revolutionary Armenians in Turkey.

The intrigues of Armenians residing in the United States, their bold-faced slanders, as well as their public endeavors to disparage the Imperial Government (and I confess with grief that they have found in this country, where religion is proclaimed to be a matter of conscience, a notable encouragement at the hands of credulous persons as well as of those who through religious intolerance believe that those Armenians ought to be upheld, not by reason of any imaginary persecution of their race, but solely because they are Christians and regardless of their guilt as subjects), all these facts, I say, must, I am sure, have given your excellency evidence of the kind of people who in reality compose the Armenian colony in the United States, people who nearly all acquire American citizenship for the purpose of returning to Turkey, as acknowledged by Mr. Terrell himself, and thus propagate their revolutionary theories, the existence of which is no longer established by mere assertions but by documents published in the whole press of the United States and by facts.

For all these reasons, the Imperial Government is placed in the attitude of legitimate self-defense, and, like all constituted Governments, should never allow that rebellion be organized and propagated in any part of its territory. I am pleased, therefore, to hope that in view of the gravity of the circumstances, and of the justice and thorough equity of the plea which I had the honor to set forth in my note of November 9, 1894, the Government of the United States, with its well-known sense of impartiality will now take it under immediate and earnest consideration.

Accept, etc.,

MAVROYENI.

[Inclosure—Telegram.]

Toward the end of July last, and at the instigation of an Armenian, Hampartzoun by name, the men of ten villages near Moush, organized into bands and, armed with guns, pistols, axes, and other implements, attacked the tribe of Delikan, killed several of this tribe, and then made an onslaught on the tribes of Bekiran and Badikan. These bands burned the nephew of Emmer Agha, one of the chiefs of the Bekiran tribe, Hadji, alive, and not only outraged the Moslem women of the Kulli-guzat

village, but also put them to an atrocious death. Men were also tortured in an even more ferocious way. Not content with these criminal and illegal acts, the same bands also burned several villages inhabited by Mussulmans. Thanks, however, to measures taken by the constituted authorities, the bands in question were scattered and their leader, Hampartzoun, as also the priest Mighirditch, of Kizil Killisse, and other guilty persons, were arrested and brought to justice.

The assertion often published by the European press that the regular troops shot harmless women and children is absolutely false. No person without arms was killed. Twenty insurgents who had surrendered to the authorities received considerate treatment, and were released after their depositions before the courts of Moush were taken. The place where Hampartzoun and his confederates were found was made known by these 20 insurgents. These facts prove that only 20 among the insurgents surrendered to the authorities, and that, with the exception of the brigands who had revolted, no other person was maltreated.

Mr. Terrell to Mr. Gresham.¹

[Telegram.]

LEGATION OF THE UNITED STATES,
Constantinople, December 10, 1894.

Complications arose after your refusal that made the Porte decline your friendly mediation on terms proposed.

TERRELL.

Mr. Gresham to Mr. Terrell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, December 15, 1894.

In view of circumstances under which Jewett was appointed it will be unfortunate if he is not permitted to discharge duty imposed by President. Inform Sultan that refusal will arouse resentment in this country and that President expects Jewett to receive all necessary protection and facilities in the discharge of his duty as already defined.

GRESHAM.

Mavroyeni Bey to Mr. Gresham.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, December 22, 1894. (Received December 26.)

MR. SECRETARY OF STATE: Referring to the conversation I have just had the honor to have with your excellency this afternoon, I hasten to transmit herewith a copy of the telegram, dated the 16th instant, which I have received from the Sublime Porte, in connection with the designation of Mr. Jewett; telegram which I had, moreover, read to your excellency on the 17th instant.

¹ The correspondence following was exchanged since the date of the President's message of December 11, 1894.

On that date, that is to say, the 17th instant, I transmitted by cable to the Sublime Porte all the particulars which you were pleased to give me in reply to this telegram of the Sublime Porte, requesting telegraphic instructions at the same time.

- Unfortunately I have not, up to date, received any reply.

Accept, etc.,

MAVROYENI.

[Inclosure.—Telegram.]

Saïd Pasha to Mavroyeni Bey.

Mr. Terrell informed us to-day that he had just received instructions from his Government directing him to request of His Imperial Majesty, the Sultan, our August Master, his high assent to the proposal of having the consul of the United States at Sivas join the Sassoun investigating commission. We brought to his attention the fact that in consequence of the refusal of the Washington cabinet to accede to the proposal which we had originally made to the end of delegating an American official to the above said investigation, we had applied, for the same purpose, to the cabinets of London, Paris, and St. Petersburg, which have accepted the proposal of the Imperial Government, and agreed to having a delegate from their respective consuls at Erzeroum attend the labors of the above-said commission; that, in view of the phase taken at the present time by the question, it would be extremely damaging for us to accept an American official, for the reason that, in that event, the other powers, parties to the Berlin treaty, would deem it their duty to also participate, and it would then be obvious that the matter, thus assuming a European character, would later on be of such a nature as to create grave complications; moreover, when it is known that the delegates of the three consuls have been sent to the spot, quiet will be restored in impartial public opinion which, while waiting for the result of the investigation, would give no credit to the untruthful publications of the Armenian committees and their friends; that, for all these reasons, the opportunity of our accepting an American official for the purpose in question had gone by. We therefore urged Mr. Terrell to communicate all the remarks and considerations above set forth to his Government.

SAÏD.

Mr. Terrell to Mr. Gresham.

[Telegram.]

LEGATION OF THE UNITED STATES,
Constantinople, December 23, 1894. (Received December 24.)

I had three hours' audience with the Sultan last night. I presented your instructions in telegram of 15th. Expressed my opinion on great popular excitement in America. He evaded direct answer.

He said that he had appealed to America as a friendly neutral power and was refused; then after he had applied to European powers President made new propositions which he had refused to the other great powers. Expressed embarrassment and desired appeal to President's sentiments of justice and friendship. The Sultan asked that the chief of the Commercial College here, who will be sent from America by the President, serve as one of Turkish commissioners. I have declined to

entertain the proposition and terminated in Sultan's request for me to wait his conference with council of ministers, and promised an early answer. Grand vizier and minister of foreign affairs to-day requested a joint interview at Sublime Porte. It closed with the earnest request of the Turkish Government that the United States will appreciate the present great embarrassment of the Turkish Government and that the President will withdraw his demand for Jewett's appointment. Turkish minister at Washington, D. C., telegraphed that the United States would regard refusal as an insult. They urge that if Jewett goes, Italy will then be demanding independent commissioner, and then Germany; that full investigation will be made by English, Russian, and French commissioners already appointed, acquiesced in by other powers, and the appointment of another commissioner will complicate relations of the Turkish Government with European powers. The request is respectful but earnest, based on cordial relations which Turkish Government desires to continue. The embarrassment is real and not simulated. I know Russian ambassador objects to an American, and Jewett's appointment would, I believe, provoke similar demands from parties to the triple alliance. Report in English press that suggested American commissioner to Sultan is false.

TERRELL.

Mr. Gresham to Mr. Terrell.

[Telegram.]

WASHINGTON, *December 24, 1894.*

Sultan having refused permission Jewett to go you will not press further.

GRESHAM.

Mavroyeni Bey to Mr. Gresham.

[Translation.]

IMPERIAL LEGATION OF TURKEY,

Washington, December 25, 1894. (Received December 26.)

MR. SECRETARY OF STATE: I have the honor to confirm my note of the 22d instant, and to transmit to your excellency the following copy of a telegram which I have received from his excellency Said Pasha:

Immediately after the declination of the United States Government to appoint an American officer as a member of the commission of investigation, we officially proposed to the British, French, and Russian Governments, which have consuls at Erzeroum, that each of them should send a delegate to accompany the commission of investigation. These three cabinets have already acceded to our proposition, and their delegates are now on their way to join the commission. If, therefore, in presence of the new phase which the case has assumed we should consent to the addition of an American officer to this commission, the other powers would not fail to avail themselves of such consent to formulate the same demand, and the result would be a situation fraught with peril to the country. We feel convinced that the United States Government, which has repeatedly given us unmistakable evidences of its highly valued friendship, will not desire to be the cause of so dangerous a situation, and we confidently hope that it will consent to renounce its project. I think that it is proper for me to remark, moreover, in this connection, that we have never asked for the appointment of a foreign commission to investigate the internal affairs of the Empire. Mr. Terrell has promised to telegraph the sense of all the foregoing to Washington.

Be pleased to accept, etc.,

MAVROYENI.

Mr. Gresham to Mavroyeni Bey.

DEPARTMENT OF STATE,
Washington, December 31, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 25th instant, communicating to me copy of a telegram you have received from his excellency Said Pasha, conveying the reasons which lead His Majesty the Sultan to decline to permit an American representative to accompany the investigating commission appointed to examine into recent events in Kurdistan, for the purpose of making an independent report under the direction of the President.

On the 30th ultimo the United States minister at Constantinople telegraphed me that His Majesty the Sultan had, on that day, made known his desire that a consul of the United States be sent to Sassoun with the Turkish commission to investigate the alleged atrocities on Armenians in that quarter. The President did not feel at liberty to designate a citizen of the United States to serve as a member of a Turkish commission to investigate the affair in question and join in a report. The United States minister at Constantinople was accordingly directed, on the 2d instant, to inform His Imperial Majesty that, while appreciating his confidence, the President was unwilling to send an American delegate as a member of the Turkish commission of investigation.

In a subsequent conference with me, you repeated His Majesty's urgent personal desire that an American representative be joined to the commission, and about the same time the British Government (one of the signers of the Berlin treaty) preferred a like request. These considerations led the President to reconsider the matter, and on the 5th instant, by his direction, I instructed Minister Terrell that Mr. Jewett, the United States consul at Sivas, should accompany the Turkish commission—not, however, as a member of it—to the district in which the alleged atrocities were committed, and, after full and impartial investigation, report the facts for the information of this Government; adding that Mr. Jewett was not to join the Turkish or other commissioners in any report. I informed you, in personal conference, of what had been done.

Your present note confirms your oral statements to me touching the later change in the situation which has led His Majesty to withhold his consent to Mr. Jewett's performance of the duty with which he had been charged.

It is but frank to disclaim any belief on the President's part that His Majesty the Sultan intended to invite the precise form which the President felt constrained to give to his acquiescence in His Majesty's reiterated request, and I cheerfully confirm, so far as we are concerned, Said Pasha's statements that Turkey has "never asked for the appointment of a foreign commission to investigate the internal affairs of the Empire." His Majesty having refused consent to Mr. Jewett's visit to Sassoun under the President's instructions, the incident is terminated.

Accept, etc.,

W. Q. GRESHAM.

ALLEGED REQUEST OF ARMENIANS FOR ARMS FROM THE UNITED STATES GOVERNMENT.

*Mr. Gresham to Mavroyeni Bey.*DEPARTMENT OF STATE,
Washington, January 30, 1895.

SIR: I have the honor to state that I learn by a recent dispatch from the minister of the United States at Constantinople you are said to have advised your Government that the Armenians in this country have requested the Government of the United States to furnish them arms, with permission for military drill, in order that they may prepare themselves for a contest with Turkey.

Your long residence in the United States, and your opportunity to know the true relation of this Government toward its citizens in such matters, incline me to withhold credence from this absurd and impossible statement.

Before, however, replying to Mr. Terrell's dispatch in this regard, it seems proper to afford you an opportunity to make such statement in the case as you may see fit.

Accept, etc.,

W. Q. GRESHAM.

Mavroyeni Bey to Mr. Gresham.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, January 31, 1895. (Received January 31.)

MR. SECRETARY OF STATE: In response to your excellency's note of yesterday I have the honor to inform you that I have never written to the Sublime Porte that the Armenians of the United States had solicited from the Federal Government any arms whatsoever. Moreover, had so foolish an application been made, the Federal Government would have known what answer to make to requests as absurd as impossible. Without doubt the inaccuracy of the information transmitted by Mr. Terrell seems to me to have originated in the fact that our vice-consul at New York, Assim Bey, had sent, a short time before, through me to the Sublime Porte, a report in which among other things he said that the Armenians of New York, in agreement with what was besides published in the Armenian newspaper of New York, the Haik, had formed the intention to engage in military drill at New York, and even had hopes of procuring arms for that purpose. From this local news, which did not concern the Federal Government but the authorities of the State of New York, our vice-consul at New York prepared a letter to the authorities in question.

I do not truly comprehend how, from such a communication, transmitted besides by our vice-consul at New York, Mr. Terrell could have concluded that the imperial legation could for an instant have associated the Federal Government in a rumor which, in the very nature of things, could have had nothing to do with this same Federal Government. And the proof that this is so is that I have never spoken to your excellency of a matter which, I repeat, has never existed. Mr. Terrell, therefore, finds himself in the most absolute error. I desire that he may be made aware of my response, and that he may know that I never con-

found the intrigues and threats of the Armenians in question with the constantly frank and honorable conduct of the American Federal Government. Your excellency has, consequently, good reason to write in your aforesaid note that "your long residence in the United States and your opportunity to know the true relation of this Government toward its own citizens in such matters, incline me to withhold credence from this absurd and impossible statement."

Be pleased, etc.,

MAVROYENI.

NEUTRALITY—REPORTED ORGANIZATION IN NEW YORK OF ARMENIANS FOR MILITARY DRILL.

Mavroyeni Bey to Mr. Gresham.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, January 16, 1894.

MR. SECRETARY OF STATE: The Ottoman consul-general at New York informs me that 30 Armenians, residing in New York, propose to engage in military drill in order that, upon occasion, they may be prepared, as they openly declare through their journals, to disturb order and tranquillity in Turkey.

Whatever may be the provisions of law in force in the United States, it is evident that, in the case of a government, as in this instance, the competent authorities of the State of New York are in a position to prevent these drills whenever they take place. Therefore I pray your excellency to be pleased to send a copy of my present note to them, in order that they may forthwith be advised of the matter.

Be pleased, etc.,

MAVROYENI.

Mr. Uhl to Mavroyeni Bey.

DEPARTMENT OF STATE,
Washington, February 19, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 16th ultimo, wherein you mention the report which has reached you that 30 Armenians, residing in New York, propose to engage in military drill, with a view to the disturbance of order and tranquillity in Turkey, and ask that the authorities of New York be communicated with on the subject.

I shall be happy to communicate, as you desire, a translation of your note to the governor of New York, so that the State authorities may be in a position to act should the municipal law or police regulations be violated.

It is, as you are doubtless aware, the province of the courts of the United States to take cognizance of complaints duly made that acts violative of the neutrality statute are being committed within the jurisdiction of this country. Should the Turkish consul-general at New York be informed of the organization of any expedition there against

the peace of Turkey, it may be advisable for him to consult with the United States attorney for the district with regard to the proper method of procedure.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

Mavroyeni Bey to Mr. Gresham.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, March 16, 1894.

MR. SECRETARY OF STATE: Your excellency has had the kindness to write me, in your note of the 19th of February, 1894, respecting the manner of preventing the prospective military drills which certain Armenians propose to make, with an object openly hostile toward the Imperial Government, and "that should the consul-general at New York be informed of the organization of any expedition against the peace of Turkey, it may be well for him to consult with the United States attorney for the district with regard to the proper method of procedure."

Inclosed herewith your excellency will please find a copy of a letter which has been written to me on this subject by the attorney-general [attorney-general of the State of New York], and I beg of you to be pleased to inform me whether you are in accord with the contents of that letter. A legal question of serious importance is here raised, regarding which it is no doubt necessary that the Government of the United States should make its position known. For my part, I consider the opinion of the attorney-general as being correct.

Accept, etc.,

MAVROYENI.

[Inclosure.]

Attorney-General of New York to Mavroyeni Bey.

ATTORNEY-GENERAL'S OFFICE,
Albany, March 13, 1894.

DEAR SIR: In response to your letter of the 9th instant, would say that the State controls and punishes its citizens by legislative enactment.

The United States, as a nation, would probably have the power to prevent preparations having in view acts of hostility toward a friendly power.

Very respectfully, etc.,

J. C. HANCOCK,
Attorney-General.

Mr. Uhl to Mavroyeni Bey.

DEPARTMENT OF STATE,
Washington, March 20, 1894.

SIR: I have had the honor to receive your note of the 16th instant, in further relation to the reported organizations of Armenians in New York City for military drill, which formed the subject of your previous note of January 16 last.

In my reply of February 19 to that first note I intimated the distinction between infringement of municipal or police regulations under the State laws and any question of violation of the neutrality statutes of the United States. With respect to the former, I stated that a copy of your note would be sent to the governor of New York for proper consideration. As regards the latter, I suggested that, should the consular representative of Turkey in New York City have knowledge of any expedition being set on foot there as indicated, it might be advisable for him to consult with the United States attorney for the district with regard to the proper mode of procedure.

You now communicate to me a copy of a letter you have received from Mr. J. C. Hancock, attorney-general of the State of New York, to whom it appears you wrote in this relation on the 9th instant.

As before indicated, the construction and enforcement of the statutes of the several States is a subject peculiarly within the jurisdiction of the State courts, and the Federal courts take cognizance of complaints properly supported in cases of asserted violations of the acts of Congress upon proceedings instituted under the direction of United States district attorney of the district in which the offense is alleged to have been committed.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

PRESIDENT'S MESSAGE, 1893.

Mavroyeni Bey to Mr. Gresham.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, March 21, 1894.

MR. SECRETARY OF STATE: I have the honor to give, hereinafter, to your excellency copy of a telegram which I have just received from the first secretary of His Imperial Majesty the Sultan, with orders to cause its contents to reach their high destination:

The justice which characterizes the American Government is already recognized. By imperial order I pray you to inform the President of the United States that his message of the month of December last, which is in conformity with justice, has met with the high satisfaction of His Imperial Majesty the Sultan our sovereign.

Be pleased, etc.,

MAVROYENI.

Mr. Gresham to Mavroyeni Bey.

DEPARTMENT OF STATE,
Washington, March 27, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 21st instant, communicating the text of a telegram you have received from the first secretary of the Sultan, expressing His Imperial Majesty's high appreciation of the President's message of December last.

This is regarded as a pledge of the high sense of justice and international comity which, the President is pleased to believe, must equally

animate His Majesty, and as an assurance that the sovereign right which we have recognized in favor of Turkey will be exercised without harshness and duly tempered with friendly consideration, thus fulfilling the President's just expectations as expressed in that message.

Accept, etc.,

W. Q. GRESHAM.

PUBLICATIONS BY TURKISH SUBJECTS IN FOREIGN COUNTRIES OF
MALEVOLENT ARTICLES AGAINST TURKEY.

Mavroyeni Bey to Mr. Gresham.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, May 24, 1894.

MR. SECRETARY OF STATE: Certain Ottoman subjects, when out of the Ottoman territory, now and then indulge in malicious publications for blackmailing purposes.

Your excellency is aware of the fact that, in many instances, the Imperial Government has taken administrative action for the prevention of intemperate language brought to its notice in Turkish newspapers directed against governments and statesmen who are on friendly terms with us. The Imperial Government therefore hopes that similar measures may be taken by that of the United States whenever it may be necessary. In fact, the Sublime Porte's wish is that such Ottoman subjects as would come to the United States and attempt there to publish, with obviously malicious intent, newspapers or pamphlets, or to spread false information through the local press, be delivered to us.

I am pleased to hope that the Government of the United States will be willing to acquiesce in the foregoing.

Accept, etc.,

MAVROYENI.

Mr. Uhl to Mavroyeni Bey.

DEPARTMENT OF STATE,
Washington, May 26, 1894.

SIR: I have the honor to acknowledge receipt of your note of the 24th instant, in which you refer to alleged malevolent and untruthful publications in the press of the United States by Ottoman subjects against the Turkish Government, and in view of the circumstance that in your country such publications may be prevented by administrative action, you state the wish of the Imperial Government that similar measures be taken by the Government of the United States, and in particular that Ottoman subjects making such publications here be delivered to the Ottoman Government.

Under our system the Executive is not clothed with the power whose exercise you invoke, and is equally without authority to deliver an accused person to a foreign government save under due proceedings in extradition under a treaty when the commission of a specified offense in the demanding country is proved by judicial evidence.

Accept, etc.,

EDWIN F. UHL,
Acting Secretary.

Mavroyeni Bey to Mr. Gresham.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, August 4, 1894.

MR. SECRETARY OF STATE: I duly communicated to His Excellency Said Pasha the reply you were pleased to make to my note of May 24, 1894, relative to the hostile publications which certain vagabond persons make against us in foreign countries with the object of blackmailing.

Several of the powers having favorably received the proposal of the Sublime Porte, I have received instructions to renew to your excellency proposals in the sense of the conclusions of my aforesaid note.

The Sublime Porte hopes that the Government of the United States, in regard for the sentiments of friendship which it constantly testifies to it, will be pleased not to persist in refusing the extradition of the persons in question.

I would be happy to receive from your excellency a response in this sense.

Be pleased, etc.,

MAVROYENI.

*Mr. Gresham to Mavroyeni Bey.*DEPARTMENT OF STATE,
Washington, August 23, 1894.

SIR: I have the honor to acknowledge the receipt of your note of the 4th instant, No. 34, in which, referring to your previous note of May 24 last and the Department's reply of the 26th of the same month, you state that your Government has received favorable responses from several of the powers touching the extradition of Turkish subjects publishing in foreign countries malevolent articles against the Government of Turkey, and add that you are accordingly instructed by the Sublime Porte to renew your former proposal for an agreement looking to the surrender of such persons to the Turkish Government by that of the United States, and to express the hope of the Porte that the Government of the United States will be pleased not to persist in refusing the extradition of the persons in question.

In Mr. Uhl's note of May 26 last you were informed that the President had no authority to surrender an accused person to a foreign government except under a statute regulating extradition and in pursuance of a treaty.

I have the honor to remind you that at that time no treaty authorizing the surrender to your Government of persons charged with the commission of the acts complained of was in existence, and that no such convention has since been concluded.

Accept, etc.,

W. Q. GRESHAM.

CASE OF SOCRATES A. SEFERIADES.

Mr. Riddle to Mr. Gresham.

No. 248.]

LEGATION OF THE UNITED STATES,
Constantinople, June 2, 1894. (Received June 18.)

SIR: I have the honor to transmit herewith copy of a dispatch from Mr. Madden, consul at Smyrna, to Mr. Short, consul-general; also copies of correspondence between Mr. Madden and the governor-general of the vilayet of Aidin, relative to the case of Mr. Socrates A. Seferiades, a naturalized American citizen, who is claimed for trial by the Turkish authorities at Smyrna for the offense set forth in Mr. Madden's dispatch to the consul-general. I have instructed Mr. Madden, through the consul-general, not to yield the disputed point in Article IV of the treaty of 1830.

I am informed that Mr. Seferiades obtained his naturalization in 1893, but I have not yet learned in what State. I shall try to supplement the meager information which has so far reached the legation by an inquiry as to the circumstances of Mr. Seferiades's naturalization and as to his intentions regarding future residence, and will inform the Department of the result of my investigation.

I have, etc.,

J. W. RIDDLE,
Chargé d'Affaires ad interim.

[Inclosure 1 in No. 248.]

*Mr. Madden to Mr. Short.*CONSULATE OF THE UNITED STATES,
Smyrna, May 16, 1894.

SIR: I beg to lay before you the following case, concerning which I wish to receive your instructions before proceeding further:

Mr. Socrates A. Seferiades, an American citizen, who resides at Nazli, some 100 miles from here, in the interior, last year attended the World's Fair in Chicago, and during this visit to America he bought quite a number of agricultural implements, among which were a thrashing machine, a reaper and mower, and a traction engine. These machines arrived at the railroad station of Nazli some ten days ago.

After putting together the thrashing machine Mr. Seferiades attached to it the traction engine and started to go to his farm, some 6 miles distant. A large crowd, attracted by the novelty of the sight, assembled and gathered about the machines. Mr. Seferiades, as a precautionary measure, had employed 6 men to keep back the crowd, lest someone might get hurt. Notwithstanding these precautions, a boy some 13 years of age forced his way past the guards and ran in between the engine and the thrasher, and before the machine could be stopped he received injuries from which he died in a few days. The parents of the boy, as well as other spectators, agree that the boy came to his death by accident and through no fault of Mr. Seferiades. The parents brought no suit in the case, but the Turkish authorities of Nazli issued papers for Mr. Seferiades's arrest. He, learning of this, eluded their grasp and took refuge at this consulate, where he has been since the 9th instant.

Having had, as long ago as last November, special instructions from the Department of State to extend to Mr. Seferiades the fullest protection of this consulate, I at once took steps to prevent, if possible, his arrest and imprisonment by the Turkish authorities, and addressed to the governor-general of this vilayet a communication, translation of which I inclose (sub. No. 1). A translation of the governor's reply to the same is inclosed (sub. No. 2).

I am aware of the dispute that has arisen between the Government of the United States and the Sublime Porte over the interpretation of Article IV of the treaty of 1830; yet I know of no instance where the point in controversy has ever been yielded by our Government. It certainly never has been done by any one of my predecessors at this post, but in all such cases where an American citizen has been accused of a crime he has been tried by the consul. Having cognizance of the footnote to Article IV, I would have avoided bringing the matter to an issue, but it has forced itself upon me in such a manner that it has to be met.

Mr. Seferiades has large farming interests in the interior, all of which are suffering in his absence. His machinery is still standing in the road where the accident occurred. It is the advice of the governor-general, as well as my own, that he remain in Smyrna till this question be settled, and in view of the pressing necessity of the case a speedy answer is prayed for.

I am, etc.,

J. H. MADDEN.

[Subinclosure 1 in No. 248.—Translation.]

Mr. Madden to Fehmi Pasha.

CONSULATE OF THE UNITED STATES,
Smyrna, May 11, 1894.

EXCELLENCY: I have the honor to transmit under cover of this dispatch a petition of Mr. Socrates A. Seferiades, a citizen of the United States, and to request you to be so kind as to give as soon as possible the requisite orders to whom it may concern in order that any claim or complaint against the said Seferiades be referred to this consulate, in compliance with the laws and with the treaties and capitulations in force.

Accept, etc.,

J. H. MADDEN.

[Subinclosure 2 in No. 248.—Translation.]

Fehmi Pasha to Mr. Madden.

OFFICE OF FOREIGN AFFAIRS OF THE VILAYET OF AIDIN.

MR. CONSUL: I acknowledge you the receipt of your note which accompanied a petition of Socrates Seferiades, whose father is a native of Caissar (a town of the interior) and himself (Socrates) was born in Smyrna.

About fifteen years ago he left for America where, though he had resided during a period of some years, he was not allowed to abandon his real and natural nationality, according to the regulations on Turkish nationality, without the authorization of His Majesty the Sultan.

I think it is not necessary to give further explanation, to act in such a manner would be contrary to the text of the laws of the Empire, consequently Socrates Seferiades must be recognized as a Turkish subject.

Let us suppose for a moment that he is an American citizen; the inquiry and the examination for the crime of which he is accused will be done by Turkish courts in conformity with the laws and all regulations in force; above all it is a question of the death of a man and inasmuch as the question is to make out whether Socrates Seferiades is guilty or not, this is the opinion of the administrative and judiciary authorities of the vilayet, so that the laws and regulations and the duties toward humanity too stand in favor of the above agreements.

Socrates Seferiades although summoned to appear before the judiciary authorities to be examined about this affair, refused to appear. I beg you therefore to be kind enough to give him the necessary orders so that what is required under the circumstances should be done.

Accept, etc.,

HASSAN FEHMI,
Governor-General of the Vilayet of Aidin.

Mr. Gresham to Mr. Terrell.

No. 198.]

DEPARTMENT OF STATE,
Washington, July 11, 1894.

SIR: An interesting, and in some respects important case is presented for consideration by Mr. Riddle's dispatch No. 248 of the 2d ultimo, relative to the claim of the Turkish authorities of the vilayet of Aidin to try and punish one Socrates A. Seferiades, a naturalized citizen of the United States, for an alleged criminal offense done by him in that province.

The charge against Mr. Seferiades is apparently that of involuntary homicide, corresponding to our definition of manslaughter. Being, as it appears, engaged in agriculture at Nazli, about 100 miles inland from Smyrna, he last year attended the World's Fair in Chicago, purchasing there a number of farming implements, among which were a threshing machine and a traction engine. While endeavoring to run the machine and engine from the railway station at Nazli, and despite precautions taken to keep back the curious crowd, a boy 13 years old ran in between them and received injuries from which he died in a few days. His parents, believing his death due to accident, brought no suit, but the authorities of Nazli ordered the arrest of Mr. Seferiades, who took refuge in the United States consulate at Smyrna, where he was at the time of Consul Madden's report, May 16.

Mr. Madden, acting under what he calls "special instructions" from this Department, in November last, to extend to Mr. Seferiades the fullest protection of his consulate, addressed the vali of Aidin, on the 11th ultimo, asking that any claim or complaint against Mr. Seferiades be referred to his consulate, in compliance with the laws and with the treaties and capitulations in force.

The vali replied May 14, alleging that, although Seferiades had resided in the United States, he had never been permitted by the Sultan to abandon his Ottoman nationality; that he must consequently be recognized as a Turkish subject, and that even in the case of his being an American citizen, his trial and punishment pertained exclusively to

the Turkish courts. The vali accordingly asked that Seferiades be ordered by the consul to submit to Turkish jurisdiction.

The case presents several features deserving careful consideration. It is distinct from the large class of cases recently under discussion between the two countries, inasmuch as Mr. Seferiades is not an Armenian nor charged with complicity in any alleged seditious agitation in Armenia. It involves the positive and direct claim of the authorities of Aidin to treat Mr. Seferiades as a Turk, and, disregarding any acquisition by him of foreign nationality, to try him as a Turk. More than this, the vali claims such right even were Seferiades admitted to be a citizen of the United States.

This Government has never acquiesced in the doctrine of perpetual allegiance. On the contrary, it asserts the just and enlightened doctrine of expatriation. The position of the United States in regard to extraterritorial jurisdiction under the treaty of 1830 is well known.

I do not find warrant for Mr. Madden's statement that, as long ago as last November, this Department had given him "special instructions" to protect Mr. Seferiades. This gentleman's case was first brought to the notice of the Department by a letter of Mr. T. T. Timayenis, of New York, dated September 19, 1893, stating that Mr. Seferiades, an American citizen residing in Smyrna, Turkey, was constantly harassed by the Turks for no other cause than his wealth; that he was then in the United States "buying machinery for his vast estates in Asia Minor," and that his "interests in this country are vast," in view of which, Mr. Timayenis requested a letter to the consul directing him to give Mr. Seferiades the protection due him as an American citizen. Mr. Madden was instructed September 23, 1893, to investigate the case and report to the Department. His report, dated November 10, 1893, states that he has been unable to ascertain the whereabouts of Mr. Seferiades; that no complaint had been filed by him in the Smyrna consulate, and that he was not registered there as an American citizen. This report was communicated November 29, 1893, to Mr. Timayenis, from whom nothing further was heard.

In view of Mr. Riddle's present report, the passport records of this Department have been examined, and it is found that on the 26th of January last, a passport, No. 6950, was issued to Mr. Socrates A. Seferiades upon his sworn application, in which it was declared that he was born at Smyrna February 21, 1865; that he emigrated from Liverpool about March 15, 1882, and resided in Illinois and New York uninterruptedly until 1892; that he was naturalized before the circuit court of Cook County, Ill., on the 21st of July, 1892; that New York City is his permanent domicile and residence, where he follows the occupation of a merchant, and that he was about to go abroad temporarily, intending to return "in about one year," with the purpose of residing and performing the duties of citizenship in the United States.

From a letter addressed to me by Mr. Seferiades, dated Smyrna, June 7, 1894—of which I append a copy—it would appear that he first visited the United States while a minor, and left this country to return to Smyrna, where he had "much to do" as the eldest of the family on account of his father's and brother's death; and that his American nationality having been "accidentally known," it was disputed by the authorities of Smyrna. I may add that Mr. Seferiades's recollection of my brief conversation with him is fuller than mine. I simply declined to give the desired letter when our agencies in Turkey were already instructed touching their duties to any bona fide American citizen should such a case arise.

Upon the facts, as meagerly outlined by Mr. Seferiades's application for a passport by the letter now received from him and by Consul Madden's report, this Department does not clearly see how this young man of 28, domiciled continuously as a merchant in the United States for the eleven years next preceding his naturalization, should at the same time be a resident of Smyrna, possessing vast estates in Asia Minor, engaged apparently in agriculture on a large scale and visiting the United States during the Chicago Exposition for the purpose of purchasing agricultural machinery.

It would be pertinent to ascertain whether these holdings were acquired before or after naturalization.

It should clearly appear that Mr. Seferiades's naturalization was regular and in good faith, and that no concealment of his American citizenship attended his return to Smyrna—a point which may be important in view of his singular allusion to the fact of his naturalization having become "accidentally known."

Should you be satisfied, after careful consideration of the case, that his return to Turkey was consistent with retention of American citizenship, it would be your duty to afford Mr. Seferiades proper protection. Should it fairly appear, however, that his naturalization was not in good faith, or that he has a domicile in Turkey, inconsistent with his American citizenship, you are authorized and instructed to make a declaration similar to that which, by another instruction of the 2d instant, you are directed to make in regard to Mr. Aivazian.

Finally, your attention is drawn to the statement in Mr. Madden's report that Mr. Seferiades had taken refuge in our Smyrna consulate. You should clearly ascertain whether he is held by Mr. Madden in his judicial capacity, or is simply his protected guest in his consular capacity. This Government does not sanction the so-called right of asylum, even as to the admittedly extraterritorial precincts of an envoy's dwelling, and it does not recognize it in respect to a consulate.

In oral conference at the Department you have expressed your willingness to visit Smyrna on returning to your post at the expiration of your present leave of absence, in order to investigate this important case upon the spot. Should such a course be convenient to you, you are authorized to pursue it.

I am, etc.,

W. Q. GRESHAM.

Mr. Terrell to Mr. Gresham.

No. 283.]

LEGATION OF THE UNITED STATES,
Constantinople, August 9, 1894. (Received August 24.)

SIR: I have the honor to inform you that after receiving the telegram referred to in my No. 277,¹ of the 1st instant, announcing the absence of Seferiades from Smyrna, I received a letter from him, which announced the settlement of his difficulties with the kindred of the boy who was killed and which shows his anxiety to know how far he can be protected. His letter is inclosed herewith.

I have been unavoidably delayed in going to Smyrna, but deemed it both prudent and necessary to visit the Sublime Porte before answering the letter.

¹ Not printed.

Being of Greek ancestry, through an Ottoman subject by birth, the agreement with the Porte that naturalized citizens of the United States who were by birth Armenians might be excluded when they return, on account of their revolutionary societies in America, does not apply in his case. No seditious societies are known to exist among the Greeks.

I append a brief memorandum of my interviews with Saïd Pasha, minister of foreign affairs, and the grand vizier, from which it appears:

First. That a naturalized citizen of the United States of Greek descent will, if born in the Ottoman Empire, be subject to exclusion or expulsion from Turkey on his return if he was naturalized since 1869 without the Sultan's consent.

Second. The right claimed to expel for the offense of obtaining foreign citizenship without the Sultan's consent will be applied less rigidly to one of Greek descent than to an Armenian, so long as those of the former class abstain from disloyal practices.

The "right of expatriation" would seem to be a misnomer, if the right exists in any government to punish an American citizen for having exercised it.

For the present my verbal agreement with the Porte limits the punishment of natives of Turkey who return after naturalization to exclusion or expulsion from Turkey, even when suspected of disloyalty or sedition, as you were informed in my No. 107, of November 18, 1893. But I am for the first time informed that our naturalization of an Ottoman subject, no matter of what race, is an offense in itself, for which the Porte claims the right to punish the man who has been naturalized.

I am making a compilation of the laws of all European nations which affect the status of their naturalized subjects of Turkish origin after their return to Turkey; this I will forward to you.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 283.]

Memorandum of interview with Turkish minister of foreign affairs.

In a conversation at the Sublime Porte with Saïd Pasha, foreign minister, on August 7, I inquired whether his Government had ever claimed the right to punish Ottoman natives of Greek origin who were naturalized by the United States, after emigrating there without the Sultan's consent, and who returned to Turkey. He answered that it was impossible for Turkey to discriminate in favor of any class of her subjects. All subjected themselves to punishment who attempted to transfer their allegiance without the Sultan's permission.

I reminded him that the consent of my Government had been given for the expulsion of naturalized citizens of Armenian origin, not because they had been naturalized in the United States without the Sultan's consent, but because the Turkish Government regarded them with suspicion as dangerous and seditious.

I informed him that his doctrine of perpetual allegiance and our belief in the right of expatriation should be in some way harmonized by treaty, for our disagreement was a standing menace to cordial relations, and this applied with equal force to our disagreement about Article IV of the treaty of 1830. Here he expressed himself as quite agreeing with me and asked if I would answer his note of January 23, 1894, relating to Article IV and explaining his construction. I explained

that I had submitted it to my Government. Here he said, "It is impossible for us ever to agree that an Ottoman subject can transfer his allegiance unless the Sultan permits it, and it is also impossible that we can ever agree to your construction of Article IV. Once a clerk of our Government embezzled 50,000 piasters. We arrested him, ignorant that your country had naturalized him. Your consul claimed the right to try him; we could not consent, and the thief went unpunished."

Other matters were referred to which I may deem proper to mention in another dispatch.

A. W. TERRELL.

[Inclosure 2 in No. 283.]

Memorandum of interview with the grand vizier.

In an interview with the grand vizier on the 7th instant he claimed for Turkey the right to punish, by expulsion or exclusion from the Ottoman Empire, any of its natives who, after being naturalized by another Government without the Sultan's consent, returned or attempted to return. He recognized the verbal agreement formerly made with me, which limits his powers over such parties to expulsion or exclusion, but claimed the right to inflict this punishment for the offense of being naturalized without the consent of the Sultan. He stated that Greeks naturalized without such consent, and returning would be treated with more indulgence than native Armenians thus naturalized, so long as that race of men abstained from sedition. After answering him substantially as stated in my memorandum of conversation with Said Pasha, he wished to know if any case had arisen that had caused me to interrogate him.

I then frankly told him of the case of Socrates Seferiades, he agreeing to hear of it unofficially and not to make it the subject of a communication to the local governor. I frankly told him that I did not yet know whether I should claim him as a citizen of the United States, but the man was a farmer who, with improved machinery, would benefit the country, and his very employment was the best guaranty that he was law abiding, so that, whether Ottoman subject or American citizen, he should be encouraged rather than punished. To this he assented, and the man will not be disturbed so long as he is not disturbed by the local authorities.

A. W. TERRELL.

[Inclosure 3 in No. 283.]

Mr. Seferiades to Mr. Terrell.

SMYRNA, August 1, 1894.

SIR: You will find inclosed herein two letters of introduction, which I wished to show you immediately after my return from America. I could not do it at that time, and a little later you had left Constantinople. I regret that I send you these letters under circumstances so disagreeable for me, hoping that you will be kind enough to give them a favorable end, and I feel flattered, hoping that you will grant me your valuable protection.

It has been written me from the Department of State at Washington, D. C., that instructions were given about my affair, of which you have heard, no doubt, for three months have passed since the sad but accidental event which still keeps me away from my business and interests. At first I asked the protection of the United States consul in Smyrna, Mr. James H. Madden, a gentleman of great civility and devotion to duty, who, indeed, does honor to the position he occupies.

From the petition which I first gave to Mr. Madden you doubtless know that on my return from America I had brought several agricultural machines. After that unforeseen event I was obliged to leave them by the banks of the Meander River, exposed to the changes of the weather and the mischievousness of ignorant peasants of the district. Besides, I was requested by the authorities there, of Nazili, to have this question of my citizenship settled. This affair, however, so long protracted, has caused me much loss, and will continue to do so, for the machines can not be used any more this season, after I make so many preparations and so many expenses to get them there. This delay and second long absence from the place whence I had so long before been away, and where such great interests of mine demand my being there, will not only cause me a heavy loss, but, if a little more protracted, will ruin me.

There is no other question now but that of my citizenship, because I have settled everything in money with the Jewish boy's father, having gotten a regular receipt, signed by the father, mother, and grandfather of the child and some other witnesses, saying that they will refrain from any lawsuit. They thus recognize that the event was totally accidental, and was the result of the boy's own carelessness, and say that no one else is responsible for the accident.

I will send you a copy of this receipt and one also to Mr. Madden. I beg of you to do all you can in my behalf, giving me thus your valuable protection; that orders be given to the examining magistrate of Nazili that he may postpone his demands for the time being, at least, and let me regulate my business there. I have to take and keep my machine in a safe place and attend to my other interests, which day by day are getting more and more hurt. This delay, I beg will be granted until the question of my citizenship is finally settled. For in connection with the accident with the Jewish boy, I am always ready to follow your orders, and be wherever you might consider good to show me, just as I mentioned this in my first petition to Consul J. H. Madden.

Hoping that you have already considered and given favorable reports about my case, and this will be the object of your immediate interest and attention.

I remain, etc.,

S. A. SEFERIADES.

Mr. Gresham to Mr. Terrell.

No. 222.]

DEPARTMENT OF STATE,
Washington, August 30, 1894.

SIR: Your No. 283 of the 9th instant, in regard to the case of Socrates Seferiades, has been received. You report that Seferiades has settled his difficulties with the kindred of the boy who was killed, and you inclose a memorandum of an interview which you had, on August 7, with the grand vizier and minister for foreign affairs on the general subject of expatriation of Turkish subjects, from which it appears that

Turkey claims the right to punish, by expulsion or exclusion from the Ottoman Empire, any of its natives who were naturalized by another Government without the Sultan's consent, and that the naturalization of an Ottoman subject, no matter of what race, is regarded as an offense in itself for which the Porte claims the right to punish him.

This Government, while abundantly showing its disposition to respect the sovereign rights of Turkey in regard to the exclusion or expulsion of objectionable aliens, as aliens, has repeatedly made its position known touching any possible claim of Turkey to punish its former subjects on the ground of their having embraced American citizenship under the due operation of our laws. Such a pretension will not be acquiesced in, and you will earnestly contest it should it be seriously put forward.

I am, etc.,

W. Q. GRESHAM.

Mr. Terrell to Mr. Gresham.

No. 433.]

LEGATION OF THE UNITED STATES,
Constantinople, February 17, 1895. (Received March 8.)

SIR: I have secured through an unofficial request the recognition by iradé of the acquired nationality of Socrates Seferiades, about whom there was so much trouble. He is a native Greek and a gentleman. He failed to inform me of facts regarding his business connection with American industries, which, if known at first, would have caused me to recognize his citizenship. The iradé relieves me, and will exempt him from molestation.

I have, etc.,

A. W. TERRELL.

MARSOVAN COLLEGE.

[See Foreign Relations, 1893, pp. 593, 597, 598, 603, 604, 606, 608, 617, 618, 620, 624, 625, 626, 627, 630, 631, 632, 633, 635, 641, 651, 665, 669, 672, 677, 678, 679, 680, 681, 689, 691, 694, 700.]

Mr. Terrell to Mr. Gresham.

No. 287.]

LEGATION OF THE UNITED STATES,
Constantinople, August 17, 1894. (Received August 30.)

SIR: Though a month has passed since my return to this post, the Sultan of Turkey has not redeemed his promise to me to issue the iradé "for Marsovan College during my absence to America or soon after my return." The excuse that armed sedition is in Armenia no longer exists.

Your telegram to my predecessor, on April 12, 1893, instructed him to demand that the "school be granted a license and full protection," etc. That protection can be afforded here only by "an iradé." The Porte so understood it, and, so understanding, promised it to Mr. Thompson.

* * * * *

I have, etc.,

A. W. TERRELL.

Mr. Gresham to Mr. Terrell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, August 31, 1894.

I have received your dispatch, No. 287. This Government thinks it has a right to expect full compliance with promise to issue iradé to Marsovan College. Delay incomprehensible.

PROTECTION TO TURKISH SUBJECTS TEACHING IN AMERICAN
SCHOOLS.

Mr. Terrell to Mr. Gresham.

[Telegram.]

CONSTANTINOPLE, September 8, 1894.

Native Armenian teachers in American college, Aintab, have been arrested as implicated in sedition. No American consul within nine hours. Ottoman Government agrees no search of college shall be made in absence of consul. Missionaries here think arrested men are Ottoman subjects. They telegraphed home, but know only what I have told them as above. They fear systematic effort to destroy missionary schools by arresting native teachers. I will, if necessary, send Mr. Riddle to Aintab. To what extent shall I go for the protection of subjects of Turkey engaged in teaching in American schools?

TERRELL.

Mr. Terrell to Mr. Gresham.

No. 300.]

LEGATION OF THE UNITED STATES,
Constantinople, September 11, 1894. (Received September 27.)

SIR: I have the honor to inform you that I have received from the grand vizier, through his secretary, a verbal message, notifying me of the arrest of native teachers in the American schools at Aintab and Marash as suspected of being seditious. The verbal message having been reduced to writing, a copy is inclosed.

I thereupon telegraphed you on the 8th instant, after an interview with the grand vizier, that no search would be made of the schools in the absence of a consul; that the missionaries feared a systematic effort to destroy in this way the missionary schools, and that I would send Mr. Riddle to Aintab if necessary. A copy of this telegram is inclosed.

I learn from Dr. H. O. Dwight that only two of the accused parties (Bezdjian and Levonian) are in fact connected with American schools, and that both of them are Ottoman subjects, though the former is a graduate of Yale College.

These arrests, made at a time when there is no armed sedition in Asia Minor, and coupled with the earnest regret expressed to me by the grand vizier that Armenian teachers are employed in the American schools, are suggestive of the methods adopted to destroy the college at Marsovan. Certainly no more effective method could be devised by

them than to arrest the native Armenian teachers if they desire the destruction of missionary schools.

I find neither in treaties nor capitulations any formal rule by which I can interpose as matter of right to prevent the capricious arrest and imprisonment of Turkish subjects employed by American teachers. And yet when much money has been expended and houses built, after the Turks have for years permitted the employment of natives as teachers, justice would seem to require that I should have some right to prevent the destruction of American interests by their being capriciously arrested and imprisoned. To permit it would mean the departure of the missionaries from Turkey and the sacrifice of property values. I have, therefore, informed the Porte, in effect, that I claimed the right to be informed of the facts on which arrests of native teachers in American schools are based, and to judge if a prima facie case of guilt is established before bail can be refused. A copy of my note is inclosed for your information. I will not press this claim beyond the bounds of prudence at present, but await your instructions. * * *

Dr. Dwight, the chief representative here of missionary interests, insists that Article III of the treaty of 1830 vests in me the right to protect all Turkish subjects who are employed by Americans as teachers, and that an opinion of Caleb Cushing once given sustains him. * * *

My failure to assume some right to protect the native and recently (since 1869) naturalized American teachers in missionary schools would mean, in my opinion, the speedy arrest and prosecution or expulsion of that class. This the missionary leaders assert would destroy missionary work in Turkey.

A letter has been received from Dr. Dwight, of the Bible House here, asking me to intervene and demand as a right that no Turkish employé in an American school should be arrested except with my consent or that of a consul. His letter and my answer are inclosed for your information.

While I write, your telegram acknowledging receipt of my own concerning Marash and Aintab arrests of Turkish subjects employed by missionaries has been received. * * *

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 300.]

Verbal message from the grand vizier.

The governor of Djebel-Bereket informs me that in consequence of the seditious papers discovered in the house of a Vaslounian in the village of Hakkia, in the circuit of Hassa, who is known as being a member of the Armenian revolutionary committee, Serkis Levonian, domiciled in the quarter Cassalmaz at Aintab; Agob Bulbulian, religious president of the College of Aintab; and Hampartzoun Elmadjian, domiciliated at Aintab, and Alexan Bezdjian, chief teacher of the said college; and at Marash, Baron Simbat Caprelan, of Zeitoun, being implicated in the matter, they have been summoned and were taken under escort to Djebel-Bereket, and searches for compromising papers have been ordered. The vali of Adana has demanded also for the details of this matter.

It is true that these people are Ottoman subjects, but as the college is placed under American supervision the vali asks the grand vizier as to the procedure toward those who belong to that college.

[Inclosure 2 in No. 300.]

Mr. Terrell to the grand vizier.

LEGATION OF THE UNITED STATES,
Constantinople, September 10, 1894.

YOUR HIGHNESS: I have the honor to inform your highness that the teachers employed in the colleges at Aintab and Marash, whom you named in my last interview with your highness, have been for a long time employed as teachers in those American schools with the knowledge and consent of the Ottoman authorities. Their presence is necessary to the success of educational work in the colleges where they are employed, and no matter what may be their nationality their arrest can only be justified when a prima facie case of guilt is shown. Any other rule would destroy the schools and be opposed to justice. I therefore ask that the evidence on which they are arrested shall be submitted to me, that I may judge if there is a case of prima facie crime.

I ask a teskereh for Mr. Riddle to go to these schools and to any other point the business may require, that he may examine the compromising facts discovered and report to me by telegraph.

I also ask that if there are no facts discovered and the arrest of the professors rests on suspicion only, that they be released on sufficient bail to pursue their teaching in the schools until they can be tried.

Receive, etc.,

A. W. TERRELL.

[Inclosure 3 in No. 300.]

Mr. Dwight to Mr. Terrell.

CONSTANTINOPLE, *September 6, 1894.*

DEAR SIR: In view of the reported arrest of professors connected with the educational institutions of the American board at Aintab and Marash, I am asked by my associates of the American mission to beg your consideration of the following statement:

The arrests made in different parts of the Ottoman Empire during the past two years of individuals charged with sedition have been based, in a great number of cases, upon the merest suspicion, often upon personal grudge or prejudice, and sometimes upon the desire for gain on the part of petty officials.

The searches of houses made in this connection have been made very frequently in the hope of chancing to find something which may be twisted into a justification of the act. Moreover such searches are made to excuse for seizing all books, all letters, all written or printed matter of any kind which may be found in the house. These are carried off and rarely returned to the owners. As a result of such searches in numbers of cases, men against whom no other ground of charge could be found have been charged with treasonable conspiracy on the ground of the possession of books freely allowed circulation in the past and acquired at that time, or on the ground of passages in letters, dated

years ago, criticising the action of officials of the Government, when such criticism was the privilege of every law-abiding subject of the Sultan, and when it has no possible connection with conspiracy of any kind.

The sentences passed upon persons charged with sedition in the same time have been passed in a considerable number of cases without evidence which would justify even the holding of the victim for trial in England or America.

These facts are too common and too widely known to leave any necessity for going into details in this place. In fact a condition of administration exists in this Empire from which it is the object of the capitulations to protect foreigners residing in Turkey. The ordinary search of Turkish administration, if not restrained by the capitulations, can, at any moment, break up our lawful business by causelessly imprisoning Ottoman subjects whom we employ in that business, or may place our good name and reputation or even our lives in jeopardy by the act of arbitrarily rummaging our houses, ignorantly stigmatizing as treasonable books which are the standards of our literature, newspapers and periodicals which are the usual current records of the affairs of our native country, and private writings which the Turk can not understand, but which have no public importance whatever. So, too, in regard to our business. Our schools among the Armenians are under Government control; they are molded by the Ottoman authorities both as to course of study and as to text-books used. But, as you are aware, there are those who wish to restrict or obliterate education among the Armenian subjects of the Sultan. Such prejudiced officials may, at any moment, break up our schools if they may arrest arbitrarily and without responsibility Ottoman subjects whom we employ as teachers. Only the capitulations, as hitherto enforced, can prevent the entire destruction of our large property interests and investments in Turkey, through the action of petty officials applying to us the high-handed measures which they daily apply to Ottoman subjects.

We therefore beg you to come to our defense under the article of the capitulations and of the treaty of 1830, which declares that Americans may employ, unmolested, as agents in their business, Ottoman subjects, and the articles which protect American domicile from the intrusion of Turkish officials except under certain clearly restricted conditions. In a word, we ask you, as is provided in both these cases by the treaties, to insist that the action of Turkish officials be subjected to the approval of the competent American officers before that action is carried out.

We ask especially that you will consider the propriety of doing this in the case of the American college at Aintab and the seminaries of the American mission at Marash, to wit:

1. That in order that the interests of our business may not needlessly suffer, the Porte be requested to release, on bail, if need be, any teachers of either institution who may have been arrested, until the evidence on which the arrest is proposed shall have been submitted to you and shall have convinced you that there is presumptive justification for the arrests.

2. That the Porte be informed that no search of American domicile will be tolerated except under the conditions of the treaty, namely: That the search be for evidence of a definite act, described in writing, of arson, murder, counterfeiting, house-breaking, or armed insurrection, etc., as stipulated by the protocol.

3. In case the Porte insists that a definite act has been committed of one of the crimes named, for evidence of which it is necessary to search an American domicile in either of these places, that you will cause one of the staff of the consulate or the legation to proceed to the spot in order to prevent violations of right during the search, such as the seizure of property that can have no bearing upon the alleged crime. You are aware that the only American consular agents in that region are not sufficiently acquainted with the English language to judge the contents of English books or writings.

Believing that in this we shall have a new occasion to thank you for efficient defense of American interests, I remain, on behalf of the Missionaries of the American Board,

Yours, respectfully,

H. O. DWIGHT.

[Inclosure 4 in No. 300.]

Mr. Terrell to Mr. Dwight.

No. 85.]

LEGATION OF THE UNITED STATES,
Constantinople, September 10, 1894.

MY DEAR SIR: Answering your letter of September 6, instant, I have to inform you that no search of American schools for compromising documents will be made until I am informed, and a consul or Mr. Riddle or myself will be present; such is the assurance of the grand vizier.

Also that I have requested that, without reference to the nationality of teachers who, with the consent of the Turkish Government, are employed in American schools, that no imprisonment without bail shall be made until after I (or a consul) can know the charge and the compromising facts, to see if a case of *prima facie* guilt has been established.

For this position there is no treaty or international law but much equity, for under a different rule every American school could be destroyed by capricious arrests.

The question thus involved is far-reaching in its results, for the prejudice against American schools is such that the temptation to arrest Armenian teachers who are Turkish subjects in American schools, and to arrest them capriciously, is always present to the Turk. If it is submitted to without protest, educational work by American schools in Asia Minor would be restricted to narrow limits.

I remain, etc.,

A. W. TERRELL.

Mr. Gresham to Mr. Terrell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 3, 1894.

For protection of American schools, this Government, while recognizing right of Turkey to punish her own subjects for violating her own laws, will insist that native teachers shall not be arrested arbitrarily or capriciously. Not necessary to take position that arrests can not be made without your consent. Instructions by mail.

GRESHAM.

Mr. Terrell to Mr. Gresham.

No. 319.]

LEGATION OF THE UNITED STATES,
Constantinople, October 4, 1894. (Received October 22.)

SIR: I have the honor to acknowledge your telegram of the 3d instant, in reference to native teachers in American schools in Turkey, and the capricious arrest of naturalized Americans.

I hope to succeed in enforcing your views. * * *

I have, etc.,

A. W. TERRELL.

Mr. Terrell to Mr. Gresham.

[Telegram.]

PERA, *October 17, 1894.*

Telegram from Riddle reports seizure of papers at Aintab of native teachers in American school in his presence; they were taken to Aleppo and after examination there in his presence by Turkish official nothing objectionable found. Parties completely exonerated and papers sent back to them. Incident closed to the satisfaction of all concerned.

Mr. Gresham to Mr. Terrell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, October 29, 1894.

Your No. 320¹ received. Your untenable demand that native teachers in American schools be not arrested without your consent may have been due to misapprehension of my telegram of 3d instant. While you will protest against capricious or unreasonable arrest of such persons as occasion requires you will not insist the Government of the Porte shall agree in advance that it will not arrest its own subjects for violating its own laws without your consent.

Mr. Terrell to Mr. Gresham.

[Telegram.]

PERA, *October 30, 1894.*

Mr. Riddle has come back. The governor of Aleppo has admitted our right to have a representative present whenever seizures and searches are made in American schools in which native teachers are concerned. The governor stated that the minister of foreign affairs of Turkey had so instructed him. The schools are saved by this and this success was obtained without demand or strain to our friendly relations with Turkey.

¹ Not printed.

Mr. Terrell to Mr. Gresham.

No. 329.]

LEGATION OF THE UNITED STATES,
Constantinople, October 29, 1894. (Received November 17.)

SIR: Secretary Riddle has returned to this post from Aleppo, and reports that the governor at Aleppo admitted my right to have a representative present at any examination for crime of a native teacher in an American school, and when his papers are seized for examination. The governor also declared that this was under instructions from the Porte.

I inclose a copy of Mr. Riddle's report. * * *

It affords me pleasure to report that Mr. Riddle, in the discharge of his delicate and responsible duties at Aleppo and Aintab, executed with fidelity and intelligence his instructions. While affording timely protection for a school which, I think, had been marked for destruction, he secured at Aleppo the cordial coöperation and esteem of the local governor, as shown by that gentleman's letter.

I have, etc.,

A. W. TERRELL.

[Inclosure in No. 329.]

Mr. Riddle to Mr. Terrell.

LEGATION OF THE UNITED STATES,
Constantinople, October 29, 1894.

SIR: I have the honor to report that, in obedience to your instructions of date September 27, I proceeded directly to Alexandretta and Aleppo, and on October 6, with Mr. Poche, consular agent at Aleppo, called on Hassan Pasha, vali or governor-general of the province of Aleppo, with a request for information in regard to the charges brought against professors in the American college at Aintab. The vali assured me (contrary to what the grand vizier stated to you in September) that there had never been the slightest suspicion against Mr. Fuller or any other American teacher in the college; that papers had been found in the house of an Armenian preacher imprisoned at Berejik which seemed to compromise three persons connected with the college, Messrs. Bezdjian, Bulbulian, and Serkis Livonian, the latter a brother of the imprisoned preacher, but that, as all three were Turkish subjects, it was no concern of the American legation. To this I answered that, while disclaiming all intervention in Turkish affairs, the United States Government would probably expect that the Porte would not claim the right to accuse and try native teachers in American schools without affording the legation the opportunity of being fully informed as to all the facts in the case. I told him I had undertaken an eight days' journey to Aleppo in order to facilitate the Turkish authorities in the investigation of any charges they might bring against anyone connected with the American college at Aintab, and I therefore hoped he would proceed as expeditiously as possible with an examination. He replied that he had as yet received no instructions from the Porte, but when I suggested that in that case I had better telegraph you to see the grand vizier and request him to send instructions at once as to what was to be done in Aleppo, the vali calmly admitted that he had full instructions from the Porte, directing that the papers of the suspected teachers should be seized at Aintab and brought to Aleppo for examination, and in case the suspicions felt were justified by finding seditious papers among them, that

the three men should themselves be brought to Aleppo for examination and trial; that at each step in the proceedings an official representative of the United States Government would be allowed to be present, in order to satisfy himself of their fairness. The concession of this important principle, which fulfills all the desires of the missionary board, would seem to preclude the future possibility of capricious and groundless arrests of native teachers merely with a view to hamper or break up the work in the colleges.

As soon as the necessary orders were issued by the vali, I proceeded to Aintab with Mr. Poche, where we were present at the seizure of papers and at their subsequent examination in Aleppo. As I have already reported by telegraph, nothing objectionable was found among them, the vali expressed himself as satisfied of the groundlessness of the suspicions against the teachers, and the papers were sent back to their owners in Aintab.

No one connected with the college was at any time under arrest, and the work of the college was not interrupted.

In conclusion, I must express my great obligation to Mr. Poche, the consular agent at Aleppo. His efficiency as interpreter, his intelligence, and the influence he seems to enjoy among Turkish officials were of the greatest service in reaching the prompt and satisfactory result attained.

I have, etc.,

J. W. RIDDLE.

Mr. Terrell to Mr. Gresham.

No. 331.] LEGATION OF THE UNITED STATES,
Constantinople, November 5, 1894. (Received November 19.)

SIR: I have the honor to inclose herewith a copy of your cipher telegram of October 29. Your reference to my "untenable demand that native teachers in American schools be not arrested" without my consent indicates that you construed my No. 320 of October 6 as showing my intention to make such a demand. This I much regret, for a reference to that dispatch will show that I regarded such a demand as not warranted by treaties or capitulations and certainly knew it had no sanction in international law. I was also guarded to state in that dispatch one reason why I would not demand as a right what I would "prudently insist on" "without straining friendly relations" * * * "until your instructions regarding it can be received."

I inclose also, for your convenience, an extract from my instruction to Mr. Riddle, which was an inclosure in my No. 312 of September 27, which shows my care to avoid making any demand regarding native teachers even after arrest.

The utmost claim made by me, viz, the privilege of having a representative present at all proceedings under a charge of crime against native teachers in American schools or colleges (i. e. seizure, search and examination) has been admitted by the Porte by instructions to the governor of Aleppo. It would seem to be quite immaterial whether this concession be termed a privilege or a right, so long as the desired object is attained without disturbing cordial relations.

This amicable method of investigating the charges against the native teachers in the Aintab College and its results have been the subject of mutual congratulation between the foreign minister and myself, in an interview with him. I delayed acknowledging your telegram until that interview, to see if there was any disposition to recede from the pre-

cedent set by the visit to Aintab. There was none, and the statement was distinctly made by the foreign minister that he would agree in advance that my secretary of legation should always be present in all proceedings against native teachers.

In a government where even judicial proceedings are often conducted in secret, a mere protest against capricious imprisonment would be made with no knowledge of facts on which to base my assumption that it was capricious.

The advantage gained in the Aintab College incident consists in establishing a precedent which, if adhered to, saves the American colleges and schools in Turkey, much the larger portion of which are taught by native teachers whose places can not be supplied.

The opinion is quite general that Turkey will resort to every legal means to impair the efficiency of missionary schools, and to deprive them of native teachers would be the most effective boycott. The missionaries assert that they have over a million of money invested here in college and school buildings. The policy that has induced these good men to push their enterprise in education so far that they are dependent on Turkish subjects to teach may well be questioned. I have before referred to it as a fruitful source of future trouble.

The only available method of protecting them now is the one I have adopted. It has been conceded without straining relations, and it would be a pity to yield my vantage ground so patiently labored for. I have not demanded anything. I have reasoned and insisted, however, with success. Another case is not likely to arise soon, and yet I deem it prudent to request that you telegraph me "protest only against unreasonable and capricious arrests," if you think I should insist on nothing more than that.

At this post diplomatic advantages peacefully secured are always accepted by other powers; and this one is so far-reaching in its future effects that I sincerely trust you may approve it and the means that secured it as well.

* * * * *

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 331.]

Extract from instructions to Secretary John W. Riddle, inclosed in Mr. Terrell's No. 312, of September 27, 1894.

It is proper that an effort should be made by you in behalf of native teachers employed in the American schools who are not American citizens to secure them bail, if you believe them innocent; and that they may continue their teaching. This, however, can not be demanded as matter of right, but you will cause the consul to protest if the cause for arrest of such persons and the facts on which arrests are based are not disclosed.

[Inclosure 2 in No. 331.]

Substance of interviews with the foreign minister and grand vizier.

Since receiving Mr. Gresham's cipher telegram of the 29th of October, Mr. Riddle, in my presence, gave to the grand vizier a full statement of the proceedings at Aleppo and Aintab, informing him that he was present at the seizure of the personal effects of the native teachers

at Aintab; that those effects were placed in pouches and sealed by a Turkish official; that he accompanied that official back to Aleppo and was present during the search made in them for evidences of sympathy with sedition; that nothing incriminating was found and the proceeding closed to the satisfaction of all parties; that the governor of Aleppo had stated that the grand vizier had instructed him to permit the presence of a representative of the United States at all proceedings against the suspected parties.

This having been stated, I expressed to the grand vizier my pleasure over the adoption of this just method of proceeding, which gave assurance that teachers would be taken from their employment only when really guilty of crime; that such a course would always avoid suspicion of capricious arrest, and I assured him that I would never be heard to intercede for teachers against whom there was evidence of crime. The assumption that this precedent established a *modus vivendi* naturally satisfactory (which it was the chief object of the interview to emphasize) was not questioned, nor were the instructions to the governor-general at Aleppo denied. The grand vizier expressed himself as pleased with the manner in which the examination had been conducted.

Said Pasha, the minister of foreign affairs, also expressed himself as pleased with the result of the examination, and was informed of the instructions given by the grand vizier to the governor of Aleppo. To him I emphasized the benefit that would result to Turkey from having a representative of the United States present in all proceedings against native teachers in American schools, for the cry of "Turkish atrocities" would not be started by other nations when an impartial American was permitted to know the facts authorizing imprisonment.

* * * * *

He said, "If you or your secretary could go in such cases I would always be satisfied." I expressed the hope that no more such cases would occur, but assured him that if they did I would attempt to go in person or to send the secretary of legation. He then said, "I will agree in advance that your secretary may always be present in all proceedings against native teachers."

A. W. TERRELL.

Mr. Uhl to Mr. Terrell.

No. 274.]

DEPARTMENT OF STATE,
Washington, November 22, 1894.

SIR: I have to acknowledge receipt of your No. 331, of the 5th instant, in relation to the measure of protection to be accorded to native teachers in American schools in Turkey.

The action of the Porte in allowing your claim to have a representative of this Government present at any investigation of charges against native teachers in the missionary schools affords ample opportunity on which to base complaint should capricious arrests or vexatious hindrance of the legitimate operations of those schools occur.

Should the result of the examinations conducted in accordance with the understanding you have reached indicate probable cause for proceedings against native teachers, you will simply let matters take their course without protest.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

RESTRICTIONS IMPOSED ON JEWS.

[See Foreign Relations, 1893, pp. 638, 651, 669.]

Mr. Terrell to Mr. Gresham.

No. 324.]

LEGATION OF THE UNITED STATES,
Constantinople, October 16, 1894. (Received November 5.)

SIR: I have the honor to inform you that the Porte admits that instructions have long ago been given to Turkish consuls in America not to visa the passports of Jews who visit Jerusalem for a longer stay than ninety days. This has led to the seizure and detention of the baggage of that sect at Jaffa, to secure their return within the time allowed, as will be seen from the inclosed dispatch from Consul Wallace at Jerusalem of the 3d instant to the consul-general at Constantinople. Mr. Wallace also, as you will see, reports cases of extortion by Turkish officers, presumably, from the facts given, with the knowledge of the local governor.

My instructions to the consul-general look to a correction of this evil.

I have remonstrated with the foreign minister on the seizure and detention of baggage, and notified him of my belief that his officials were levying blackmail at Jaffa.

The reason given for the avowed policy of preventing the settlement of Jews in Jerusalem in large numbers was stated with much seriousness by His Excellency Said Pasha as follows:

We believe that Jesus Christ was a great prophet, and if the Jews get control of Jerusalem they will steal the sepulcher of Christ and destroy everything that can remind people of him.

This feature of the interview was unexpected. I informed the Porte that the restriction on the right of American Jews to remain so short a period was a hardship about which I might have occasion to express myself hereafter. I did not go further because it may be safely assumed that, in the absence of all commerce there, a Jew who goes to stay over ninety days goes to remain, and besides, I can obtain your instructions by the time I can receive further details of extortion by the Turks at Jaffa.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 324.]

Mr. Wallace to Mr. Short.

No. 28.]

CONSULATE OF THE UNITED STATES,
Jerusalem, October 3, 1894.

SIR: I desire to call your attention to a condition of affairs existing at the seaport of Jaffa and here at Jerusalem. Since assuming the duties of this consulate complaints have been from time to time made to me by incoming Jewish-American citizens that they are unnecessarily annoyed and put to expense by the Turkish officials at Jaffa when attempting to disembark. Tourists and persons coming here to visit or reside for an indefinite time are subject to the annoyance of having their baggage delayed at the custom-house for longer than is necessary. In many cases some official at Jaffa demands passports, and will not allow parties to enter till they deliver their passports to him. Then the one who has taken them will not return them to the owners until some

money in the nature of a bribe is given. I have on two separate occasions appealed to the governor of Jerusalem in person, demanding by what authority such actions are taken. Promises have been made me that the matter will be looked into and the offenders punished. In no case am I certain that the promise has been fulfilled.

On last Friday, September 28 ultimo, nine persons, Jews, holding passports properly visaed by the Ottoman consul at New York, were prohibited from landing at Jaffa till they deposited a guaranty that they would leave the country inside of thirty days. One man, in company with his wife, landed, but had to deposit a sum of 6 napoleons. His baggage was retained at Jaffa.

This morning he appealed to me to know what to do. His passport was taken from him at the depot at Jerusalem as soon as he stepped off the train, and was not returned.

I immediately called upon the governor and asked him by whose authority such things are done. His reply was he knew nothing about it, but he would inquire, and at least would order the delivery of the baggage to the owners.

Something more than this should be done or the indignity will be repeated. I therefore beg of you to lay the matter before the higher authorities at Constantinople, and inform me what further steps to take in the maintaining of treaty rights. I have done all in my power.

These indignities offered our citizens on landing at Jaffa and Jerusalem are a disgrace, and should be immediately and summarily put a stop to. Any delay on our part in taking note of them will but aggravate the indignity.

Will you kindly inform me also if the Ottoman consuls in America have authority to say in their visa on a passport that the privilege to remain in the Turkish dominions is limited to thirty or ninety days or to any period? Passports are often so visaed. Shall the bearer of a passport so visaed be compelled to obey it?

Hoping some immediate action toward remedying these evils will be taken,

I remain, etc.,

EDWIN S. WALLACE.

[Inclosure 2 in No. 324.]

Mr. Terrell to Mr. Short.

No. 53.]

LEGATION OF THE UNITED STATES,
Constantinople, October 16, 1894.

SIR: Your No. 72, of October 15, has just been received, inclosing copy of Consul Wallace's dispatch No. 28, of the 3d instant, relating to the seizure of the baggage of Jews by Turkish officials. These men, being American citizens, are entitled to our protection, and you will instruct Consul Wallace to protest in every instance when the baggage of an American citizen is detained after examination at the custom-house, and to report every case of extortion by Turkish officials, with name of the parties and date, and to forward when practicable the affidavit of the party. Also to report each instance under oath of the party when baggage is detained or other indignity practiced. It is the policy of the Turks to forbid the permanent settlement in large numbers of Jews, but as tourists they must receive full protection as American citizens.

On the receipt of satisfactory evidence that the governor retains officials after he is informed that they receive bribes or practice extor-

tions, I will demand, and doubt not that I will effect, his removal. The evidence should be in the shape of affidavits to accompany the consul's report.

I have, etc.,

A. W. TERRELL.

Mr. Gresham to Mr. Terrell.

No. 266.]

DEPARTMENT OF STATE,
Washington, November 7, 1894.

SIR: Your dispatch No. 324, of the 16th ultimo, relative to the harsh treatment of Jews temporarily resorting to Jerusalem, has been received.

The restriction of the sojourn of visiting Jews in the ancient capital of their race has been enforced for several years past. Mr. Straus, in his No. 57, of January 28, 1888, touches upon the ostensible reasons for this limitation, which was originally fixed at one month and was about that time prolonged to three months. Extended correspondence in regard to the effect of this measure upon American Jews going to Jerusalem is printed in the second volume of Foreign Relations for 1888.

The arbitrary interferences with this class of voyagers which your dispatch reports, such as the detention of their personal effects at Jaffa in order to make their prolonged sojourn in Judea impossible or difficult, should properly call forth urgent remonstrance in the event of injuring any citizen of the United States; and should your surmise that the intolerant course of the Turkish officials in that quarter is prompted by corrupt motives be verified, those unworthy agents will doubtless be severely rebuked by the high authority of the Porte itself—which can not be supposed to countenance extortion in any form.

As regards the duration of the period during which law-abiding American citizens of the Jewish faith may propose to visit Jerusalem, this Government neither draws nor admits any presumption of intended permanent domicile there from the mere fact of resorting thither. Abandonment of American residence and consequent loss of the right of protection due to bona fide citizens can only be determined by the facts of each case as it may arise. As the records of your legation and of the consulate at Jerusalem will show, this Department has heretofore had occasion to deal with such cases on the facts, and has not hesitated to withdraw protection when permanent domicile in Judea was shown without evident intent to return to this country.

I am, etc.,

W. Q. GRESHAM.

STATUS AND TREATMENT IN TURKEY OF NATURALIZED AMERICANS
OF TURKISH ORIGIN.

[See Foreign Relations, 1893, pp. 683, 684, 685, 692, 699, 702, 703, 705, 706, 708, 709, 710, 711, 713, 715.]

Mr. Gresham to Mr. Terrell.

[Telegram.]

DEPARTMENT OF STATE,
Washington, January 4, 1894.

In an interview with the minister of Turkey to-day he assured me positively that the Turkish Government has not made and will not make arrests except so far as necessary to effect deportation. If imprisonments occur otherwise you will insist on fulfillment of this promise.

GRESHAM.

Mr. Gresham to Mr. Terrell.

No. 137.]

DEPARTMENT OF STATE,
Washington, February 9, 1894.

SIR: I have received your dispatch No. 140, of the 17th of December last, reporting an interview with the minister for foreign affairs on the preceding day, in relation to the treatment of naturalized citizens of the United States of Turkish origin when returning to Turkey, and in particular to the case of Garabed Kevorkian, an agent at Marsovan of the Foreign Christian Missionary Society of Cincinnati.

You state that Kevorkian declared his intention to become a citizen of the United States before 1869. In a previous dispatch, No. 80, of October 12, 1893,¹ you state that Kevorkian "was naturalized without the consent of the Sultan, long after the Turkish law of 1869, but made his declaration of intention to become a citizen of the United States before that date." The date of his naturalization, however, is not given. It is desired that you ascertain the facts in regard to his naturalization and communicate them to the Department.

It is, however, to be observed that the Turkish Government, as you report in the dispatch now under consideration, recognized his American citizenship when he returned to Turkey, and that he has since been residing there under that recognition. While this circumstance does not relieve this Government of the duty of informing itself of the facts of his naturalization, it materially affects the action of the Turkish authorities in regard to his arrest and detention.

In the case of Sirope Gurdjian, a citizen of the United States of Turkish origin, who was naturalized in 1874, and who was charged in 1890 with participating in the proceedings of an Armenian revolutionary committee, the seal of which he was alleged to have made, the minister for foreign affairs acknowledged the irregularity of his arrest by the Ottoman authorities without the assistance of a consular representative of the United States, and promised that "the agent guilty of the irregular acts referred to should be punished." The views of the Department in that case you will find set forth in an instruction, No. 142, of December 22, 1890, to Mr. Hirsch, then our minister at Constantinople. You will observe that the Department, in discussing the question of Mr. Gurdjian's trial on the charges made against him, then instructed Mr. Hirsch as follows:

If upon further investigation you should be of opinion that the facts presented do not constitute a violation of any specific statutory provision, but that Mr. Gurdjian has been guilty of culpable acts affecting the Ottoman Government, for the punishment of which our legislation is defective, it will be necessary to inform him that the protection of the United States can not be extended so as to enable him to continue his residence in the Ottoman dominions.

In the case of the Armenians lately charged with seditious acts in Turkey, this Government has clearly manifested its purpose not to permit their claim of American citizenship to be invoked as a bar to their expulsion. It is hoped that the Ottoman Government will not be disposed to depart from the course it has heretofore observed and raise other questions that may tend to complicate and embarrass the relations now subsisting between the two countries.

In reading your dispatch, I regret to find that in your conference with the minister for foreign affairs you introduce matters which were hardly pertinent to the object of your interview. The distinctions you

¹ See Foreign Relations, 1893, p. 692.

drew between the Constitution of the United States and the British constitution were not only unnecessary but inaccurate. Naturalization is neither conferred nor regulated by the Constitution of the United States, nor is it true that in Great Britain "the Queen and not the constitution, is sovereign." The Department specially regrets your saying to the minister for foreign affairs: "If your excellency believes it would accomplish good, I will go yonder to your Padishah (the Sultan) and tell him that unless he heeds the advice of his ministers, who are trying to save the country from the devil, it will be bad for Turkey." The Department does not perceive the precise meaning of your declaration that it would "be bad for Turkey." But whatever the meaning intended to be conveyed, it is thought that the whole declaration implied a disposition on the part of this Government to adopt an attitude of intervention in Ottoman affairs which it is neither our interest nor our policy to assume.

It is also observed that in your interview with the minister you adverted to a case of alleged indignity on the part of the Ottoman authorities, but that you declined to afford him any particulars until you had investigated the truth of the report. Under the circumstances the reference to the matter, especially in the form in which it was made, appears to have been premature and ill-advised.

I am etc.,

W. Q. GRESHAM.

Mr. Gresham to Mr. Terrell.

No. 161.]

DEPARTMENT OF STATE,
Washington, March 29, 1894.

SIR: The present attitude of the questions which have been raised by the Turkish Government in regard to the status and treatment of persons of Turkish origin who, having been lawfully naturalized in the United States without the previous permission of the Sultan, may return to Turkey, demands a concise recital of the views and position of this Government in this relation, in addition to the instructions heretofore given you.

The essential principle in dispute is not new, and the different points of view of the two Governments have been, from time to time, shown by correspondence exchanged in particular cases during the past few years. Its phase, however, has latterly been materially changed in a sense permitting the friendly accordance of the two Governments touching the main points involved.

With Mr. Hirsch's No. 380, of January 25, 1892, was communicated an explicit statement of the Turkish contention that naturalization of a Turkish subject in another country, without imperial consent, was to be deemed invalid by Turkey. In a note, dated January 9, 1892, the Porte requested the legation to instruct the consuls of the United States in the Ottoman Empire to refuse protection to those natives of Turkey who, as the note stated, "furtively betake themselves to America and, after remaining there for some time, return to their country provided with American passports and claiming to pass as citizens of the Republic." Resting on the Ottoman law of nationality of 1869, whereby Ottomans have not the right to acquire foreign naturalization without having first obtained the authorization of the Sultan, the Porte declared its inability "to admit illegal changes of this nature,"

and therefore requested formal withdrawal of protection from such persons "in order to prevent difficulties with the imperial authorities."

In reply, Mr. Hirsch pointed out that the laws of the United States entitle foreigners to be admitted to citizenship on due compliance with their provisions, thereupon conferring upon them all the rights and privileges of an American citizen, including the right to travel either for business or pleasure; wherefore, being unable to accede to the Turkish request for withdrawal of protection in the case stated, he permitted himself to hope that instructions might be given to the minister of the police that should insure the respect due to every American passport presented. Mr. Hirsch's course was approved by instruction, No. 284, of February 18, 1892, and the Turkish contention does not appear to have subsequently been renewed in that shape.

It has revived, however, in the more recent application by the Turkish Government of the alternative provision of article 6 of the same law of Ottoman nationality of 1869, whereby a Turk, naturalized abroad without imperial permission and returning to his native land, may be decreed to have lost his Turkish nationality, and as a consequence his right to sojourn in the Ottoman dominions.

It thus appears that on the one hand the foreign naturalization is to be wholly disregarded, the individual being treated thereafter as still a Turkish subject, in conflict with all claims of his adopted country to demand his allegiance or to protect him as a lawful citizen. On the other hand, by decreeing forfeiture of the original Ottoman character, the foreign nationality acquired by naturalization is admitted and confirmed, the individual being thereafter dealt with as an alien whose presence in the Turkish Empire is objectionable.

As was declared by the President, in his annual message of the 4th of December last, the right to exclude any or all classes of aliens is an attribute of sovereignty, asserted and, to a limited extent, enforced by the United States themselves with the sanction of their highest court. While the President, in the absence of a treaty of naturalization, recognized the right of the Turkish Government to enforce its policy against naturalized Armenians, he made no announcement inconsistent with the position that excluded or expelled Armenians may claim the protection of this Government as naturalized citizens.

The Turkish Government has, however, apparently not comprehended the nature of the concession made by the Government of the United States, or apprehended the extent of the duty of this Government in respect to persons whose American citizenship is thus placed beyond question. It seems to be equally unable to discern the vital distinction between the exercise of a sovereign attribute to which it professedly resorts as an expedient to prevent or restrict the sojourn in the Empire of persons whose presence may be deemed fraught with danger to the state and the punitive treatment of such persons as offenders by reason of their renunciation of Ottoman nationality and acquisition of another allegiance. Hence, we have seen such persons arrested and imprisoned and indefinitely detained despite your unremitting efforts to relieve their unhappy lot in obedience to the instructions given to you at the outset. My own remonstrances with the Turkish minister at this capital have so far had no obvious result.

Ottoman subjects who voluntarily leave their native land and are duly naturalized here become clothed with full rights of citizenship, and are entitled to the protection of this Government in Turkey against all claims of that Government originating after naturalization. And while the sovereign right of Turkey to exclude, and under proper circum-

stances to expel, undesirable classes of people from the imperial dominions is recognized, the United States can not and will not consent that their naturalized citizens formerly the subjects of Turkey shall be there imprisoned or otherwise punished simply because they have become invested with citizenship here without the imperial permission.

It follows that, while such arrest and detention as may be fairly incident to the exclusion or deportation of such persons will not be objected to when directed to the single purpose of preventing their sojourn in the Ottoman Empire, the right to arrest and imprison them for other purposes is not conceded. It is important that this be made clear to the minds of His Imperial Majesty's counsellors.

These considerations will serve to guide you in bringing about the good understanding which it is the strong desire of this Government to reach. * * *

It is clear that the best permanent settlement of this class of issues may be found in a treaty of naturalization, such as Turkey has already twice accepted in the shape presented by the as yet uncompleted convention of 1875.

I am, etc.,

W. Q. GRESHAM.

Mr. Gresham to Mr. Terrell.

No. 171.]

DEPARTMENT OF STATE,
Washington, April 14, 1894.

SIR: I transmit a copy of a letter of Mr. K. K. Samuelian, an Armenian, naturalized here in 1891, on the subject of his desired return to Turkey; also, a copy of the reply thereto. You will note that Mr. Samuelian adverts to the general character of the treatment of returned Armenians by the Turkish Government.

This is the first distinct statement that has reached the Department that the Ottoman Government is asserting its right to exclude or expel returning naturalized Armenians, "not those alone from this country, but also those returning from any part of Europe."

As was intimated in the Department's instruction of December 7 last (No. 101), the expulsion of persons merely because of their naturalization in the United States, when naturalization in other countries is not made the ground of similar treatment, would be an act of unfriendly discrimination against this country. Your legation has reported that Great Britain (and other European powers as well) does not claim immunity for naturalized Turks returning to Turkey, but has not so far reported any actual case where an Armenian naturalized in Great Britain or on the Continent has been expelled or excluded under circumstances such as have of late been frequently reported in regard to such persons when naturalized in the United States.

It may be desirable to verify Mr. Samuelian's statement touching the general application of the Ottoman rule in this relation.

I am, etc.,

W. Q. GRESHAM.

[Inclosure in No. 171.]

*Mr. Samuelian to Mr. Gresham.*AUBURN, N. Y., *March 31, 1894.*

SIR: I am an Armenian. I was sent here by Costikyan Brothers, of Constantinople, in 1886, to establish a branch house for the sale of their oriental rugs. In 1889 I gave up my business, and entered the theological seminary in this city to study for the ministry. I finished my course in 1892, and have since been corresponding with the missionaries in reference to my return to the work there. Of course my object in returning is solely to preach the gospel there. While in business I announced my intention of becoming an American citizen, and in 1891 I became naturalized here, renouncing allegiance to Turkey.

You have undoubtedly heard of the persecution of returned Armenians by the Turkish Government; not those alone from this country, but also those returning from any part of Europe. I fear that it is not safe for me to return to Turkey as a subject of that Government; meanwhile the missionaries are urging my speedy return to the mission work. I desire to know whether I shall have the right of protection as a missionary by our (American) minister in Constantinople in case the officials object to my landing in Constantinople? Will you kindly advise me as to what steps I had better take in the matter and oblige.

Further information can be given by request. Hoping to hear from you at your earliest convenience,

I remain, etc.,

K. K. SAMUELIAN.

Mr. Riddle to Mr. Gresham.

No. 232.]

LEGATION OF THE UNITED STATES,
Constantinople, April 20, 1894. (Received May 7.)

SIR: Referring to the general subject of Armenians who obtain naturalization in the United States and subsequently return to Turkey, I desire to call the attention of the Department to a class of cases which have not yet been the subject of correspondence, but which are likely to arise in the future.

Such cases would be furnished by naturalized Armenians who come back subsequently to and notwithstanding the President's declaration in his annual message of the 4th of December last concerning the right to exclude aliens, and who, fearing that they will not be allowed to enter Turkey and that the United States will not intervene in their behalf, return as Turkish subjects traveling with Turkish passports.

To illustrate, I have recently received a visit from Garabed M. Mourad, who declares that he is a duly naturalized American; that he left his naturalization certificate in America, as he feared it would be discovered and taken from him on his return here, but that it will follow him by post and be produced shortly at this legation. He traveled from America to Turkey under a Turkish passport, and on his arrival here discarded his hat for a fez. Ever since he has kept silent in regard to his American nationality, except in the legation, and has been entirely unmolested by the authorities. He now desires to go to Harpoot, in the interior. As he foresees that when he has completed his stay there and sets out on his return journey the authorities will probably prevent his departure—emigration being forbidden—he wishes to know

how far he may count upon assistance from the legation in the event of his getting into difficulty when he, for the first time, proclaims his real nationality to the Turks and furnishes the legation with documentary evidence thereof.

With a request for instructions as to how far such double-dealing on the part of naturalized Armenians affects their right to be protected by this legation,

I have, etc.,

J. W. RIDDLE,
Chargé d'Affaires ad interim.

Mavroyeni Bey to Mr. Gresham.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, May 8, 1894.

MR. SECRETARY OF STATE: Inasmuch as American citizens fully enjoy the right of petitioning the President, it is not with the purpose of protesting against the early sending of the petition, copy of which I inclose, that I have the honor to address you this note. If I do so, it is solely in order to rectify (and such rectifications always remove, in my opinion, subsequent difficulties) the contents of the said petition, which, as I am informed, will bear the signatures of many responsible Americans, deceived, undoubtedly, by the false and slanderous allegations of certain Armenian revolutionists. I trust, moreover, that the brief explanations which I shall have the honor to offer herein will be accepted by your excellency in the same spirit as that by which I was, in part, actuated to lay their principle before you in my note of April 5, 1894; that is, in a spirit of justice and equity, such as will tend to make still closer the bonds of friendship existing between the two Governments.

The petitioners assert that the Imperial Government absolutely ignore United States passports. This is not in conformity with the facts. The facts are as follows: The Imperial Government is bound to enforce its laws. According to such laws all of our subjects who secure naturalization, whether in the United States or elsewhere, without complying with certain forms prescribed by Ottoman laws, can not return to Turkey. Besides, there is no case in which the Imperial authorities have expelled from the Ottoman territory any naturalized citizen of the United States whatsoever, on the only ground that he had become such a citizen. Expulsion took place for reasons relating to the participation by the expelled person in revolutionary and subversive movements against which the Sublime Porte is obviously entitled to protect itself.

Accept, etc.,

MAVROYENI.

His Excellency GROVER CLEVELAND,
President of the United States:

We, the undersigned, respectfully represent: That there are at present resident in the United States about 10,000 Armenians, many of whom have become naturalized citizens and are engaged in lawful occupations, mostly manufacturing or commercial; that these Ameri-

can citizens, when desiring to visit their native country for peaceful purposes, are rigidly excluded by the Turkish Government, being prohibited from landing, or, upon arrival, arrested and imprisoned in disregard of American passports; that unnaturalized Armenians and Armenian citizens of countries other than the United States are allowed to return, and that this discrimination against American citizens is derogatory to the dignity of this Government and a violation of international comity.

We therefore respectfully request your excellency to protest against this unjust and injurious treatment of American citizens and to negotiate a treaty of reciprocal rights and privileges between the two countries, whereby our naturalized American citizens of Armenian birth shall be allowed to return to Turkey to visit their families or for purposes of commerce or missionary work, and shall be entitled to the protection of the American flag so long as they do not engage in acts conflicting with the peace of the Turkish Empire.

Mr. Gresham to Mavroyeni Bey.

DEPARTMENT OF STATE,
Washington, May 11, 1894.

SIR: I have had the honor to receive your note of the 8th instant, with which you inclose the text of a petition to the President in relation to the treatment of naturalized Armenians returning to Turkey, which, you understand, is being circulated for signature. You comment upon certain phrases therein and make further statements concerning the main question, which has been the subject of correspondence between the two Governments for some months past, and concerning which their respective views and purposes have been mutually made known.

The petition has not been received here. I may be permitted to observe that, while controverting its assertions upon the points as to which neither Government is now in doubt touching the position taken by the other, you pass in silence over the important statement "that unnaturalized Armenians, and Armenian citizens of countries other than the United States, are allowed to return" to Turkey. If this be indeed the case the circumstance could hardly fail to attract this Government's serious attention and investigation.

I shall forthwith direct the legation at Constantinople to inquire into this report.

Accept, etc.,

W. Q. GRESHAM.

Mavroyeni Bey to Mr. Gresham.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, May 14, 1894.

MR. SECRETARY OF STATE: In response to your note of May 11, I have the honor to repeat to your excellency that in this question of the agitation conducted by certain Armenians the imperial Government has never made any distinction whatsoever contrary to the interests and

dignity of the Government of the United States. The investigations which, as you tell me, you desire to make at Constantinople will prove to you that such is the case. The Sublime Porte, in its treatment of the Armenian revolutionists, has no need to inquire from what country these Armenians come. It only considers the measure of their culpability and applies its laws, the purport of which I have already had the honor to bring to your excellency's knowledge.

Be pleased to accept, etc.

MAVROYENI.

Mr. Riddle to Mr. Gresham.

No. 241.]

LEGATION OF THE UNITED STATES,
Constantinople, May 10, 1894. (Received May 26.)

SIR: I have the honor to acknowledge the receipt of your instruction No. 171, of April 14, inclosing a letter from Mr. K. K. Samuelian. The precise form of the "persecution of returned Armenians by the Turkish Government, not those alone from this country (America), but also those returning from any part of Europe," referred to by Mr. Samuelian, is not made clear by him. In the case of those Armenians who have returned to Turkey after obtaining naturalization in Great Britain, the persecution does not take the form of exclusion or expulsion. This legation knows of no case of the expulsion from Turkey of former Turkish subjects who have obtained naturalization in England, and the members of the British embassy here report that they have never heard of such cases.

In fact, from the Turkish point of view, the necessity would not arise for the adoption of such measures against Turks naturalized in England, who, if they return to Turkey at all, return as Turkish subjects, being no longer claimed by Great Britain; and persons who may be controlled, taxed, and imprisoned without interference from a foreign power the Ottoman Government has no desire to expel. It is only those former Turkish subjects naturalized in the United States (who have been in the habit of returning to Asia Minor and reestablishing themselves in their native district as privileged foreigners) whose presence is objectionable to the Ottoman Government.

Thus, although there is a difference in the treatment of returning Turks who have been naturalized in the United States and those naturalized in Great Britain and other European countries, the Ottoman Government disclaims any unfriendly discrimination against this country, assigning as a reason for the difference in treatment the fact that Turks returning from the United States, are claimed by the United States Government as Americans exempt from Turkish jurisdiction, while Turks naturalized in any other country, on coming back to the Ottoman Empire, return at once to their former state of subjection to Ottoman rule, it being understood that the naturalization referred to throughout this dispatch is that which has been acquired without the imperial sanction.

I have, etc.,

J. W. RIDDLE,
Chargé d'Affaires ad interim.

Mr. Uhl to Mr. Riddle.

No. 181.]

DEPARTMENT OF STATE,
Washington, May 10, 1894.

SIR: I have to acknowledge the receipt of your No. 232, of the 20th ultimo, whereby you ask to be furnished with specific instructions as to the measure of protection to be accorded by the legation in the cases of Armenians who have become naturalized in the United States and return to travel in Turkey under the guise of Ottoman subjects.

The power of the agencies of the United States to protect American citizens in their just international rights can only be exercised in good faith and upon proof of the good faith of the party claiming protection. It is not to be abused by such duplicity as you report. As long ago as 1874 Mr. Fish said:

For a naturalized citizen may, by returning to his native country and residing there with an evident intention to remain, or by accepting offices there inconsistent with his adopted citizenship, or by concealing for a length of time the fact of his naturalization and passing himself off as a citizen or subject of his native country until occasion may make it his interest to ask the intervention of the country of his adoption, or in other ways which may show an intent to abandon his acquired rights, so far resume his original allegiance as to absolve the government of his adopted country from the obligation to protect him as a citizen while he remains in his native land." (Consular Regulations, 1874, paragraph 110.)

This Government does not hold to the doctrine of perpetual allegiance, nor does it contest the right of any citizen of the United States to voluntarily perform any act by which he may become a citizen or subject of a foreign state according to its laws. The return of a naturalized Turk to Turkey, as an Ottoman subject, under Turkish passport, and with submission to Turkish authority over him as a subject, clearly dissolves the obligation of his adopted country to protect him longer as a citizen, and the obligation can certainly not be revived by the assertion or admission of the individual that his reassumption of his original allegiance has been colorable merely and in bad faith, with deliberate intent to deceive. The agencies of the United States in Turkey can not be privy to such a deception.

From your statement it appears that Garabed M. Mourad hopes to return to and remain in Turkish jurisdiction as a Turkish subject until it may be convenient for him either to claim an American citizen's right to quit Turkey or to invite expulsion as an objectionable alien. In either case, upon his own showing, this Government could not contest any claim of Turkey to regard his resumption of Turkish allegiance as complete and to treat him as an Ottoman subject.

A person situated as Mr. Mourad is can only go to Turkey as a citizen of the United States or as a Turkish subject. It is impossible to permit any declaration he may make to the legation concerning his dual intentions to operate to recognize him secretly as a citizen of the United States while he at the same time outwardly passes for a Turkish subject.

You will inform Mr. Mourad that his statements made to the legation are outside of the case, and that should he at any time formally apply for protection the bona fides of his claim to have retained the character of an American will be rigidly scrutinized. As in the case of Aivasian and others, this Government has not only the right, but it is incumbent upon it, to satisfy itself that the person in question has done nothing while in Turkey to forfeit the right to be protected.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Uhl to Mr. Riddle.

No. 184.]

DEPARTMENT OF STATE,
Washington, May 16, 1894.

SIR: I inclose for your information copy of correspondence recently exchanged with the Turkish Minister¹ here touching the treatment of Turkish subjects naturalized abroad and returning to Turkey.

You will examine and report whether Turks naturalized in other countries receive the same treatment as those who become citizens of the United States.

It would appear from the ministerial note that exclusion or expulsion is resorted to as regards individuals according to the measure of their culpability; but in most of the cases reported during the last six months no allegation of culpability as revolutionists appears. The case of Mrs. Toprahanian and her minor children, at Alexandretta, is especially in point.

I am, sir, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Riddle to Mr. Gresham.

No. 258.]

LEGATION OF THE UNITED STATES,
Constantinople, June 29, 1894. (Received July 17.)

SIR: I have the honor to acknowledge the receipt of your No. 184 of May 16, instructing me to "examine and report whether Turks naturalized in other countries receive the same treatment as those who become citizens of the United States;" and also inclosing an anonymous petition to the President, the most important statement in which is "that unnaturalized Armenians and Armenian citizens of countries other than the United States are allowed to return" to Turkey, while those naturalized in the United States are not.

This subject has already been treated in my dispatch No. 241 of May 10. In addition I may say that with regard to the naturalization of Turks in foreign countries, three different systems seem to prevail, caused by the fact that Turkey still holds to the doctrine of perpetual allegiance.

(1) In some countries, of which France is a type, a Turk is not admitted to citizenship unless he produces the evidence of the Imperial sanction to his change of nationality. In these countries all conflict of laws with Turkey concerning nationality is thus avoided.

(2) In Great Britain Turks may be naturalized without having obtained the Imperial consent, but they are no longer protected or considered as British subjects if they return to the Ottoman Empire. All British passports of naturalized citizens contain the following language:

This passport is granted with the qualification that the bearer shall not, when within the limits of the foreign state of which he was a subject previously to obtaining his certificate of naturalization, be deemed a British subject, unless he has ceased to be a subject of that state in pursuance of the laws thereof, or in pursuance of a treaty to that effect.

Here, also, no conflict of laws arises between Turkey and Great Britain.

¹ See page 759.

(3) The Government of the United States would seem to be the only one which admits Turks to citizenship without their having obtained the Imperial sanction, and in addition claims them as citizens in Turkey as well as in all other countries. Thus there is a conflict of laws between America and Turkey over all Turks naturalized in the United States without Imperial consent who return to the Ottoman Empire.

The statement "that unnaturalized Armenians and Armenian citizens of countries other than the United States are allowed to return" is probably true, for the former have, of course, never ceased to be Turks, and the latter become Turks again as soon as they return, as they have never been given up by Turkey and are now no longer claimed by the country which naturalized them. Hence, whatever treatment they might receive when they returned to Turkey would not be made the subject of an official communication by a foreign power claiming them as citizens.

I have, etc.,

J. W. RIDDLE,
Chargé d'Affaires ad interim.

Mr. Terrell to Mr. Gresham.

No. 305.] LEGATION OF THE UNITED STATES,
Constantinople, September 17, 1894. (Received October 6, 1894.)

SIR: I have the honor to inform you that the rules governing naturalized subjects of the leading European powers who have been natives of Turkey, after their return to the Ottoman Empire, are more frequently found in instructions to diplomats resident here than in statutory enactments.

I find no dispatch from any of my predecessors which gives those rules, and for your convenience in reference, if not for your information, I give them now.

Germany naturalizes and protects in third countries; but, in 1883, instructed its consuls not to extend protection to those who were natives of the Ottoman Empire when they return to Turkey.

Italy instructs her diplomatic agents not to afford protection to her naturalized subjects who were natives of Turkey. She conforms substantially to the German rule.

England, under an act of Parliament, writes on the face of every passport that protection will be afforded its bearer in all countries except the country of his origin, if he left it without the consent of its sovereign.

Russia, like England, never protects a returning native of the Ottoman Empire who left it without an Imperial iradé. This rule does not apply to the natives of that portion of Asia Minor bordering the Black Sea and extending to the interior; that she acquired in her last war; and, whether Turks or Armenians, those natives became Russians by conquest and treaty, and are protected as native Russians when in a foreign land.

France never naturalizes a native of the Ottoman Empire born of Ottoman parents unless he produces an Imperial iradé or authorization, and will not protect him should he return to Turkey.

Austria does not naturalize a Turk who owns real estate in Turkey; she naturalizes others, and extends her protection in all countries except Turkey.

Belgium and Holland naturalize on the consent of the country, or sovereign of the country of origin.

I have not sought to ascertain the rule prevailing in the legations of Spain and Sweden, deeming it of small importance, but will do so if you desire.

It will thus be seen how little our doctrine of the right of voluntary expatriation is recognized by the rest of the civilized world in their dealing with Turkey.

In my last interview with the grand vizier he said, with earnestness, that Turkey would never consent that her subjects could change their nationality without the Sultan's consent. He added: "If war is ever made on us for this we could not help it, and would defend as best we could."

In view of the foregoing, I will be pardoned for submitting to your judgment the following, viz: "Whether our people are not prepared, by the influx from Europe of anarchy, socialism, poverty, crime, and dynamite, to approve a reactionary policy on the whole doctrine of voluntary expatriation."

For about thirty years the questions of naturalization and of jurisdiction under article 4 of the treaty of 1830 have been subjects of contention. As often as there seemed to be the prospect of a new treaty, a change of administration, of a grand vizier, of a foreign minister of Turkey, or of a minister from the United States, compelled negotiations to begin *de novo* and no progress was made.

It is safe to assume that no new treaty can be made on either of the subjects of disagreement referred to which does not embrace both.

The anxiety at the Porte to have you adopt such a construction of article 4 of the treaty of 1830 as will conform to rule applied to subjects of European powers who are charged with crime, and will confer the jurisdiction on their own courts, will, when you can make some concessions, tend greatly to help forward a treaty of naturalization.

I have, etc.,

A. W. TERRELL.

Mr. Gresham to Mr. Terrell.

No. 251.]

DEPARTMENT OF STATE,
Washington, October 20, 1894.

SIR: I have to acknowledge the receipt of your No. 305, of the 17th ultimo, in relation to the rules observed by foreign countries in the naturalization of Turks, and the bearing which the present policy of this Government has upon its relations with the Ottoman Porte.

The Government of the United States and the American people are too firmly committed to the principle of the right of expatriation to be willing to abandon it in our negotiations with the Ottoman Empire. The question has been so fully and ably discussed, notably in Mr. Bayard's instruction to your predecessor, Mr. S. S. Cox, under date of November 28, 1885,¹ that it would seem unnecessary to repeat here the arguments in favor of the contention of this country beyond quoting the following passage:

The question is, in its broadest aspect, one of conflict between the laws of sovereign equals. The authority of one is paramount within its own jurisdiction. We recognize expatriation as an individual right. Turkey, almost solely among nations,

¹ Foreign Relations, 1885, p. 885.

holds to the generally abandoned doctrine of perpetual allegiance. Turkey can no more expect us to renounce our fundamental doctrine in respect of our citizens within her territory than she could expect to enforce her doctrines within the United States, by preventing the naturalization here of a Turk who emigrates without the authorization of an imperial irade.

As to the question of preventing the influx into the United States of aliens dangerous to the peace of the country, we must look to other means of excluding them than by abandoning the doctrine of the right of expatriation.

I am, etc.,

W. Q. GRESHAM.

CASES OF MR. AIVAZIAN AND MRS. TOPRAHANIAN.

Mr. Gresham to Mr. Terrell.

No. 119.]

DEPARTMENT OF STATE,
Washington, January 6, 1894.

SIR: Your No. 129¹ of 11th ultimo, and the copy therewith, have been received. It appears that Adam Aivazian, a naturalized American, is now in prison at Yozgad, on suspicion of conspiracy against the Turkish Government. He states that he resided ten years in this country, and about 1891-'92 went to Turkey on business, intending to return to America.

The case seems an especially hard one, as this man appears to intend honestly to conserve his American status by closing up his interests in Turkey and settling in California for life.

If there are charges against him, it would seem that he should be confronted with them and given a chance to make his defense. Prolonged imprisonment seems an unnecessary hardship, against which you can rightly protest.

I am, etc.,

W. Q. GRESHAM.

Mr. Terrell to Mr. Gresham.

No. 169.]

LEGATION OF THE UNITED STATES,
Constantinople, January 27, 1894. (Received Feb. 14.)

SIR: I have the honor to acknowledge the receipt of your No. 119 of the 6th instant, regarding the case of Adam Aivazian, confined at Yozgad in prison. Considerations of policy have restrained me from prompt action in this case, as in that of the parties at Alexandretta,² who, though naturalized and charged with no crime, are refused permission to return to their homes in the United States. * * *

I have been awaiting the slow action of the Porte, which would act favorably, but can not. The report to the grand vizier from Yozgad is that the man there is confined for assisting the escape of revolutionists, and has never claimed protection as an American citizen. That, I think, I understand; he is prevented by fear. If I can be furnished with a letter to the governor permitting my secretary to see the man I will send him to know the facts.

¹ Not printed.

² The Toprahanians.

Unless my interview at the Porte is more satisfactory than I expect I will telegraph you to-morrow. A careful study of the situation convinces me that concessions, even when required by justice (as in the exclusion of returning Armenians), are only followed by fresh exactions.

* * * * *

I have, etc.,

A. W. TERRELL.

Mr. Terrell to Mr. Gresham.

No. 173.]

LEGATION OF THE UNITED STATES,
Constantinople, February 1, 1894. (Received Feb. 16.)

SIR: I inclose a copy of my note to the Porte dated December 29, 1893, regarding the imprisonment at Yozgad of Atam Aivazian, in which I proposed to send a representative of the United States to Yozgad, and protested against the continued imprisonment of the man without trial.

Please find also inclosed a copy of the Porte's answer to that note, written a month after its receipt, in which the man's claim of American citizenship is admitted to have been made by him.

I inclose also my note to the Porte of yesterday (January 31), in which I stated that I had solicited a letter and teskeré, or traveling permit, for my secretary of legation to go to Yozgad and report to me regarding his right to my protection, and that finally, in obedience to a manifest duty, I had reported the facts to you for instructions.

I have, etc.,

A. W. TERRELL.

[Inclosure 1 in No. 173.]

Mr. Terrell to the Sublime Porte.

LEGATION OF THE UNITED STATES,
Constantinople, December 29, 1893.

His Excellency Saïd Pacha was informed by the minister of the United States that Atam Aivazian, a naturalized American citizen, had for three months been confined at Yozgad in prison. This legation will be at all times ready to send a representative of the United States to attend upon the trial of the man, if he is accused of crime. If his presence in the Ottoman Empire is objectionable, this legation will oppose no objection to the action of the Government in requiring the man to go at once to the United States; but his continued confinement in prison without trial is protested against.

[Inclosure 2 in No. 173.—Translation.]

The Sublime Porte to Mr. Terrell.

JANUARY 30, 1894.

The ministry of foreign affairs has received the verbal note that the legation of the United States of America has kindly addressed to it on the 29th of December last, No. 14 *bis*, relating to the preventive detention of one Atam Aivazian.

The governor-general of the vilayet of Angora, asked on the subject, remarks in replying that the aforesaid, accused of having facilitated the murderer of Kehyaian, was born in the village of Eilindjé, in the district of Boghozlian, of parents who are Ottoman subjects, and never ceased to belong legally to his original nationality.

He has declared, it is true, at the time of his cross-examination before the cross-examiner, that he went eleven years ago to America and obtained the American naturalization, but he has not been able to produce any authentic act or document to sustain his pretense.

His Excellency Merndouh Bey adds, however, that the examination of his affair is presently on the point to be closed.

Mr. Gresham to Mr. Terrell.

No. 141.]

DEPARTMENT OF STATE,
Washington, February 12, 1894.

SIR: I received on the 6th instant a telegram from you, presumably of that date.

While I have on several occasions expressed to the minister of Turkey in this capital my readiness to consider any propositions which his Government might see fit to advance in the direction of negotiations for a naturalization treaty, explicitly defining the rights of the citizens or subjects of either country when returning thereto and sojourning therein, after having become lawful citizens or subjects of the other country, and while it appears from your dispatches that you have similarly evinced your disposition to receive such propositions from the Porte, there has at no time been intimated, either here or at Constantinople, any disposition on the part of this Government to enter into a provisional international agreement upon the subject. A *modus vivendi*, such as you announce that you are arranging, would, if at all effective toward the end proposed, be a treaty, within the meaning of the Constitution, concluded without the participation and consent of the Senate of the United States, and could, moreover, scarcely fail to be embarrassing in the course of subsequent negotiations toward a formal convention. In the present condition of our relations with Turkey any makeshift disposition of the treaty rights of American citizens is to be avoided, and the instructions under which you act do not confer upon you power to enter into such a conventional arrangement.

Apart from this, the necessity of a *modus vivendi* regulating the rights of American citizens in Turkey is not understood. It certainly can add no sanction to our treaty rights whereby citizens of the United States are guaranteed against imprisonment or punishment by the Turkish authorities. The position of this Government with regard to the exclusion or deportation of American citizens of Turkish origin, whose presence in Turkey may be inconsistent with the public peace of the Empire, has been clearly stated and needs no additional definition. My instruction to you of the 9th instant, in the case of Garabed Kevorkian, and the Department's instruction to Mr. Hirsch, therein referred to (No. 142, of December 22, 1890), may be profitably consulted by you in this relation. * * *

I am, etc.,

W. Q. GRESHAM.

Mr. Gresham to Mavroyeni Bey.

DEPARTMENT OF STATE,
Washington, February 21, 1894.

SIR: Referring to our conversation at the Department this afternoon, I have the honor to inform you that the following shows the names and places of detention of naturalized citizens of the United States, being the most recently reported cases:

1. Katharine Toprahanian and two children at Alexandretta.
2. Adam Aivazian at Yosgad. Permission refused to investigate his right to protection.
3. Joseph Ardjinjanian at Alexandretta.
4. Two are said to be detained at Iskanderoum whose names are not mentioned.

Accept, etc.,

W. Q. GRESHAM.

Mavroyeni Bey to Mr. Gresham.

IMPERIAL LEGATION OF TURKEY,
Washington, February 22, 1894.

MR. SECRETARY OF STATE: I have duly communicated to the Sublime Porte, by telegraph, last evening, the names you were kind enough to give me, by your yesterday's note, of some Armenians, naturalized Americans, and asked for information about same.

I am glad to have now to inform you that according to a telegram from His Excellency Saïd Pacha, just this minute received, the two Armenian persons in detention, according to your said note, at Alexandretta, are not, as a matter of fact, in detention now. And as regards Aivazian, he is accused of a crime for which he is at present tried before the courts. His Excellency Saïd Pacha adds in his telegram that further details on all these points will be sent by mail.

I hope your excellency will duly appreciate the promptness and fairness of the Sublime Porte's answer.

Please accept, etc.,

MAVROYENI.

Mavroyeni Bey to Mr. Gresham.

[Translation.]

WASHINGTON, *February 23, 1894.*

MR. SECRETARY OF STATE: I have the honor to confirm my note of yesterday, concerning the answer of the Sublime Porte to the communication which I made, on the fate of the Armenians mentioned in your note of the 21st instant, and to inform your excellency that I am in receipt of a second telegram from His Excellency Said Pacha, telling me that the two Armenians who are at Alexandretta are on the point of being expelled by the sea route. As to the one who resides at Yozgad,¹ his American nationality not being as yet established, and being accused of crime, such measures will be taken concerning him as will result from the investigation made on the spot, bearing on his nationality and on the crime of which he is accused.

Please accept, etc.,

MAVROYENI.

Mr. Terrell to Mr. Gresham.

No. 196.] LEGATION OF THE UNITED STATES,
Constantinople, *February 24, 1894.* (Received March 12.)

SIR: I am informed that the naturalized citizens of the United States who have been so long detained at Alexandretta² have been ordered to depart from the Ottoman Empire.

The man imprisoned at Yozgad,¹ who has been referred to in former dispatches, will, I have reason to believe, soon be expelled also.

I have, etc.,

A. W. TERRELL.

Mr. Terrell to Mr. Gresham.

No. 217.] LEGATION OF THE UNITED STATES,
Constantinople, *March 19, 1894.* (Received April 9.)

SIR: I have the honor to acknowledge the receipt of a dispatch signed by the Hon. Edwin F. Uhl, No. 150,³ of date the 27th ultimo, directing me to ascertain the character of the "passport" referred to by Jacob Toprahanian in his letter to you of the 8th ultimo as having been issued to his wife, Catharine Toprahanian.

That passport was issued by me on the 10th day of October, 1893. Its number is "195." On receiving your instructions to facilitate the woman in her effort to join her husband correspondence was opened with him in New York, and his certificate of naturalization was sent to

¹ Aivazian.

² Mrs. Toprahanian was furnished in the summer of 1894 with a United States passport, and by order of the Porte with a teskeré, or traveling passport, to come from the interior of Asia Minor and embark with her two children for the United States to join her husband, a resident of New York. She was stopped at Alexandretta and detained there for more than two months on the ground that she was a Turkish subject.

³ Not printed.

this post and returned to him. His wife was at Diabekir, in the interior of Asia, about 300 miles from any consul or consular agent.

The papers evidencing the citizenship of Jacob Toprahanian were regular in form. Blank forms in duplicate were forwarded to Artin Cassapian and returned, after which a passport was forwarded to the woman. Her application (now before me) states that she was born on the 15th of June, 1858; that her husband emigrated to the United States about the 18th of May, 1883; that he resided seven years uninterruptedly in the United States, from 1883 to 1890, at New York; that he was naturalized as a citizen of the United States before the court of common pleas of New York on the 19th of April, 1893, as shown by an accompanying certificate; that she was his wife; that she resided uninterruptedly in the United States seven years, from 1883 to 1890, at New York; that she is domiciled in the United States and her permanent residence is in New York; that she left the United States on the 15th of June, 1890, on board the *La Bourgogne*, and reached Havre on the 23d of June, 1890. Her signature to the oath. The certificate of identification was signed by Artin Cassapian. An inquiry among Armenians here confirmed the essential facts regarding the woman's residence in the United States, and that she was the wife of Jacob Toprahanian.

She was detained so long at Alexandretta that her money was exhausted. When finally they (herself and children) were permitted to leave her passage was paid to Alexandretta on my order, for which I am personally responsible.

I have, etc.,

A. W. TERRELL.

Mr. Gresham to Mavroyeni Bey.

DEPARTMENT OF STATE,
Washington, March 27, 1894.

SIR: I have to acknowledge the receipt, in due course, of your note of the 20th ultimo, in which, referring to interviews theretofore had with me concerning the status of naturalized Armenians returning to Turkey, you informed me, as instructed by a telegram from His Excellency Saïd Pacha, that the silence of the Porte on this subject does not arise from any want of regard for the United States, but from the circumstance that the important question involved had not been determined, owing to the necessity of giving it his mature reflection.

In subsequent interviews I have intimated my disappointment at this apparently indefinite postponement of a matter which, in the President's judgment, demands instant adjustment; and I am pleased to believe, from your later statements and communications, that the urgency of the situation is appreciated by the counsellors of His Imperial Majesty.

Accept, etc.,

W. Q. GRESHAM.

Mr. Gresham to Mr. Terrell.

No. 162.]

DEPARTMENT OF STATE,
Washington, March 29, 1894.

SIR: In my instruction No. 161,¹ of this date, I give you the views of this Government relative to the general aspects of the Turkish claim of right to expel or deport persons of Armenian origin naturalized abroad without the Sultan's permission and returning to the Ottoman Empire.

The case of Atam Aivazian, the more recent aspects of which are presented in your No. 173, of the 1st ultimo, does not seem, so far, to fall within the purview of my instruction, inasmuch as the Turkish Government in this instance appears to assert the bare right to try him for alleged criminal acts against the peace of the state committed in Turkey.

The American citizenship of Mr. Aivazian has not been established. Born in Eilindje, in the district of Boghozlian, of Ottoman parents, he claims to have passed eleven years in the United States, during which time he obtained naturalization; but, as stated by the note of the ministry of foreign affairs of January 30, 1894, "he has not been able to produce any authentic act or document to sustain his claim."

While you possess information, deemed reliable, that Mr. Aivazian has been in fact naturalized in this country, you likewise appear to lack documentary proof of the fact; and your repeated requests to be furnished with a travel permit that would enable your secretary of legation to go to Yozgad, where this man is imprisoned, there to investigate his claim of citizenship, and at the same time ascertain whether he "had, by his long stay in Asia Minor, or by his declarations, forfeited his claim to American citizenship," have been as repeatedly refused.

If Mr. Aivazian ever became an American citizen, that fact should be established, as well as whether he has voluntarily resumed his original status so far as to absolve the United States from the duty of protecting him. Denial of opportunity to ascertain the facts is hardly conducive to that frank and amicable consideration of this class of international issues which the Government of the United States so earnestly desires.

You will, therefore, press for opportunity to visit Aivazian and obtain any evidence he may possess in support of his asserted American citizenship.

I am, etc.,

W. Q. GRESHAM.

Mr. Uhl to Mr. Terrell.

No. 167.]

DEPARTMENT OF STATE,
Washington, March 30, 1894.

SIR: In connection with your recent dispatches regarding the enforced detention of Mrs. Toprahanian and family at Alexandretta, and especially with your No. 196 of the 24th ultimo, which is hereby acknowledged, I inclose for your information copies of correspondence² had with the Turkish minister at this capital on the subject.

The order for the deportation of Mrs. Toprahanian and her children at Alexandretta was uncalled for and harsh. She was on her way to

¹ See page 754.

² See pages 768, 769.

the United States when detained and the Turkish Government should have been content with withdrawing the order of detention.

You are instructed to communicate to the Turkish minister for foreign affairs the view of this Government regarding the matter.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mavroyeni Bey to Mr. Gresham.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, April 5, 1894.

MR. SECRETARY OF STATE: You doubtless remember that in the course of our interviews on the subject of the return to Turkey of certain Ottoman subjects naturalized under the laws of the United States, I had repeatedly expressed my personal confidence—for I was not at that time in possession of positive instructions from my Government—that it was not possible that the Sublime Porte would imprison the said subjects solely for the gratification of so imprisoning them, and that its policy must necessarily be based on justice and law.

This confidence of mine, I am happy to say, has just been formally confirmed. Indeed, I have this instant received a telegram from his excellency Saïd Pasha which I hasten to transcribe herewith, begging your excellency to kindly consider its contents as officially expressing the opinion of the Imperial Government touching the matter.

Please allow no doubt to remain in the mind of the Government of the United States on the following question: The cabinet of the United States is under the impression that we imprison Ottoman subjects, naturalized citizens of the United States, who return to the empire, because they have changed their nationality. Such, however, is not the case, for, in the first place, such a procedure has never been followed to this day. In the second place, the law directs that all our subjects who have themselves naturalized abroad without complying with the laws and regulations bearing on the question, shall be prohibited from returning to Turkey, and when any of their number return to the country of their origin we are content with expelling them from the Ottoman territory. If, then, some few among these latter are imprisoned, it is certainly not by reason of their naturalization in the United States, but solely for some difficulty they may be involved in with the law.

Accept, etc.,

MAVROYENI.

Mr. Gresham to Mr. Riddle.

No. 174.]

DEPARTMENT OF STATE,
Washington, April 18, 1894.

SIR: I transmit herewith a copy of a dispatch (No. 8 of the 26th ultimo) from the consul at Beirut in regard to the prolonged detention and final expulsion from Turkish territory of the American citizens, Mr. Arakjinjian and Mrs. Toprahanian, by the authorities at Alexandria.

Although Mr. Gibson reports having brought the circumstances to the attention of the legation through the consulate-general, his present dispatch so clearly narrates the course of the incident as to make it suitable for preservation on your files.

With reference to the Department's instruction No. 167, of 30th ultimo, on the same subject, I desire to lay special stress on the extraordinary harshness of the action of the caimacam of Alexandretta, who, in the face of the orders from Constantinople to permit these unfortunate persons to depart in accordance with their long obstructed plans and at the urgent solicitation of the United States minister, appears to have arbitrarily and with gratuitous cruelty commanded their expulsion within one hour's time. This circumstance abundantly justifies the comments on the whole proceeding contained in the Department's note to Mavroyeni Bey of March 27, and warrants the President's expectation that the Porte will hasten to disavow the act of its local agents and tender to the injured parties redress for the needless wrong they have suffered.

I am, etc.,

W. Q. GRESHAM.

[Inclosure in No. 174.]

Mr. Gibson to Mr. Uhl.

No. 8.]

CONSULATE OF THE UNITED STATES,
Beirut, March 26, 1894. (Received April 16.)

SIR: I have the honor to report that Mr. Frederic Poche, United States consular agent at Aleppo, notified this office in a letter dated the 2d December, 1893, that two naturalized American citizens, Mr. Jacob Arakjinjian and Mrs. Catherine Toprahanian, native born of Armenia, had been arrested by the local authorities of Alexandretta, and, without any alleged motive, prevented them from sailing to the United States. Mr. Poche, who was informed by wire of this incident by the interested parties, considered it necessary, in order to avoid delays and additional telegraphic expenses, to address direct to our legation at Constantinople the telegram of which the following is a literal translation:

AMERICAN LEGATION, CONSTANTINOPLE.

Jacob Arakjinjian and Catherine Toprahanian, bearing passports from legation dated October 10, 1893, Nos. 195 and 196, are forbidden to depart for New York by the local authorities of Alexandretta. Please obtain telegraphic order to Aleppo Vilayet to permit them to pass.

POCHE,
Consular Agent.

Notwithstanding the steps taken by the United States consular agent in Aleppo, this consulate made it its duty to report the case with full details to the Honorable W. B. Hess, ex-consul-general at Constantinople, with request to use his kind offices and secure through the United States legation peremptory orders from the Sublime Porte for the release of Jacob Arakjinjian and Mrs. Toprahanian and her children.

Later on Mr. Poche informed this office that in obedience to telegraphic instructions addressed to him by the honorable Minister Terrell he asked the vali of Aleppo to declare to him what were the charges brought against the American parties that gave rise to the oppressive measures taken to their detriment by the caimacam of Alexandretta. In reply to Mr. Poche's communication the vali of Aleppo notified him that the vilayet had no official knowledge that the persons in question had repudiated their Ottoman nationality, and consequently the caimacam of Alexandretta, not being aware of their real status, considered it his duty to detain them pending the receipt by him of some reliable information on their account from the authorities of Diarbekir, and that

upon the receipt of the same they would be treated in conformity with the expected orders and the regulations in force.

The true facts in the case would, however, appear to be as follows: Mr. Arakjinjian and Mrs. Toprahanian being Armenians, the authorities of Diarbekir declined either to visa their American passports or to furnish them with a Turkish voyage *teskeré*. In the absence of the latter document the caimacam of Alexandretta thought that he would be justified in preventing them from leaving the country and sailing for New York. It is notorious how the Armenian population is being suspected, worried, and harassed by the agents of the Turkish Government, and it can be easily understood why they do not favorably countenance the emigration of Armenian refugees to the United States.

In this connection it is worth reporting that the caimacam of Alexandretta, after taking possession of the passports of Mr. Arakjinjian and Mrs. Toprahanian, attempted to subject them to interrogatories which they positively objected to undergo without the assistance of the consular dragoman, as required by treaties and regulations. In consequence of this refusal they were placed under the inspection of a police agent to watch them in their domicile and detain them therein.

On the 9th instant intelligence was received from Mr. Poche to the effect that after prolonged and much complicated negotiations between the United States legation at Constantinople, the Sublime Porte, himself, and the governor-general of Aleppo, the latter—thanks to the energetic pressure which was brought to bear by the honorable Minister Terrell upon the Turkish Government—has at last issued positive orders to the caimacam of Alexandretta to release the Americans detained by him and to let them continue their journey to the United States.

The caimacam, however, instead of carrying out implicitly and in good faith the instructions transmitted to him, summoned Mr. Arakjinjian and Mrs. Toprahanian and informed them that they were allowed but one hour to leave the country and on board a Turkish steamer that was in the port. Having spent all their money during their long detention, and being afraid to go on board an Ottoman vessel, the distressed parties in question, in the absence of a United States consular representative at Alexandretta, appealed to Mr. Daniel Walker, agent of the American Stamford Manufacturing Company in that city, who took up their cause and succeeded after much difficulty in persuading the caimacam to allow them sufficient time to get ready for the voyage.

In conclusion, it affords me pleasure to be able to report to the Department, from verbal communication recently obtained from Mr. Walker that Mr. Arakjinjian, Mrs. Toprahanian and her children have at last left Alexandretta on board an English steamer, bound for Alexandria, on their way to the United States.

All of the foregoing facts have been duly brought to the notice of our consulate-general at Constantinople and through it to the knowledge of the honorable minister, Mr. Terrell, who has taken a deep interest in the concerns of the American parties referred to above.

In this connection it is most appropriate to observe that the recent visit of the United States flagship *Chicago*, with Rear-Admiral Erben on board, to the port of Alexandretta proved to be a most fitting close to this incident by showing that the United States Government is ready to fully support and back its representatives with the magnificent men-of-war placed at its disposition and to protect the rights and interest of its citizens residing abroad.

I am, etc.,

THOMAS R. GIBSON,
U. S. Consul.

Mr. Riddle to Mr. Gresham.

[Telegram.]

PERA, April 20, 1894.

Adam Aivazian, subject of your despatch No. 162, is the bearer of passport No. 14470, signed by Secretary of State Blaine, May 2, 1890. Is it genuine and shall I demand his release?

Mr. Gresham to Mr. Riddle.

[Telegram.]

DEPARTMENT OF STATE,
Washington, April 20, 1894.

Aivazian's passport duly issued, naturalized April 20, 1890, Fresno, California, and left United States immediately, declaring purpose to return in ten or twelve months. Circumstances protracting his stay in Turkey and acts done there should be investigated. Press for opportunity to do so.

Mr. Riddle to Mr. Gresham.

No. 234.]

LEGATION OF THE UNITED STATES,
Constantinople, April 21, 1894. (Received May 5.)

SIR: In accordance with your instruction No. 167, of March 30, I have communicated to the minister for foreign affairs the view of the United States Government that "the order for the deportation of Mrs. Toprahanian and her children, at Alexandretta, was uncalled for and harsh;" that as she was on her way to the United States when detained, "the Turkish Government should have been content with withdrawing the order of detention."

The minister for foreign affairs said, in reply, that the Turkish Government had always considered the Toprahanians as Turkish subjects; that he, personally, had been in favor of allowing them to continue their journey without delay, but that, as the Sultan had been informed of the case, direct from Alexandretta, the Porte did not dare to issue orders.

I also took occasion, during the conversation, to repeat to him the views of the United States Government on the same general question of exclusion and expulsion, as expressed in your instruction No. 161,¹ of March 29, stating that the United States, in conceding to the Ottoman Government the right to exclude naturalized Armenians who returned to Turkey did not admit the right of the Turks to arrest or imprison them, or to cause their detention—except such detention as might "be fairly incident to the exclusion or deportation of such persons—when directed to the single purpose of preventing their sojourn in the Ottoman Empire."

The minister for foreign affairs answered that he had already heard precisely the same views from Mr. Terrell, but he did not vouchsafe any comments on them. In view of his remark already referred to

¹ See page 754.

that the Turkish Government had always considered the Toprahanians as Turkish subjects, it would seem that the Sultan's ministers at the Porte are disposed to claim as Turks those naturalized Armenians whom it is their wish to detain, and to pass over in silence the American nationality of those whom they are willing to allow to depart from the Ottoman Empire.

I have, etc.,

J. W. RIDDLE,
Chargé d'Affaires ad interim.

Mr. Uhl to Mr. Riddle.

No. 177.]

DEPARTMENT OF STATE,
Washington, April 24, 1894.

SIR: I append a copy of telegrams relative to the passport of Adam Aivazian and his right to claim such protection as the United States can give to citizens who were former subjects of Turkey and who have returned to Ottoman jurisdiction.

As Mr. Terrell appears to have pledged himself to take into consideration Aivazian's acts in Turkey in determining whether he is entitled to protection, it is proper that the legation should be afforded full opportunity to ascertain the nature of the acts imputed to this man.

I inclose a copy of Mr. Aivazian's application for a passport.¹

Referring you to instruction No. 162 of the 29th ultimo, more specifically setting forth the ground upon which your legation should be afforded all proper facilities for arriving at the facts in Aivazian's case,

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Riddle to Mr. Gresham.

No. 237.]

LEGATION OF THE UNITED STATES,
Constantinople, April 26, 1894. (Received May 10.)

SIR: Referring to your instruction No. 162, of March 29, and to the telegrams copied in my No. 231, of the 20th instant, and No. 233, of the 21st instant, I have the honor to report that I have had a conversation with the grand vizier, in which I pressed for an opportunity to inquire into the status of Adam Aivazian, in order to ascertain, by a personal interview with Mr. Aivazian, whether, during his four years' stay in Turkey, he has voluntarily so far resumed his original status as to absolve the United States Government from the duty of protecting him.

The grand vizier manifested great unwillingness to allow a foreigner to go to Yozgad, in view of the present disturbed condition of that town; but he promised to have Aivazian brought to Constantinople, and said that the man would be here within a week. On his arrival here I shall endeavor to see him, and will report the result of my investigation.

I have, etc.,

J. W. RIDDLE.

¹ Not printed.

Mr. Riddle to Mr. Gresham.

No. 243.]

LEGATION OF THE UNITED STATES,
Constantinople, May 11, 1894. (Received May 26.)

SIR: I have the honor to acknowledge the receipt of your instructions No. 173, of April 17, and No. 174, of April 18.

There seems to exist a misapprehension as to the source of the orders for Mrs. Toprahanian's expulsion, as the instruction alludes to the "action of the caimacam of Alexandretta, who, in the face of the orders from Constantinople to permit these unfortunate persons to depart, * * * commanded their expulsion within one hour's time."

The minister of foreign affairs, however, in the conversation which I have reported in my No. 234 of April 21, did not attempt to shift the responsibility for the harsh action upon distant subordinates, as he freely admitted that the order for expulsion emanated from Constantinople, his only apology being that at that inopportune time the Sultan was so greatly worked up over Armenian outbreaks that it was impossible for the Porte to take the responsibility of ordering gentler measures.

I have, etc.,

J. W. RIDDLE.

Mr. Riddle to Mr. Gresham.

[Telegram.]

CONSTANTINOPLE, May 19, 1894.

I have seen Aivazian. Has been sentenced to ten years for common crime. Says he returned to marry and remained at the request of wife. Has bought a dwelling house near Yozgad and engaged in grain and cattle trade, but says he intended to return to California, where he still owns two town lots, provided he could first close out his affairs in Turkey. I have reserved the right to make claim in future. Full report in my dispatch.

RIDDLE.

Mr. Riddle to Mr. Gresham.

No. 245.]

LEGATION OF THE UNITED STATES,
Constantinople, May 21, 1894. (Received June 7.)

SIR: I append copy of a telegram sent you from this legation relative to the case of Adam Aivazian, who is now temporarily confined in a jail in Stamboul.

In my conversation with Aivazian I endeavored to find out what business or property interests he had left behind him in America on his departure for Turkey in May, 1890, and what new interests he had acquired in Turkey since his return. He said that before leaving America he had sold the vineyards which he had owned and cultivated in California, but that he was still owner of two town lots in Fresno; that he had returned to Turkey to be married, and after his marriage, which took place in August, 1890, as his wife was unwilling to be separated from her family, he lingered without having at that time any definite plan.

He stated that after his marriage he bought a dwelling house in the village of Eilendje, near Yozgad, and had for the past four years been engaged in the grain and cattle trade and in lending money on farmers' crops. He declared that he had made up his mind to return to California this year with his family, provided he could first satisfactorily wind up his business in Turkey; and said that last summer he had requested a missionary who was going to Constantinople to take his passport to the legation to have it renewed for traveling purposes. This latter statement is substantiated by Mr. Fowle, an American missionary of Cæsarea, at present in Constantinople, who tells me that Aivazian made such a request of him in the summer of 1893, but on his asking, "When are you going to America?" Aivazian replied, "Who knows? Perhaps next year;" and that subsequently Mr. Terrell declined to issue a new passport until Aivazian had a definite intention to start for America. Before leaving Aivazian I asked him what crime he was charged with and what sentence he had received, but he replied that he was in complete ignorance as to both.

In a subsequent visit to the Porte I was informed by the grand vizier that Aivazian had been found guilty of the charge of aiding in the escape of a condemned murderer, and that he had been sentenced to ten years' imprisonment, with transportation; that the evidence on both sides had been carefully weighed and there was no doubt of the prisoner's guilt. To this I replied that the immediate question at issue between us was not whether Aivazian was innocent or guilty, but whether he was an American or a Turk; that I was about to report all the facts in the case to my Government for instructions, and that in the meanwhile I reserved the right to make a claim in the future.

Aivazian does not seem to have been at any time mixed up in revolutionary movements, and the grand vizier told me that no charges of sedition had ever been brought against him by the Ottoman Government.

I have, etc.

J. W. RIDDLE.

Mavroyeni Bey to Mr. Gresham.

[Translation.]

IMPERIAL LEGATION OF TURKEY,
Washington, August 15, 1894.

MR. SECRETARY OF STATE: As it is to be presumed that your legation at Constantinople has transmitted some information to your excellency with regard to the case of Atam Aivazian, I think proper also to give you, in my turn, some details on the same subject which have just been communicated to me by the Sublime Porte, and which will serve, I think, to remove all difficulties.

Atam Aivazian was convicted of having been one of those who abetted, with arms in their hands, the escape of the Armenian brigand who murdered Simon Kahia. Aivazian was sentenced by a court-martial, for that offense, to ten years' imprisonment in a fortified inclosure.

This person, who was born in the village of Eilendje, in the caza of Yozgad, of parents who were Ottoman subjects, has never ceased legally to belong to his original nationality. He came to America, it is true, for the purpose of engaging in business, and remained here about

eight years, at the expiration of which time he returned to Turkey with an American passport, which he had procured a few days before his departure from the United States. Since that time, however, he has again settled in his native country, where he has always regularly paid the tax for exemption from military service and the temettu tax, and has always been considered and treated as an Ottoman subject. The fact, moreover, that no imperial iradé has ever authorized him to renounce his original nationality, is superabundant evidence that he is still a subject of Turkey.

Your excellency will bear in mind, moreover, what Mr. Terrell himself so justly remarked in his report to the Department of State of September 29, 1893, and what I myself have several times repeated, namely, that Armenians almost always become naturalized as American citizens only a few days before their final departure from the United States. Mr. Terrell wrote, at the date aforesaid, as follows:

The European emigrant in the United States generally naturalizes in good faith; the Asiatic very rarely does. I am in a position to know that it is the rule rather than the exception that the Armenian returns soon after he is naturalized, and comes back with the intention of remaining.

Thus, and this appears from a conscientious examination of several cases, the persons in question seek to become naturalized as American citizens, not with a view to becoming, frankly and honestly, part of the great American family, but solely with a subversive intent, and for the purpose of introducing foreign influence among us. Mr. Terrell's words are therefore in every respect applicable to Aivazian. Yet, even if they were not, the foregoing considerations would be sufficient, I trust, to prove to your excellency the justice of the allegations made by the Ottoman Government in the present case. I consequently beg you to instruct the United States legation at Constantinople to acknowledge that Aivazian, who has regularly paid certain taxes since his return to Turkey, can not be considered, for the reasons above stated, otherwise than as an Ottoman subject.

Be pleased to accept, etc.,

MAVROYENI.

Mr. Gresham to Mr. Terrell.

No. 221.]

DEPARTMENT OF STATE,
Washington, August 27, 1894.

SIR: I inclose herewith, for your information, a copy of a note from the Turkish minister, in which, reviewing the case of Adam Aivazian, he asks that, for reasons stated, you be instructed to consider Aivazian an Ottoman subject.

Mavroyeni Bey has been informed that on July 2 last (instruction No. 195) you were directed to investigate this case, and, should Aivazian's conservation of the rights of American citizenship not be established, to inform the Turkish minister for foreign affairs that this Government would not accord to him the privileges and protection it cheerfully accords to both its native and naturalized citizens.

I am, etc.,

W. Q. GRESHAM.

Mr. Terrell to Mr. Gresham.

[Telegram.]

CONSTANTINOPLE, *September 8, 1894.*

Adam Aivazian has been pardoned and discharged. Seferiades¹ is not under arrest, but is absent from Smyrna.

TERRELL.

NON-EXCHANGE OF RATIFICATIONS OF NATURALIZATION TREATY OF
1875.

Mr. Gresham to Mavroyeni Bey.

DEPARTMENT OF STATE,

Washington, March 27, 1894.

SIR: My recent absence from this capital has deferred due acknowledgment of your note of the 22d ultimo, in which you refer to my remark in a recent interview that while at Constantinople in the summer of 1890 you had told the members of the United States legation in Turkey "that the modifications introduced by the United States Senate to our convention on naturalization were not such as to justify their approval by the Turkish Government." You add that, while this much is true, the legation omitted to state that your action was not original with yourself, but in pursuance of opinions conveyed to you by the first secretary of the Sultan.

If I am to regard your note as an authoritative communication of the views of His Imperial Majesty regarding the exchange of ratifications of the long deferred naturalization treaty of 1875, permit me to state that this is the first specific intimation this Government has had during nearly five years of the intentions of His Imperial Majesty in this regard.

By the phrase "modifications introduced by the Senate of the United States to our convention on naturalization," I presume you refer to the condition stated in the Senate resolution of February 28, 1889, whereby that coördinate branch of the treaty-making power advised the exchange of the ratifications in view of the assent of the Imperial Government, which was unreservedly given by the Porte on January 15, 1889, after fourteen years had elapsed since the original ratification and exchange.

The Senate condition was, after ample consideration, acquiesced in by the Porte without reserve, and Mr. Hirsch was so advised in formal interviews with their excellencies the grand vizier and the minister for foreign affairs on April 19, 1890, being informed that the imperial iradé was alone awaited to enable the completion of the convention by exchange. Subsequently, in June, 1891, and in response to Mr. Hirsch's request for a reply to his note touching the deferred iradé, he learned that the protracted delay in obtaining His Imperial Majesty's sanction was due to the necessity of first obtaining information from the representatives of Turkey at certain European posts. This is the latest Turkish official communication on the subject, and nothing is found to intimate that the Porte's formal acceptance of the Senate conditions of February 28, 1889, has been since withdrawn.

¹ See page 731.

I should, moreover, remark that your memory of my statement touching your action in the summer of 1890 is not strictly accurate. What the legation then reported was that you had declared your purpose, on returning to Washington, to influence the Senate to recede from its expressed condition, and had invited the friendly concurrence of Mr. Hirsch to that end.

It is to be noted that the announcement of the Turkish foreign office in June, 1891, that the imperial iradé was merely deferred awaiting certain details of information, is long subsequent to the date of your visit to Constantinople, when, as would now seem, you were acting in accordance with the imperial conclusion that the conditions of the Senate resolution "were not such as to justify their acceptance by Turkey."

His Majesty being of this mind in the summer of 1890, and your action being guided by the imperial wishes as you now state, I am unable to find any satisfactory explanation of the silence of the Porte in this regard for nearly three years, during which time this Government has patiently awaited the consummation of the arrangement which was formally accepted by the Porte on the 19th of April, 1890.

Accept, etc.,

W. Q. GRESHAM.

FREEDOM OF WORSHIP FOR PROTESTANTS IN TURKEY.

Mr. Gresham to Mr. Terrell.

No. 254.]

DEPARTMENT OF STATE,

Washington, October 26, 1894.

SIR: Your dispatch No. 280,¹ of August 2 last, reported the request of the British ambassador at Constantinople for your coöperation to secure greater freedom of worship for native Protestants in Turkey.

Your comments upon the situation which gives rise to this request on the part of Sir Philip Currie indicate your appreciation of the fact that, while Great Britain, under the stipulations of the treaty of Berlin, has a conventional right to intercede in behalf of larger religious toleration as regards non-Mohammedan sects in the Ottoman dominions, the treaty rights of the United States are limited to the interests and immunities of their own citizens.

This Government, founded upon the broadest civil and religious liberty, can not but feel a lively sympathetic interest in the extension of this beneficent principle among mankind; but its right to press its views in this regard upon other governments is necessarily limited, as well by treaties as by its established rule of noninterference in the internal affairs of other nations.

In one sense, however, the interests of native Christians in Turkey are associated with the legitimate enterprises of our citizens in the direction of education and worship, and interference with those associations through restriction of native liberty of conscience may hamper them as effectively as direct repression of the useful endeavors of our citizens themselves, perhaps even more so. It is therefore proper to testify our sympathy with liberty of worship and to expect for our teachers and pastors no less latitude in their intercourse with native

¹ Not printed.

Christians than is enjoyed by like teachers and pastors of the most-favored nation. It is, of course, impossible for this Government to distinguish between the several non-Musselman faiths followed in Turkey, or do more than ask for our citizens equal treatment with those representing any other sect. By discreetly but earnestly claiming these rights as justly due to the citizens of a nation which has so repeatedly been assured by Turkey of the most-favored-nation treatment in all things, you may indirectly advance the purposes which Sir Philip Currie has announced to you. The extent to which you can hopefully do this is necessarily left to your wise discretion.

A copy of your dispatch and of this reply will be sent to the United States ambassador in London for his information.

I am, etc.,

W. Q. GRESHAM.

VENEZUELA.

CLOSING OF THE MACAREO AND OTHER BAYOUS OF THE ORINOCO RIVER TO FOREIGN COMMERCE AND DETENTION OF THE STEAMER BOLIVAR.

Mr. Bartleman to Mr. Gresham.

No. 142.]

LEGATION OF THE UNITED STATES,
Caracas, April 30, 1894. (Received May 8.)

SIR: Late on Saturday evening, April 28, I received from Mr. Robert Henderson, U. S. consular agent at Ciudad Bolivar, the following telegram:

Difficulties in the clearance of the American steamer *Bolivar*. The collector of customs refuses to grant permission to load cargo and dispatch her unless a bond is given for the result of suit entered in the courts of Ciudad Bolivar for accused violation of the decree of the Venezuelan ministry closing the caño Macareo, said vessel having passed through that channel. *Bolivar* carried the American flag. Agents anxious for answer.

To this I replied as follows:

Give bonds under protest if clearance is desired.

For a clear understanding of this matter I beg to call your attention to Mr. Partridge's No. 58, of July 10, 1893,¹ which contained a copy of the decree of July 1, closing to navigation the Macareo and Pedernales channels to vessels in foreign trade, but permitting them to use the "Boca Grande," said law to take effect from December 31, 1893.

On the 30th of October last a petition was sent to the Venezuelan Government by the *Red Star*, of the Orinoco Line, requesting an extension of the time to December 31, 1894. This was granted, but soon afterwards revoked in consequence of a request made by Mr. Ellis Grell, an Englishman, who had secured a concession for a coasting trade between Ciudad Bolivar and Maracaibo, which allowed him the exclusive navigation of these channels.

The several companies running steamers between Trinidad and Ciudad Bolivar then became indignant, notwithstanding that their trade was a foreign one, and that they were running their steamers without a contract or concession of any sort.

On the evening of the 25th instant I received a hastily written note from Mr. W. P. Pierce, the U. S. consul at Port of Spain, Trinidad, informing me that he was "preparing papers, as provided for by paragraph 313 of the Consular Regulations, under which the *Bolivar* might without hesitation display the American flag as her national colors, and claim the protection of the United States accordingly," and, as Mr. Henderson's telegram shows, this was done.

Immediately upon receipt of the aforesaid telegram I called upon the minister of foreign affairs to use, if possible, my good offices in behalf of the company. I read to him the telegram and asked that the

¹ See Foreign Relations 1893, p. 729.

steamer be permitted to clear for Trinidad, provided her agents would not repeat the offense.

He informed me that he was not in favor of any decree prejudicial to Venezuelan interests; that on the previous morning he had held a long conference with Gen. Crespo with relation to the decree; that the vessel knew of the existing law, and that during its enforcement it was unwise to have violated the same; and that she had displayed the American colors merely to defy the law.

He then called the minister of hacienda by telephone to ask for the latest information from Ciudad Bolivar and to transmit my request, and he was informed by him that the matter had passed to the courts of Ciudad Bolivar. I then thanked the minister for his interest in the case and departed.

* * * * *

Trusting that my action will meet with your approval, as I have endeavored to make the case as clear as possible in the short time before the closing of the mail to-day.

I have, etc.,

R. M. BARTLEMAN.

[Inclosure 1 in No. 142.—Translation.]

UNITED STATES OF VENEZUELA, MINISTRY OF THE INTERIOR,
ADMINISTRATIVE DEPARTMENT,
Caracas, January 8, 1894.

Resolved, That the petition dated the 30th of October last, addressed to this department by Dr. José Manuel Gabaldon, attorney of the Venezuelan Stock Company, "Red Star of the Orinoco," having been considered in cabinet, in which he requests from the National Government a special extension of time to December 31, 1894, of the permit which according to Article II of the executive decree of July 1, 1893, the steamers of said company have availed themselves of for navigating through the channels known as Macareo and Pedernales, which are reserved to coastwise commerce, and in view of the impossibility, as he manifests, under which the said company labors of improving the condition of its steamers and making them suitable for navigating the Boca Grande, according to the terms of the said Article II, and at the same time consulting the lawful convenience of the commerce of Ciudad Bolivar; the president of the council of government, in charge of the executive power, has deemed it proper to resolve:

That the permission conceded by Article II of the decree of July 1, 1893, to the line of steamers that now carry on the trade between Ciudad Bolivar and Trinidad, through the Macareo and Pedernales channels, be extended until the 31st of December of the present year 1894, in order that they can continue carrying on the commerce through them during the period indicated.

Let it be known and published.

For the National Executive.

FELICIANO ACEVEDO.

[Inclosure 2 in No. 142.—Translation.—Official Gazette, Monday, February 26, 1894.]

UNITED STATES OF VENEZUELA, MINISTRY OF THE INTERIOR,
DEPARTMENT OF ADMINISTRATION,
Caracas, February 24, 1894.

Resolved, Having been read in cabinet the petition of Mr. Ellis Grell, dated the 13th of February of this year, in which, by virtue of the concession and franchises conceded to him in the contract made by him with the Government on the 17th of the same month of January, he asks that the anterior resolution of the 8th of said month be declared annulled, according to which was granted a special extension of time to the lines of steamers plying between Ciudad Bolivar and Trinidad, through the channels Macareo and Pedernales, they being thereby allowed to continue doing so until December 31, 1894, and in consideration of the reasons given by said Grell, and moreover, as his line has for its principal object the establishment of a coasting trade between the ports of the whole coast of the Republic, the president of the

council of government, in charge of the executive power, has been pleased to resolve: That said petition be granted, and that in consequence thereof the resolution of the 8th of January dictated by this ministry, with reference to the extension of the permission granted by Article 11 of the decree of July 1, 1893, be annulled.

Let it be known and published.

For the National Executive.

VICTOR ANTONIO TERPA.

[Inclosure 3 in No. 142.—Translation.—Official Gazette.]

MINISTRY OF THE INTERIOR,
Caracas, Wednesday, January 17, 1894.

Dr. Feliciano Acevedo, minister of the interior of the United States of Venezuela, sufficiently authorized by the chief of the national executive for one part, and Edgar Peter Ganteaume, attorney for Ellis Grell, in name and in representation of him, who is a resident of Port of Spain, for the other part, with the previous consent of the council of government, have made the following contract:

ARTICLE 1. Ellis Grell agrees to establish and maintain an active navigation by steamers, between Ciudad Bolivar and Maracaibo, within six months, to count from the date of this contract, so that there be no less than one trip every 15 days, touching at the ports of La Vela, Puerto Cabello, La Guayra, Guanta, Puerto Suere, and Carupane, with the right to extend the line to other open ports of the Republic.

ART. 2. The steamers to sail under the Venezuelan flag.

ART. 3. The contractor agrees to transport free the mail bags that are placed aboard the steamers by the authorities and merchants by means of the respective post service, for which the vessels of the line shall be considered as mail steamers and as such exempted from all national taxes.

ART. 4. The contractor shall make a tariff for passengers and freight, with the approval of the Government.

ART. 5. The company shall carry on board of each vessel a Government inspector, named by the minister of hacienda, with the object of caring for the distribution of the mails and other fiscal interests. The company agrees also to transport public employees, under orders from the Government, for half the tariff rate, provided that they embark with an express order signed by the minister of hacienda, or by one of the presidents of the states. Military officers on service and troops shall be transported for one-quarter part of the tariff. The company agrees also to carry free elements of war, and for one-half of the tariff other effects that they ship for account of the order of the National Government.

ART. 6. The National Government agrees not to concede to other lines of steamers any of the benefits, concessions, and exemptions stipulated in the present contract, as compensation for the services the company will render, as much to the national interests as to the personal ones.

ART. 7. The National Government will pay the contractor a monthly subvention of four thousand bolivars (B's 4,000), provided he complies with the promises contained in the present contract.

ART. 8. The National Government agrees to admit free of duty machinery, tools, and implements and other necessities that are imported for their steamers and for their repairs; likewise they are permitted to procure coal and supplies for the mess room of their crews in the ports of Curaçao and Trinidad.

ART. 9. The company shall have the right to cut in the national forests wood for the construction of vessels or necessary buildings and for burning in the steamers of the line.

ART. 10. The officers and crews of the steamers, as well as the woodcutters and other employees of the company; shall be exempt from military service, except in case of international war.

ART. 11. The steamers of the company will have in all ports of the Republic the same franchises and advantages, conforming with the law, that are granted to steamers of established lines with fixed schedules.

ART. 12. In the meantime the Government will fix definitely the port of transshipment for merchandise proceeding from foreign ports, and whilst making the necessary changes vessels of the line will be permitted to touch at the ports of Curaçao and Trinidad, with power moreover to navigate the steamers that leave the last Antilla by the Macareo and Pedernales channels of the Orinoco River, provided, all the formalities are observed which the minister of hacienda may dictate, in order to impede smuggling, for the security of the fiscal interests, to which formalities the contractor submits beforehand.

ART. 13. This contract shall exist for fifteen years, counting from the date of its approval, and may be transferred by the contractor to any other person or corpora-

tion after previous notice to the Government. The transfer shall not be made to any foreign government.

ART. 14. Doubts and controversies that may arise in the understanding and execution of this contract are to be settled in the tribunals of the Republic, conforming with its laws, and in no case will they be a motive for international reclamations.

Made in duplicate, both equally effective.

Caracas, January sixteenth, one thousand eight hundred and ninety-four.

FELICIANO ACEVEDO.

E. P. GANTEAUME.

Mr. Bartleman to Mr. Gresham.

No. 145.]

LEGATION OF THE UNITED STATES,

Caracas, May 9, 1894. (Received May 18.)

SIR: Referring to my No. 142, of April 30, as to the detention at Ciudad Bolivar of the American steamer *Bolivar*, of the General Steamship Company, she having navigated the Macareo channel of the Orinoco River contrary to the navigation laws of Venezuela, I have the honor to inform you that on the day following the departure of the last mail for the States I received a second telegram from Mr. Henderson, dated April 30, stating that the collector of customs had refused to accept bonds under protest; that the bond was exorbitant, being for 60,000 bolivars; that the vessel was still detained; that the agent claimed she had not violated the law and demanded her immediate release.

Upon receipt of this I called upon the minister of foreign affairs and said I hoped we could come to some satisfactory arrangement, and suggested that the steamer be permitted to depart for Trinidad, provided she did not repeat the act; that the bond called for was exorbitant, and I requested that it be reduced to 10,000 bolivars, which I thought a nominal and sufficient amount. This met his approval and he said he would see the President, and later in the evening give me his (the President's) reply.

At 6 p. m. I called at his house and was informed by his excellency that instructions had been sent to Ciudad Bolivar to reduce the bond to the figure named by me, and to clear the *Bolivar* for Trinidad via the Boca Grande. This fact I wired to Mr. Henderson.

The next day, the 4th instant, I was requested by the minister to call at his office, when he informed me that Venezuela was doing all in her power to please the United States and show her friendship for that Republic, citing the payment of debts and the questions before the Congress and asking me to say to you that he hoped the United States would reserve its decision in this matter until the arrival of the correspondence. I said I would do so.

About 5 p. m. on this same evening I received another telegram, dated the 2d instant, saying that the agent refused to give bonds, and that the only available routes practicable for such river boats were the channels opening into the Gulf of Paria.

Again I called upon his excellency, suggesting that the vessel be permitted to depart by the Macareo, owing to her small size. He then informed me that navigation on these channels was allowed only to coasters, such trade being under the Venezuelan colors. I then asked that she be given a special permit for this trip, provided she did not touch at any of the intermediate ports, in case there be any, thus making a foreign voyage. He said he would again see the President, and informed me in confidence that when the case came up for trial the probability was

nothing would be done, as the law had failed to provide any penalty for the act. I then wired Mr. Henderson that I saw no reason why the agent should refuse to give bond, pending the court's decision, as he (the agent) claimed there had been no violation of the law.

On the 5th and 6th instant I received two telegrams from the agent of the vessel, dated the 2d, in which he says he fails to see why he should be advised or compelled to give bonds; that Mr. Pierce, the U. S. consul at Trinidad, is fully posted on the subject, and had informed the company of its right to navigate the Macareo until closed by an act of Congress, and requested the immediate release of the steamer.

I then wired Mr. Carpenter that the act closing those channels had been approved on the 23d of April; that it was also in accordance with the Código de Hacienda (Ley VI, Art. 2º, 1ª), that he move with caution, otherwise it might injure my expectation for the vessel's return.

On yesterday, the 8th instant, I received a third telegram, dated the 7th instant, in which Mr. Carpenter states that the charges against the steamer are not for violating the laws of the Republic, but that she has disobeyed the orders of the National Government.

It is apparent to me, in the absence of any information from Ciudad Bolívar by mail, that the agent of the General Steamship Company is not convinced that the law closing these channels was passed; that the statements contained in his messages are conflicting, and that in the last one there is apparently an error. I am, moreover, of the opinion that the agent has been acting indiscreetly, perhaps having been ill advised by other parties.

I had practically arranged for the vessel's return to Trinidad by way of the Macareo, but this result is being delayed by indiscreet remarks which have come to the notice of the Government here, and which have been made in Ciudad Bolívar, notwithstanding my warning to be cautious. I hope, however, to settle the matter within a few days.

With reference to Mr. Grell's contract, mentioned in my No. 142, I have the honor to state that same has not as yet been approved by the Venezuelan Congress.

Trusting that my actions in this matter may meet with your approval, I have, etc.,

R. M. BARTLEMAN.

[Enclosure 1 in No. 145.—Telegram.]

Mr. Henderson to Mr. Bartleman.

CIUDAD BOLIVAR, April 30, 1894. (Received May 1.)

Collector refuses to receive bond under protest. He demands 60,000 bolivars, which agent considers exorbitant.

Myself have seen the letters which say he can make no other arrangement, acting as he does under orders direct from Caracas.

Steamer continues detained. Agent prefers not to give bond, as he claims the *Bolívar* has not violated the laws of the Republic by passing through the Macareo.

Agent respectfully demands protection from the U. S. Government, to which owners are entitled, and the immediate release of vessel, as the detention has and will cause the heavy loss in freight and passengers, and prevent connection with European and American steamers.

ROBERT HENDERSON,
U. S. Consular Agent.

[Inclosure 2 in No. 145.—Telegram.]

Mr. Bartleman to Mr. Henderson.

CARACAS, May 1, 1894.

I am informed that instructions have been sent to clear *Bolivar* for Trinidad, provided bonds for 10,000 bolivars are given. This is the best I can do. It is better that the act is not repeated. I write by this mail, and await your dispatch with full particulars.

BARTLEMAN.

[Enclosure 3 in No. 145.—Telegram.]

Mr. Henderson to Mr. Bartleman.

CIUDAD BOLIVAR, May 2, 1894.

Your telegram of yesterday's date received. Agent refuses to give bond and steamer continues detained, for which he holds the Venezuelan sover [Government?]. One of the branches of the Orinoco and opening into the Gulf of Paria, is the only available route practicable for such river boats as the *Bolivar*, which, on account of her build, can not venture on the sea. This steamer was built in Wilmington, Del., by the General Steamship Company of that place, by which she is run, and is under the American flag.

ROBERT HENDERSON,
U. S. Consular Agent.

[Enclosure 4, in No. 145.—Telegram.]

Mr. Bartleman to Mr. Henderson.

CARACAS, May 4, 1891.

Your telegram of 2d just received. I see no reason why agent should refuse to give bond pending court's decision, as he claims there has been no violation of the law.

Will wire to-morrow if permission is obtained for clearance by Macareo.

R. M. BARTLEMAN.

[Enclosure 5, in No. 145.—Telegram.]

Mr. Carpenter to Mr. Bartleman.

CIUDAD BOLIVAR, May 2, 1894. (Received May 5.)

Inasmuch as we have not violated or infringed upon the laws of the Republic of Venezuela, we fail to see why we should be compelled or be advised to give bonds. *Bolivar* been navigating the Macareo for thirteen years and serving the Venezuelan Government gratis for that length of time.

Pierce, U. S. consulate of Trinidad, fully posted on subject, and says we have the right to navigate Macareo until closed by an act of Congress, and this has not been done as yet.

We respectfully request immediate action and release of our steamer.

THE GENERAL STEAMSHIP COMPANY,
L. A. CARPENTER, Agent.

[Inclosure 6 in No. 145.—Telegram.]

Mr. Bartleman to Mr. Carpenter.

CARACAS, May 5, 1894.

Yours of 2d just received. Act closing caños approved April 23, 1894. Also by código de hacienda. Move with caution, otherwise it may injure my expectations for return of *Bolívar*.

R. M. BARTLEMAN,
Chargé d'affaires United States.

[Inclosure 7 in No. 145.—Telegram.]

Mr. Carpenter to Mr. Bartleman.

CIUDAD BOLIVAR, May 2, 1894. (Received May 6.)

Collector of customs won't accept bonds under protest or without a guaranty not to pass through the caño Macareo.

Said caño simply closed by a concession from the Venezuelan ministers, not by an act of Congress, which is necessary, according to the constitution, for it to become a law. *Bolívar* has not in any way violated or infringed upon the laws of the Republic of Venezuela, and is therefore illegally detained. We, as American citizens, respectfully demand the protection of the U. S. Government and the immediate release of our American steamer.

The detention causing us heavy loss and damages. *Bolívar* can not proceed by the grand mouth of the Orinoco, as it is absolutely unsafe. Proceeded from Trinidad under instructions from Mr. Pierce, U. S. consul at that place, who put her under the American flag.

THE GENERAL STEAMSHIP COMPANY,
A. L. CARPENTER.

[Inclosure 8 in No. 145.—Translation.]

Mr. Carpenter to Mr. Bartleman.

CIUDAD BOLIVAR, May 7, 1894. (Received May 8.)

Yours of fifth received. Charge against *Bolívar* was not for violating the laws of the republic. Judge of the court admits *Bolívar* has violated no law, but holds that she has disobeyed the orders of the National Government, and is therefore subject to fine. The bond exacted must consist for disobedience only, and for this reason I decline to give it, as decision would naturally be against us, and because by law the extent of the penalty is a fine of 100 bolivars or twenty days' imprisonment.

The bond exacted must be accompanied with a guaranty not to pass by Macareo, the very point we are fighting against, claiming caños can only be closed by act of Congress, which act, according to the latest journals, of April 23, has not as yet been passed.

We fully appreciate the interest you have taken in our behalf, and sincerely hope you will succeed in obtaining immediate clearance via Macareo, with permission to navigate the caño until closed by law.

A. L. CARPENTER, *Attorney.*

[Inclosure 9 in No. 145.—The Port of Spain Gazette, Saturday, April 28, 1894.]

THE BOLIVAR AND THE VENEZUELAN GOVERNMENT.

The vessel will likely be seized. There is trouble existing between the authorities of the Orinoco Line of steamships and the Venezuelan Government in consequence of the *Bolivar* having passed through the Caño Macareo into the river Orinoco, which passage has been closed against the *Bolivar* in favor of the steamer *Delta*, whose agent (Mr. Grell, of Port of Spain) has exclusive official authority to pass through that channel. The Orinoco Line company were duly informed of the contract that had been made with Mr. Grell, and that the Boca Grande alone was open to them by which to navigate the river. The Bolivar authorities ignored this notification of the Government. Thus arises the difficulty.

As soon as the breach committed by the *Bolivar* was known in Ciudad Bolivar steps were taken to prevent her departure from that port for Trinidad; but no definite action was decided upon till she had been duly cleared, the delay being caused by an interruption of telegraphic communication with Caracas. When, however, instructions were received from the capital the customs authorities endeavored to make reasonable arrangements, and required the captain of the *Bolivar* to sign a bond for 25,000 pesos to secure her return to Bolivar, and thus avoid the detention of the vessel, cargo, and passengers. The captain went on board before the instrument could be prepared, weighed anchor, and steamed off. An attempt was made to stop the steamer lower down the river, but without success.

The owners of the *Bolivar* have deemed it necessary to change her flag, and, as will be observed from the appended correspondence, she now sails under the "Stars and Stripes" of the United States. The Macareo is a purely Venezuelan channel in Venezuelan waters, under the jurisdiction of the Government of the Republic, and not being on the open seaboard, like the Boca Grande, a violation of national rule has been committed. It is difficult to see how a change of flag can remove the responsibility of this serious breach from the shoulders on which it lay under the flag of the Republic. The *Bolivar* is in danger of being seized, and developments are being anxiously awaited. Information on the subject will probably be to hand on Thursday.

Mr. Bartleman to Mr. Gresham.

No. 150.]

LEGATION OF THE UNITED STATES,
Caracas, May 18, 1894. (Received May 28.)

SIR: Referring to my Nos. 142 and 145, of the 3d ultimo and 9th instant, with regard to the question of navigation of the bayous Macareo and Pedernales of the Orinoco River, and the detention at Ciudad Bolivar of the American steamer *Bolivar* for an alleged violation of the navigation laws regarding these channels, I have the honor to inform you that up to this time I have received no further communications from the consular agent at that place.

I have called upon the minister of foreign affairs on several occasions with the hope of obtaining a special permit for the steamer's return through the Macareo channel, but since she has changed her flag the desired permission seems difficult to procure.

On the 14th instant I received two letters, dated Trinidad the 9th instant, from the manager of the General Steamship Company, in which he states that he is leaving that day for Ciudad Bolivar; that on his arrival there he proposes to ask for a regular clearance, and if refused he will bring the steamer away unless detained by force. Fearing that further complications might arise from such action, I sent him a telegram on the same day, advising him to act with discretion. Later the same evening received a telegram from Mr. Carpenter, dated the 12th, stating that the steamer was still illegally detained, and requesting me to ask you for instructions to demand the release of the vessel, which I thought was unnecessary, as she is not detained except by the agent, who either can not or will not give the bond of 10,000 bolivars required,

and who insists upon returning through the channels. The steamer is at liberty to depart through the "Boca Grande" when this is done.

I have refrained from any discussion with the minister of foreign affairs as to the right of navigating these channels, having in mind the Department's No. 308, of November 4, 1892 (Mr. Foster to Mr. Scruggs), in which is asked "whether the bayous of that river were open to the flags of all nations, especially our own."

I know that the public sentiment is against the decree of July 1, 1893, closing these channels, and that such a regulation is most unjust to ourselves; but in the absence of any instructions from you I have not felt at liberty to protest against it.

Awaiting your instructions,

I have, etc.,

R. M. BARTLEMAN.

[Inclosure 1 in No. 150.]

Mr. Carpenter to Mr. Bartleman.

PORT OF SPAIN,
May 9, 1894. (Received May 14.)

MY DEAR SIR: The General Steamship Company's steamer *Bolivar* is still being detained at Ciudad Bolivar by the Venezuelan authorities; and by the arrival at this port this a. m. of the Venezuelan gunboat *Gen. Rivas*, direct from Ciudad Bolivar, I received information that the telegraph wires between Ciudad Bolivar and Caracas were broken and all communication cut off.

I am informed that a treaty exists between the United States of America and Venezuela which grants to vessels of the United States the free navigation of all Venezuelan rivers flowing into the sea.

The steamship *Bolivar* having been refused a clearance by the collector of the port of Ciudad Bolivar, who claims he is acting under instructions from Caracas, would it not be proper to sail without a clearance, unless forcibly detained? Our case seems to me to be similar to the case of the Red "D" steamship *Philadelphia*. The *Philadelphia* was refused a clearance last year at La Guayra for refusing to surrender a passenger, General Mjares, who was a political refugee, and proceeded to New York without a clearance.

This detention of the *Bolivar* is causing serious damage to our business, and if continued longer will result in great pecuniary loss to the General Steamship Company, even threatening to totally destroy the business which they have been carrying on for sixteen years.

Hoping your efforts in our behalf may be successful, I remain,

Yours, &c.,

GEO. F. CARPENTER,
Manager.

[Inclosure 2 in No. 150.]

Mr. Carpenter to Mr. Bartleman.

PORT OF SPAIN,
May 9, 1894. (Received May 14.)

MY DEAR SIR: After writing you this morning I consulted Mr. William P. Pierce, United States consul, and acting on his advice I have decided to go to Ciudad Bolivar myself by the steamer leaving to-day.

On my arrival there I propose to ask for a regular clearance from the collector of customs, and if it is again refused, I intend to bring the steamship *Bolivar* away from Ciudad Bolivar at once, unless detained by force by the authorities. Our detention is illegal and without reason, and the line of procedure at present marked out may bring matters to a crisis.

I write this to prepare you for anything you may hear from Ciudad Bolivar.

Yours, etc.,

GEO. F. CARPENTER.

[Inclosure 3 in No. 150.—Telegram.]

Mr. Carpenter to Mr. Bartleman.

CIUDAD BOLIVAR, May 12, 1894. (Received May 14.)

Bolivar still illegally detained. Full particulars of the case already in possession of State Department, Washington. If you can do nothing, ask for instructions from Washington. Demand immediate release. Please wire answer here to me at this place at once.

GEO. F. CARPENTER,
Manager.

[Inclosure 4 in No. 150.—Telegram.]

Mr. Bartleman to Mr. Carpenter.

CARACAS, May 14, 1894—(10 a. m.)

Your letter dated Trinidad May 9 received to-day. Read my telegrams to your agent at Ciudad Bolivar. Act with discretion and do not complicate matters.

You are in error as to treaty.

RICHARD M. BARTLEMAN,
Chargé d'Affaires.

Mr. Bartleman to Mr. Gresham.

No. 154.]

LEGATION OF THE UNITED STATES,
Caracas, May 30, 1894. (Received June 7.)

SIR: I have the honor to append on the overleaf a copy of a telegram received on the 24th instant, in which it is stated that the American steamer *Bolivar* has been cleared by the collector of customs and all authorities.

I have, etc.,

R. M. BARTLEMAN.

[Copy of telegram in No. 154.]

Mr. Carpenter to Mr. Bartleman.

LEGATION OF THE UNITED STATES,
Ciudad Bolivar, May 22, 1894.

Bolivar cleared by collector and all authorities.

A. L. CARPENTER.

Mr. Uhl to Mr. Bartleman.

No. 109.]

DEPARTMENT OF STATE,
Washington, June 6, 1894.

SIR: I have received your Nos. 142 of April 30 last, 145 and 150 of the 9th and 18th ultimo, bearing on the subject of the seizure by the Venezuelan Government at Ciudad Bolivar of the steamship *Bolivar* for violating the decree of July 1, 1893 (law of April 23, 1894), which closed the Pedernales and Macareo mouths of the Orinoco to foreign commerce.

From these dispatches it appears that the *Bolivar*, a steamship of the General Steamship Company, of Wilmington, Del., was refused its clearance papers by the customs authorities at Ciudad Bolivar unless the said vessel gave a bond for the result of a suit entered in the local courts for alleged violation of the decree of the Venezuelan ministry closing the Caño Macareo to foreign commerce, the said vessel having passed through that channel.

The above information was transmitted to you by telegraph on the 28th of April by the U. S. commercial agent at Ciudad Bolivar, and you very properly advised him in reply to tell the agent of the *Bolivar* to give the desired bond under protest if he desired to have his ship cleared.

Three days before the receipt of the above you had been, however, informed by Mr. W. P. Pierce, U. S. consul at Port of Spain, Trinidad, that he was "preparing papers as provided for by paragraph 313 of the Consular Regulations, under which the *Bolivar* might, without hesitation, display the American flag as her national colors and claim the protection of the United States accordingly."

You thereupon used your good offices with the minister of foreign affairs at Caracas, in the first place to have the steamer released on condition it should not repeat the offense, and later on, when you were advised that the bond required by the collector of customs of Ciudad Bolivar was for the amount of 60,000 bolivars, to have it reduced to 10,000, which you considered "as a nominal and sufficient amount."

The agent of the *Bolivar* refused, however, to give any bond, claiming that there had been no violation of law, and insisted that the only route by which a river boat of the build of the *Bolivar* could reach Trinidad was by the channels opening into the Gulf of Paria, of which the Macareo is one. You then endeavored to obtain a special permit for her return to Trinidad through the Macareo channel, but up to the date of your last dispatch (May 18, 1894) you have been unable to secure it.

To reach a correct understanding of the case it is necessary to complete the information contained in your dispatches under acknowledgment by means of that which has come to this Department from Mr. Pierce, our consul at Port of Spain, Trinidad, of which I inclose a copy.¹

From Mr. Pierce's dispatch No. 169 of April 28, 1894, it results that the *Bolivar* was ordered to be arrested for violating the decree of July 1, 1893, prior to the date on which he, Mr. Pierce, was requested to authorize her to carry the flag of the United States. "The information brought by young Mr. Carpenter," he says, "left little room to doubt that the steamship *Bolivar* would be arrested if she returned to Ciudad Bolivar under the Venezuelan flag, and under the belief that she would not be arrested under the American flag, or if arrested, she

¹ Not printed.

would have less trouble in being released under the American flag than she would under the Venezuelan flag. Mr. George F. Carpenter, attorney for the General Steamship Company, of Wilmington, Del., thought it best to bring the vessel under the American flag, and accordingly he made a declaration as to the ownership, etc., of the vessel and I issued a certificate substantially as provided for by paragraph 313 of the Regulations."

It appears, therefore, that the transfer to the American flag of this vessel, supposing that our consul in Trinidad had authority to make it as he did, was made to escape proceedings instituted against it in the Venezuelan courts for an alleged offense committed while it was not only under the Venezuelan flag, but, as is shown by the inclosed letter of the president of the General Steamship Company, while it had a Venezuelan register, and consequently this transfer can in no wise withdraw it from Venezuelan jurisdiction for prior acts of commission. While fully appreciating your desire to protect the owners of the *Bolivar* in every way consistent with their rights and privileges, you should do nothing beyond asking a prompt and impartial settlement of the pending action.

I am, etc.,

EDWIN F. UHL,
Acting Secretary.

Mr. Bartleman to Mr. Gresham.

No. 156.]

LEGATION OF THE UNITED STATES,
Caracas, June 8, 1894. (Received June 19.)

SIR: I have the honor to inclose herewith, in copy and translation, an additional decree (first transmitted with No. 58, of July 10, 1893),¹ with reference to the navigation of the Orinoco River and its channels.

I have, etc.,

R. M. BARTLEMAN.

[Inclosure 1 in No. 156.—Translation.—Official Gazette.]

Additional decree regulating the navigation of the Orinoco and its channels.

CARACAS, June 6, 1894.

Joaquin Crespo, constitutional President of the United States of Venezuela, considering:

That the executive decree of the 1st of July, 1893, with reference to the navigation of the Orinoco and its channels, has had impediments in its execution by not having established in it the fines that are to be incurred by the infractors. Considering:

That by No. 9, Article 13 of the constitution, it is reserved to the general power all legislative jurisdiction concerning the marine navigation, coast and rivers; and considering:

That by Article I, law 6 of the Código de Hacienda, the President of the Republic has the supreme direction and administration of the national finances, with power to regulate the laws of the same in order to secure its most complete execution.

DECREE.

ART. 1. The captain of the vessel that shall violate the regulations established in Article I of the decree of July 1, 1893, shall incur a fine of 5,000 bolivars, payable into the custom-house at Ciudad Bolivar, and for which the vessel and gear is to be held responsible.

¹ See Foreign Relations 1893, p. 729.

ART. 2. A repetition of the act stated in the previous article will bring the vessel incurring it within the provisions of article 63 of the law 20 of the Código de Hacienda.

ART. 3. The ministers of interior and finance are charged with the execution of this decree, and shall give note of it to the congress at its next reunion.

Given, signed by my hand, sealed with the seal of the national executive, and countersigned by the ministers of interior and finance, in the federal palace, at Caracas, this 6th day of June, 1894, year 83 of the independence and 30 of the federation.

Countersigned, the minister of interior,
Countersigned, the minister of finance,

JOAQUIN CRESPO.
JOSE R. NUNEZ.
FABRICIO CONDO.

Mr. Haselton to Mr. Gresham.

No. 12.]

LEGATION OF THE UNITED STATES,
Caracas, September 5, 1894. (Received September 17.)

SIR: Referring to Nos. 58, 74, 77, 97, 142, 145, 150, and 156, of my immediate predecessor, I have the honor to report that George F. Carpenter, in some of said dispatches named, has taken such proceedings that the validity of the decree closing to foreign commerce all the mouths of the Orinoco except the Boca Grande, has been passed upon by the "Alta Corte Federal," or supreme federal court, and that the validity of the decree has been sustained by the court.

I transmit herewith the application of Mr. Carpenter and a translation of the same, the report of commissioners appointed by the court and a translation of the same, and the decision of the court with a translation thereof.

I have, etc.,

SENECA HASELTON.

[Inclosure 1 in No. 12.—Translation.]

APPLICATION OF GEORGE F. CARPENTER.

Citizen President and other members of the High Federal Court:

I, George F. Carpenter, a citizen of the United States of America and actually staying in this city, present to you very respectfully the following exposition:

I am the captain of the steamer *Bolivar*, which until lately ran between the island of Trinidad and Ciudad Bolivar, a port open to foreign commerce, and I am likewise the agent of the General Steamship Company of Wilmington, Del., United States of America, the present owner of said steamer *Bolivar*, this company being authorized by the laws of Venezuela to carry on the traffic aforesaid, which, as is well known, is almost exclusively done by way of the caños Macareo and Pedernales, the other outlets of the Orinoco presenting great difficulties to the navigation in vessels like the *Bolivar* that are flat-bottomed and constructed for river transportation, and can not enter the Orinoco through the Boca Grande.

But in the *Gaceta Oficial*, No. 5837, of July 1, last year, there appeared a decree issued by the chief of the executive power, which in its first article says that the vessels doing the foreign commerce with Ciudad Bolivar are allowed to enter only by the Boca Grande of the river Orinoco, the caños Macareo and Pedernales being reserved for the coasting trade, and all navigation whatever prohibited on the remaining outlets of the river; and in article 2 permission is given to the lines that run their boats on the caños Macareo and Pedernales to continue doing the same until December 31, 1893, the Government being aware that these boats, on account of their sailing conditions, are unable to navigate the Boca Grande. By a resolution of the ministry of the interior, dated January 8, 1894 (*Gaceta Oficial*, No. 5998), this term was prorogated until December 31, 1894; but by another resolution, dated February 25, 1894 (*Gaceta Oficial*, No. 6039), this prorogation was declared null and void, and in consequence the steamers doing the traffic could not go any more to Ciudad Bolivar, with the exception, however, of those Mr. Ellis Grell intended to use (and which

are of the same build as the *Bolívar*) in virtue of the contract he had made with the National Government on January 17 of the present year (published in the *Gaceta Oficial*, No. 6005), his boats being authorized to navigate the caños Macareo and Pedernales.

From the foregoing exposition it is evident that a monopoly for trading between Ciudad Bolívar and Trinidad has been granted to Ellis Grell and his successors, because the advantages in navigating the caños Macareo and Pedernales in flat-bottomed boats are so considerable that all competition is impossible by way of the Boca Grande, where the navigation is so dangerous for vessels of this description that the insurance companies refuse to insure steamers of this build when bound to run through the mentioned channel.

These facts are so well known that it is superfluous to enter here into further proofs; moreover, the Government has recognized them in its decrees allowing the steamer lines a certain lapse of time for making in their boats such modifications as to enable them to enter the Boca Grande.

The decree of July 1, 1893, which I have quoted, as well as all the following issued in reference to its execution, are conflicting with No. 8, article 14 of the constitution, which guarantees the liberty of industry, because as the navigation on the Orinoco between Ciudad Bolívar and Trinidad is now monopolized, the whole commerce of Ciudad Bolívar will be practically under the influence of the monopoly.

The decrees referred to are likewise in contradiction with article 1 of the Law XIV of the Código de Hacienda, which, among other ports, declares that of Ciudad Bolívar open to the commerce of exportation and importation without any restriction, because the restrictions established in the decree are such as to render impossible the commerce with Trinidad.

For the reasons brought forward, and on behalf of my personal interests and those of the company I represent in the free navigation of the river Orinoco as far as the port of Ciudad Bolívar, which is open to foreign commerce, and availing myself of the rights the nation concedes even to foreigners, it being undeniable that the pursuit of commerce and the industry of transportation are civil rights, I appear before this high tribunal presenting the allegation of a collision between the aforesaid decrees which obstruct the commerce of the Orinoco, and No. 8, article 14 of the national constitution, article 1 of Law XIV of the Código de Hacienda, and other laws concordant herewith. Caracas, this 8th day of August, 1894.

GEO. F. CARPENTER.

[Inclosure 2 in No. 12—Translation.]

REPORT OF COMMISSIONERS.

Citizen President of the High Federal Court:

In compliance with the instruction given to us by the high federal court, to state our opinion in regard to the allegation filed by the North American citizen, George F. Carpenter, of a collision said to exist between the decree of the national executive of July 1, 1893, and those issued afterwards in reference to its execution, on one side, and No. 8, article 14, of the national constitution, and article 1 of the Law XIV of the Código de Hacienda, on the other side, we, the undersigned, in discharge of our commission, submit the following report:

George F. Carpenter, a citizen of the United States of America, and actually in this city, captain of the steamer *Bolívar*, belonging to the General Steamship Company, of Wilmington, Del., United States of America, of which I am an agent, maintains that said company was authorized by the laws of Venezuela to traffic between Ciudad Bolívar and the island of Trinidad, which traffic is almost exclusively done through the caños Macareo and Pedernales, as the other outlets of the Orinoco present great difficulties to the sailing of vessels that, like the *Bolívar*, being built for river transportation, are flat-bottomed and can not enter the Boca Grande; but that by the decree of July 1, 1893, the national Executive allows foreign traffic only by way of the Boca Grande, reserving the caños Macareo and Pedernales for the coasting trade, and prohibiting all navigation whatever on the remaining outlets of the river, it being thereby made impossible for the company to traffic between Ciudad Bolívar and Trinidad on said caños, whilst such traffic has been permitted to Ellis Grell, in virtue of a contract made by him with the Government on January 17, of this year, this contract being in his (Carpenter's) eyes equal to a monopoly of trade between Ciudad Bolívar and Trinidad granted to Grell, because vessels like the *Bolívar*, which are built for navigating only rivers, as the Macareo and Pedernales, encountered too many difficulties in the Boca Grande, and for such reasons Carpenter considers this decree to be an attack on the liberty of industry as guaranteed by No. 8, article 14, of the constitution in force, and alleges also that it is in conflict with article 1 of the Law XIV of the Código de Hacienda, which declares the port of Ciudad Bolívar to be open to the

commerce of importation and exportation with other ports, without any restriction, and he concludes, asking this court to recognize the alleged collision between the decrees and laws mentioned before.

It is a principle universally admitted by all the civilized nations of the world that every sovereign country shall have dominion and empire over the whole national territory, and over all the individuals who are born, have their residence, or may travel in it.

Thus, in virtue of this eminent sovereignty, a nation may permit or prohibit foreigners to come into the country, and in the same manner it may open or close its ports and rivers to foreign commerce, and neither other nations nor individual foreigners have a right to claim the opening or closure of such ports and rivers under the plea of injury to their interests. In regard to inland seas and rivers this doctrine is universally admitted by older as well as by modern publicists, and only in some special cases, established by the law of nations, would it be admissible to claim exceptionally the opening of certain seas and rivers either to the commerce of those nations who live on their shores and banks or to the general commerce of all nations.

But in the case under consideration Venezuela, by virtue of her sovereignty as a nation capable of leading an international life, has closed to foreign commerce the traffic or navigation on the caños Macareo and Pedernales, reserving both for the coasting trade, and has allowed to foreign trade and navigation only the use of the Boca Grande of the Orinoco, prohibiting all navigation whatever on the caños or outlets of the river without distinction of persons or nationalities. Such a prohibition is by no means equal to the closure of a port open to foreign commerce, nor does it impede navigating the Orinoco; but it establishes only some rules for doing it, and it is entirely indifferent to the nation whether the ships are to be of one shape or of another or what must be their fitness for the traffic on the river, these being points which concern only the parties who intend trading with the country by way of the river in question.

It is true that the liberal spirit of our century tends to apply the principle of a free sea also to rivers; but it is likewise true that with regard to inland waters, lakes, etc., the shores of which belong exclusively to one nation, no other nation may claim the right to navigate these waters, and the liberty of doing so is always the outcome of certain agreements between the different nations, made for the purpose of furthering reciprocal interests of international character, or in view of mutual conveniences for the prosperity and civilization of the respective countries. The Government of the Republic, therefore, does not violate the principles and practice of international law, but, on the contrary, it acknowledges them and complies with them; for, in prohibiting to foreigners the navigation on certain parts of the river Orinoco, it specifies the outlets and caños on which traffic is not allowed to them, but opens the Boca Grande as the only channel they may navigate, whilst the caños Macareo and Pedernales are reserved for the coasting trade.

Such is the right of the Government from the standpoint of international law. But this right is equally well founded on the political and administrative laws which the country has given itself in virtue of its sovereignty. The general administration of the Union, as far as the present national constitution does not provide otherwise, is incumbent on the national Executive, represented by the President of the Republic, with the ministers of the different departments and the council of government.

Amongst the rights and attributions of the President of the Republic there are the following, mentioned under Nos. 17 and 18 of article 76 of the national constitution, viz: "To execute any other function incumbent on him by law;" and "to issue decrees and regulations for the better observance of the laws whenever the law should require it, or contain a precept to that effect, with due care however that the spirit and motives of the law be not altered."

Now, the law of May 17, 1873, which is still in force to-day, authorizes the executive power to open to the commerce of exportation the ports situated within the lake of Maracaibo as well as those on navigable rivers and on the seacoast of the Republic, to establish custom-houses and revenue guards, to close custom-houses, or to transfer them to other places which may be more convenient in order to avoid excessive smuggling and other losses to the treasury whenever the adoption of such measures be deemed necessary. It is therefore evident that the executive power had the right not only to impose restrictions on the foreign commerce with Ciudad Bolívar, but to close even this port entirely to foreign trade; however, it did not go so far in the decree issued July 1, 1893, but limited its action to closing the custom-house at Pedernales (Article 3) and establishing (Articles 1 and 2) certain regulations for the traffic on the Orinoco in conformity with Article 4 of the legislative decree of May 17, 1873, quoted before. It can not be maintained, therefore, that the decrees objected to are infractions of No. 8, article 14 of the national constitution, nor of article 1 of the Law XIV of the Código de Hacienda; because, if the States have agreed upon leaving to the General Government of the Union the legislative and administrative

jurisdiction on marine, coast, and river navigation, this has been done in consideration of the nature of these trading routes, and with attention to the general convenience, the fiscal interests, and the more rapid and effective maintenance of security in the interior of the country. The State could therefore, in virtue of this legislative decree and with the intervention of the General Government, or to-day of the executive power, grant to its agents the exclusive right to navigate certain waters, and such a restriction could never be considered as an attack on the liberty of industry.

In regard to the law of the Código de Hacienda, said to have been infringed, and by which the port of Ciudad Bolívar is open to the commerce of importation and exportation without any restriction, a mere reference to the legislative decree of May 17, 1873, quoted already repeatedly, will suffice to show that there is no collision whatever between this law and the decree of the national Executive of July 1, last year; for the President of the Republic is fully authorized by the former to introduce any modifications in the custom-house of Ciudad Bolívar, as it gives him the right to restrict its operations and even to close it, just as any other custom-house in the Republic.

In consideration of the reasons brought forward we conclude, asking the high federal court to give its approbation to the present report, and to declare that there is no collision between the executive decree of July 1, 1893, and those issued afterwards in reference to its execution on one side, and the articles of the constitution and of the law of the Código de Hacienda, on the other side, which plaintiff alleges to have been infringed.

Caracas, August 14, 1894.

ALEJANDRO URBANEJA.
JOSÉ MANUEL LULIAC.

[Inclosure 3 in No. 12.—Translation.—From the Gaceta Oficial, No. 6189, August 28, 1894.]

DECISION OF THE HIGH FEDERAL COURT.

The high federal court of the United States of Venezuela, assembled to administer justice, has seen the representation in which George F. Carpenter, a North American citizen, alleges the collision that he says to exist between the decrees of the national Executive dated July 1 of this year¹ and those issued afterwards in reference to its execution on one side, and No. 8, article 14, of the national constitution, and article 1 of the Law XIV of the Código de Hacienda on the other side. The cause of this representation is as follows:

The General Steamship Company, of Wilmington, Del., United States of America, which Carpenters says he represents, "authorized by the laws of Venezuela, carried on traffic between Ciudad Bolívar and the island of Trinidad," which traffic is done almost exclusively by way of the caños Macareo and Pedernales, as the other mouths of the Orinoco present great difficulties to navigation. Vessels like the *Bolívar* (the property of said company), which, on account of being destined for river transportation, are flat-bottomed, can not enter the river through the Boca Grande; but by decree of July 1, 1893, the national executive enacted that the foreign traffic should be carried on only through the Boca Grande, reserving the caños Macareo and Pedernales for the coasting trade, and prohibiting all navigation whatever on the other caños of the river, so that it was impossible for the company to trade between Ciudad Bolívar and Trinidad by way of said caños, whilst it was permitted to Ellis Grell, in virtue of the contract made by him with the Government on January 17, this year, which contract forms in his eyes a *monopoly* of commerce between Ciudad Bolívar and Trinidad in favor of Grell, because of the many difficulties to navigation in the Boca Grande for vessels such as the *Bolívar*, which by their sailing conditions are only fit for navigating the Macareo and Pedernales; all this being an attack on the liberty of industry guaranteed by No. 8, article 14, of the constitution now in force, and likewise by article 1 of the Law XIV of the Código de Hacienda, which declares amongst other ports that of Ciudad Bolívar open to the commerce of importation and exportation without any restriction whatever.

And whereas this court considers:

1. That it is a principle universally admitted amongst the civilized nations of the world that every country and every sovereign nation shall have dominion and empire over the whole national territory and over all the individuals that are born, have their domicile, reside, or travel in it, so much so that the nation by virtue of this sovereignty may permit or prohibit foreigners to come into the country, and in the same manner may open or close its ports or rivers to foreign commerce, neither the

¹ So reads the original; however it must be "of last year."

other nations nor individual foreigners having any right to claim the opening or closure of such rivers and ports under the plea of injury to their interests.

2. That in regard to interior seas and rivers this doctrine is the one generally admitted by older and modern publicists, for only in the cases determined by the law of nations it might be exceptionally pretended that certain rivers and seas should be opened either to the commerce of the bordering States or to the general trade of all countries.

3. That in the case under consideration Venezuela, by virtue of her sovereignty as a nation capable of leading an international life, has prohibited to foreign commerce the traffic or navigation of the caños Macareo and Pedernales, reserving both for the coasting trade, assigned the Boca Grande of the Orinoco to foreign navigation and commerce, and prohibited absolutely, without distinction of persons and nationalities, the transit through the remaining outlets and caños of the river, which prohibition is not equal to the closure of ports open to exterior commerce, nor does it impede navigating the Orinoco, but only establishes certain regulations for doing so, whilst it is of no concern to the nation what must be the shape or build of the vessels or their sailing conditions for the purpose of such traffic, these points regarding only those who intend trading with the country through the river channel mentioned.

4. That although it is true that the liberal spirit of the country endeavors to extend and apply also to rivers the principle of a free sea, it is likewise true that in regard to inland waters, lakes, etc., the shores of which belong exclusively to one nation, no other nation may claim the right to navigate these waters, and in proof thereof the liberty of navigating them is always the consequence of agreements or treaties between the nations, made in view of the reciprocal international interests and the mutual conveniences of the countries in reference to their prosperity and civilization.

5. That the Government of the Republic does not violate in any way the principles and practice of the law of nations, but on the contrary complies with them and recognizes them in prohibiting to foreigners the navigation in certain parts of the Orinoco, because it specifies the outlets and caños on which traffic is not allowed to them and opens the Boca Grande as the only channel they may navigate, whilst the caños Macareo and Pedernales are reserved for the coasting trade.

6. That from the standpoint of international law, the national executive has proceeded in conformity with its principles.

7. That in regard to its right of dictating such measures, by authority of the political and administrative laws which the country has given itself in virtue of its sovereignty, the general administration of the union, as far as the present national constitution does not provide otherwise, is of the competency of the national executive; and amongst the faculties or attributions of the President of the Republic, who represents it, together with the ministers and the council of government, there are the following two, as given in Nos. 17 and 18, article 76, of the same constitution: "To execute any other functions incumbent on him by law" and "to issue decrees and regulations for the better observance of the laws whenever the law should require it or contain a precept to that effect, with due care, however, that the spirit and motives of the law be not altered."

8. That the law of May 17, 1873, which is still in force, authorizes the executive power to open to the commerce of exportation the ports situated within the lake of Maracaibo, as well as those on navigable rivers and on the seashore of the Republic, to establish custom-houses and revenue guards, to close or to transfer custom-houses from the ports open to importation and exportation to whatever place it may believe convenient. It is evident that the executive power had the right not only to impose restrictions on the foreign commerce with Ciudad Bolívar, but to close even this port entirely to foreign trade, though it did not go so far in its decree of July 1, 1893, but limited its action to closing the custom-house at Pedernales (article 3) and establishing (articles 1 and 2) regulations for the traffic by the outlets of the Orinoco, in accordance with article 4 of the legislative decree of May 17, 1873, quoted before.

9. That it can not be maintained that the mentioned executive decrees be infractions of No. 8, article 14, of the constitution, nor of article 1 of Law XIV of the Código de Hacienda, because if the States have agreed upon leaving to the General Government the legislative and executive jurisdiction on marine, coast, and river navigation, this has been done in consideration of the nature of these trading routes, and with attention to the convenience, the fiscal interest, and the more rapid and effective maintenance of security in the interior of the country; so that the State, with the intervention of the general power or to-day of the national executive, and in virtue of this legislative decree, could navigate alone, or through his agents, certain waters, and such limitation could not be called an attack on the liberty of industries.

10. That in regard to the law of the código de hacienda, said to have been violated, and by which the port of Ciudad Bolívar is open to the commerce of importation and exportation without any restriction whatever, a mere reference to the

legislative decree mentioned before will suffice to show that there is no collision between this law and the executive decree of July 1, last year; for there can be no doubt that the attributions of the President of the Union give him the right to modify the character of the custom-house at Ciudad Bolívar, to restrict its operations, and to close even any other custom-house in the Republic.

Therefore, and considering the reasons brought forward, it is decided that there does not exist the collision alleged by George F. Carpenter between the executive decree of July 1, 1893, and those issued afterwards in reference to its execution, on one side, and No. 8, article 14, of the constitution, and article 1 of the law XIV of the código de hacienda, on the other side.

Given in the hall of administration of the high federal court, in the capitol at Caracas, the 14th of August, 1894, in the eighty-fourth year of the independence and the thirty-sixth of the federation.

M. PLANCHART ROJAS.
C. YEPES, HIJO.
ANTONIO TARRAGA.
E. BALZA DAVILA.
M. CABALLERO.
JOSÉ MANUEL JULIAC.
ALEJANDRO URBANEJA.
JORGE PEREYRA.
J. A. GANDO B.
LEON FEBRES CORDERO T.,
Secretary.

I certify hereby that this is a true copy,

LEON FEBRES CORDERO T.,
Secretary.

Be it published, by order of the President.

LEON FEBRES CORDERO T.,
Secretary.

Mr. Gresham to Mr. Haselton.

No. 20.]

DEPARTMENT OF STATE,
Washington, October 25, 1894.

SIR: I have to acknowledge receipt of your No. 21,¹ of the 8th instant, and to express concurrence in your views regarding the policy to be pursued in our efforts to bring about free navigation of the Orinoco River.

You are authorized to urge upon the Venezuelan Government that as an act of friendliness to the United States, as well as in the interest of the commerce of the two countries, it re-open to ships of the United States the branches of the Orinoco now closed to them.

I am, etc.,

W. Q. GRESHAM.

Mr. Haselton to Mr. Gresham.

No. 28.]

LEGATION OF THE UNITED STATES,
Caracas, December 10, 1894. (Received December 29.)

SIR: Pursuant to your instruction No. 20, of October 25 last, I had an interview with the minister of foreign affairs regarding the opening to vessels of the United States of the various mouths or bayous of the Orinoco River which are now closed to them.

Subsequently we exchanged notes upon the subject, copies of which are inclosed, together with a translation of the communication of the

¹ Not printed.

minister. Nothing was said in our conversation above referred to which is not in substance embodied in the notes.

It will be seen that the Government of Venezuela urges the prevention of contraband trade as the reason for its restrictive measures, and suggests the establishment of a port upon the Gulf of Paria as a means of facilitating commerce without prejudice to its revenues.

I shall make inquiries as to the practicability of establishing a satisfactory port upon the above-named gulf, about which I have some doubts, with a view to determining and reporting how far the announced purpose of Venezuela is in its results likely to meet the views of our Government and the commercial requirements of the future.

I have, etc.,

SENECA HASELTON.

[Inclosure 1 in No. 28.]

Mr. Haselton to Señor Rojas.

MR. MINISTER: Under instructions from the Department of State at Washington, I desire respectfully to express to the Government of your excellency the earnest desire of the Government which I represent, that ships of the United States may be allowed free navigation of the several mouths or bayous of the Orinoco River which are now closed to them.

The Government of the United States would regard such a re-opening to navigation as an act of friendliness, and as a step taken in the interest of the commerce of the two countries.

I take, etc.,

SENECA HASELTON.

[Inclosure 2 in No. 28.—Translation.]

Señor Rojas to Mr. Haselton.

MOST EXCELLENT SIR: I had the honor to receive the polite communication of your excellency of the 27th of November last, sent to manifest the earnest desire of the Government of the United States that vessels of that nation might be permitted to navigate freely the several mouths or bayous of the Orinoco, and to express moreover that the reopening of the said passages would be esteemed as an act of friendship and a step leading to the increase of the commerce of both countries.

The motive which guided the executive power when it made use of the prerogatives conferred upon it by the constitution and the national code of finance and closed to foreign commerce by decree of July 1, 1893, ratified the 6th of June of this year, all entrances to the Orinoco other than the "Boca Grande," was to prevent contraband trade, the cause of the financial instability, and to assure the life of the mercantile and industrial enterprises, which derive their security from a strict compliance with the law. The results reached have fully justified the steps taken; but nevertheless the Government, although unable at present to annul the law, yet desiring as it does at the proper time to promote those interests which can in any manner be furthered by fluvial navigation, proposes to establish a port of transshipment at a place near to the Gulf of Paria, destined for foreign freight that is to be consumed at

places situated on the banks of the Orinoco and that may arrive in vessels that find difficulty in entering by the "Boca de Navios," which alone is to-day open to foreign commerce.

This purpose when carried into effect will be equivalent to what seems to be the desire of the United States, which, moreover, will be particularly satisfactory to the Government of Venezuela, as it has always a special interest in removing obstacles that can oppose the greater development of the commercial relations of Venezuela with the Great Republic of the North.

I renew, etc.,

P. EZEQUIEL ROJAS.

DECREE GOVERNING FOREIGNERS.

Mr. Bartleman to Mr. Gresham.

No. 148.]

LEGATION OF THE UNITED STATES,
Caracas, May 14, 1894. (Received May 28.)

SIR: I have the honor to transmit herewith, in copy and translation, a decree issued to-day with reference to foreigners who may come to Venezuela.

I have, etc.,

R. M. BARTLEMAN.

[Inclosure 1 in No. 148.—Translation.]

Joaquin Crespo, Constitutional President of the United States of Venezuela, with the approval of the council of government, considering:

1. That article 78 of the present constitution gives the President of the Republic the right, with the approval of the council of government, "to prohibit the entrance into the national territory, or to expel from it, those foreigners who have no residence in the country and who are notoriously prejudicial to the public order."

2. That in order to carry out the terms of this decree it is necessary to know those individuals who enter the country, just as in other countries is being done for the same object.

DECREE.

ARTICLE 1. Foreigners who may come to Venezuela shall present to the chief of the custom-house of the respective port a documentary declaration that shall state (1) their full names and those of their parents; (2) their nationality; (3) the place and date of their birth; (4) their last place of residence; (5) their profession and manner of living; and (6) their names, ages, and nationality of their wives and minor children, if accompanied by them.

ART. 2. The chiefs of custom-houses will make known by telegraph to the national executive the contents of said declarations, or that none have been presented.

ART. 3. In case they shall be without said documents, foreigners may ask for them on the testimony of persons who know them, and who are trustworthy.

ART. 4. Foreigners who have already entered the country during the past six months shall present the declaration asked for, if in the federal district, to the governor of the same; and if they have gone to other places, those who reside in the capitals shall present their declarations to the presidents of the States, while those who reside in other localities shall present them to the local authorities.

ART. 5. In the cases mentioned in the previous article, the governor of the federal district or the president of the respective State shall inform the national executive of the result, in accordance with articles 2 and 3, in order that it may determine whether the foreigners who have made unsatisfactory declarations, or have not been able or were unwilling to comply with the required formalities, are to be considered prejudicial or proper subjects for expulsion.

ART. 6. Consuls of the Republic will publish this decree at the places where they reside, causing it to be translated in those countries where Spanish is not the lan-

guage, and they shall send to the Government copies of the papers in which it has been reproduced.

Given, signed by my hand, sealed with the seal of the national executive and countersigned by the ministers in the office of interior, foreign affairs, and hacienda, in the federal palace at Caracas, this 14th day of May, 1894, year eighty-third of the Independence and thirty-sixth of the Federation.

JOAQUIN CRESPO.

Countersigned, the minister of interior,

JOSÉ R. NUNEZ.

Countersigned, the minister of foreign affairs,

P. EZEQUIEL ROJAS.

Countersigned, the minister of hacienda,

FABRICIO CONDO.

BOUNDARY BETWEEN VENEZUELA AND BRITISH GUIANA.¹

Dr. Lobo to Mr. Gresham.

[Translation.]

LEGATION OF VENEZUELA,
Washington, October 26, 1893.

Dr. David Lobo, chargé d'affaires *ad interim* of Venezuela, presents his compliments to the Secretary of State, and in compliance with the request expressed by the Secretary at the interview of October 24 has the honor to inclose herewith a brief review of the boundary question pending between Venezuela and Great Britain.

He asks the Secretary also to inform him on what day it will be convenient to the former to have him call at the Department for a fresh discussion of the subject referred to.

Prominent facts relating to the boundary question between Venezuela and Great Britain.

LEGATION OF VENEZUELA.

The Republic of Venezuela inherited from Spain all the territories formerly known as Captaincy General of Venezuela.

Guiana was a province thereof. It was bounded by the Atlantic Ocean on the east, and by the Amazon River on the south.

A part of this territory had been invaded by the Dutch, during their war of independence. Their rights over the newly acquired possessions along the northern coast of South America were recognized by Spain on the 30th of January, 1648 (treaty of Munster).

In the extradition treaty signed at Aranjuez on June 23, 1791, by Spain and Holland, the islands of St. Eustache and Curaçao, and the colonies named Essequibo, Demerara, Berbice, and Surinam, lying east of Venezuela, were considered to be Dutch possessions.

Essequibo, Demerara, and Berbice were transferred to Great Britain through the treaty of London, August 13, 1814. England has no other titles in Guiana than those conferred by virtue of this treaty, so that in 1811, the year of Venezuelan independence, the Essequibo River was the boundary between Dutch Guiana and Venezuela. The Essequibo limit was furthermore maintained by the Government of Colombia, in 1822, and has been established in the constitution of Venezuela up to the present time.

¹ See same subject, *ante*, pp. 250-252.

1841.—An English commissioner, Engineer Schomburgk, planted posts and other marks of dominion in Barima and Amacuro, far west of the Essequibo River. The Government protested and Her British Majesty ordered the prompt removal of the marks, which, it was stated, were not intended to indicate possession.

1844.—The minister plenipotentiary of Venezuela in London, Señor Fortique, succeeded in opening negotiations with England, after three years' preliminaries, and proposed the Essequibo River as a divisional line between Venezuela and British Guiana.

Lord Aberdeen, then minister for foreign affairs, proposed the Morocco, a river west of the Essequibo, but the Government did not accept the latter line, as it deprived the Republic of the tract of land lying between the two rivers.

1850.—To the effect of contradicting a rumor that Great Britain intended to claim jurisdiction over Venezuelan Guiana, Mr. Wilson, then British chargé d'affaires to Venezuela, stated that his Government had no intention to occupy the region disputed; that they would neither order such occupations nor sanction them on the part of their authorities, and that the latter would be enjoined to refrain from such acts. He also requested and obtained a similar declaration from the Government of Venezuela.

1876.—The settlement of the question was again urged by Venezuela, and in February, 1877, Dr. I. M. Rojas, minister resident in London, reopened the negotiations commenced by Señor Fortique. He stated that the proposition offered by Lord Aberdeen had not been accepted because of certain conditions connected with it which interfered with the sovereignty of the country. He also expressed the conciliatory sentiments of the Government; but the consideration of the matter was postponed by the British cabinet until after the arrival of the governor of British Guiana, who was expected in London about March.

1879–1881.—Dr. Rojas, who had resigned his post in 1878, was again appointed to the legation in London. On the 12th of April, 1880, he informed Lord Salisbury that Venezuela, in order to come to a satisfactory agreement, would abandon the position of strict right and adopt a frontier to the convenience of both parties, such as the Moroco River, indicated by Lord Aberdeen in 1844 as a boundary on the coast.

Her Majesty's Government replied, February 12, 1881, that the Moroco line could not longer be admitted, but that they would consider any conventional line starting from a point on the coast south of the former.

On the 21st of the same month Dr. Rojas sent his answer to Lord Granville and suggested, as a proof of the friendly wishes of Venezuela, the drawing of a line commencing on the coast 1 mile north of the mouth of the Moroco. He also declared that, in case of nonacceptance, there was no other course left but arbitration. Lord Granville equally rejected the new boundary, and proposed another which he described in a confidential memorandum. This compromise was carefully examined by the Government and found utterly unacceptable, as it established a limit widely different from the original Essequibo frontier, and was based on certain assumptions absolutely erroneous.

1883.—Gen. Guzmán Blanco was appointed envoy extraordinary and minister plenipotentiary to Great Britain, for the settlement of this and various other matters. While negotiating a new treaty of commerce, he obtained from the British Government a written promise to submit to arbitration all disputes arising between the two countries, the Guiana boundary question included. A change in the ministry took place shortly afterwards, and Lord Rosebery, Lord Granville's successor,

refused to keep the aforesaid promise on the ground that controversies on limits could not be judged by arbitration. Lord Rosebery evidently forgot that England applied it to similar disputes with the United States, in 1827 and 1871, when the King of Holland and the Emperor of Germany acted as arbiters.

1886.—Lord Rosebery presented a new frontier. This was deemed inadmissible for several reasons, one of them being that, conjointly with it, a demand was introduced for free navigation and commerce on the Orinoco River.

As the invasion went on without interruption and acts of jurisdiction over the Venezuelan territory were constantly committed by English authorities, the Venezuelan legation solemnly protested and demanded satisfaction.

1887.—On the 6th of January Venezuela reiterated her willingness to appeal to arbitration, pursuant to which she demanded the previous evacuation of the region between the Orinoco and Pomaron rivers, declaring at the same time that if by the 20th of February no answer had been given, or a negative one had been returned, she would be forced to sever her diplomatic relations with England.

The proposition for arbitration was again refused. Venezuela accordingly protested once more against the grievous proceedings of Great Britain, and suspended relations with her on the 20th of February, 1877.

Through the intervention of the United States Lord Salisbury consented to receive Dr. Lucio Pulido in 1890, as confidential agent of the Republic. Notwithstanding his efforts Dr. Pulido did not obtain a satisfactory arrangement, and returned to Venezuela soon after.

Señor Tomás Michelena was appointed to London with the same character some months ago, with a view to promote and procure the reestablishment of her former connections with Great Britain; but since Lord Rosebery, while disposed to surrender the controversy to the decision of an arbiter, does not admit the existence of Venezuelan titles over the territory comprised between the Essequibo River and the Schomburgk line, as shown in the map hereto subjoined, and is absolutely negative as to considering the possession of this vast portion of land subject to arbitration, no practical or valuable results can be reached through the renewal of friendship without the formal pledge of England that it is desirous to settle the conflict in accordance with the laws of justice and right.

Venezuela is, and always has been, willing to submit to arbitration. In pursuance of this purpose, she invoked and obtained the moral help of all the American republics. She instructed her minister in Washington, in 1890, to request the friendly services of the Government of the United States, which were cordially offered her, inasmuch, said Mr. Blaine, as the volume of evidence in favor of Venezuela is overwhelming and mostly derived from English sources.

DAVID LOBO.

OCTOBER 26, 1893.

Mr. Partridge to Mr. Gresham.

No. 102.]

LEGATION OF THE UNITED STATES,
Caracas, November 15, 1893. (Received November 28.)

SIR: With reference to my dispatch No. 95, of the 17th ultimo, relative to the Guiana boundary question, I have the honor to report that in the course of a conversation with Señor Rojas, on the 6th instant, he

said to me confidentially that the present condition of that question is very serious, and that Venezuela's only hope of a favorable settlement is in the friendly offices of the United States. In another conversation, the 14th instant, he said to me more specifically that the reply of the British Government to Señor Michelena practically refused to discuss its rights to such part of the disputed territory as it is occupying, and that the character of the reply is uncompromising and unsatisfactory. He added that he thought that it would be equally for the general interests of the Government of the United States to take some steps in the matter. He did not ask me to report the foregoing to you, but as I said in my previous dispatch I anticipate that the matter will be brought to your attention by the Venezuelan legation in Washington. On both occasions I assured Señor Rojas of the friendly disposition of the Government and people of the United States, but beyond that I refrained from the expression of any opinion and, especially, I said to him that I could not anticipate what further action, if any, the Government of the United States might think proper to take.

I inclose, simply for your information, some unofficial correspondence between Dr. Pulido, a former agent, and Señor Michelena, the present Venezuelan agent in London, printed in *El Tiempo* August 26 and October 24, and which is not without interest in this connection. The former article did not come under my observation until the appearance of the answer thereto the 24th ultimo. Perhaps the most suggestive thing about it is that Señor Michelena, having thought best to answer at all, did not do so more satisfactorily.

I have, etc.,

FRANK C. PARTRIDGE.

[Inclosure 1 in No. 102.—Translation.—From the *El Tiempo*, Caracas, August 26, 1893.—Correspondence from Paris.]

THE ENGLISH QUESTION.

PARIS, August 7, 1893.

Señor C. PUMAR,
Manager, El Tiempo, Caracas:

In the boulevards of Paris are met people of the most distant and diverse countries. So it happened that I met Sir W——, an English diplomat, an influential person and very well informed, who did me important services during the mission which I discharged in London in 1890. After saluting each other, I said to him that I desired to make him a visit; and we agreed upon the next day at 10 o'clock in the morning at his home.

I met him, in fact, at the hour fixed; and we had the following conversation, which I think useful to communicate textually to your newspaper:

Sir W. You left us waiting for you, Señor Pulido; we thought you would return in 1891 after the winter.

I. I was convinced in London that my return was useless. And besides, the Venezuelan Government was hoping for a better occasion to resume the negotiations.

Sir W. However, the English Government made you concessions which were considered very substantial. It withdrew its former ultimatum, left the negotiations open and, more than all, abandoned its claim to the principal mouth of the Orinoco and its adjacent territories. It was thought that this abandonment would quiet the United States, as in fact it did, and would encourage your Government to continue the negotiations.

I. Venezuela has never thought that the exclusive possessions of the Orinoco and its adjacent territories could be reasonably disputed. The abandonment was not considered sufficient to serve as a basis for a settlement. For my part, the mission seemed to me so difficult that I accepted it, counting upon the mediation of the United States; but you know that when I arrived in London Mr. Lincoln had already offered that to Lord Salisbury, and the latter had refused it, without the United States giving afterwards a sign of life.

Sir W. With regard to the Orinoco, you are not ignorant that the English about two centuries ago, being at war with Holland, occupied the Dutch possessions to the

Orinoco and destroyed a fort at Barima, constructed there by the Dutch, without Spain having made the least opposition. They found also the Dutch in Barima exploiting the land granted by the States General. With the peace they evacuated these territories, which Holland continued to possess. They assure me that recently the English Government has discovered in Amsterdam documents which leave no doubt upon this.

I. All this was usurpation by the Dutch without their having the least title for it. But let us put aside these histories, which the different ministers that Venezuela has had in London (I among them) have explained and contradicted; and let us occupy ourselves with the present. You will know, without doubt, that the Venezuelan Government has sent to London a diligent agent to settle these questions. He is an illustrious Venezuelan, competent in these matters, Señor Michelena. As he has been in London since the end of May, and as I know these proceedings, I suppose that his mission ought to be terminated. I do you the justice of not liking to lose time nor to deceive, and that one knows quickly upon what you insist.

Sir W. I am informed of all by my friends in the colonial and foreign office. You know that I followed with much interest this matter when I was in London, and I have not lost it from view. This obliged me to study this immense and interesting region which they call Guiana. In fact, Señor Michelena, who as a journalist counseled making war against England or at least stopping all commerce with her, presented himself very much as a peacemaker. If he had the character of a public minister there is no doubt that the Queen, in view of these antecedents, would not have received him; but he presented himself as a distinguished foreigner who came to investigate the situation in an informal manner; and so the affair offered no difficulties. Lord Rosebery did not receive him, but Sir J. H. Sanderson, the under Secretary charged with these matters did; and in one conference, by means of an interpreter, all was in fact concluded.

Señor Michelena ingratiated himself by proposing a general arbitration which Lord Salisbury had already twice refused; and it could not be accepted now either, nor continued to be discussed. England would accept it only with respect to the territories which are outside of the Schomburgk line and which go to Uputa and perhaps to the foot of the Orinoco.

I. The Venezuelan Government has thought that the Liberals, being in power now, would be more conciliatory. As regards the territories to which you refer and which are outside of the Schomburgk line, England has never claimed them until these late years, and Venezuela will never consent that its rights over them should be put in doubt.

Sir W. It is an error. In England the international and colonial policy does not change with parties. They are superior interests which all of her statesmen consider in the same way. As regards interior policy it is different. Besides, you know that Mr. Gladstone and Lord Rosebery, in his former ministry in the year 1885 to 1886, had already refused unlimited arbitration.

I. But if England considers herself with valid titles, why refuse arbitration upon all the points in discussion? Its claim to territories to the west of the Schomburgk line, will it not have for its only object to appear to accept arbitration, although in reality it may be concerning territories which she knows belong to Venezuela and little concern her?

Sir W. This is a question of principle for England. She does not admit arbitration when she thinks her rights indiscussable, as she considers those within the Schomburgk line. As to rights to territories which are to the west of this line, she would present very respectable titles before an arbitral tribunal.

I. Would it not be better, Sir W., to say that she only accepts it when she treats and discusses with great powers capable of arriving at an armed conflict? If not, see that which is occurring now with the United States in the question regarding fishing in Bering Sea.

Sir W. I should have to enter into extensive considerations to refute your idea. But be convinced that this question can not be settled except by a direct transaction with England.

Sir W. was already going to take leave of me, when he said to me, "Mind you that your conversation has every character of an interview. Do you think of publishing it?"

I. I am not a journalist.

Sir W. But you can communicate it to a newspaper.

I. If you permit me to do so.

Sir W. I have no objections, but with one condition, and that is that you do not give my name.

I. However, it is your name which would give it authority. Permit me at least to give your initials.

Sir W. No, because they would all know me in London, and I do not wish to be considered indiscreet. Make use only of one of my initials.

I. Very well.

So I concluded this conversation, which has seemed to me interesting and worthy of being published in your daily. We hope that for the next Congress our illustrious minister of foreign affairs will publish everything concerning the mission of Señor Michelena, as Señor M. A. Saluzzo published in 1891 everything relative to the English question and the mission which it fell to me to discharge in 1890. The Yellow Book would take in fact with time the character of a classic work for those who wish to study and know the question. These publications are necessary to the end that public opinion may at least form a rational understanding upon so important a matter.

Señor Michelena was here a few days with his family and has just returned to London. They say that Dr. Paul has resigned the secretaryship of the mission.

* * * * *

Your attentive and sincere servant,

LUCIO PULIDO,
Ex-Minister Plenipotentiary of Venezuela.

[Inclosure 2 in No. 102.—Translation.—From *El Tiempo*, Caracas, October 24, 1893.]

PARIS, September 29, 1893.

Manager of El Tiempo, Caracas:

MY DEAR SIR AND FRIEND: Through the courtesy of a friend I have been able to read No. 145 of *El Tiempo*, dated the 26th of August last. There I find under the title "Correspondence from Paris and the English question" (signed by Dr. Lucio Pulido), a conversation which he says he has had with an Englishman, "a diplomat, an influential person, and very well informed."

That conversation having appeared in *El Tiempo* I request you to publish this necessary reply.

There are such inaccuracies committed by the gentleman so "well informed," and something more than inaccuracies, that it compels me to put things in their place, although I am obliged to hold myself to two points; and that necessarily because Dr. Pulido is mixed in it, whom it is not my purpose to accuse of crooked purposes.

I suppose because of the phrases and the tone of Sir W. that he is no other than a poor man and in the pay of the colonial office which began working against Venezuela some years ago, who introduced himself cautiously to all envoys from there, and whom the subscriber had to show the front door. I see him portrayed in the following paragraphs of said conversation:

"Sir W. Yes, I am informed of all by my friends in the colonial and foreign office. You know that I followed with much interest this matter when I was in London, and I have not lost it from view. This obliged me to study this immense and interesting region which they call Guayana. In fact, Señor Michelena, who as a journalist counseled making war against England or at least stopping all commerce with her, presented himself very much as a peacemaker. If he had had the character of a public minister there is no doubt that the Queen, in view of these antecedents, would not have received him; but he presented himself as a distinguished foreigner who came to investigate the situation in an informal manner; and so the affair offered no difficulties. Lord Rosebery did not receive him, but Sir J. H. Sanderson, the undersecretary charged with these matters; and in one conference, by means of an interpreter, all was in fact concluded."

Thus, the "well-informed diplomat" acquiesces in a great falsehood, since the Government of the Republic has proof in valid documents that the subscriber was received by Lord Rosebery and not by the undersecretary, Sir J. H. Sanderson, a person whom to this date I do not know even by sight, a permanent employé of the foreign office with whom other envoys of Venezuela have had to treat.

In the same evilly disposed manner the diplomat Sir W. asserts that if Michelena had presented himself in the character of a public minister the Queen would not have received him, because * * * (as a journalist and as a patriot he wrote against England).

Does not that diplomat know that in order to be received by the secretary of state and to establish negotiations, etc., he had to go invested with a public character, well defined; and that in consequence, the foreign office being the representative of the British Government, the Queen could not impugn that which was done by the Government? Does not that gentleman so well informed know that, in order for a solemn reception to be held by the Queen, it was necessary that political relations should be resumed between the two countries by means of a convention, which is that which they are trying to settle?

It seems that that cheap rumor that Michelena would not be acceptable to Her Britannic Majesty, although it has completely vanished, still furnishes some with a fruitful theme, and it seems as if it was desired that the mission to Venezuela might be discharged by a Venezuelan, who is not one, because he is a party to some indecorous transaction.

Enough, Mr. Manager, with what has been explained; although on account of the innumerable blunders and inaccuracies of Sir W. I could say much more.

Dr. Pulido closes his correspondence by expressing the desire, which is mine also, that the Government order the publication, opportunely, of the documents which constitute my mission. Then it will be seen that if this last one has not accomplished (as former ones) the result desired by true patriots, neither has it compromised the fortune of the negotiations by imprudences, and that it has left the dignity of the Republic in a very high position as well as its illustrious rights.

I am your attentive and sincere servant and friend,

TOMÁS MICHELENA.

Mr. Rojas to Mr. Gresham.

[Translation.]

MINISTRY OF FOREIGN RELATIONS OF VENEZUELA,
Caracas, November 24, 1893. (Received January 6, 1894.)

EXCELLENCY: The Government of Venezuela, giving heed to everything directly or indirectly related to the important question of the Guianan boundary, has seen with satisfaction the map of South America attached to the report on the agriculture of the continent published a short time since under the number "2" by the Department of Agriculture in the United States, as also the remarks which, with regard to the subject of that dispute, appear on pages 174 and 175 of the same official work. In the map referred to, the part which adjoins British Guiana is shown in complete conformity with the rights of Venezuela, and the passages to which allusion is made clearly show and recognize the title of the Republic to the absolute possession of the territories it claims.

The proof of international justice which these publications afford can do no less than impose an obligation upon the Government of Venezuela, which ever beholds in your great Republic the largest safeguard of American interests and the stoutest shield of the nations of the New World against all assaults opposed to the fundamental principles of the law of nations.

In addressing your excellency upon this subject with a view to manifesting the gratifying impression produced on the executive power of Venezuela by the perusal of this part of the above-mentioned report, published by the Department of Agriculture,

I avail, etc.,

P. EZEQUIEL ROJAS.

Mr. Gresham to Mr. Rojas.

DEPARTMENT OF STATE,
Washington, January 21, 1894.

SIR: I have had the honor to receive, through the Venezuelan minister at this capital, your excellency's communication of 24th November last, in which you are pleased to express the satisfaction with which your Government has seen a certain map and statement printed in a report on the agriculture of South America, published in 1892 by the Department of Agriculture of the United States, which bear upon the question of the boundary between Venezuela and British Guiana.

This publication, being compiled for the division of statistics in the Department of Agriculture and by its authority, should not be taken as an authoritative expression by the Department charged with the conduct of foreign affairs upon the merits of the controversy so long pend-

ing between Venezuela and Great Britain touching the boundaries between their contiguous territories on the Caribbean coast.

The Government of the United States has on several occasions in the past exerted its impartial offices toward bringing about a good understanding between the disputants. It has advised the submitting of their cause of difference to the friendly arbitration of a third power; but it has not expressed an opinion concerning the merits of the historical and other data upon which the conflicting territorial claims may respectively rest.

I avail myself, etc.,

W. Q. GRESHAM.

Mr. Andrade to Mr. Gresham.

[Translation.]

LEGATION OF VENEZUELA,

Washington, March 31, 1894.

SIR: In our interview of the 8th of last January, the subject of which was the endless and vexed boundary controversy between Venezuela and Great Britain, your excellency expressed his wish that I should explain to him by writing certain especial points connected with it. This I have endeavored to do so far as it has been in my power to interpret your excellency's purpose in the memorandum which I have the honor to send to your excellency herewith, and which is only a brief history of the discussion between the two parties, from its commencement up to the present day.

Your excellency will see by that document, in the first place, that although the question has not yet been adjusted, Great Britain has departed from the agreement concluded with Venezuela, by which the contested territory was declared neutral so long as the controversy remained unsettled, has taken possession of the said territory, and exercises over it all the rights of exclusive domain.

In the second place that, all the diplomatic means having failed by which she could obtain the acknowledgment of her right and a reparation for the offense received from her opponent, Venezuela has invited the latter for years past to submit the contest to arbitrament, and Great Britain has inflexibly declined her just demand.

Vainly have the Government of the United States, on different occasions and under various forms, expressed their wish to see the difficulty settled by award of arbitrators, and vainly also have the Governments of Mexico, Colombia, Ecuador, Chile, Argentine Republic, Guatemala, Salvador, Nicaragua, Costa Rica, and Haiti interposed in that direction their friendly recommendations to the foreign office. Her Britannic Majesty's Government have insisted on their refusal.

The precedents established by Great Britain herself in various cases of similar differences with other nations have proved equally powerless to influence her mind and to persuade her to adjust in the same way her conflict with Venezuela.

In 1829 she consented to submit to the decision of the King of Holland a boundary question with the United States; a similar one with Portugal, in 1872, to the judgment of the President of the French Republic, Marshal MacMahon, and recently, in 1893, to the Court of Arbitration of Paris the difference concerning the sphere of action and jurisdiction in the Bering Sea, which can be properly called a boundary question.

If Her Britannic Majesty's Government believes that in the cause,

nature, and object of their dispute with Venezuela there is something to make it differ from the disputes just mentioned, and to sufficiently legitimate her obstinate resistance; if they consider their titles to be so unquestionable that it is useless to ascertain on whose part justice is; if they are afraid to abandon a right which, in their opinion, is certain and perfect, and to expose the dignity and independence of their country by allowing an authorized and impartial court to tell them whether or not their pretensions are fully justified, then those motives themselves could be submitted to the judgment of arbiters, under this form: Is Great Britain right in refusing to surrender to arbitration her boundary controversy with Venezuela? If what she seeks is truth, why does she object to its being established and proved by the arbiter or arbiters?

International law does not offer at the present time any better means of solving a controversy, specially when relating to frontiers, in accordance with the principles of equity and justice, than the reference of it to the decision of an umpire; neither does it admit that such reference can in any way affect the dignity or independence of a State. In proof of this assertion it would be difficult to cite a fact of greater consequence and authority, as England herself must avow, than the famous arbitration of Geneva, which decided the question of the Alabama; and, but for fear of importuning your excellency, the undersigned could recall for further evidence many subsequent cases, equally decisive, to demonstrate the tendency of all the civilized Governments of our days to impose upon themselves voluntarily, rather than to shun, the obligation of subjecting to arbitration all controversies of whatsoever kind they may be.

The authority of the law of arbitration is so generally acknowledged to-day by all civil States that any resistance to submit to it is esteemed by the most renowned writers on international law as sufficient reason to justify, on the part of him who claims, the employment of coercitive means for the purpose of forcing the other party. Venezuela can not successfully resort to this expedient, from which she would probably not derive, on account of the very same reason, any other result than that of hastening the cessation of the state of peace in which, by dint of self-control, she has maintained herself in regard to her powerful opponent. She certainly desires a reparation for her trampled rights and interests, but so far, as it has been seen, through the judicial proceeding that modern civilization endeavors to establish as a regular and ordinary means of preventing war.

Conformably to their custom of seeking and obtaining the help of the United States for the better adjustment of this same conflict, the Government of Venezuela have instructed me to explore and ascertain the mind of the Government of this Republic as to their present disposition to tender their aid in the peaceful design of procuring the final acceptance by England of the civilized recourse proposed by Venezuela for the honorable settlement of the question.

The United States has asserted as a principle in which it considers its own rights and interests to be involved, that the nations of the American Continent, after having acquired the liberty and independence which they enjoy and maintain, were not subject to colonization by any European power; and the Government of the undersigned entertain the hope that in the aforesaid declaration and in the judicial guardianship of international law which, to a certain extent, the United States assumed in the same continent by virtue of that declaration, and which it has actually exercised hitherto, the Government of your excellency will find sufficient reasons of political convenience, and even

of moral obligation perhaps, to allow them to adopt such a tone in their new representations as may convince Great Britain, without affecting her inviolableness nor that of anything lawfully pertaining to her, of the necessity of granting to Venezuela what Venezuela has an undeniable right to demand of her.

I beg to offer to your excellency the renewed assurance of my highest consideration,

JOSÉ ANDRADE.

[Inclosure.—Translation.]

Memorandum on the boundary question between Venezuela and British Guiana, communicated to the Honorable W. Q. Gresham, Secretary of State.

Venezuela's rights over the territory in dispute are, as it is known, derived from Spain, whose sovereignty, titles, and actions, which she inherited by the event of her independence, were afterwards ratified by virtue of the treaty of recognition, peace, and amity concluded between the two nations on the 30th of March, 1845.

The sovereignty, titles, and actions which, in this solemn instrument, were renounced by His Catholic Majesty, in his name and in that of his heirs and successors, are the same which the Spanish sovereign possessed, until 1810, over the country formerly known as Captaincy General of Venezuela. This being subsequently constituted as an independent Republic, included thirteen provinces, that of Guiana among them.

By that time the Captaincy-General of Venezuela had the following geographical boundaries: On the north, the Caribbean Sea and Atlantic Ocean beyond the eastern bank of the Essequibo; on the south, the Marañon or Amazon River; on the west, the viceroyalty of Sante Fé, and on the east, Dutch Guiana, which, by the convention of August 13, 1814, signed in London by His British Majesty and the United Provinces of Netherlands, came to be the British Guiana of the present time.

Such, at least, had been the allegation of the Spanish Governments ever since 1648, and such the position which they considered themselves entitled to maintain, founded on treaties of peace and friendship, and of boundaries with Portugal, Holland, and England; and the fact is furthermore attested by countless schedules, ordinances, instructions, and other official deeds of the Kings of Spain, together with no smaller a number of historians, travelers, geographers, and hydrographers, that it is not within my scope to specify here.

Apart from the limits referred to, the territory lying west and south as far as the Portuguese possessions of Brazil, belonged in its entirety to the Crown of Spain in 1810, notwithstanding any transitory or not well asserted occupancy of some spot on the seashore on or about the Orinoco River, or along the rivers in the interior with posts, barracks, forts, stores, or other settlements of the West Indies Company not legally authorized, or of the Dutch smugglers who, from an early date, had often infested Spanish Guiana. The regions thus occupied had their lawful owner, who had never relinquished them, and without whose consent they could not be appropriated for any use, he having at all times looked on the settlers as usurpers of his dominions, from which he would expel them even by force of arms.

Venezuela, furthermore, has never confirmed such usurpations by

any consent, law, treaty, cession, or act whatever of voluntary abandonment.

Out of moderation and prudence, however, she has contented herself with claiming the Essequibo line as that dividing Venezuelan Guiana from British Guiana. Starting from the mouth of said river, this line runs southward upstream as far as $4^{\circ} 12'$ north latitude, halfway between the mouths of the Sibarona and Rupumuni; thence eastward across the Essequibo, and one-fourth to the southeast over the Tunucuraque Mountains, and finally bends to the southeast until it reaches $2^{\circ} 10'$ south latitude and $56^{\circ} 4'$ west longitude, where it meets the mountains of Acaray, inhabited by the Chiriguana Indians.

As regards her right of possession, as heiress to Spain, over the territory inclosed within the aforesaid bounds, she has never entertained the least doubt; she considers such right to be clear, historically evident, and easily demonstrable. In her opinion, the vast tract of land occupied by the settlers from Demerara and Berbice has been unquestionably usurped, but the necessity of devoting herself, as she naturally did, to the supreme struggle for her independence first, and afterwards to the absorbing work of her internal organization when she separated from the old Republic of Colombia, thus neglecting all questions not essential to her existence, prevented her from seeking a definitive adjustment of the matter with England.

Great Britain, on the other hand, had herself shown no interest in discussing it, apparently satisfied with possessing *de facto* the Pomarion district, which the force of events had allowed her to retain. For the first time in 1840 she evinced greater pretensions. At the latter part of said year she commissioned Sir R. H. Schomburgk, without the knowledge or acquiescence of Venezuela, to examine and lay down the boundaries of British Guiana, and directed the governor of this colony to withstand all aggressions on the territories adjoining the frontier, until then inhabited by independent tribes.

The Venezuelan department of foreign relations was kept ignorant of such measures until informed by Her Majesty's consul at Caracas, when they had already been, or were unavoidably to be, carried out. Thus the English engineer was enabled to reach the mouths of Barima and Amacuro, on the Orinoco, where he erected a sentry box, hoisted his nation's flag, and set up royal monograms and other emblems. He then proceeded to the interior of the country, made surveys, delineated metes and bounds, and drew out maps. Such was the origin of the so-called Schomburgk line.

Venezuela, however, did not tolerate the action taken by the British Government, for she immediately complained and remonstrated until due satisfaction was obtained. According to explanations given by the governor of Demerara, the commission intrusted to Schomburgk was only a part of a project which Lord Palmerston had recommended to the secretary of state at the colonial office of the United Kingdom, to the effect that a map of British Guiana should be figured in accordance with the bounds described by the aforesaid engineer, to which was to be appended a report illustrative of the natural features defining and constituting them; that a copy of both the map and report should be sent to the Governments of Venezuela, Brazil, and Netherlands, as a statement of the British claims, and that, meanwhile, commissioners should be dispatched for the purpose of establishing posts on the land intended to represent permanent marks of the boundaries which Great Britain pretended; which being done, and after each of the three Governments interested had offered their objections, stating the arguments

in support of their assertions, the British Government would present the reasons they deemed proper and just.

Consequently, Schomburgk's marks were to be regarded as a measure conformable to Lord Palmerston's purpose, not as symbols of possession capable of becoming, later on, titles of sovereignty for any of the four states, exclusive of all other nations that could lay claim to the region thus bounded. And as though to dispel all doubts regarding the real intention of Her Britannic Majesty's Government, Lord Aberdeen added to the above explanation an order, which was actually executed, to remove all the marks.

Considering the occasion favorable for the full and decisive establishment by treaty of the boundaries between the two Guianas, the Venezuelan Government had resolved to profit by it, and to authorize to that effect their diplomatic minister at London, Señor Fortique, who, unfortunately, died before he had succeeded in securing to his country the fruit of the negotiation with which he had been intrusted. He had time, however, to induce Great Britain to admit the supremacy of the Venezuelan titles over the territory between the rivers Moroco and Orinoco, as it appears by the line lastly proposed by Lord Aberdeen, viz:

Beginning on the coast at the mouth of the river Moroco, it runs straight to the point where the river Barama joins the Guaima; from there up the Barama as far as the Aunama, which it follows upward to the place where this creek reaches its shortest distance from the Acaribisi; then it descends the said Acaribisi as far as its confluence with the Cuyuni, following afterwards the latter river up stream until it reaches the high lands in the immediate neighborhood of Mount Roraima, which divides the waters flowing to the Essequibo from those running into the river Branco.

Great Britain [finally said Lord Aberdeen] is disposed to cede to Venezuela the whole of the territory situated between the line mentioned and the Amacuro River and the chain of mountains where it takes its source, on condition that the Government of the Republic shall bind themselves not to alienate any portion of said territory to any foreign power, and also that the Indian tribes at present residing in it shall be protected against ill-treatment and oppression.

This was simply a resumption of her positions in 1836, when the British legation at Caracas admitted that the Venezuelan Government had a legal power to pass decision in matters relating to the construction of light-houses at Punta Barima and the setting of beacons at the large mouth of the Orinoco, and when the governor of Demerara expressed his opinion, in an official dispatch dated the 1st of September (Parliamentary Papers), that the Pomaron River, west of the Essequibo, could be accepted as the limit of the English colony.

As, however, the delineation proposed dispossessed Venezuela of the territory comprised between the rivers Pomaron and Essequibo which she claimed to be her dominion, she did not esteem convenient to admit it without certain modifications which she sent to London, but which were never submitted to Her Majesty's Government, owing to the discontinuance of the negotiations, consequent to the decease of the Venezuelan minister. In her opinion, however, Lord Aberdeen's proposal has lost nothing of its import as a proof that she never accepted Schomburgk's line, and that Great Britain herself had formally desisted, not only from upholding said line, but from Lord Palmerston's design, and, after a renewed and more conscientious consideration of her titles, had renounced all dominion over the land between the Moroco and Amacuro. Such was the state of affairs about the middle of 1844.

A few years later, in 1850, a rumor spread that Great Britain intended to take possession of the Venezuelan province of Guiana. This gave rise to a public feeling of indignation, which manifested itself in the organization of patriotic societies all over the country for the purpose of opposing and repulsing the aggression. The Government directed

the authorities of the province especially menaced to prepare it for defense and to repair and fit out all the forts, until then dismantled and abandoned, and a bill was introduced in the House of Representatives authorizing the Executive to have a fortress immediately erected on the spot held to be the boundary between Venezuela and British Guiana, without indicating it.

The intense excitement of the public feeling already referred to did not fail to attract the notice of the English Government, who, foreseeing the possibility of hostile acts on the part of the Venezuelan authorities of Guiana, anticipated them by communicating to the lords commissioners of the admiralty the instructions they deemed convenient to transmit to the vice-admiral of Her Majesty's naval forces in the West Indies, to be carried out in case the aforesaid authorities should insist upon fortifying the territory in dispute between Great Britain and Venezuela. On the other hand, they authorized their chargé d'affaires at Caracas to deny the popular report attributing to Her Majesty's Government certain intentions, in every respect unfounded and contrary to the truth, and likewise to declare that, while his Government did not intend to occupy or encroach upon the territory in dispute, nor would order or sanction at any time such occupancy or encroachment by British authorities, they could not see with indifference the aggressions of Venezuela upon that territory.

They accordingly expected that the Venezuelan Government would make a similar declaration and would consent to send to their agents in Guiana positive orders to refrain from taking any steps that might justly be regarded as aggressive by the English authorities.

In reply Venezuela likewise manifested that she entertained no intention whatever to encroach upon or occupy any portion of the territory the possession of which was controverted by the two states, neither would she look with indifference upon a contrary proceeding on the part of Great Britain, and that, moreover, she would enjoin her authorities in Guiana to take no steps that might violate the obligation which that agreement imposed upon the Government.

Such was the status quo of the question in 1850.

In 1848 and 1849 Venezuela had just started on the path of internal disturbances and armed revolutions, which afflicted her during more than a quarter of a century, and prevented her from attending to the boundary question with Great Britain, no action either having been urged by the latter country during that period.

It was scarcely on two occasions, and perhaps only in a dissembling way, that Great Britain was seen to take any steps in regard to Venezuelan Guiana. I allude to the steps she took in 1857, through her chargé d'affaires at Caracas, intended to obtain a permission of the Executive, by virtue of which scientific expeditions composed of British subjects might visit the mining region of Venezuela, with the purpose not of infringing her rights but simply of ascertaining the situation and prospect of the gold deposits, and report about them.

The Government replied that they would admit without objection the announced expeditions, and would treat them with the benevolence due to their object, provided they entered through the capital of the province of Guiana. The other occasion occurred in 1874, when the English subject, Thomas Garret, suspected of homicide, was captured in Venezuelan territory by agents proceeding from Demerara. Venezuela demanded his delivery and obtained the suspension of the trial, though later on the case was taken up again by order of Her Britannic Majesty's Government, on the ground that, as asserted by the British resident

minister at Caracas, the arrest had been made in places claimed by both countries, and that it was improper that such places should serve as a refuge for criminals of either nationality, under protection of the agreement of 1850, since nothing was more distant from the mind of his Government than to sanction any violation of the territorial rights of the Republic.

In 1876 new indications of a decided purpose to carry onward the discussion were evinced by the Venezuelan foreign department. Such may be considered the note, dated November of the same year, which it addressed to the British foreign office, and was subsequently communicated in form of memorandum, bearing the same date, to the Honorable Mr. Fish for the information of the Government of the United States; the appointment of Dr. José María Rojas as resident minister in London, and, finally, the President's message to Congress in 1877.

Though Señor Rojas acted diligently from the outset to the effect of promoting the issue of the negotiations interrupted in 1844 by the death of Señor Fortique, he did not succeed any better than his predecessor.

The ground of strict right having been abandoned by mutual accord, Señor Rojas entered upon that of compromises, and suggested that Venezuela would willingly accept the Morocco line, which had been spontaneously offered by Lord Aberdeen thirty-seven years before. Lord Granville this time refused to concede it, without stating any reason for his refusal, and, after rejecting another line devised by the Venezuelan negotiator, proposed the following, which, in his opinion, was not very different:

The starting point will be a spot on the seashore, exactly 29 miles longitude, east of the right bank of the Barima River, whence the line would be carried south over the mountain or hill of Yarikita to the eighth degree parallel of latitude; thence westerly along this parallel till it crossed the boundary line drawn by Schomburgk; then to the Acarabisi and along this river until it entered the Cuyuni; along the left bank of the latter river up to its sources, and thence, in a south-eastern direction to Schomburgk's line, as far as the Essequibo and Corentin rivers. That indicated by Mr. Rojas, referred to at the commencement of this paragraph, was to start from the coast, 1 mile north of the mouth of the Morocco, where a post would be planted; then run directly southward as far as the boundaries of both countries, along a vertical line beginning at the aforesaid post and extending between the fifty-ninth and sixtieth degree meridians, west of Greenwich.

Lord Granville, consequently, stood considerably apart from the minister of Venezuela, still more from Lord Aberdeen, his predecessor in 1844, and still more even from Señor Fortique, the opponent of Lord Aberdeen, who had advocated the historical line of the Essequibo River. Moreover, he made reference in various points to Schomburgk's uncertain and capricious demarcation; he did not comprehend in his proposal the whole extent of the frontier to be designated, and, above all, he conferred upon Great Britain, without any valuable reason, a vast tract in regard to which she appeared to have renounced her vague intentions through Lord Aberdeen. In consequence thereof the Government of Venezuela determined to refuse their assent to the proposal and to discontinue the interchange of projects of adjustment which so far had only succeeded in convincing them how difficult it was to conciliate the rights and interests of the antagonistic parties through direct negotiations between them.

Four years, from 1841 to 1844, had been wasted away by the Republic in fruitless attempts to bring about an understanding with her

neighbor, while Dr. Rojas's mission, equally unsuccessful, had already lasted a longer period, from 1877 to 1881. The colony of Demerara, profiting by the interval between this mission and the previous one, had silently advanced its settlements on the Orinoco and Caroni, projected the opening of roads into Venezuela, sent expeditionists to the mining regions of the country, etc. And finally, at the close of 1880, while Dr. Rojas was still negotiating in London, the press of Ciudad Bolivar, the capital city of the State of Guiana, had reported the appearance of a man-of-war and merchant vessel, both British, at the mouth of the river Orinoco, provided with posts, wire, and other telegraphic articles.

Notice of the occurrence was given to the Government of the United States by Señor Simon Camacho, resident minister of Venezuela at Washington, in his note dated the 21st of December of the same year, 1880, to which the Honorable Mr. William M. Evarts returned the following answer on the 31st of January, 1881:

In reply I have to inform you that in view of the deep interest which the Government of the United States takes in all transactions tending to attempted encroachments of foreign powers upon the territory of any of the republics of this continent, this Government could not look with indifference to the forcible acquisition of such territory by England, if the mission of the vessels now at the mouth of the Orinoco should be found to be for that end. This Government awaits, therefore, with natural concern the more particular statement promised by the Government of Venezuela, which it hopes will not be long delayed.

On the 28th of February, 1881, when he was on the point to retire from office, the Honorable Mr. Evarts wrote:

Referring to your note of the 21st of December last, touching the operations of certain British war vessels in and near the mouth of the Orinoco River, and to my reply thereto of the 31st ultimo, as well as to the recent occasions in which the subject has been mentioned in our conferences concerning the business of your mission, I take it to be fitting now, at the close of my incumbency of the office I hold, to advert to the interest with which the Government of the United States can not fail to regard any such purpose with respect to the control of American territory as is stated to be contemplated by the Government of Great Britain, and to express my regret that the further information promised in your note with regard to such designs had not reached me in season to receive the attention which, notwithstanding the severe pressure of public business at the end of an administrative term, I should have taken pleasure in bestowing upon it. I doubt not, however, that your representations, in fulfillment of the awaited additional orders of your Government, will have like earnest and solicitous consideration at the hands of my successor.

The information announced by Mr. Camacho did not reach the Department until November, 1882, at which time Mr. Frederick T. Frelinghuysen was already Secretary of State. It contained, besides other documents, a copy of a "memorandum" by Mr. Seijas on the boundary question with British Guiana; a copy of the note, dated September 15, 1881, wherein Lord Granville communicated to Mr. Rojas his proposal above mentioned, and of the memorandum subjoined to it, and a copy of the minute of the negative response the Venezuelan Government intended to give to that note, resorting to arbitration as the only resource available in future for the satisfactory arrangement of the difference. The President of the Republic thus submitted the matter to the Government at Washington, "hoping that it would give him their opinion and advice, and soliciting such support as they esteemed possible to offer Venezuela in order that justice should be made to her." I beg to present an extract of Mr. Frelinghuysen's reply, as set forth in his dispatch dated January 31, 1883, to Mr. Jehu Baker, who was then the United States diplomatic representative at Caracas:

This Government has already expressed its view that arbitration of such disputes is a convenient resort in the case of failure to come to a mutual understanding, and

intimated its willingness, if Venezuela should so desire, to propose to Great Britain such a mode of settlement. It is felt that the tender of good offices would not be so profitable if the United States were to approach Great Britain as the advocate of any prejudged solution in favor of Venezuela. So far as the United States can counsel and assist Venezuela it believes it best to confine its reply to the renewal of the suggestion of arbitration, and the offer of all its good offices in that direction. This suggestion is the more easily made, since it appears, from the instruction sent by Señor Seijas to the Venezuelan minister in London on the same 15th of July, 1882, that the President of Venezuela proposed to the British Government the submission of the dispute to arbitration by a third power.

You will take an early occasion to present the foregoing considerations to Señor Seijas, saying to him that, while trusting that the direct proposal for arbitration already made to Great Britain may bear good fruit (if, indeed, it has not already done so by its acceptance in principle), the Government of the United States will cheerfully lend any needful aid to press upon Great Britain in a friendly way the proposition so made, and at the same time you will say to Señor Seijas (in personal conference, and not with the formality of a written communication) that the United States, while advocating strongly the recourse of arbitration for the adjustment of international disputes affecting the States of America, does not seek to put itself forward as their arbiter; that, viewing all such questions impartially and with no intent or desire to prejudice their merits, the United States will not refuse its arbitration if asked by both parties, and that, regarding all such questions as essentially and distinctively American, the United States would always prefer to see such contentions adjusted through the arbitrament of an American rather than an European power.

The response of Venezuela to Lord Granville's proposal, adverted to by the Hon. Mr. Frelinghuysen, had not yet been sent to its destination nor could it be sent after the opinion of the United States was communicated, as Dr. José María Rojas had meanwhile retired from his post by resignation, and no one had been as yet nominated in his place. This, however, did not prevent the questions pending between Great Britain and Venezuela from becoming soon again the subjects of candid discussion, through the initiative of Great Britain. These questions were three, relating severally to boundaries, discriminating duties on merchandise imported from the West Indies, and pecuniary claims. Great Britain solicited that they should be treated and resolved conjointly, and thus brought on a long and amicable correspondence between her representative at Caracas and the department of foreign affairs, which was in proper time communicated to the Government of the United States, as also the appointment of Gen. Guzman Blanco, ex-President of the Republic, as envoy extraordinary and minister plenipotentiary near Her Britannic Majesty's Government.

The new diplomatic agent of Venezuela visited this city on his way to England, and held several conferences relating to the various objects of his mission with the honorable Secretary of State, by whom he was recommended to Mr. Lowell in a confidential note dated July 7, 1884, the two last paragraphs of which read as follows:

It will necessarily be somewhat within your discretion how far your good offices may be profitably employed with Her Majesty's Government to these ends, and at any rate you may take proper occasion to let Lord Granville know that we are not without concern as to whatever may affect the interests of a sister Republic of the American continent and its position in the family of nations.

If General Guzmán should apply to you for advice or assistance in realizing the purposes of his mission you will show him proper consideration, and without committing the United States to any determinate political solution you will endeavor to carry out the views of this instruction.

This time Venezuela could for a moment cherish the belief that she had reached the desired close of her boundary dispute, for, in spite of the adverseness of Great Britain to arbitration, as manifested beforehand by her resident minister at Caracas and now steadily maintained in London by Lord Granville, Gen. Guzmán Blanco had succeeded in obtaining his assent to sign a treaty of amity, commerce, and naviga-

tion, substituting that of 1825, wherein an article (XV) was admitted in the following terms:

If, as it is to be deprecated, there shall arise between the United States of Venezuela and the United Kingdom of Great Britain and Ireland any difference which can not be adjusted by the usual means of friendly negotiation, the two contracting parties agree to submit the decision of all such differences to the arbitration of a third power, or of several powers in amity with both, without resorting to war, and that the result of such arbitration shall be binding upon both Governments.

The arbitrating power or powers shall be selected by the two Governments by common consent, failing which, each of the parties shall nominate an arbitrating power, and the arbitrators thus appointed shall be requested to select another power to act as umpire.

The procedure of the arbitration shall in each case be determined by the contracting parties, failing which, the arbitrating power or powers shall be themselves entitled to determine it beforehand.

Lord Granville's acceptance, as given in his note to General Guzmán, dated the 15th of May, 1885, reads thus:

M. LE MINISTRE: I have the honor to acknowledge the receipt, on the 12th instant, of your note dated the 6th instant, respecting the proposed new treaty between Great Britain and Venezuela.

In reply I have the honor to inform you that Her Majesty's Government agree to the substitution of the phrase "power," to be chosen by the high contracting parties, instead of "arbitrators," in the article respecting arbitration, and that they further agree that the undertaking to refer differences to arbitration shall include all differences which may arise between the high contracting parties, and not those only which arise on the interpretation of the treaty.

And in a subsequent note, dated June 18, 1885, he said:

M. LE MINISTRE. I have the honor to acknowledge the receipt of your note of the 8th instant, forwarding the draft of a new treaty of friendship, commerce, and navigation between Great Britain and Venezuela, to replace the treaties of 1825 and 1834, founded on the text of the treaty recently concluded between Great Britain and Paraguay, and on correspondence that has passed between us.

The clause in italics at the end of Article XV would seem to render that article more explicit and to be useful for this purpose.

To which General Guzmán replied on the 22d of June, 1885:

MY LORD: I have had the honor of receiving your excellency's dispatch of the 18th, accompanying a copy in print of a draft treaty of friendship, commerce, and navigation between the United States of Venezuela and Great Britain, with certain corrections to which your excellency asks me to express my consent in order to avoid any misapprehensions.

I proceed accordingly to reply that I see no objection to adding to Article XV, "the award of the arbitrators shall be carried out as speedily as possible in cases where such award does not specifically lay down a date."

Shortly after a change occurred in Her British Majesty's Government, by virtue of which Lord Salisbury entered upon the duties of chief secretary of state at the foreign office, and so it was incumbent on him to finish the negotiation that Lord Granville had left close to its conclusion.

On the 27th of July Lord Salisbury addressed a note to General Guzman, stating in regard to the clause on arbitration, which had already been accepted by Lord Granville, that—

Her Majesty's Government are unable to concur in the assent given by their predecessors in office to the general arbitration article proposed by Venezuela, and they are unable to agree to the inclusion in it of matters other than those arising out of the interpretation or alleged violation of this particular treaty. To engage to refer to arbitration all disputes and controversies whatsoever would be without precedent in the treaties made by Great Britain. Questions might arise, such as those involving the title of the British Crown to territory or other sovereign rights which Her Majesty's Government could not pledge themselves beforehand to refer to arbitration.

He accordingly inclosed a printed copy of the draft treaty, wherein the said clause of Article XV appeared thus amended:

If, as it is to be deprecated, there shall arise between the United States of Venezuela and Great Britain any controversies respecting the interpretation or the execution of the present treaty, or the consequence of any violation thereof, the two contracting parties agree * * *

The Venezuelan negotiator gave the following response, which proved to be wholly ineffectual:

With respect to arbitration, it appears to me that the new cabinet could not, by itself alone, repeal the article to which its predecessor had given formal assent, and thereby placed it beyond its competence, and still less so after your lordship's declaration in the House of Lords that the engagements of the previous Government would be respected. I should be pained to think that this declaration did not include Venezuela.

I think that boundary questions are of the number of those which it is most expedient to submit to the award of an impartial third party. As is shown in practice, other nations are also of this opinion, and that the same view is also shared by Great Britain I think may be inferred from her action during 1829 and during 1872, in agreeing to submit two controversies respecting territory to the decision of the King of Holland and of the Emperor of Germany, respectively. In the last case it proposed the arbitration no less than six times to the United States, as they allege, and it was only the seventh time that they accepted this means of deciding whether or not the line should pass by the Haro Canal. It appears from the correspondence of the Venezuelan plenipotentiary, Señor Fortique, that the same proposal was made to him orally for the termination of the dispute respecting Guiana.

In fine, arbitration, in addition to having been employed on various occasions by Great Britain, has been so favorably entertained in her Parliament and by her statesmen and in the public opinion of the United Kingdom that its general adoption could not fail to merit applause. Moreover, I proceeded in this matter conformably with the constitution of Venezuela, which requires the executive to stipulate for arbitration in comprehensive terms and without any restriction.

Lord Salisbury confined his answer to an expression of regret that the instructions communicated to General Guzmán did not allow him to agree to the restricted form of the article on arbitration, requesting at the same time that the points on which differences had arisen should be referred for modification to the Government of the Republic. General Guzmán had done so more than a month previously, and the Government in reply confirmed his original instructions and approved his action in fulfillment of the same. He addressed himself again to Lord Salisbury and invoked the arguments he had repeatedly presented before, proving that the clause on arbitration applicable to all kinds of disagreements was already a right acquired by Venezuela, which Great Britain was bound to respect. His representations, however, were utterly fruitless.

On the 19th of July, 1886, the day of his return to Venezuela being then near, he ventured to write again to Lord Rosebery, Lord Salisbury's successor, manifesting his natural desire not to quit the country without settling the question he had been negotiating ever since his arrival in London, by the middle of 1884. On the 20th of the same month Lord Rosebery replied:

I am anxious to profit by your permanence in Europe for the purpose of making every effort to come to an understanding with you about the questions which are matters of dispute between our respective countries, and in conformity with the offer I made in my note of the 23d of last month. I send you now a memorandum of the bases according to which I should be disposed to enter into negotiations.

I. BOUNDARY.

It is proposed that the two Governments shall agree upon considering as territory disputed between the two countries, the land situated between the two boundary lines indicated, respectively, in the eleventh paragraph of Señor Rojas's note of February 21, 1881, and Lord Granville's note of September 15, 1881, and to draw a

dividing line within the limits of this territory, either by arbitration or by a mixed commission, on the principle of equal division of said territory, and in due regard to natural boundaries. The Government of Her Majesty give especial importance to the possession of the river Guaima by British Guiana, and wishes, therefore, to make the stipulation that the boundary line is to begin at the coast point, and a proper compensation to be found in any other part of the disputed territory for this deviation from the principle of equal division. In connection with the boundary there shall be considered the cession of the island of Patos to Venezuela.

The river Orinoco shall be entirely free to commerce and navigation.

II. TREATY OF COMMERCE.

It will likewise be convenient to add in the treaty the clause "by arbitration" proposed by Venezuela, limited to those differences that may arise after the treaty is signed with exclusion of the questions of the boundary and the island of Patos, which the Government of Her Majesty is ready to consider separately in the manner indicated before.

III. DIFFERENTIAL DUTIES.

The distribution of the bases set forth in the foregoing memorandum shows that Lord Rosebery again considered separately the three parts of the negotiation, in order to apply to each a different method, and that as regards arbitration, he only accepted it on condition that it were restricted, in the treaty of commerce, to the ordinary prescriptions of such treaties, and, in the controversy on boundaries, to the new division of the territory in dispute proposed by himself.

He thus rather lessened the probability of soon reaching the longed-for end of the question, since, according to the constitution of Venezuela, the clause on general arbitration was a necessary provision embracing all treaties of amity, commerce, and navigation, as well as the settlement of the boundary question; and so it was explained at length by General Guzmán in the memorandum which, in turn, he sent to Lord Rosebery, in conjunction with his communication of July 29, 1886. And if it be stated that the present proposal was more unfavorable than others already rejected by Venezuela, it will be acknowledged that she was justified in disregarding it, as she did. Thus ended the third negotiation so eagerly solicited by Great Britain and willingly met by Venezuela.

Furthermore, when the two Governments sought in London to adjust their contention in peace and amity, British officers, both civil and naval, commissioned by the governor of British Guiana, appeared at the mouth of the Orinoco River, on board the steamship *Lady Longden*. They sailed upstream without a pilot, the Venezuelan authorities having declined to give them one; they made incursions into places that had always belonged to Venezuela; they planted posts, fixed placards declaring British laws in vigor, appointed officers of their own nationality as substitutes for those of the Republic or endeavored to allure them into their service, and finally took one of them away under pretext that he had illtreated a Portuguese subject, and caused him to be tried and punished by a court of justice at Demerara.

The placards read thus:

GOVERNMENT NOTICE.

Notice is hereby given that any persons infringing the right of Her Majesty, or acting in contravention of the laws of British Guiana, will be prosecuted according to law.

By command:

FRANCIS VILLIERS,
Acting Government Secretary.

GEORGETOWN, DEMERARA.

One Mr. Michael McTurk, entitling himself acting special magistrate and superintendent of the Crown lands and forests in the Pomaron district, had been at Amacuro, Barima, Morajuaana, and Guania. He had posted similar announcements, in English, at the principal places along these rivers, which he had revisited on different occasions, in performance of his duties as magistrate in charge of the district whereof they were parts.

In September, 1883, the Executive of Venezuela had concluded a treaty, approved by Congress in May, 1884, granting to Mr. Cyrinius C. Fitzgerald (Manoa Company) the exclusive right to colonize such national lands as were included within a tract which, on the side of the Orinoco River, extended as far as the boundary with British Guiana, along the mountains of Imataca, and there to develop agriculture and cattle breeding as well as any resources contained in the soil. Now, the acting Government secretary of Demerara had written to Mr. Fitzgerald, on the 25th of October, 1884, what I here transcribe:

I am directed by his excellency the governor of British Guiana to acknowledge receipt of your three letters noted in the margin with reference and transmitting documents respecting the Manoa Company and the concession made by the Venezuelan Government and to convey to you the expression of his excellency's thanks for the information and the document supplied.

With regard to the British Guiana boundary, I am directed by his excellency to intimate to you that the colonial government exercise authority and jurisdiction within the limits laid down in the accompanying map starting from the right bank of the Amacuro River, and that within these limits the colonial government enforce the law of British Guiana.

I am further to intimate to you that any person disregarding or acting in contravention of the laws of British Guiana within these limits will be liable to be prosecuted according to the laws of the colony.

The whole of the territory therefore between the Amacuro and Moruca rivers is part of the colony of British Guiana, and the Colonial Government will maintain jurisdiction over this territory and prevent the rights of Her Majesty or of the inhabitants of the colony being in any way infringed.

And in two letters, dated November 22, 1884, the aforesaid Mr. McTurk had declared to Señor Tomás A. Kelly, administrator and president of the Manoa Company, who purposed to set up a sawing machine at the mouth of the Barima River:

I deem it my duty as the officer now in charge of the Pomeroon River judicial district, and which district extends to the limits of the colony on its Venezuelan or western side, to notify you that the Barima River is in the county of Essequibo and colony of British Guiana, and forms part of the judicial district, over which I exercise jurisdiction.

No settlements of any kind, whether for the purpose of trade or any other purposes, can be made within the limits of the colony unless in accordance with its existing laws, and those that may become resident therein will be required to obey them.

* * * * *

I have the honor to inform you that you are now within the limits of the colony of British Guiana and those of the district under my jurisdiction, as one of the special magistrates and superintendent of Crown lands and forests of this colony, and therefore you are outside your jurisdiction as a functionary of Venezuela. * * * Whatever notification you should make to the inhabitants will be void, and all persons residing in this or any part of this colony, or visiting it, will have to conduct themselves in accordance to its laws. I must likewise call your attention to the notifications put upon trees on the banks of this river, as also on the rivers Waini and Barima. These notifications were fixed where they are by order of the Government of British Guiana.

The British legation at Caracas had, on its part, made similar warnings with regard to the Manoa Company. They were, however, more deferent to the right of Venezuela, as shown in the note it addressed to the department of foreign affairs on the 8th of January, 1885:

In a dispatch dated London the 28th November, I am directed by Her Majesty's Government to attract the attention of that of Venezuela to the proceedings of the

agents of the Manoa Company in certain districts, the sovereignty of which is equally claimed by Her Majesty's Government and that of Venezuela.

Earl Granville further instructs me to request the Venezuelan Government to take steps to prevent the agents of the Manoa Company or of Mr. H. Gordon, who has also a concession for colonization from the Venezuelan Government, from asserting claims to or interfering with any of the territory claimed by Great Britain.

Her Majesty's Government, in the event of that of Venezuela declining to move in this matter, would, to their great regret, feel themselves under the necessity of adopting measures for preventing the encroachment of the Manoa Company, and the governor of British Guiana would even be instructed to employ an adequate police force for the prevention of such encroachment and the maintenance of order.

Lord Granville goes on to inform me, however, that no steps will be taken by the governor of British Guiana pending this reference to the Venezuelan Government.

I need hardly remind your excellency that the question of the boundary of British Guiana is one of long standing and that communications upon the subject are at the present moment taking place between Her Majesty's Government and the Venezuelan minister in London, and it is therefore all the more important that incidents calculated to cause grave inconveniences should be prevented. The territories, irrespective of those disputed by Venezuela and Great Britain, conceded to the Manoa Company are enormous in extent; but without entering into that portion of the question, I feel certain that His Excellency the President of the Republic will duly appreciate the immense importance of obviating the possibility of any collision between the agents of that company and the British authorities in the territories the sovereignty of which is still a disputed question.

Posts had been set up along the eastern bank of the Amacuro River and on other spots as far back as the 11th of October, 1884, in pursuance of orders issued by the governor of British Guiana, but Her Majesty's minister did not give any notice of the fact to the department of foreign relations until the 26th of January, 1885, when the Venezuelan authorities in Guiana had already ordered their removal in evidence that Venezuela did not acquiesce to their significance of British dominion.

A like occurrence had taken place in regard to the pledge he gave in his note of January 8, 1885, that the governor of British Guiana would take no action against the proceedings of the Manoa Company or of Mr. H. Gordon's agents, so long as the petition he addressed to the Venezuelan Government in the same note remained undecided. Indeed, when he offered the above assurance, the measures of the British Government to which he adverted had been already executed.

The British legation had also notified the Government, on the 26th of the same month, that the governor of British Guiana had been instructed to send Mr. McTurk, stipendiary magistrate, to the eastern bank of the Amacuro River, with the purpose of investigating the conduct of the Manoa Company and especially that of Mr. Roberto Wells, civil commissary of Delta Territory, and others. Coincident with this advice, a commission of English officers had entered the Amacuro and had carried away the Venezuelan commissary under arrest.

The department of foreign affairs of Venezuela had maintained that, according to the contract with the Manoa Company, the words "as far as British Guiana" did not purport that the bounds of the concession reached beyond the territory in dispute. It had expressed to the minister of Great Britain its deep surprise on receiving intelligence of the events of Amacuro, and had finally urged the adoption of such measures as might retrieve those proceedings and bring matters back to the extant status quo, according to which neither nation could exercise jurisdiction over any portion of the territory in contest.

In the note he addressed in London to Lord Rosebery, dated the 28th of July, 1886, General Guzman Blanco earnestly propounded, in the name of his Government, the just complaints of the Republic for the successive recent violations of the national territory and acts against

Venezuelan jurisdiction that had been committed. He closed his note with the following demands:

1. Removal of all the marks of sovereignty that had been placed on the disputed lands by direction of the governor of British Guiana.
2. Recall of the officers and public forces that might have been posted in those lands.
3. Satisfactory explanations concerning the nonfulfillment of the convention proposed to Venezuela by Great Britain and concerning the violation of the laws of the Republic in regard to ports not open to foreign vessels.
4. Annulment of the action brought against Mr. Roberto Wells, his liberty and indemnification for the damages that had been caused him by his arrest, imprisonment, trial and punishment for the imputation of an offense committed in Venezuelan territory.
5. Complete restoration of affairs to their state in 1850, date of the aforesaid agreement, and strict orders to the governor of British Guiana enjoining the careful observance of it pending the settlement of the boundary question by the two Governments.

Great Britain not having done anything toward giving satisfaction to Venezuela, the minister of foreign affairs wrote to Mr. F. R. St. John, Her Britannic Majesty's resident minister, a note dated at Caracas, the 7th of December, 1886, to the following tenor:

In accordance with the order of the President of the Republic, as the result of the conference we held with him yesterday, I have the honor of addressing your excellency and stating in substance what he then expressed.

He said that his attention had been seriously called to the grave character of the intelligence received as to occurrences taking place, it is affirmed, in Guiana in regard to its boundary with British Guiana. He remembered the agreement concluded in 1850 by an interchange of notes between the two Governments on a spontaneous proposal of the British Government, and upon the ground of information sent from Ciudad Bolívar by Vice-Consul Mathison to Mr. Wilson, chargé d'affaires at Caracas, respecting the transmission of orders to the authorities of the Province of Guiana to put the same in a state of defense and to repair and arm the dismantled forts, and the language used by Governor José Tomás Machado as to the erection of a fort at the Barima Point; and on account also of a rumor spread to the effect that Great Britain intended to claim the Province of Venezuelan Guiana.

Besides giving it the lie by affirming that not only was it destitute of any foundation, but also that it was precisely the reverse of the truth, Mr. Wilson declared, in the name of his Government, that the latter had no intention to occupy or encroach upon the territory in dispute, and that they would not ordain or sanction such occupation or encroachments on the part of British authorities. At the same time he requested and obtained from the Government of the Republic analogous declarations. She has kept such an agreement by preserving the status quo, while Great Britain has infringed it since. Besides the acts of jurisdiction consummated from 1884, it has been ascertained that she has just now in the channels formed by the rivers Amacuro and Barima, about which there has been no question before, a commissary provided with two vessels containing arms and policemen, who levies taxes and prohibits persons going there on mercantile business from carrying out their operations; that she has had built a Government house, on which the British flag has been and is constantly hoisted; that a church and schoolhouses are being constructed; that in October last a small war steamer was there; that a revenue cutter often runs on the track between Amacuro and Barima, and that they have begun to form on the same spot an agricultural colony.

Even in the denied assumption that those places were a part of the disputed territory, Great Britain might not have occupied them without violating the above compact. And if, in spite of everything, she occupies them, with still greater reason they should be reoccupied by Venezuela, relieved as she is from any obligation on the ground of its infraction by the other contracting party, and being as she is fully conscious of her undebatable right of property.

The President said likewise that the concessions to the Manoa Company could not have given to Great Britain a just ground of complaint, as, according to their unequivocal terms, they only extended as far as "British Guiana;" that is to say, as far as points not contentious, and moreover, that the contract on the subject had expired.

On the above statement, and on the strength of an application made by the British legation, with the utmost instancy, in an official note to this ministry, on May 26, 1836, for the erection of a beacon at the Barima Point, thus recognizing *motu proprio* the incontestable sovereignty of Venezuela over the same, the President added that he was going to send there an engineer, instructed to erect the beacon, and new officers to exercise authority for the Republic in said place and in those lying between the rivers Barima and Amacuro, and to notify to the foreign occupants their withdrawal from them. And he ended by saying that if the Government of Her Britannic Majesty would occupy such a point as Barima, the possession of which would render them joint proprietors of the Orinoco, and decide in this manner by themselves and in their favor this, for Venezuela, the most grave question, wresting from her by force the exclusive domain of that river and presenting thus to her an indubitable *casus belli*, he should be compelled, by the requirements of patriotism and by his high duties as the guardian of the territorial integrity of Venezuela, to break up the relations between the two countries.

The President has instructed me to write this note in order that your excellency may communicate to me the information and antecedents you may know of in regard to so unheard of and almost incredible occurrences.

Mr. St. John replied that, since the President, before resorting to the occupancy of a portion of the disputed territory, had refused to await the result of the notification of his purpose to the British Government, he did not see what could be gained by assenting to his petition or by persevering in the discussion. In order to avoid error, however, he would remark in connection with two of the points treated in the communication of the minister of foreign relations, that, in the first place, the territory between the Barima and Amacuro rivers, which, according to the assertion contained in that communication, was only now claimed by Her British Majesty's Government, had been already mentioned in Lord Aberdeen's note to Mr. Fortique, dated the 30th of May, 1844, as a part of British Guiana; secondly, that the petition addressed to the Venezuelan Government on the 26th of May, 1836, by the British agent at Caracas, respecting the erection of a light-house at Punta Barima, had been made without the knowledge or authorization of the British Government, to whom the agent did not even notify such petition; and ultimately, that the doctrine assuming that every act or word of a diplomatic agent binds his Government is utterly incompatible with international law, it being perfectly recognized that not even a formal treaty concluded and signed by a plenipotentiary is valid unless it be duly ratified by his Government.

In reference to the two points in question the minister of foreign relations replied, on the 8th of January, 1887, in this manner:

Venezuela has never admitted, neither will she ever admit, that Dutch Guiana bounds on the Orinoco; and this is proved by the text of the note with which Señor Fortique opened the negotiation on limits by the previous ones in which he demanded the removal of the flags, posts, and marks placed at Barima and other places by Engineer Schomburgk in 1841, and by the conferences he held on the subject with their excellencies the ministers of foreign affairs and of the colonies. It was precisely the placing of these marks of foreign dominion at the places mentioned, to which Great Britain had no right, that created such a sensation in Venezuela, and caused the sending of Messrs. Lic. José Santiago Rodríguez and Juan José Romero to Demerara in the character of commissioners to demand an explanation of those surprising facts. In a note dated the 11th of December, 1841, Lord Aberdeen wrote to Señor Fortique that the marks had been placed as a means of preparation by his Government for the discussion of the boundary question with the Government of Venezuela; that they were placed precisely with this object, and not, as Venezuela seemed to fear, with the intention of indicating dominion or empire on the part of Great Britain. Lord Aberdeen added that he had learned with pleasure that the two commissioners sent by the Republic had been able to ascertain, through the information given them by the governor of said colony, that Point Barima had not been occupied by the English authorities.

The usurpations which Spain made legal by the Münster treaty were those concerning the colonies of Essequibo, Demerara, Berbice, and Surinam, and were afterwards confirmed by the extradition treaty made at Aranjuez, in which your excellency

may see that the Dutch colonies of Essequibo, Demerara, Berbice, and Surinam, together with Curaçoa and St. Eustace, are mentioned in juxtaposition with the Spanish colonies of the Orinoco, Coro, and Puerto Rico. Of these colonies the Netherlands transferred to His Britannic Majesty, by the London treaty of 13th August, 1814, those of Essequibo, Demerara, and Berbice. Whence comes, then, the right of England over the Spanish colonies of the Orinoco?

The second remark made by your excellency is to the effect that the British agent in Caracas—that is, Sir Robert Ker Porter, who in 1836 was the British chargé d'affaires in this Republic—requested from this Government the erection of a light-house at Point Barima, without the knowledge or the consent of his Government; and your excellency adds, quoting a note from the British legation to this Department, dated on the 26th of September, 1851, that the doctrine that all acts or words of a diplomatic agent bind his Government, is incompatible with international law, it being a well-known fact that not even a treaty made by a plenipotentiary is valid unless ratified by his Government.

On these points the President has instructed me to state that the Government of Venezuela can not admit that after the long period of fifty years has elapsed since the date of Sir Robert's communication, the British Government having been informed by him or his successors of the step he took, should not have apprised that of Venezuela of the lack of authorization which your excellency, on account of what has happened, communicates to-day for the first time, after fifty years have elapsed, and which nothing could make this Government presume upon.

The correspondence passed between the minister of foreign affairs and the British legation at Caracas, of which the preceding extracts have been offered, were sent to the Department of State by Sr. J. A. Olavarría in two pamphlets printed in English, along with his notes of May 4 and 21, 1887. It closed with the rupture of diplomatic relations between Venezuela and Great Britain, on the 20th of February of the same year.

The report of the commission sent to the Orinoco in 1886 by the Venezuelan Government had confirmed all the previous advices regarding the extensive occupation of territory and acts of sovereignty that Great Britain had accomplished in Guiana, in detriment of the rights of Venezuela, while the two nations were negotiating in Europe a treaty of amity, including a clause of arbitration, for the settlement of their boundary controversy.

In reply to the note of January 5, 1887, to which the Venezuelan consul at Demerara annexed another from the members of the aforesaid commission, stating the object of their visit to British Guiana, the government of the colony had referred to the notice published in the London Gazette, under date of 21st of October, 1886, and had manifested that the districts mentioned in the official communications of the Venezuelan commissioners were comprised within the bounds which that notice established, and formed part of the colony of British Guiana. In fact, the notice, which Mr. Charles Bruce, secretary of the government of Demerara, certified to have been copied from the London Gazette of October 21, 1886, runs thus:

COLONIAL OFFICE, DOWNING STREET,
October 21, 1886.

Whereas the boundary line between Her Majesty's colony of British Guiana and the Republic of Venezuela is in dispute between Her Majesty's Government and the Government of Venezuela; and whereas it has come to the knowledge of Her Majesty's Government that grants of land within the territory claimed by Her Majesty's Government as part of the said colony have been made, or purport to have been made, by or in the name of the Government of Venezuela: Notice is hereby given that no title to land, or to any right in or over or affecting any land, within the territory claimed by Her Majesty's Government as forming part of the colony of British Guiana, purporting to be derived from or through the Government of Venezuela, or any officer or person authorized by that Government, will be admitted or recognized by Her Majesty or by the Government of British Guiana, and that any person taking possession of or exercising any right over any such land under color of any such title or

pretended title will be liable to be treated as a trespasser under the laws of the said colony.

A map showing the boundary between British Guiana and Venezuela, claimed by Her Majesty's Government, can be seen in the library of the colonial office, Downing street, or at the office of the government secretary, Georgetown, British Guiana.

Of course the boundary laid down in that map was not the Essequibo River, which Venezuela, supported by the treaties of Münster (1648), Aranjuez (1791), London (1814), and Madrid (1845), had always claimed to be the eastern line dividing her from British Guiana.

Neither was it the Pomaron River, which Great Britain had adopted *motu proprio* until 1844, nor the Moroco, proposed by Lord Aberdeen, in 1844; nor Lord Granville's line, in 1881, which started 29 miles east of the eastern bank of the Barima River; nor Lord Rosebery's, in 1886, beginning on the coast, west of the Guainia River.

It was nothing short of the limit capriciously indicated by Engineer Schomburgk in 1841, which Lord Aberdeen had then considered to be exaggerated and of mere convenience so far as the Cuyuni River was concerned, its marks having been removed by order of Her Britannic Majesty's Government, by way of satisfaction to the complaints of Venezuela.

The same limit that Great Britain and Venezuela, by the agreement of 1850, had mutually engaged not to occupy or encroach upon, nor to allow it to be occupied or encroached upon by their respective authorities.

The same referred to in the Report No. 2 of the Department of Agriculture of the United States for the year 1892 (Report on the agriculture of South America, with maps and latest statistics of trade), in the following terms:

It ought to be noted, perhaps, that the British authority known as The Statesman's Year Book for 1885 gives the area of British Guiana, bounding Venezuela on the east, as 76,000, and that the same annual for 1886 gives the area as 109,000 square miles, an increase during a year of 33,000 square miles to European possessions in America and an equal loss to the Republic of Venezuela so far unaccounted for by treaty or recognized conquest, and claimed by the latter country to be against her hitherto unbroken and undisputed right of possession acknowledged in the treaty of Munster, 1648, the definitive treaty of Aranjuez, 1791, and the treaty of London, 1814, which conferred what is now British Guiana upon Great Britain with the Essequibo as its permanent western boundary.

With a view to include that increase of 33,000 square miles within the bounds of British Guiana, the court of policy had sanctioned a new territorial division, in July, 1886, reforming that of 1868 in vigor until then. The act reads thus:

Registration division No. 1, to comprise the settlements on the Moruca, Waini, and Barima rivers and their tributaries, the right bank of the Amacuro River and its tributaries on that bank, and all the country lying between the above-named rivers and as far back as the limits of the colony extend.

According to the ordinance of 1868, the legal boundary of the colony ever since the beginning of the controversy in 1841, did not extend beyond the Pomaron River.

The country inclosed between the Pomaron and Barima rivers and Punta Barima was the principal object of the dispute between the two States. Neither could take possession of it or occupy it so long as the difficulty subsisted, especially so Great Britain, after the agreement of 1850, which she had proposed herself. Nevertheless, she had gradually occupied the whole territory and had subjected it to her exclusive domain, by reason of its being under litigation, at the same time that in London she baffled the expectations of Venezuela and her exertions to

bring about the final arrangement of the question by arbitration. She had twice declined to evacuate the land and retire back to the Pomaron.

Offended at the double refusal of Great Britain to submit the difference to arbitrament, Venezuela, deprived by her material weakness of every immediate and efficient means of obtaining justice, determined, as before said, to suspend her diplomatic relations with Great Britain and "to protest before Her British Majesty's Government, before all civilized nations, and before the world in general, against the acts of spoliation committed to her detriment by the Government of Great Britain, which she at no time and on no account will recognize as capable of altering in the least the rights which she has inherited from Spain, and respecting which she will ever be willing to submit to the decision of a third power."

General Guzmán-Blanco, the last negotiator for the Republic in England, had been again elected to the presidency of Venezuela. In order to close this period of the controversy, I present here the account of General Guzmán's mission and of the subsequent acts of the Government he headed, until the relations with Great Britain were severed, as given in his message to Congress in 1887:

The Guiana boundary question has taken so grave a turn that it is with deep regret that I must speak to you about our relations with Great Britain.

While in London in the character of minister of Venezuela I discussed our three questions with Her British Majesty's Government, namely, diplomatic claims, differential duties relating to the British Antilles, and the Guiana boundaries.

It may be said that the first one was finally settled; as for the other two, they were included in a project of a new treaty in substitution for the present one which has been extant fifty-eight years because of the inconceivable interpretation of perpetuity imposed upon us by England, under color that no date was established in it for its expiration.

After a year's discussion, the project of a new treaty was agreed upon with Lord Granville, then minister for foreign affairs. The taxes on the British West Indies were made equal to those of the metropolis; arbitration was accepted by both parties as the only means of settling such questions as could not be adjusted by common accord, and a period of ten years was fixed, after which it would rest with each of the parties to denounce the treaty.

This, however, was not signed, as the clause of the most favored nation was required from us in an absolute way, and Venezuela could enter into no engagement with other ends or on other terms than those stipulated with the other friendly nations.

This difference might have been easily surmounted, for England maintained the same pretension respecting the United States of America and finally withdrew it, because the latter nation alleged the same reasons that we have alleged.

So, then, the treaty with Great Britain was well-nigh being signed, when Lord Salisbury's ministry came into office and categorically declined to conclude the negotiation on the same terms on which it had been conducted by his predecessor, notwithstanding my remark that in the question between Afghanistan and Russia the agreement negotiated by his predecessor had been signed, and that the Marquis of Salisbury himself had just said in Parliament that he had signed it because it was unworthy of a serious government to retract their word when once given; which afforded me the opportunity to maintain that, the case with the negotiation of Venezuela being the same as that of Russia, we had a right to be treated in the same way, unless Great Britain applied one jurisprudence to Russia and a different one to Venezuela, of which I should much regret to notify my Government.

The last month of my delay in Europe was due to the circumstance that the minister, Lord Rosebery, requested a last effort on my part in order to settle in two or three more weeks this important negotiation. The time having expired without any fruit, because the minister did not accept the arbitrament and demanded the Guaima River, tributary to the Orinoco, I took my leave in a note, wherein it was stated, in substance, that Venezuela had accredited me with the most ample powers to bring the three questions at issue to a definitive end; that the question concerning the course to be followed for the payment of the diplomatic claims being almost settled, the other two were comprehended in the new treaty intended to replace the present one, no longer possible after fifty-eight years of existence, in which the period of its duration was not determined, according to the same treaty; that unfortunately, during the two years elapsed, no adjustment could be reached in regard to the treaty

solving the difficulty of the differential duties on the British West Indies and that of the Guiana boundaries, the latter to be decided by arbitration, the only available means for Venezuela, since our constitution prohibits the alienation of territory and establishes our limit on the Essequibo River, which was the one held by Spain, whose territorial rights Venezuela inherited; and that, it being necessary to intrust the discussion of the question to a man thoroughly familiar with the voluminous archive embracing it, the study of which requires a long time, and it having been agreed, moreover, that the three questions at issue should be resolved conjointly, it was urgent to suspend for the present time the negotiations which had occupied our attention.

Instead of replying to this note, the English Government, doubtlessly because they were told that our boundary reached as far as the Essequibo, has discontinued the discussion and, by decree, has taken possession of and occupied the territory, not only along the Pomaron, but as far as Punta Barima and Amacuro, thus dispossessing us of the exclusive dominion over the Orinoco, the great artery on the north of the continent, the Mississippi River of South America.

In view of this condition of affairs, what could I do? Could I inform the Congress of my country that a foreign power had occupied part of our territory without adding that I had protested in the name of the nation and severed the diplomatic relations with a Government that acts in such a way toward us?

On the 26th of January of the present year I demanded the evacuation of the territory as far as the Pomaron River.

On the 31st of January Her Britannic Majesty's minister sent his reply confirming the occupancy to a certain extent.

I answered him under the same date that, contrary to the agreement of the 18th of November, 1850, establishing that neither Venezuela nor Great Britain should exercise jurisdiction over the country lying west of the Pomaron River, England had occupied the said territory and its rivers as far as the mouth of the Orinoco, thus infringing the agreement and completing the despoliation; and that, in consequence thereof, Venezuela would discontinue her diplomatic relations with Great Britain and raise a most solemn protest against so grievous a despoliation, if the state of affairs was not brought back to what it was in 1850, before the date for the constitutional meeting of Congress, or if the submission to arbitration of the Guiana boundary question was not assented to, in accordance with our Constitution, and with the sound criterion of civilized people.

This was done on the 21st of last month, at 4 o'clock p. m., but Her Britannic Majesty's minister has not yet asked for his passport.

At any rate, honor is at stake, and its fate will be that of the nation.

Anticipating the impending rupture between Venezuela and Great Britain, the Hon. Mr. Bayard, desirous to avert it, had offered the British Government, in December, 1886, the cooperation of the United States as arbiters for the adjustment of the difference.

It does not appear, said the honorable Secretary of State on that occasion, that at any time heretofore the good offices of this Government had been actually tendered to avert a rupture between Great Britain and Venezuela. As intimated in my No. 58, our inaction in this regard would seem to be due to the reluctance of Venezuela to have the Government of the United States take any steps having relation to the action of the British Government which might, in appearance even, prejudice the resort to our arbitration or mediation, which Venezuela desired. Nevertheless, the records abundantly testify our friendly concern in the adjustment of the dispute; and the intelligence now received warrants me in tendering, through you, to Her Majesty's Government, the good offices of the United States to promote an amicable settlement of the respective claims of Great Britain and Venezuela in the premises.

As proof of the impartiality with which we view the question, we offer our arbitration, if acceptable, to both countries. We do this with the less hesitancy as the dispute turns upon simple and readily ascertainable historical facts.

Her Majesty's Government will readily understand that this attitude of friendly neutrality and entire impartiality touching the merits of the controversy, consisting wholly in a difference of facts between our friends and neighbors, is entirely consistent and compatible with the sense of responsibility that rests upon the United States in relation to the South American republics. The doctrines we announced two generations ago, at the instance and with the cordial support and approval of the British Government, have lost none of their force or importance in the progress of time, and the Governments of Great Britain and the United States are equally interested in conserving a status the wisdom of which has been demonstrated by the experience of more than half a century.

It is proper, therefore, that you should convey to Lord Iddesleigh, in such sufficiently guarded terms as your discretion may dictate, the satisfaction that would be felt by the Government of the United States in perceiving that its wishes in this regard were permitted to have influence with Her Majesty's Government. (The Honorable Mr. Bayard to Mr. Phelps; confidential; 30th of December, 1886.)

England declined the offer on the following grounds:

Her Majesty's Government fully appreciate the friendly feelings which have prompted your Government to offer their mediation in this matter.

The attitude, however, which General Guzmán Blanco has now taken up in regard to the questions at issue precludes Her Majesty's Government from submitting those questions at the present moment to the arbitration of any third power.

An offer to mediate in the questions at issue between this country and Venezuela has already been received by Her Majesty's Government from another quarter, and has been declined on the same grounds.

I beg that you will convey to the Secretary of State the cordial thanks of the Queen's Government for your communication, and that you will inform him that they have not yet abandoned all hope of a settlement by direct diplomatic negotiations with Venezuela. (Lord Salisbury to Mr. Phelps, 22d of February, 1887.)

On the 11th of March the Times of London published an abstract of the Report of Parliamentary Papers of the preceding day, relating to the suspension of relations with Venezuela. It said:

Mr. Staveland Hill asked the under secretary of state for foreign affairs whether, considering the increasing importance of the subject and the breach of diplomatic relations between this country and Venezuela, Her Majesty's Government would consider the advisability of sending a commission to settle the boundary between British Guiana and Venezuela.

Sir J. FERGUSON. Her Majesty's Government have every wish to arrive at a settlement of the boundary question, but no such step as that suggested can be taken so long as the Venezuelan Government maintains the suspension of diplomatic relations with this country.

His mission in Venezuela being now at an end, the British minister sailed with his family from La Guaira for Trinidad on the 14th of March. Great Britain remained in possession of the contested territory as far as the mouth of the Orinoco River. She had declined the mediation of the United States and that of another power, and the offices of the former, as arbiters, for the settlement of the controversy, when she still held amicable relations with Venezuela, and now she refused to take the steps pursuant to an agreement because of the cessation of those relations by the action of Venezuela.

Certain British men-of-war which, since the latter part of February, had been permanently seen in the gulf of Paria withdrew also from the Venezuelan coasts in the subsequent month of June, while the governor of Demerara declared before the colonial assembly that England would not guarantee any protection or compensation in case the boundary question should be decided in favor of Venezuela. This, together with the news in circulation that one Mr. Hill would soon arrive at Caracas, in the capacity of a commissioner, for the purpose of discussing the matter, created the belief that Great Britain had quitted her former position, and that the ties between the two countries were likely to be soon reestablished. But the belief proved to be a vain one; it lasted only a moment.

After a short while Great Britain was seen to prosecute with renewed activity the process of her invasions, her claims including this time the rich territory of Yuruari, the great mining district of Venezuela. On the 29th of November a motion was introduced in the legislature of Demerara authorizing the construction of a railroad extending to the boundaries of the colony, across the Mazaruni and Cuyuni rivers, within which boundaries, as alleged by the Queen's attorney, the said district of Yuruari was comprised. And a month later the governor issued the following proclamation:

BRITISH GUIANA.

By his excellency Charles Bruce, esq., companion of the Most Distinguished Order of St. Michael and St. George, lieutenant-governor and commander in chief in and over the colony of British Guiana, vice-admiral and ordinary of the same, etc.

Whereas it has come to the knowledge of the Government of British Guiana that certain concessions have been granted by the President and by and with the sanc-

tion of the Government of the United States of Venezuela, purporting to give and grant certain rights and privileges for constructing a railway to Guacipati and in and over certain territories and lands within and forming part of the colony of British Guiana;

Now, therefore, I do hereby intimate to all whom it may concern that no alleged rights purporting to be claimed under any such concession will be recognized within the said colony of British Guiana, and that all persons found trespassing on or occupying the lands of the colony without the authority of the Government of this colony will be dealt with as the law directs.

Given under my hand and the public seal of the colony, Georgetown, Demerara, this 31st day of December, 1887, and in the fifty-first year of Her Majesty's reign.

God save the Queen.

By his excellency's command.

GEORGE MELVILLE,
Acting Government Secretary.

It was to this new and exorbitant pretension that the Honorable Mr. Bayard adverted in the note from which the following passages are quoted:

The claim now stated to have been put forth by the authorities of British Guiana necessarily gives rise to grave disquietude, and creates an apprehension that the territorial claim does not follow historical traditions or evidence, but is apparently indefinite. At no time hitherto does it appear that the district, of which Guacipati is the center, has been claimed as British territory or that such jurisdiction has ever been asserted over its inhabitants, and if the reported decree of the governor of British Guiana be indeed genuine it is not apparent how any line of railway from Ciudad Bolivar to Guacipati could enter or traverse territory within the control of Great Britain.

It is true that the line claimed by Great Britain as the western boundary of British Guiana is uncertain and vague. It is only necessary to examine the British colonial office list for a few years back to perceive this. In the issue for 1877, for instance, the line runs nearly southwardly from the mouth of the Amacuro to the junction of the Cotinga and Takutu rivers. In the issue for 1887, ten years later, it makes a wide detour to the westward, following the Yuruari. Guacipati lies considerably to the westward of the line officially claimed in 1887, and it may perhaps be instructive to compare with it the map which doubtless will be found in the colonial office list for the present year.

It may be well for you to express anew to Lord Salisbury the great gratification it would afford this Government to see the Venezuelan dispute amicably and honorably settled, by arbitration or otherwise, and our readiness to do anything we properly can to assist in than end.

In the course of your conversation you may refer to the publication in the London *Financier* of January 24 (a copy of which you can procure and exhibit to Lord Salisbury), and express apprehension lest the widening pretensions of British Guiana to possess territory over which Venezuelan jurisdiction has never heretofore been disputed may not diminish the chances for a practical settlement.

If, indeed, it should appear that there is no fixed limit to the British boundary claim, our good disposition to aid in a settlement might not only be defeated, but be obliged to give place to a feeling of grave concern. (Mr. Bayard to Mr. Phelps, 17th of February, 1888.)

Subsequently to the proclamation of the governor of Demerara a force was sent off to take possession of the new territories and lands, and several projects were presented for the construction of a road to Yuruari, which was never executed, and of railway and telegraphic communications with the mines.

In June, 1888, while the Republic, through her representative in Europe, was negotiating in a confidential way the preliminaries to the reinstallation of the question on diplomatic ground and to the reestablishment of harmony with Great Britain, the Government of British Guiana decreed the creation of one more colonial district, under the name of northwest district, within the compass of which was included the Venezuelan territory of Barima. Officers were also appointed for its permanent occupancy and for the collection of taxes, and a sum of \$10,000 was appropriated for administration expenses, etc.

The report of the Department of Agriculture of the United States, previously mentioned, shows that the acquisitions of land in Guiana

in detriment of the Venezuelan territory amounted to an area of 33,000 square miles only in the year of 1885 to 1886. The increase of English possessions can be estimated in view of the extent of the appropriations from 1814 to 1885, and of those effected after 1886, previously to the last decree of the governor of Demerara, and at a later period. It will suffice to remember that reliable geographers situated the English colony between the Corawin and Essequibo rivers at the first quarter of this century; that several of them assigned to it a surface of 50,000 to 60,000 square kilometers, while others considered it to be 65 leagues long by 30 wide, bounded, on the Atlantic coast, by the mouth of the Corentin and Cape Nassau; that, according to the allegation of Venezuela, British Guiana, as succeeding Dutch Guiana, possesses only such extent of territory as is limited to the west, by the Essequibo River ($58^{\circ} 30'$ longitude west of Greenwich) and by the $4^{\circ} 2'$ and $6^{\circ} 50'$ parallels, north latitude, and that, as it appears from the map of the foreign office list, for 1892, it has now been stretched out to the 62° meridian, west longitude, and to the 1° and 9° parallels, north latitude.

Venezuela protested against the grievances committed in June, 1888, by the authority and settlers of Demerara, with or without the consent of the British cabinet, as she had previously done against similar proceedings in 1887; and renewed her protest in October of the same year, 1888, when the advice reached the department of foreign relations that the English had two schooners in Barima, which relieved each other every fortnight; that they prevented the cutting of wood, did not allow the pontoon light-house of the Republic to anchor less than half a mile away from the land, and also continued to occupy Amacuro. The Department of State is acquainted with all these formal declarations of Venezuela in defense of her territorial rights ignored by Great Britain.

Great Britain took no heed to such declarations. On the contrary, scarcely had a year elapsed since the last was made, the Government of Demerara took formal possession (proclamation of December 4, 1889) of the main mouth of the Orinoco, declared the city of Barima to be a British port of the colony, and established there a police station, thus calling forth a new protest on the part of Venezuela, on the 16th of December, 1889, which was also communicated in proper time to the Government of the United States, through its legation at Caracas.

The Department of State was not indifferent to the above-mentioned communication; on the contrary, it hastened to authorize Mr. White to confer with Lord Salisbury respecting the reestablishment of diplomatic relations between Great Britain and Venezuela, on the basis of a temporary return to the status quo, as suggested by the Venezuelan minister (Mr. Blaine to Mr. White, telegram of December 30, 1889). And in another telegraphic dispatch of a posterior date it carries still further the offer of its friendly cooperation:

Mr. Lincoln is instructed to use his good offices with Lord Salisbury to bring about the resumption of diplomatic intercourse between Great Britain and Venezuela as a preliminary step toward the settlement of the boundary dispute by arbitration. The joint proposals of Great Britain and the United States toward Portugal, which have just been brought about, would seem to make the present time propitious for submitting this question to an international arbitration. He is requested to propose to Lord Salisbury, with a view to an accommodation, that an informal conference be had in Washington or in London of representatives of the three powers. In such conference the position of the United States is one solely of impartial friendship toward both litigants. (Mr. Blaine to Mr. Lincoln (telegram), 1st of May, 1890.)

The instruction contained in the foregoing telegram was confirmed and amplified in a subsequent note, where, after briefly considering the

obstruction which the abrupt rupture of diplomatic intercourse with England opposed to the renewal of negotiations on the basis of the status quo, and the surrender of the entire question to arbitration, the honorable Secretary of State goes on to say:

It is nevertheless desired that you shall do all you can consistently with our attitude of impartial friendliness to induce some accord between the contestants by which the merits of the controversy may be fairly ascertained and the rights of each party justly confirmed. The neutral position of this Government does not comport with any expression of opinion on the part of this Department as to what these rights are, but it is evident that the shifting footing on which the British boundary question has rested for several years past is an obstacle to such a correct appreciation of the nature and grounds of her claim as would alone warrant the foundation of any opinion. (Mr. Blaine to Mr. Lincoln, 6th of May, 1890.)

The following considerations, among others, were offered by the Marquis of Salisbury:

Her Majesty's Government are very sensible of the friendly feelings which have prompted this offer on the part of the United States Government. They are, however, at the present moment in communication with the Venezuelan minister in Paris, who has been authorized to express the desire of his Government for the renewal of diplomatic relations and to discuss the conditions on which it may be effected.

The rupture of relations was, as your Government is aware, the act of Venezuela, and Her Majesty's Government had undoubtedly reason to complain of the manner in which it was effected. But they are quite willing to put this part of the question aside, and their only desire is that the renewal of friendly intercourse should be accompanied by arrangements for the settlement of the several questions at issue.

I have stated to Señor Urbaneja the terms on which Her Majesty's Government consider that such a settlement might be made, and am now awaiting the reply of the Venezuelan Government, to whom he has doubtless communicated my proposals.

Her Majesty's Government would wish to have the opportunity of examining that reply, and ascertaining what prospect it would afford of an adjustment of existing differences, before considering the expediency of having recourse to the good offices of a third party.

I may mention that, in so far as regards the frontier between British Guiana and Venezuela, I have informed Señor Urbaneja of the willingness of Her Majesty's Government to abandon certain portions of the claim which they believe themselves entitled in strict right to make and to submit other portions to arbitration, reserving only that territory as to which they believe their rights admit of no reasonable doubt. If this offer is met by the Venezuelan Government in a corresponding spirit, there should be no insuperable difficulty in arriving at a solution. But public opinion is, unfortunately, much excited on the subject in Venezuela, and the facts of the case are strangely misunderstood. (The Marquis of Salisbury to Mr. Lincoln 26th of May, 1890.)

Lord Salisbury had, indeed, communicated two memoranda to Señor Urbaneja, one on the 10th of February and the other on the 19th of March, 1890.

In both it is categorically stated that—

Her Majesty's Government can not accept as satisfactory any arrangement not admitting as English property the territory included within the line laid down by Sir R. Schomburgk.

And in the second of them he further says:

That in order to facilitate an arrangement and in evidence of good will toward Venezuela, Her Majesty's Government are disposed to relinquish a part of a certain pretension, and that, in regard to the portion of territory not comprised between Schomburgk's line and England's extreme pretension, they are disposed to submit to the arbitration of a third power.

This last portion begins at the mountains of Imataca, opposite to the source of the river bearing the same name, and of the Acquire. It bends to the southwest and extends along the Yuruari River down to the point where Lord Granville's line joins that of Schomburgk, now altered; thence it continues westward until it reaches the confluence of the Yuruari with the Cuyuni; then turns northward along the course of the Yuruari to a certain distance above the town of Nueva

Providencia, which it encircles; and embracing the whole of the Avechica River and of the Sierra of Usupamo as far as the spot where the latter runs together with that of Carapo, it skirts the mountains of Rinocoto up to the source of the Caco River. To this line a portion of land is to be added, thus bounded: from the spot previously mentioned, opposite to the Acquire and Imataca rivers, it spreads southeasterly to a certain nameless river (perhaps the Paraguayaira); thence to the southwest toward the Cuyuni, the left bank of which it follows as far as the source of the Camarate River, from which it now turns away in a curved direction to reach the origin of the above mentioned Caco River.

The part of pretension which she abandoned was that limited by the line which, starting from the vicinity of the mouth of the Amacuro, descends to the southwest as far as the origin of the Yariquita Mountains, proceeds along the ridge of Imataca to the town of Upata, intersects the Usupamo and Carapo at the place where they flow into the Caroni, and extends along the Carapo and Rinocoto Mountains till it blends with the original line of Schomburgk.

In fine, of the three sections into which Lord Salisbury divided this time the territory in dispute, that which Her Majesty's Government held in possession as exempt from all discussion regarding titles was no other than the portion including Barima, one of the mouths of the Orinoco, precisely the knot of the controversy; the same that had been explored by Sir R. Schomburgk and constantly rejected by Venezuela since 1840, which now appeared considerably altered to the benefit of Great Britain, as it can be seen by comparison with the original line of the same English engineer as figured in the map showing the various boundaries proposed by Venezuela and England until 1890. A copy of this map is in the possession of the Department of State.

Before the reply of Venezuela to the proposals of Lord Salisbury had reached Dr. Urbaneja, Dr. Lucio Pulido arrived at London as his substitute, with the powers of a plenipotentiary ad hoc and envoy extraordinary and minister plenipotentiary of the Republic. The main object of this diplomatic mission was the resumption of relations with Great Britain, through the good offices of the minister of the United States, a condition sine qua non of such resumption being the preestablishment of cardinal points—among them the settlement of the conflict by arbitration—intended to govern the discussion concerning any definitive agreement.

Sir T. H. Sanderson, under secretary at the foreign office, with whom Dr. Pulido negotiated, proposed to him a line which, commencing at Punta Mocomoco, between Punta Barima and the Guaina River, was to border upon the Amacuro River on the west, in compensation for which the boundary line was to follow the course of the Uruan or Yuruan River, up from its junction with the Cuyuni, and could be stretched as far as the mountains of Usupamo and Rinocoto. He promised, moreover, according to Dr. Pulido's official report, that Her Majesty's Government, being willing to negotiate directly with that of Venezuela for the purpose of establishing a frontier of mutual convenience between the two Guianas, approaching as far as possible the natural limits, would lengthen Sir T. H. Sanderson's line from Cape Mocomoco toward the southeast, and would renounce any claim or compensation whatever for the abandonment or, to speak more properly, for the restitution of the mouths of the Orinoco and the adjoining territories.

It can not but be observed that, by this proposition, Great Britain again admitted discussion concerning her right over the territory explored by Schomburgk, a right formerly asserted to be unquestion-

able, and even promised to withdraw all claims to the Orinoco and the neighboring country. The proposition was thus rendered more advantageous than the one which had been made to Señor Urbaneja in the previous month of March; but since Venezuela's aim had been not to propose the adjustment of the difference at once, but to promote a renewal of diplomatic intercourse on condition that the English Government should agree to submit the question to international arbitration, a purpose which had not been realized, Señor Pulido returned to Caracas in September of the same year, 1890, leaving the boundary dispute in the state above described, and the good understanding between the two nations interrupted as before.

As a testimony of her sincere desire to reestablish and facilitate by that means the removal of all the difficulties, Venezuela finally appointed Señor Tomas Michelena, confidential agent of the Republic, to resume negotiations with Her Majesty's Government in pursuance of that purpose. I offer here an excerpt of the clauses presented by him at the outset of his proceedings:

First. After the renewal of the official relations between the two countries, subsequently to the ratification of this preliminary agreement by the respective Governments, each of them shall appoint one or more delegates, invested with full powers, to sign a treaty on boundaries, founded on a conscientious and thorough examination of the documents, titles, and antecedents supporting their claims; it being moreover agreed that the decision of the doubtful points, or the delineation of a divisional line concerning which no accord may be reached by the delegates, shall be submitted to the final and unappealable decision of an arbiter juris who, the case occurring, shall be nominated by mutual concert between the two Governments.

Second. In order that the reestablishment of relations with Her Majesty's Government may be accomplished on a footing of the greatest cordiality, the Government of Venezuela will proceed to the conclusion of a new treaty of commerce, revoking the 30 per cent additional duty and substituting in its place one of limited duration, such as that proposed by Lord Granville in 1884.

Third. The claims which Her Majesty's subjects and the citizens of the Republic of Venezuela may have a right to produce against each other's Government shall be investigated by a commission appointed ad hoc, Venezuela agreeing to such a proceeding so far only as this special case is concerned, since, by a decree of the Republic, the judgment and decision on foreign claims are committed to the supreme federal court, and it shall consequently be declared that, as regards future claims, Great Britain accepts the foregoing regulation.

Fourth. It shall be stated in the preliminary agreement that both Her British Majesty's Government and the Government of Venezuela acknowledge and declare the status quo of the boundary question to be that which existed in 1850, when the Hon. Sir B. Wilson, chargé d'affaires of England at Caracas, formally manifested, in the name and by express order of Her British Majesty's Government, that no portion of the disputed territory would be occupied, and solicited and obtained a similar declaration on the part of the Venezuelan Government. This status quo shall be maintained until the treaty on boundaries adverted to in clause I shall have been concluded.

Fifth. The agreement to be made on the preceding bases, signed by the confidential agent of Venezuela, in exercise of the powers with which he is invested, and the person duly authorized to that effect by Great Britain, shall be forthwith submitted to ratification by both Gov-

ernments, and, after exchange, the diplomatic relations between the two countries shall be considered reestablished ipso facto. (London, the 26th of May, 1893.)

Lord Rosebery replied on the 3d of the following July. He offered no immediate remark concerning the propositions contained in Clauses II, III, and V, presented by Señor Michelena; but, referring only to Clauses I and IV, on the boundary question between Venezuela and British Guiana, which, in his opinion, was the most important of all the questions to be considered, he pointed out that, although the present proposal of the Venezuelan Government admitted the possibility of settling the boundary controversy by treaty, the fact that it also involved reference to arbitration in case of difference between the delegates of the two Governments intrusted with the negotiation of that treaty practically reduced it to the form which has repeatedly been declined by Her Majesty's Government, namely, the reference to arbitration of a claim advanced by Venezuela to a great portion of a long-established British colony.

Her Majesty's Government therefore considered that the Clause I of the promemoriâ could only be accepted by them under the conditions specified in the memorandum communicated in Sir T. Sanderson's note to Señor Urbaneja, dated the 19th of March, 1890. They would propose the amendment of Clause I of the promemoriâ in the manner indicated by the additions marked with red ink on the copy therein inclosed.

With regard to Clause IV of the promemoriâ, in which it is proposed that both Her Majesty's Government and the Government of Venezuela shall acknowledge and declare that the status quo of the boundary controversy is that which existed in 1850, Her Majesty's Government considered quite impossible that they should consent to revert to the state of affairs in 1850, and to evacuate what had for some years constituted an integrant portion of British Guiana. They regretted, therefore, that they could not entertain that proposition. Great Britain believed herself entitled to incontestable rights over the territory now occupied by her. Those rights she was unable now to abandon, and she could not consent that any status quo, except that now existing, should remain in force during the progress of the negotiations.

The alteration of Clauses I and IV, as proposed by Lord Rosebery, reads textually as follows, the words which are in *italic* being those which appear in red ink in the original:

Whereas the Government of Great Britain claims certain territory in Guiana, as successor in title of the Netherlands, and the Government of Venezuela claims the same territory as being the heir of Spain, both Governments, being inspired by friendly intentions, and being desirous of putting an end to the differences which have arisen on this matter, and both Governments wishing to pay all deference to the titles alleged by either to prove its jurisdiction and proprietary rights over the territory in question, they agree and stipulate that, as soon as the official relations shall have been reestablished between the two countries, and after the ratification of the present preliminary convention by both Governments, one or more delegates shall be named by each party, with full power to conclude a frontier treaty, founded on a conscientious and complete examination, by the said delegates, of the documents, titles, and past events supporting the claims of either party, it being agreed that the said territory in dispute lies to the west of the line laid down in the map communicated to the Government of Venezuela on the 19th of March, 1890, and to the east of a line to be marked on the same map, running from the source of the river Cumano down that stream and up the Aima, and so along the Sierra of Usupano, and that the decision of doubtful points and the laying down of a frontier on the line of which the delegates may be unable to agree shall be submitted to the final decision, from which there shall be no appeal, of a juridical arbiter, to be appointed, should the case arise, by common agreement between the two Governments.

This frontier impairs the right of Venezuela, if compared with that proposed in 1886 by Lord Rosebery himself to General Guzman-Blanco, and also, to a greater extent, with the line described in the map sent by Lord Salisbury to Señor Urbaneja on the 19th of March, 1890, through Sir T. Sanderson, since the aforesaid limit intended to be drawn to the west of the latter necessarily and finally confers on Great Britain the proprietorship, actually and by right, of a greater portion of territory not subject to the decision of the delegates and of the juridical arbiter.

Venezuela had declined the first and second lines, and so had stronger reasons not to accept the third. Señor Michelena communicated forthwith her refusal, reiterating at the same time her desire that the British Government should consent to resume the discussion of the preliminary treaty, inspiring themselves in the declarations which, in their name, had been recently made by Mr. Gladstone before the Parliament in behalf of arbitration.

On the 12th of September, Lord Roseberry replied:

Her Majesty's Government have carefully examined the arguments contained in your note of the 31st of last July, concerning the settlement of the boundary question between the Republic of Venezuela and the colony of British Guiana.

I regret to inform you that it does not appear to Her Majesty's Government that the contents of your note open the way to any agreement that they can accept concerning this question.

They are still desirous, however, to come to an understanding in regard to the frontier between the possessions of the two countries, and they are disposed to give their best attention to any practicable proposals that might be offered them to that effect.

Señor Michelena analyzed this note in a communication to the foreign office, dated the 29th of the same month of September, 1893, wherein he briefly sketches the history of the controversy from Señor Fortique's mission in 1840 up to his in 1893, and expresses his regret that he must acquaint the Government of the Republic with the last reply given by that of Great Britain. He closes with the following protest:

It now remains for me to declare in the most solemn manner, in the name of the Government of Venezuela, that they deeply regret that the condition of affairs created by the events which occurred during the late years in the disputed territory must remain subject to the serious disturbances which de facto proceedings can not fail to produce, and that in no time will Venezuela consent that such proceedings be adduced as valid titles to legitimize an occupancy interfering with her territorial jurisdiction.

Under the direction of Dr. Chittenden, secretary of the board of agriculture of Trinidad, a sloop had been fitted out some days before for the purpose of carrying twenty-nine expeditionists to High Barima, who were to further the works of the Dixon Company. Together with this news the Port-of-Spain Gazette of the 25th of July announced vast schemes of enterprise to be carried out, with the aid of companies and capitals from the colony, in the territory now called Northwest District by the English, extending as far as the mouth of the Orinoco. The Executive of Venezuela considered this occurrence and the said schemes no less of a nature to embarrass the agreement in furtherance of the settlement of the boundary question than contrary to the good course of the negotiations commenced at London, inasmuch as the Republic had always defended as her property the territory of that district. The Executive accordingly instructed its confidential agent to make them known to Her Majesty's Government, which the agent did.

Lord Rosebery replied on the 22d of September:

With reference to my note of the 2d instant I have the honor to inform you that Her Majesty's Government have given their careful attention to the representations

contained in your note of the 26th ultimo, complaining of acts on the part of the authorities of British Guiana which are considered by the Venezuelan minister for foreign affairs to be in contravention of the rights of Venezuela.

Her Majesty's Government are desirous of showing all proper respect for the recognized rights of Venezuela, but the acts of jurisdiction to which you refer in your note do not appear to them to constitute any infraction of encroachment upon those rights. They are in fact no more than part of the necessary administration of a territory which Her Majesty's Government consider to be indisputably a portion of the colony of British Guiana, and to which, as it has been their duty to state more than once, they can admit no claim on the part of Venezuela.

And Mr. Michelena closed the discussion with his reply of the 6th of October, the last two paragraphs whereof I may conveniently insert here, as they include the last declaration of Venezuela against the illegal and greivous proceedings of Great Britain:

I perform a most strict duty in raising again, in the name of the Government of Venezuela, a most solemn protest against the proceedings of the Colony of British Guiana, constituting encroachments upon the territory of the Republic, and against the declaration contained in your excellency's communication, that Her Britannic Majesty's Government considers that part of the territory as pertaining to British Guiana, and admits no claim to it on the part of Venezuela. In support of this protest, I reproduce all the arguments presented to your excellency in my note of the 29th of last September, and those which have been exhibited by the Government of Venezuela on the various occasions they have raised this same protest.

I lay on Her Britannic Majesty's Government the entire responsibility of the incidents that may arise in future from the necessity to which Venezuela has been driven to oppose by all possible means the dispossession of a part of her territory, for by disregarding her just representation to put an end to this violent state of affairs through the decision of arbiters, Her Majesty's Government ignores her rights and imposes upon her the painful though peremptory duty of providing for her own legitimate defense.

Thus ended the sixth and last negotiation promoted by Venezuela for the adjustment of the present dispute.

The circumstance which gave rise to this dispute was the commission intrusted to Sir R. H. Schomburgk by Her Britannic Majesty's Government in 1840, so that the difference has lasted more than half a century.

The right claimed by Venezuela to the territory lying between the rivers Essequibo and Orinoco is founded on the following titles:

I. Those acquired from Spain, by virtue of independence, belonging to the Captaincy General of Venezuela and afterwards transferred to the Republic by the treaty of peace and recognition of the 30th of March, 1845, namely: (a) Treaty of Münster, 1648; (b) note of the governor of Cumaná to the council of the same city, 1st of February, 1742; (c) treaty of 1750, between the Portuguese and Spaniards; (d) reply of the governor of Cumaná, through the commander of Guiana, to the note of the director-general of the Dutch Colony of Essequibo, dated September 30, 1758; (e) royal schedules of 1768, two in number; (f) declaration of the Spanish ministry in 1769, rejecting certain pretensions of the Dutch to the right of fishing in the mouth of the Orinoco River; (g) instructions of the intendency for peopling the eastern part of Guiana, 1779; (h) royal order of 1780, directing Don Felipe de Inciarte to found the town of San Carlos; (i) report of Don Antonio Lopez de la Puente, who had been commissioned to explore the Cuyuní River, February 26, 1788; (j) treaty of the 23d of June, 1791, between Spain and Holland, for the extradition of fugitives and deserters from either Guiana; (k) communication of the secretary of the Dutch Company of the West Indies to the minister of the Spanish Government in Holland, 8th of January, 1794.

II. Those corresponding to the time of the Republic: (l) Petition of Her British Majesty's chargé d'affaires near the Government of Venezuela for the construction of light-houses and other signals at Punta

Barima, and for the establishment of beacons in the main mouth of the Orinoco, 26th of May, 1836; (*m*) dispatch of the governor of Demerara (Parliamentary Papers), 1st of September, 1838; (*n*) note from the Venezuelan governor of Guiana to the Government, August 23, 1841, on the acknowledgment of Venezuelan jurisdiction over Caño Moruco by a court of Demerara; (*o*) a similar act of virtual recognition of Venezuelan jurisdiction in 1874, on account of the homicide committed by the English subject Thomas Garret.

The right of Venezuela has been contested by Great Britain on the following grounds:

(1) The forts of New Zealand and New Middleburg erected by the Dutch in 1657 on the Pomaron and Moroco.

(2) The concessions granted by the Dutch Company, successor in 1674 to the West Indies Company, for trading with the colonies of Essequibo and Pomaron, the latter extending, according to Great Britain, as far as the Orinoco.

(3) The combat at fort New Zealand in 1797, between Dutch and Spaniards, in which the latter were defeated and driven away.

(4) The treaty of London, dated August 13, 1814, by which Holland ceded to Great Britain the colonies of Demerara, Essequibo, and Berbice.

Venezuela has sought to bring about the adjustment of the controversy by the various diplomatic means known in international law—direct negotiations, and the good offices and mediation of States friendly to both parties.

Great Britain has not listened to the powers which have been good enough to offer the interposition of their good offices, neither has she accepted their mediation. And as for direct discussion, she has not admitted it as an expedient means of clearing the reasons in support of the pretensions of either party, but to render less possible their conciliation by her ever-growing claims.

Venezuela has always believed that she can rightfully establish the limit between herself and British Guiana along the Essequibo River, but this has been no reason to prevent her from showing her readiness to reduce her claim for the sake of an amicable adjustment, as she has twice done when her national constitution has permitted.

Great Britain had not advanced beyond the Pomaron River in 1840. All at once, in the same year, she made an attempt to extend her dominion as far as Barima, where she fixed the starting point of the frontier line between the two Guianas—Schomburgk's line; she retrograded in 1844, and proposed that the line should commence at the River Moroco, between the Pomaron and Punta Barima—Aberdeen's line; in 1881 she removed the starting point to a distance of 29 miles from the Moroco, in the direction of Punta Barima—Granville's line; thence, in 1886, to a place on the coast west of the Guaima River, between the former spot and Punta Barima—Rosebery's line; in 1890 she set it in the mouth of the Amacuro, west of Punta Barima, on the Orinoco—Salisbury's line; and finally, in 1893, constantly advancing west and south in the interior of the country, she carried the boundary from a point to the west of the Amacuro as far as the source of the Cumano River and the Sierra of Usupamo—Rosebery's new line.

Venezuela has always abode by the convention of 1850, by which both parties engaged not to occupy the territory in dispute so long as the question remained unsettled.

Great Britain has violated that convention without any consideration whatever to the other party. She has gradually occupied the disputed

territory, has incorporated it with British Guiana, has submitted it to her absolute dominion, and administers it at her own will.

Venezuela has demanded a just reparation for this offense. Great Britain has refused it.

The diplomatic recourses having proved fruitless, Venezuela has esteemed it her duty since 1883 to resort to juridical means and to propose the submission of the difference to the decision of a court of arbitration.

Great Britain has declined this agreement.

Out of dignity, Venezuela has suspended friendly relations with her opponent.

Great Britain has considered this act a lawful motive for adopting more violent and offensive measures.

Venezuela has been ready to adhere to the conciliatory counsel of the United States that a conference, consisting of their own representative and those of the two parties, should meet at Washington or London for the purpose of preparing an honorable reestablishment of harmony between the litigants.

Great Britain has disregarded the equitable proposition of the United States.

Venezuela has carried her spirit of peace and conciliation so far as even to appoint three diplomatic representatives with a private character from 1890 up to this time, with the view of promoting the renewal of friendship through a prior engagement to submit the question to arbitration.

In response Great Britain has insisted on treating Venezuela as a minor State to which she can dictate the sacrifice of its right and territory, while deciding of her own accord what right and territory belong to herself unquestionably and without further discussion.

Venezuela has not been able to obtain respect for her juridical equality. She has met each violation with a representation and a formal protest.

Such is the summary account of this long and vexing contest from its outset to the present time.

JOSÉ ANDRADE.

WASHINGTON, D. C., *March 31, 1894.*

Mr. Gresham to Mr. Andrade.

DEPARTMENT OF STATE,
Washington, December 8, 1894.

SIR: On the 31st of March last you addressed to me a note on the subject of the disputed boundary between Venezuela and British Guiana, accompanied by an historical memorandum giving the facts in regard to the controversy as they are understood by your Government; and on the 7th of July last, in response to my oral request, you furnished me with an additional copy of the memorandum in question.

Referring to our recent conversation, I have the honor to inform you that on the 13th of July last, a copy of your memorandum was sent to the U. S. ambassador in London, with instructions to aid, so far as his good offices might be found available, a resumption of the suspended diplomatic relations between Venezuela and Great Britain, with a

view to eventual agreement for the disposition of the question by resort to arbitration or by any other conventional means comporting with the the honor and interests of the disputants. Mr. Bayard's long familiarity with the question justified the President in intrusting to his sound discretion the further treatment of the matter at the Court of St. James in harmony with the declared attitude and policy of the United States as the impartial friend of both parties to the controversy.

Since that time Mr. Bayard has been in this country on leave of absence, and I am informed that you have availed yourself of the opportunity so afforded to confer with him in respect to the matter at issue.

In view of this, and of my recent conversations with you on this important subject, I shall take an early occasion to instruct the ambassador, supplementing my previous dispatch to him of July 13, and I do not doubt his willing interest in the matter and his cordial desire to contribute toward a better understanding between the two countries and the determination of their difference.

In this relation I may properly advert to the following passage of the last annual message of the President, which was laid before the Congress on the 3d instant:

The boundary of British Guiana still remains in dispute between Great Britain and Venezuela. Believing that its early settlement on some just basis alike honorable to both parties, is in the line of our established policy to remove from this hemisphere all causes of difference with powers beyond the sea, I shall renew the efforts heretofore made to bring about a restoration of diplomatic relations between the disputants and to induce a reference to arbitration, a resort which Great Britain so conspicuously favors in principle and respects in practice and which is earnestly sought by her weaker adversary.

Accept, etc.

W. Q. GRESHAM.

Mr. Andrade to Mr. Gresham.

[Translation.]

LEGATION OF THE UNITED STATES OF VENEZUELA.

Washington, December 19, 1894.

SIR: A proposition was introduced on the 24th of October last, in the legislative chamber of Demerara, for the construction of a road uniting the Upper Barima with the Cuyuni or with the Yuruan. The Government secretary asked that action on the subject might be deferred until a consultation could be had with the colonial ministry and until the approval of a petition had been obtained which was designed to secure authority to raise a large loan, from which was to be taken the amount necessary for the construction of the projected road.

The Government of Venezuela thinks that the design in question involves a fresh purpose to unlawfully appropriate the territory of the Republic, and that its execution would doubtless give rise to a conflict with the national authorities of that district, and would occasion greater acrimony in the boundary dispute now pending with the British colony. Consequently, desiring to forestall the construction of the road, it has already communicated its views to the colonial Government through the Venezuelan consul at Demerara, and has, furthermore, addressed the communication which is reproduced below, to his excellency Seneca Haselton, envoy extraordinary and minister plenipo-

tentiary of the United States in Venezuela, and it instructs me to earnestly support the request therein contained:

The dispute pending between Venezuela and Great Britain on the subject of the boundaries between the Republic and the colony of Demerara has for years past, as you are aware, engaged the attention of the civilized world, and has induced the press of many European and American countries (that of the United States included) to declare that it must be decided at once whether the theoretical equality of states is entitled to real respect, or whether the prestige of force or the greater material power of nations has greater weight than the doctrines and principles of right. The question under consideration daily presents a more unpleasant aspect, owing to the course pursued by the agents of England, who, deaf to the conciliatory representations of Venezuela, have, especially since 1886, extended British jurisdiction over territory which the Republic considers to belong to it.

Repeated attempts have been made during the last eight years to settle the dispute by means honorable to both parties, as is shown by the sending of three commissioners to London with instructions to discuss the matter directly with the Government of Her Britannic Majesty. The most recent attempt was made last year, and the Government of Venezuela (as your excellency will see by a perusal of the Yellow Book laid before the Congress of 1894) manifested the most earnest desire to put an end to the controversy without sacrificing any principle of right, but by such legal means as are used and recommended by England under similar circumstances.

The persistency of the British Government in excluding from arbitration all that portion of the territory which it has held for years, rendered the action of the last commissioner of Venezuela null and void; rendered inefficacious the good intentions of the Executive of the Republic, and stimulated the ambition of certain agents in the colony who have in view nothing but the pleasing prospect presented by a territory exceedingly rich in natural productions. Some of them, on the 24th of October last, procured the introduction in the legislative chamber of Demerara, of a proposition looking to the construction of a road which is to unite the upper Barima with the Cuyuni or with the Yuruan, which involves a fresh project for the unlawful appropriation of Venezuelan territory, and the manifest tendency of which is to increase the difficulty of reaching a peaceable settlement of the controversy.

The secretary of Government requested that the proposition should be postponed until he could consult the colonial department, and what was still more important, obtain its approval of an application for power to raise a large loan from which could be taken the amount necessary to open the proposed road.

The Government of Venezuela, through its consul at Demerara, has advised the governor of the colony that the execution of the project (that relating to the road from the Barima to the Cuyuni) would undoubtedly bring about a collision with the Venezuelan authorities in that region, and would be the cause of further embittering a controversy which it is important to both parties to put on a more friendly footing.

As your excellency will understand, the controversy assumes an appearance which may be called threatening since the authorities of the colony are disposed to extend their jurisdiction still further, under pretext of connecting two points in the territory of Guiana, and thus to penetrate into regions where the Republic has established regular centers of occupation.

In view of this fact, and the further fact that the Government of Venezuela has been constantly endeavoring to exhaust all lawful means to reach a friendly understanding, it has thought proper to inform your legation of the new danger caused by this matter and to press its request, made some time ago to the Department of State, and constantly urged by our minister plenipotentiary at Washington, for the active and direct intervention of the United States.

The cooperation of your excellency will undoubtedly produce immediate results, both because it would be based on sound reasons and because it will proceed from one who, like your excellency, represents a Republic which unites its most effective action with the practice of justice and of law. And as, on the other hand, the Government of the United States, without proving false to its dearest traditions, can not view with indifference the usurpation of a foreign power over the legitimate territories of an American nation, it is to be hoped that its moral action will be as ready and decisive as the magnitude and character of the interests endangered call for, demand, and most urgently need.

The subject I am discussing with your excellency is almost as serious and important to the great Republic of the North as it is to Venezuela herself. England's control over the mouth of our great fluvial artery, and over some of its tributaries, will be the cause of permanent danger to industry and commerce throughout a large portion of the New World, will effectually destroy the celebrated and beneficent Monroe doctrine, and will perpetuate measures of usurpation which may in the

future, in the case of certain American countries, render illusory their political existence as free and independent States.

I most urgently request your excellency to be good enough to express the foregoing views to the Government of the United States.

I avail myself of the opportunity to renew to your excellency the assurances of my high and distinguished consideration.

JOSÉ ANDRADE.

Mr. Haselton to Mr. Gresham.

No. 32.]

LEGATION OF THE UNITED STATES,
Caracas, December 21, 1894.

SIR: The Government of Venezuela manifests in many ways a cordial appreciation of that portion of the message of the President of the United States which relates to the boundary question pending between this country and Great Britain, and by a communication, a copy and translation of which are inclosed, has requested me to transmit to the President, through the Department of State, the expression on its part of the ideas and sentiments therein contained.

I have, etc.

SENECA HASELTON.

[Inclosure in No. 32.—Translation.]

Mr. Rojas to Mr. Haselton.

CARACAS, December 20, 1894.

MOST EXCELLENT SIR: The message sent by the most excellent Mr. Cleveland to the Congress of the United States at the opening of its present session contains expressions relative to our question with England which speak much for the spirit of equity and true Americanism of the great Republic.

In effect the message invokes the principle of arbitration as adequate to the settlement of the dispute; it advocates its adoption as a resort honorable to both parties; it notes the fact that Venezuela, the weaker power, earnestly desires arbitration; and it gives assurance that the voice of the great American nation will be heard in favor of a decorous and peaceful solution of this vexatious matter of difference.

Venezuela, most excellent sir, has noted with singular gratitude this noble proof of concern for her tranquillity and her honor, and the Government of which I form a part, as the authorized interpreter of the national sentiment, earnestly desires that the most excellent Mr. Cleveland should know of the grateful impression here produced by his eloquent words, and should be made acquainted with the appreciation on the part of this Republic of the generous offices which, in the furtherance of an adjustment between England and Venezuela, he in the above-mentioned portion of his notable message promises to exercise.

The executive power trusts that your worthy legation will be pleased to transmit to the President of the United States, through the medium of the Department of State, the expression of the foregoing sentiments, and in so requesting,

I have, etc.,

P. EZEQUIEL ROJAS.

Mr. Andrade to Mr. Gresham.

[Translation.]

LEGATION OF VENEZUELA,
Washington, December 31, 1894.

SIR: The Government of Venezuela has seen with great interest the words used by His Excellency Mr. Cleveland in speaking of the Guiana boundary question in his message of this year to the Congress of the United States, and has hastened to give expression to its gratitude and satisfaction, and to become the interpreter of the national sentiment in the communication which has been addressed by the department of foreign relations to the honorable head of the United States legation at Caracas, and which I have the honor to transcribe below:

The message of His Excellency President Cleveland to the United States Congress, which met early in the present month, contains passages relative to our controversy with England which speak volumes for the spirit of justice and the thorough Americanism of that eminent statesman. The principle of arbitration is there invoked as being that which is best calculated to put an end to the dispute; its adoption is recommended as the best means of protecting the honor of both parties; it is declared that Venezuela, the weaker party, eagerly desires it, and the promise is given that the voice of the great American nation will make itself heard in behalf of an honorable and peaceable settlement of the wearisome dispute.

Venezuela, most excellent sir, has witnessed with singular gratitude this noble evidence of a desire to secure her tranquillity and honor; and the Government of which I am a member, being the natural interpreter of the national sentiment, earnestly desires that His Excellency President Cleveland should be made aware of the pleasing impression which has been caused here by his eloquent words, and that he should know that he may rely upon the thankfulness of the Republic for the generous offices which, in behalf of a satisfactory arrangement between England and Venezuela, he promises in that remarkable document to exercise.

The executive of this Republic hopes that your honorable legation will be pleased to transmit the expression of these feelings to His Excellency the President of the United States, through the Department of State, and in informing your excellency of this I have the honor to renew to you the sincere assurances of my high consideration.

By means of the foregoing reproduction I have taken pleasure in performing, in the most faithful manner according to my judgment, the honorable task which his excellency the minister of foreign relations has seen fit to entrust to me, viz, that of communicating to your excellency the sentiments expressed in the note above inserted, he having desired that the expression of the gratitude of the Venezuelan Government should reach President Cleveland through two channels at once, i. e., through Mr. Haselton and through me.

I avail, etc.,

JOSÉ ANDRADE.

Mr. Haselton to Mr. Gresham.

No. 36.]

LEGATION OF THE UNITED STATES,
Caracas, January 15, 1895. (Received January 30.)

SIR: Under date of December 7 last the minister of foreign affairs of Venezuela transmitted to me a note with reference to the boundary question between this country and Great Britain. After an examination of former correspondence between the legation and the Department of State I have been led to believe that the communication may with propriety be received and forwarded to you.

I have accordingly had prepared a copy and a translation of the same, and both will be found inclosed.

The note of the minister illustrates the increasing gravity of this now historic dispute, the sincerity with which Venezuela seeks to secure the submission of the matter to arbitration, and the earnestness of her desire for the exercise of the good offices of the United States in that behalf.

I have, etc.,

SENECA HASELTON.

[Inclosure in No. 36—Translation.]

Señor Rojas to Mr. Haselton.

CARACAS, December 7, 1894.

MOST EXCELLENT SIR: The question pending between Venezuela and Great Britain in reference to the limits between the Republic and the Demerara colony has occupied for several years, as your excellency knows, the attention of the civilized world, and has led the press of many European and American countries, including the United States, to point out the necessity of determining, once for all, whether the theoretic equality of States merits actual respect, or whether superior strength and greater material power can override the doctrines and principles of international law.

This question acquires day by day a more serious aspect on account of the proceedings taken by the agents of England, who, disregarding the conciliatory advances of Venezuela, have, especially since 1886, been extending the British jurisdiction into territory which the Republic considers as appertaining to her.

Within the eight years last past several efforts have been made for an adjustment equitable to both parties with a view to ending the conflict, as is shown by the sending of three commissioners to London for the purpose of treating upon the question directly with the Government of Her Britannic Majesty. The most recent was last year, and in that, as can be seen by your excellency in the Yellow Book presented to Congress in 1894, the Venezuelan Government showed a most evident desire to end the question without prejudice to any principle of law, but, on the contrary, by a legal arbitration such as England herself resorts to and recommends in analogous cases.

The persistency of the British Government in declining to submit to arbitration that part of the territory that it has occupied some years made useless the action of the last Venezuelan commissioner, and rendered inefficient the just proposals of the executive power of the Republic, and stimulated the ambition of certain agents of the colony who have ever in view the inviting prospects offered by a territory rich as are few others in natural products.

Some of them presented a motion in the legislative chamber of Demerara, on the 24th of October last, relative to the opening of a road that should connect the Upper Barima with the Cuyuní, or the Yuruán, which involves a new plan of usurpation, and tends to make more difficult the peaceful settlement of this controversy.

The secretary of the colony requested that the matter be deferred until he had consulted the ministry for the colonies, and, what is still more serious, until he should have obtained its approval of a petition forwarded to it, in order to secure the power to raise a large loan out of which might be taken the necessary amount for the opening of the projected road.

The Venezuelan Government, through its consul at Demerara, has already given notice to the governor of the colony that the carrying

out of the project (to wit, that relative to the road from Barima to Cuyuní) would produce, without doubt, a collision with the Venezuelan authorities in that region, and would be the cause of additional acrimony in a controversy which it is important to both parties to carry on in a conciliatory manner.

As your excellency will understand, the conflict assumes already a threatening aspect, as the authorities of the colonies are disposed to extend still more their jurisdiction, under the pretext of uniting two points of the territory of Guayana, and thus to penetrate into regions where the Republic has already established regular stations.

In view of this, the Venezuelan Government, ever solicitous to exhaust all proper means of arriving at a friendly settlement, has resolved to inform your legation of the new danger which has arisen and to urge hereby the Government of the United States to exercise its efficient and direct intervention, a request which some time ago our minister plenipotentiary at Washington presented to the Department of State, and has since frequently reiterated.

The cooperation of your excellency would, without doubt, be productive of direct results, as it would rest on sound principles and emanate from one who, like your excellency, represents a Republic which rests its public acts upon grounds of justice and right. And, as moreover, the Government of the United States can not, without abandoning its dearest traditions, contemplate with indifference the disregard by a foreign power of the legitimate territorial rights of an American nation, it is to be hoped that its moral action be now as full and decisive in the matter as the magnitude and character of the threatened interests indicate, call for, and require.

The matter which I have explained to your excellency is almost as important to the United States as to Venezuela herself. The control by England of the entrance to the mouth of our great fluvial artery, and of some of its tributaries, would expose to constant peril the industry and commerce of a large portion of the New World, would, in fact, bring into ridicule the famous and salutary Monroe doctrine, and would establish abusive practices which in the end might make illusive for some American countries their own political entity as free and independent States.

I most sincerely ask that your excellency will be pleased to interpret the foregoing ideas to the Government of the United States.

I renew, etc.,

P. EZEQUIEL ROJAS.

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